

TAHOE REGIONAL PLANNING AGENCY
LEGAL COMMITTEE

TRPA
Zoom

September 27, 2023

Meeting Minutes

CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chair Aldean called the meeting to order at 8:30 a.m. on September 27, 2023.

Members present: Ms. Aldean, Ms. Faustinos, and Ms. Gustafson.

Members absent: Ms. Williamson and Mr. Rice.

I. APPROVAL OF AGENDA

Mr. Marshall stated there was no need for a closed session so items 4 and 5 could be removed from the agenda.

Vice Chair Aldean deemed the agenda approved as amended.

II. APPROVAL OF MINUTES

Ms. Aldean indicated that she submitted some corrections to Marja Ambler, TRPA Governing Board clerk. Ms. Gustafson made a motion to approve the July 26, 2023 Legal Committee meeting minutes as amended.

Motion carried by unanimous voice vote.

III. APPEAL OF DENIAL OF SINGLE-USE PIER EXPANSION APPLICATION, 204 PINE STREET, PLACER COUNTY, CALIFORNIA, ASSESSORS' PARCEL NUMBER (APN) 098-210-012, TRPA FILE NUMBER ERSP2020-0373; APPEAL NO. ADMIN2023-0013

John Marshall, TRPA General Counsel, presented the position of TRPA Staff. This is an appeal of a denial and therefore comes to the Legal Committee in the position of an application. The application was denied by the Executive Director's delegee, Tiffany Good. [Slide 8] What the applicant desires is to remove the existing rock crib pier entirely and replace it with a newly constructed single-piling pier. The question faced today is what can be done with a non-conforming structure. Staff viewed this proposal as an expansion of a non-conforming structure which the Code denies unless the structure is brought into conformance.

[Slide 9] The proposed project is an expansion under the Chapter 90 definition in the TRPA Code because an expansion is an increase in size or extent, including an increase in the dimensions of a structure, and the addition of any structure or edifice to an existing structure. [Slide 10] Looking at the proposed plans, what the applicant is asking for is 15-feet of additional length, which is an increase in dimension, and that additional length extends the 16-foot pierhead. The applicant is asking for an extension of the southern catwalk; they have two and they want to expand the southern one and they want to add a boatlift. All of these elements are expansions

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of the existing structure. From the Staff's perspective, this is relatively straightforward although it presents interesting issues because the applicant is willing to take down an entire rock-crib pier. There are benefits to the environment associated with that [removal] both scenic and littoral drift processes to some extent. The pier has been in the lake for a long time already.

The applicant was unwilling to modify the proposed plans to bring the pier into conformance, and so TRPA issued a letter of denial. The application did not get very far into the process at the time the denial was issued. The applicant does have multiple avenues to pursue to maintain the pier; if they want to expand it with the boatlift, catwalks, and extension of pierhead into the lake, they need to bring it in to conformance. That would require to narrow the pierhead from 16ft to 10ft and to have only one catwalk. If they do that, they can apply for the extra 15ft of length if the findings can be made. They're converting a buoy to a boatlift and if it complies with design standards they can put in that boatlift.

Gregg Lien presented for the appellant [Slide 12]. The current Thompson family pier, which is a rock crib pier which, like most rock crib structures, is large. You can see open piling piers in the background which have less scenic impact. This pier has been in the lake for 30 to 40 years. Mr. Lien has lived in Tahoe since 1971 and has been practicing law in the Basin since 1980 and has focused on issues related to the Shorezone. He was on the Shorezone Ordinance committee in the 1980s and was on each subsequent committee with the exception of the current Shorezone Steering Committee. He does not recall a time when there were not incentives to get people to convert these kinds of heavily impactful structures to open piling. The Thompson rock crib pier is one of the largest remaining under private ownership on the entire lake that's not associated with a breakwater or slips or a marina.

