TAHOE REGIONAL PLANNING AGENCY

GOVERNING BOARD MEETING MINUTES

March 25, 2026

TRPA/ZOOM

1. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Ms. Williamson called the meeting to order at 10:33 a.m.

Members present: Ms. Aldean, Ms. Bennett (for Mr. Aguilar), Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Kieckhefer, Ms. Laine, Ms. Leumer, Mr. Rice, Mr. Settelmeyer, Ms. Williamson

Members absent: Mr. Bass, Ms. Hays

2. PLEDGE OF ALLEGIANCE

3. PUBLIC INTEREST COMMENTS – ON AGENDA ITEMS

Mick Homan, Trustee of the Incline Village General Improvement District, is commenting on the proposed IVGID Beach facility as a resident. The opposition focused on three assertions; alleged violations of the beach deed that governs the use of our beaches, alleged violations of Nevada revised statutes in the approval process, and alleged lack of community support for the investment and design. None of those assertions are relevant. As TRPA staff noted in their recommendation to the board, none relates to TRPA's primary responsibility to oversee land use and environmental compliance. Those assertions are false. First, legal counsel thoroughly reviewed the project's compliance with the beach deed. They found no violations. In fact, they stated that it was entirely consistent with the recreational provisions contained in the deed.

Second, the meeting and approval process were conducted in accordance with NRS and the Open Meeting Laws. It was discussed in open meetings over multiple years, all under the watchful eyes of legal counsel. The board followed applicable rules and acted entirely within its authority to approve the project.

Third, there's a clear community support for the project. In the last election, the trustee candidates that strongly supported this investment won by a 3 to 1 margin. This was reinforced when IVGID held an open house to review the project's design and financials. Around 250 residents attended and they overwhelmingly supported the project. I only heard two negative comments, both wanting an expanded scope. The project cost reflects the realities of building on the lake using statutorily required prevailing rates. The opposing comments are consistent with the pattern of irrelevant and misleading comments made at public meetings and at other agencies dealing with IVGID matters. These same individuals object to virtually every initiative and investment proposed by the district. They consistently use critically flawed legal and statutory analysis. They quote non applicable regulations to support their cause, often in an attempt to obfuscate and intimidate. And they make repeated unsubstantiated allegations of statutory violations, fraud and other criminal activities by the board, staff and even the agencies that regulate IVGID. Please filter out the noise.

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TRPA staff did a thorough, high-quality analysis of the application, they've documented IVGID's compliance with all relevant factors, and they've made the only appropriate recommendation to you to approve the permit.

There is no alternative. The current facility is 60 years old and functionally obsolete. It doesn't meet current health, safety and building standards, and it lacks adequate ingress, egress, and ADA accessibility, all of which are addressed by the project. For TRPA to agree with the critics, it would suggest that IVGID lacks the authority to make even basic improvements.

Ann Nichols, North Tahoe Preservation Alliance said hopefully you have read the March 20th CalMatters article entitled Nevada utility to Lake Tahoe: Find electricity elsewhere. I'm hoping that Hayley Williamson, chair of the Public Utility Commission (PUC) of Nevada and TRPA will require an emergency bi state meeting about this issue. The article said Nevada Energy will cut off our region next year. It is said that data centers are creating an unprecedented demand. We're scared of how much electricity is going to cost and this needs to be brought forward. There's development being proposed everywhere. We have wildfire resilience issues and more development is being proposed that will need power. I'm hoping that everyone will rally on this, but so far nothing has happened.

Ali Warner, full time resident of Incline Village, thanked the Board for working to preserve the natural beauty of Lake Tahoe and is speaking in support of the Incline Village General Improvement District (IVGID) Beach House and Guard Shack revitalization. Incline Village is a special place offering residents with a variety of community amenities. To ensure these facilities are safe and ensure they continue to function for future generations it is important to invest in improvements. Thank you for all your efforts to keep the Tahoe Region an incredible place to live and raise kids.

James Novak, resident of Incline Village, thanked the TRPA Board for all you do to preserve the lake. Secondly, I wanted to thank the staff at the Incline Village General Improvement District (IVGID) and trustees for moving forward a project that's been delayed for ten years. It's a great plan and they've avoided some of the risk that they're currently subject to with unsafe bathrooms. The current food operations are too small to be able to store food, requiring the food to be moved back and forth via a van, which could cause some risk for transportation and contamination issues. It's a good investment in the future of Incline Village and wholeheartedly support it.

Judith Miller submitted written comments primarily based on the architectural guidelines. Unfortunately, it appears that guidelines are mere suggestions. If they're not called standards, then there's no reason. This architecture is not at all in keeping with the traditional mountain architecture that the guidelines call for. Also, it does not comply with the guideline that says we're not supposed to have these long, continuous, uninterrupted roof lines or faces on a building. Yet this building is 180 feet wide without any deviation except for one small passageway between the two sections. The roof line is continuous with no break. It's a poorly designed architecture to fit in with our community and I thought that was one of the goals of our area plan. Apparently, it was swept aside and ignored, and no change was made to the design. If you want to have guidelines included in the area plan, you need to clearly say these are merely suggestions and you might as well do away with them.