In terms of process issues, what's missing here is a public policy look at the issues where it's not a staff determination. Mr. Marshall's staff report referenced the Gately matter which was a very limited look at what someone can do if they want to trade out a buoy for a boatlift. That matter didn't include any environmental improvements other than what the consultant, Jan Brisco, other than some basic environmental benefit going from a buoy to a boatlift. Here we're offering a suite of improvements. To the best of Mr. Lien's knowledge the precedent over the last half-century has been to provide incentives to get these structures to convert. This issue specifically has always been at staff level and should be discussed as a matter of public policy. As a policy point of view there's an item on your agenda later today with an ordinance amendment which Mr. Lien would like to discuss how that might affect today's appeal and how the Board might want to look at having a policy debate with public input.

[Slide 13] Mr. Lien agrees with Mr. Marshall's description of the project scope. The Thompsons desire to convert the existing rock crib to open piling. The current pier head width would decrease, the catwalks are adjustable which means they can be lowered to lake level and reducing scenic impacts, and installing stairs below the High Water Line [HWL] for public trust access. The extension of the pier deserves some consideration as additional length has almost become a right. The pier to the north has taken advantage of that provision as well and the Thompsons aren't asking for anything special. [Slide 14] Rock crib pier design is taking a jetty and covering it with steel and decking on top to make it a pier. This design is desirable because it's not going to move but also provides a breakwater effect. They add a lot of value to the real estate. When they need repair, the repair can create much more disturbance than any repair of an open piling pier. [Slide 15] Because these structures are basically jettys and very reflective to wave action, they interfere with littoral drift which is the tendency of particles to move along the shoreline. Here, because of the prevailing Northerly winds, there's degraded fish habitat on the lee/Southern side of the Thompson pier because the fine materials get scoured from the

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windward side and settle where the water's calmer. Removing this structure will completely restore the fish habitat.

[Slide 16] From an aerial in 2013, the lake level was about 6225' which is just two feet above low water. As in the previous slide, the sediments are there covering up the fish habitat and that would all be improved immediately upon converting this from rock crib to open piling. A few things to notice here are where did the rocks come from for the rock crib. Going back to the [19]30s, 40s, and 50s, prior to any regulation, people would go out with heavy equipment when the water was low, and they would just scrape the rocks off the bottom and pile them in a big pile. And that appears to be exactly what's happened here. You can notice that there's bare areas on both sides of the pier again denuding a fish habitat, and it looks like an if there's an area immediately north along the beach, where that was done before, for reasons unknown. And then in the southern side of the pier, down toward the right, you can see the more normal spread of rocks. One thing the applicant would propose to do if this project is approved is to get together with the staff and fisheries experts and look at how they can begin to restore a much broader area with these rocks that have been removed from the natural substrate and put them back.

[Slide 17] Hopefully these scenic benefits speak for themselves. The applicant has spent a lot of time reviewing this with scenic consultants including Brent Thrums who is one of TRPA's scenic mentors to staff, to him it's a no-brainer. The piers to the North and South are all open piling and the eye goes to the outlier which is the Thompson pier. When they're all open piling, someone won't be able to see how wide the pier is, they'll just see similar piers and be able to see under and through. [Slide 18] There are water quality impacts. The first third of the pier is also a solid, concrete wall. There's a wall along the shoreline and typically that indicates potential shoreline erosion. Lake Tahoe is no longer a natural lake. The top 6' of the lake is a reservoir which took place permanently in 1913 with the completion of the dam in Tahoe City and when the water is run up to high pool as it was before the permanent dam was you see wholesale erosion of the shoreline. The shoreline is still not adjusted to this reservoir level. So when there's water up at extremely high pool there's a real problem. With major rain or snow events, the water can go above 6229'. There's nothing in the TRPA Code that allows TRPA to regulate water level; it's in the TRPA Compact that the TRPA can't affect water level. Rock crib piers are highly reflective to wave energy and waves can be up to 10'+ in a major storm event. Then you get virgin shoreline with nutrient rich soil going directly in to Lake Tahoe.

[Slide 19] Abby Edwards of Tahoe Land Planning continues the presentation. One important aspect of this appeal is that prior to design and submittal the application, we, the property owner, Paul Thompson, and Kaufman Edwards Planning which is now Tahoe Land Planning, met with TRPA to go over the project scope. We were aware that it was a nonconforming pier. However, because the potential benefits were so huge, we sat down with TRPA staff. TRPA staff gave us the okay to proceed and we were under the impression that this project could be approved, based on the significant improvements for scenic, fish habitat, littoral drift, and everything else discussed today. They met with TRPA on December 5, 2019, after that meeting they started design through August 2020 and submitted applications to TRPA and all other relevant agencies. It wasn't until almost a year later on November 4, 2020 that TRPA contacted Ms. Edwards to say that the project could not be approved. Hearing Notices were already mailed out. That was a lot of time and money spent on all of the other applications and obtained their Fish & Wildlife permit before they were notified that this project could not be approved. Mr. Thompson had spent \$70,000 on design, consulting, and application fees which is now closer to \$100,000 including attorney fees. Ms. Edwards feels they did their due diligence in meeting with TRPA before they submitted their application.

Ms. Aldean asks if anything was memorialized in writing or if it was strictly verbal. Ms. Edwards states that she has emails from TRPA and that it wasn't a formal pre-development meeting but it was a meeting with Mr. Thompson, herself, and Tiffany [Good].

Mr. Lien continues [Slide 20]. At the Gately hearing people were concerned about setting a precedent. Here they're only suggesting a very narrow modification to the Code language to be reviewed by the Board later today. In the slide is the proposed code amendment language. Mr. Lien has added a "G" under "...the following are things that don't constitute this expansion". It says, "Conversion of a rock crib to open piling pier, and not withstanding language below, including the conforming conversion of a buoy to a boat lift and minor conforming additional length." That would cover this project and then you're not creating a precedent for anything other than removing rock crib piers, which is something TRPA's been doing for as long as Mr. Lien can remember. The Board could even further limit it if you were seriously concerned by precedent about this, even to the point of acknowledging that the Board is just dealing with a pipeline project today. Mr. Lien does think there's a fundamental fairness issue cause. Literally, we got up to the point of sending out notices to adjoining property owners of the upcoming approval. And it's been Mr. Lien's experience, too, that you don't apply all the other agencies for permits unless you feel really confident that TRPA will approve the project. Mr. Lien would like to discuss whether there's a policy issue and if there's an inclination to go forward

Committee Member Comments/Questions

Vice Chair Aldean asks Tiffany Good to respond to the allegation of staff misdirection and to summarize the process from her point of view. TRPA Principal Planner Tiffany Good confirms that she was the staff person who took the initial meeting with the applicant and who reviewed the subsequently submitted application. She emphasizes that staff gets requests to weigh in on the potential feasibility of projects all the time on an informal basis through in-person meetings, phone calls, and emails. Staff tries to be helpful; they don't want to just say no to folks so they try to provide a path forward. Importantly, staff never gives conceptual approvals; that's not in anyone best interest. With this specific project, it's important to understand that staff were in the very beginning stages of implementing the [2018] shoreline plan, and one of the big changes with the new plan versus the old plan was how TRPA treats nonconforming piers, particularly in regards to expansions and modifications. There was a big change, especially with how TRPA staff applies [the definition of] an expansion of a non-conforming pier. So several months later the [Thompson] application was submitted to TRPA. In the intervening months, there had other applications submitted to TRPA that further tested this big code change that further clarified exactly what someone could do with a non-conforming pier. As a result of all that it happened in the meantime, and clear understanding of the application of the code, Ms. Good denied the application.