Ellie Waller said today the Joint Interim Standing Committee on Natural Resources and Growth and Infrastructure have ten presentations on data centers. The committee reported approximately 712 in Washoe, 70 in Story, and 426 in Clark Counties. That's 713 operational data centers. There are 495 under construction and a whopping 5,014 in planning phases. That's 7,122 in total, with no

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oversight. How long have the operational centers existed? Where are they located? How many are under construction and how many are in the planning phases? Are local officials aware of the statistics and have they provided information to their constituents? This is all related to the Lake Tahoe Region and will impact energy and water resources. I'm hoping that TRPA, as suggested by Ms. Nichols, raises these concerns to the level of a special meeting. I encourage you to listen to all the public comments supplied starting around 9:00 a.m. this morning and reading the data information provided. There are issues and resources of environmental impacts, but equally important human impacts that have been identified in various reports and other states. Remember there's the Alpine Decree and the Truckee River Operating Agreement that must be addressed.

Aaron Katz full time resident of Incline Village and a local parcel owner. I'm addressing the Incline Village General Improvement Districts (IVGID) application. If all the Board is concerned with the satisfaction of agency guidelines, why the need for a hearing? What other factors are material? It turns out there's one. It's called need. IVGID is the owner of the beaches in name only, the real equitable owners are the parcel owners like me. If it is nothing more than my fiduciary. Read the beach deed and by means of this application, IVGID breaching its fiduciary duties. They haven't asked the nearly 8,000 of us if we want staff's rendition of a snack shack, or whether we're in favor of being involuntarily taxed $12 million or more so staff can hire more employees to run another money-losing business enterprise financially supported by me. What is your staff's response? Gee, we have no jurisdiction. So, it's limited to land use concerns. I disagree. Who has jurisdiction? Not the county nor the Department of Taxation, the county District Attorney, the state Attorney General, nor the court system. TRPA has jurisdiction. Because if it didn't have jurisdiction, what's the purpose of this hearing? Why are you approving a project that the true owners of the beaches don't want? Isn't the finding of need a requirement? They haven't even asked us if we need it. Please deny the application and instructive IVGID to first secure the consent of a majority of the local parcel owners with beach access. IVGID can file an NRS 43.100 petition in District Court. Let the court decide whether this is a need. Citizens can't use this procedure, but IVGID can. They won't do it because it's counter to what the real intent is.

4. APPROVAL OF AGENDA

Ms. Regan stated that there were no changes to the agenda.
Ms. Williamson deemed the agenda approved as posted.

5. APPROVAL OF MINUTES

Mr. Rice made a motion to approve the February 25, 2026 Governing Board minutes as presented.
Motion carried-voice vote.

6. **TRPA CONSENT CALENDAR**

A. February Financials
B. Release of $460,200 in Excess Coverage Mitigation (ECM) Funds to the California Tahoe Conservancy for Land Bank Acquisition (EIP No. 01.02.02.0001)
C. Release of $50,000 in Washoe County Water Quality (WQ) Mitigation Funds towards the Burnt Cedar/Lakeshore Boulevard Water Quality Improvement Project (EIP No. 01.01.01.0211)

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D. Release of $40,000 Washoe County Stream Environmental Zone (SEZ) Mitigation Funds towards the Lower Rosewood Creek Aquatic Organism Passage Project (EIP No. 01.02.01.0093)
E. Resolution of Enforcement Action SDA Corp., Off-Season Grading, Vegetation Disturbance, Failure to Maintain BMPs, and Unauthorized Tree Removal, 6458 Donner Road, Placer County, California, Assessor's Parcel Number (APN) 112-070-021, TRPA File Number CODE2025-0058
F. Lake Tahoe Unified School District modernization of existing facilities and construction of a new classroom building at Tahoe Valley Elementary School, 943 Tahoe Island Drive, South Lake Tahoe, California, Assessor's Parcel Number (APN) 023-700-008, TRPA File Number ERSP2025-1586
G. Middle Mile Broadband Underground Fiber Optic Cable Junction Point Facility, Tilson Technology Management Inc., 1128 Shakori Drive, Meyers, El Dorado County, California, Assessor's Parcel Number (APN) 035-183-019, TRPA File Number ERSP2025-0673
H. Caltrans Meeks Creek Bridge Project, which would replace the existing bridge on Hwy 89 in Meeks Bay, California. TRPA File Number EIPC2026-0001, Environmental Improvement Program Number 03.02.02.0103
I. Advisory Planning Commission (APC) Lay Member appointments for Brad Altman, Placer County and Harry Swenson, Washoe County

Ms. Williamson said there are nine items on consent. Four items are reviewed by the Operations and Governance Committee. One item was reviewed by Legal and four items were not reviewed by a Governing Board committee.