Vice Chair Aldean notes that when she first read the material, she did not realize that this project is a complete tear down; not modifying or expanding an existing structure. She asks Mr. Lien with regards to his assertions of the rock crib pier interfering with littoral processes and degrading fish habitat whether those assertions are anecdotal or if he has any analysis that was done by somebody who does these routinely to determine what the environmental impacts are on the existing pier. Mr. Lien states that there's nothing site specific other than what was shown on slide 15 but studies were done lakewide in the past. You can see from those images the one to one relationship between those settlements and degraded areas to the existence of the rock crib pier. He offers to get an outside expert to say that.

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Vice Chair Aldean continues that she's read all of the definitions of modification and expansion and, in most places, they apply to docks that aren't being torn down, they apply to docks that are being modified or expanded *in situ*. This is a bit different and one of her concerns is about modifying the language in the proposed amendments to the TRPA Code based on a specific project. It doesn't mean that modifications can't be made but they would have to be from a more holistic standpoint; not project specific. These Code amendments are on the agenda today to consideration and removing rock cribs in general, converting them to open piling piers, is advantageous but the rest of the language is project specific about converting a buoy to a boatlift and minor conforming additional length. Ms. Aldean questions the appropriateness of that language in this context. Mr. Lien suggests that the committee could take that out, but the question remains, what about the project specific items his client needs? Just dealing with the one project now, those findings could be made under the existing language prior to adoption of this new code language which would close the door to other people in the future.

Mr. Lien states that the Legal Committee has the option to recommend to the Governing Board that they approve this project under the current Code language under the theory that rock crib piers are a modification as opposed to an expansion and that the applicant has shown what they needed to show and that they're not going any more non-conforming with substantial environmental benefit.

Ms. Edwards adds in response to Ms. Aldean's question that they did not do a littoral drift study but there were items prepared for the fish habitat restoration that would occur from the conversion and it was 1145 sq. ft. of lake bottom disturbance which was important to Lahonton [Water Board]. As far as massing goes, the proposed project would be bringing the pier into conformance with massing. Currently the massing is 464 sq. ft. and the allowable amount is 220. The proposed project would be removing 145 [sq. ft.] from the allowable massing which is almost the massing of an additional pier which is a dramatic improvement.

Ms. Aldean points out that in sub-paragraph c it says that modification does not increase degree of non-conformance but the degree of non-conformance is being expanded by extending 16 foot wide deck. That is not consistent with the current code. While the first two, A & B, seem to be applicable, she's not sure this proposed project satisfies the requirements of the third. Mr. Lien adds that they've been eager to meet with staff to discuss options and work this out. Ms. Aldean offers Mr. Thompson the opportunity to add to the conversation.

Mr. Thompson states that without rehashing too much history everyone is doing a good job and he and Abigail thought they were working within the confines of an approvable project which turned out not to be true. This is a big endeavor for himself and his family and he wants to make it a win-win by removing the rock crib which is a massive structure. He'd like to know which elements in the design are hot buttons for TRPA. They have an existing hammerhead that's 20ft wide and the proposed design reduces it to 16ft wide with the intention of bringing it more into conformance. They wanted a collaboration where there can be an approvable project so they spent a lot of time, money, and resources.

Ms. Aldean asks about the collapsible catwalks. Mr. Thompson states that they're not collapsible, they're adjustable so they can be raised and lowered depending on the water level. Ms. Aldean asks if it's necessary to have two if they also have a boatlift. Mr. Thompson agreed that they could live with one catwalk if that was a hot button. They enjoy the hammerhead but they don't want to try to fit a square peg into a round hole. Ms. Aldean asks to clarify the existing width of the dock leading to the hammerhead and Mr. Thompson confirms it's 11ft. The proposed project decreases that width to 10 ft with a hammerhead at 16ft. Ms. Aldean asks if

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the hammerhead is essential and Mr. Thompson says that essential is a strong word but it's a source of enjoyment now. They were under the impression that they were compromising by reducing it from 20ft.

Ms. Gustafson mentions the paragraph in the staff summary that lists all of the options to move forward with the project, decreasing the pierhead from 16ft to 10ft, retaining 1 of the 2 proposed catwalks. She asks about the sentence that reads "...decrease the proposed visible mass that counts towards the allowable visible mass by approximately 19 sq. ft." Would the applicant already meet that with complying with the first two or is that a third criteria. Ms. Edwards responds that the massing of the proposed boatlift is 147 sq. ft. but in the past several months there's been a clarification on the 2017 Code that boat lifts are 83 sq. ft. of massing which would put the proposed project into conformance. Ms. Good adds that when the application was submitted, they were quantifying the total lift at a greater square footage than what TRPA indicates in the EIS [Environmental Impact Statement] analysis.

Ms. Gustafson states her understanding that we're looking at the first two options of removing the hammerhead and losing one catwalk to be able to make this an approvable project. Ms. Gustafson agrees with the environmental benefit of removing the rock crib but committee's issue is understanding the conformity with other projects. When policy makers see the environmental benefits they can weigh those through a policy or ordinance which then applies to all projects. Ms. Gustafson is concerned by the precedent potentially set by making a change in an interpretation that can be used for others on the fly.

Mr. Marshall states that the committee members are starting to get into questions of the underlying policy. In the development of the Shoreline Plan, a lot of time was spent on what to do with non-conforming structures or existing structures. There's an entire chapter on existing structures. A lot of negotiation went into what kind of repairs can be done; how extensive the repairs can be to a non-conforming pier. Broadly speaking, property owners could keep what they have, in fact they could replace in-kind what they have. They could be modified if findings can be made or, because the Board said that their strong preference was bringing structures into conformance with design standards, existing structures can be expanded, if the property owner wants something like additional length, a boat lift, all of the non-conforming items need to be brought into conformance. That's the policy that the Governing Board set in place with the adoption of the Shoreline Plan. With this project, we have an instance where there would be a not insignificant degree of environmental improvement but the proposed pier needs to be brought into conformance to get the desired expansions. Mr. Marshall states that it's clear that this is an expansion and Mr. Lien is attempting to squeeze it in to a modification to take advantage of those things. The precedential nature of the discussion here is defining what an expansion is. What TRPA tried to do with the 2018 plan was to get rid of the "horse-trading" with staff and the applicant negotiating back and forth as to how much environmental benefit is enough to get an expansion instead, the fairly straight up rules state you cannot expand and be out of conformance.

What Mr. Lien is asking for is a policy debate which Mr. Marshall doesn't think is appropriate to resolve this particular appeal. Ms. Aldean states that the something that seems to be missing here is, there's no reference to demolition and reconstruction of a dock. When she thinks of expansion, she thinks of expanding the existing structure, not tearing down everything that's there and rebuilding, and what requirements someone should have to comply with if they rebuild; that's where the tradeoff comes. She thinks TRPA needs that sort of latitude to be able to make those decisions on a case-by-case basis. She understands the concern about setting precedent that others might take advantage of but this is a rebuild,

Ms. Gustafson says the way she understands it is that the two options would be the same if they were building a new pier.

Ms. Aldean states that she's trying to think of a way to satisfy the applicant's desires in a reasonable manner, but also doing what TRPA needs to do to achieve some environmental gain. She's not sure that doing it through the appeal process is the appropriate way.

Ms. Gustafson agrees and she thinks everyone is in agreement that removing the rock crib may be worth credits to something. But again, we're into horse training and setting a policy that we have to run through appropriate channels and this isn't the appropriate place to do that.

Mr. Lien agrees that this is not the place to create policy but we're under language that exists today that may not exist after your meeting this afternoon.

Ms. Aldean disagrees and states she's spoken to Mr. Marshall about that. This application is in the pipeline. If these new ordinances are adopted by the Board, don't go into effect for 60 days. Since this application is in the pipeline, it's being considered under the current regulations. It's not being considered under future regulations that have not yet been adopted. Ms. Aldean thinks this is better suited for a more intimate discussion at the staff level as opposed to bringing this to the Board, because the Board is going to be reluctant to weigh on something that might implicate its future policies.

Public Comment

Jan Brisco, Lake Front Homeowners Association and longtime consultant. With all due respect, I don't think John answered Cindy's question first off. This is a brand new ordinance which is much more restrictive than what we use in the past 30 some years, severely ratcheted it down what is a conforming pier. I mean to meet that test is almost impossible. You're not going to find people who want to actually go through the process and remove nonconforming piers. And while we had these discussions for many, many months and years, to get someone to one of these, remove the nonconforming aspects of their pier is a very, very difficult task. And so, if your goal is, which it has been stated to be to move these structures towards compliance. Then we have to have real incentives and ways to do that. And so we're going to say, now that a boat lift is, it's always been an accessory, now it's going to somehow be a structure. Well, that's going to limit a lot of people wanting to come in and make improvements to get their boat lifted out. A mooring is a mooring, whatever. If you have someone who's willing to go to the expense which is going to be usually expensive to remove this rock crib in its entirety. You have to look at that as a modification, I think, with these existing peers. They're moving stuff around. They're taking an L section, and they're just making it straight so that now it conforms; is that an expansion? I know, John would say, yes, but we want to bring to you that this issue needs to be vetted. I absolutely agree, needs to be vetted with the right group we need to come back to this because what you've done is you've set the bar so high you will never get anyone to come through. What John failed to answer was, how many people have come through under this new code to do any of these types of improvements? Nobody. This is really the first one since 2018 to even try it. And you know, we have this real snafu with the boat lift thing. We're not happy about that. That's going to further limit people wanting to come in. If you're too deep, or if you're within 20 feet of your side setback, used to be 5 feet. You know all of these things, when you look at them narrowly, have changed over time, and we had agreed to some of those changes, but certainly not to this extent. Again, we're trying to move people toward

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conformance. And when you take a look at this project as a modification, you're there. You basically can get there. And so I think that's the policy discussion that we should be having on this one notwithstanding some of the others. But we have clients, Abby and I have people. Nobody wants to come in and do this when they realize. Oh, I've got to do that and that, forget it. You know, I think we're missing the opportunity, because once somebody spends \$250,000 to replace their rock crib structure, they're not taking it out. And so we lose that opportunity. You asked about the number of rock crib piers, it's very few anymore, because under the old code the incentives were there in the, the findings for expansion that you could make, and that environmental improvement you didn't have to meet this high high bar that now is changed what is a conforming structure? I agree, we need to take this back and have that conversation. Thank you.

Final Staff Recommendation and Committee Deliberation

Mr. Marshall states that Jan raises a good point and that there was an intense balancing of interests in the 2018 plan. Applying the rules as drafted, even though there is environmental benefit, what they're asking for is an expansion and that's the key issue for Staff; are these elements expansions or is this a modification. When you look at the expansion definition this project as proposed meets it. The question is there a reason to re-do that weighing because of what Jan is saying about increasing in the number of non-conforming structures as a result of the new design standards. And how many examples do we have of this kind of conversion and are there ways to create standards but that means a new Shorezone planning process. Staff took this question to the Shorezone Steering Committee. The Steering Committee, with the exception of Jan, wanted to maintain the same language that exists now, or the concept of what we have now. So staff drafted the expansion and modification language that includes more specific examples to make it clear what is an expansion and what is a modification which is on the Board agenda.

Mr. Lien disagrees with Mr. Marshall's description of the Shorezone Steering Committee [SSC] meeting. He states what went before the SSC was the narrow issue of a buoy converted to a boatlift without any environmental benefits. The issue discussed today would have significant environmental benefits and this project was never discussed with the steering committee and never been discussed by the Board so it's not had any public input.

John reiterates that it was discussed by the SSC as part of the development of the 2018 Shorezone plan because it was one of the big tradeoffs of how TRPA was going to advance shorezone policy of how to bring structures into conformance over time. He offers to distribute materials for the SSC and have the committee determine for themselves if it was a fair assessment that the issue of "What is an expansion" was put to the steering committee and that, except for Jan, there wasn't interest to fiddle with that language.

Mr. Lien states that when Ms. Good met with the applicants, the staff thought this was a modification. Ms. Aldean replies that this is why these changes are being suggested to differentiate clearly between a modification and an expansion. She continues that this has been a productive conversation but that the Governing Board is not the appropriate venue to continue it and discuss minutiae of this project.

Mr. Lien asks if the Board would be willing to pull the item on page 150 of the packet [the new language clarifying the definitions of expansion and modification] from the proposed amendments because if that gets adopted then they have a problem. Ms. Aldean reiterates her

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understanding that since their project is currently being processed, this new Code language would not apply. Mr. Marshall agrees with Ms. Aldean but states that since they've already denied the application, it would take an action from the Board to overturn the denial. If they wanted to amend their proposal to bring it in to conformance staff could process that. Mr. Lien states that they've been wanting to discuss this with staff.

Ms. Aldean states that the option is to continue the appeal rather than have the applicant withdraw it to give the opportunity to resolve these issues. Mr. Lien again asks for the new code amendments for 90.2 to be pulled from the Board agenda. Mr. Marshall disagrees that pulling those amendments is necessary because all they do is clarify staff's position that the proposed project is an expansion. Ms. Aldean states that there's no point in going through the process of adopting Code language that the Board will have to modify in the future. Ms. Gustafson agrees that the Board can decide that but she [as Board Chair] cannot speak for the Board.

Ms. Aldean proposes the applicant agrees to continue the appeal and testify at the Board hearing that the proposed amendments to 90.2 not be adopted at this time. Mr. Lien is agreeable to this suggestion and continues to push for the Board to make this policy decision. Ms. Gustafson and Ms. Aldean disagree that this should be hashed out at the Board level but suggest that one or more Board members be appointed or invited to the SSC to discuss and develop any potential policy changes.

Ms. Aldean commends Mr. Thompson for volunteering to disperse the rocks in the pier in the manner suggested by Fish & Wildlife and suggests making that a condition of the permit which Mr. Thompson agrees to. Ms. Aldean states that she will recommend to the Board that 90.2 changes be delayed as a result of these discussions. Julie Regan, TRPA Executive Director, commends everyone for being problem solvers especially Ms. Good and the staff for working through a very new, complex policy. It's very hard to get policy agreed to in the shorezone in the shoreline stakeholder committee process, and then to put it on the ground and to go in uncharted waters is challenging. Staff appreciates the good faith. Ms. Regan suggest that if they do reconvene the Stakeholder Committee that TRPA invites two representatives on the board, maybe one from each State to join that meeting, and then to have that discussion. She reiterates to Mr. Lien to have him speak during the public comment period of the Code Amendment agenda item about pulling that item 90.2 out of the package.

Ms. Gustafson makes a motion to recommend the Board continue the appeal.

Ayes: Ms. Gustafson, Ms. Faustinos, Ms. Aldean.

Nays: None

Motion carries.

Presentation can be found here: <https://www.trpa.gov/wp-content/uploads/documents/Legal-Committee-September-2023.pdf>

IV. CLOSED SESSION WITH COUNSEL TO DISCUSS EXISTING AND POTENTIAL LITIGATION

No closed session.

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IV. POTENTIAL DIRECTION REGARDING AGENDA ITEM NO. 6

No direction.

V. COMMITTEE MEMBER COMMENTS

None.

VI. PUBLIC INTEREST COMMENTS

None.

VII. ADJOURNMENT

Ms. Gustafson moved to adjourn.

Meeting adjourned at 9:45 a.m.

Respectfully Submitted,



Katherine Huston
Paralegal

The above meeting was recorded in its entirety. Anyone wishing to listen to the recording 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.