Ms. Gustafson said the Operations and Governance Committee recommended approval of items 6.A-6.D. We recommended approval of the February Financials, the release of $460,200 in excess coverage mitigation for the California Tahoe Conservancy acquisition; $50,000 to Washoe County water quality mitigation funds to the Burnt Cedar Lakeshore Boulevard water quality Improvement Project and the release of $40,000 of Washoe County Stream Environmental Zone mitigation funds toward the Lower Rosewood Creek Aquatic Organism Passage Project.

Board Comments & Questions

None.

Ms. Williamson said the Legal committee recommended approval of item 6.E regarding a tree cutting. The property owner, who is also the construction owner, and our staff agreed to a settlement for the tree cut in the amount of $10,000 and three native conifers to be planted for the settlement.

Board Comments & Questions

None.

Items 6.F, 6.G, 6.H, and 6.I were not heard by any committee.

Board Comments & Questions

None.

Ms. Laine said I'm in support of the Meeks Creek Bridge Project, but I'd like to put on the record my concern regarding the replacement of the Meeks Bay bridge, which was originally constructed in 1929. The current bridge is one of the most scenic and aesthetically beautiful bridges I've ever seen. A determination was made that the existing bridge was not historically significant. However,

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it does contain historic aesthetic elements that Caltrans has stated they will incorporate into the design of the new bridge. I'd like to ask TRPA staff if it's appropriate to work with Caltrans to ensure the final design is consistent with the visual quality and integrity of the current bridge, understanding that the new bridge will have to meet certain safety standards. I'd also like to ask staff to work with the U.S. Forest Service on relocating the water infrastructure issues, which serve the Meeks Bay resort and is managed by the Washoe Tribe. If TRPA could convene some meetings to help resolve some of the funding and other issues that are being considered, that would give me a greater level of comfort.

Ms. Regan said staff would be happy to address those concerns of Ms. Laine.

Ms. Gustafson made a motion to approve the consent calendar.

Ayes: Ms. Aldean, Ms. Bennett (for Mr. Aguilar), Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Kieckhefer, Ms. Laine, Ms. Leumer, Mr. Rice, Ms. Williamson

Absent: Mr. Bass, Mr. Settelmeyer

Motion carried.

7.A Appeal of Denial of Moody Boat Ramp/Pier Conversion and Transfer Project, 181 Yellow Jacket Road, Douglas County, Nevada, Assessor's Parcel Number (APN) 1418-10-401-004, TRPA File Number ERSP2023-1834, Appeal File Number ADMIN2025-0016

Ms. Burch, Associate Counsel, provided the presentation for TRPA and Mr. Gordon provided the presentation for the appellants.

Ms. Burch said the pier that the applicant wished to transfer to the Moody parcel started out as a boat ramp on the Lakeside Cove Resort parcel in 2020. They applied for and received a permit to remove that ramp and bank the ramp on that parcel. That that permit was acknowledged in June of 2021. It included a condition for restoration of the site after the boat ramp was removed. The Code Section 84.5.3.F is central to this which allows for the transfer of a pier to a receiving parcel. The critical language is where it says that those parcels must comply with the eligibility requirements of Sections 84.42 and 84.43 of the Code of Ordinances. In December of 2023, the appellant submitted an application for a transfer of the pier. In March of 2024 staff responded to that application by stating that under Code Section 84.4.3.G.1 this pier could not be transferred because the receiving parcel was located in a scenic non-attainment unit. This code section is very clear. The transfer of an existing pier to a littoral parcel within another scenic unit that is out of attainment is prohibited.

There was a lot of conversation in the appeal materials and assertions by the appellants that they were never informed that this transfer would not be allowed under the Code of Ordinances. Ms. McMahon sent an email on March 27, 2024, stating that the receiving parcel was in Travel Route 26, Cave Rock unit, which is out of scenic attainment and that the transfer would not be allowed under that Code provision.

There are five separate contentions from the appellants. The first one is that general pier development standards related to mitigation supersede the prohibition contained in 84.4.3.G.1. So 84.4.3.A.6.(d).v of the Code allows for scenic mitigation to occur. This is a portion of the Code that applies mitigation standards to a pier that has already met eligibility standard requirements and is being processed as an application for an eligible pier. That section allows for as a last resort if there's no other way to mitigate for the scenic impacts for a pier that is being constructed, they can

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mitigate in another non-attainment unit. If mitigation is going to occur and it can't occur on the parcel where the pier is it can go into a non-attainment unit with the hopes of improving that degraded unit. The argument is that if you can mitigate for a pier that's eligible in a non-attainment unit, you should be able to transfer a pier into a non-attainment unit. I don't see how those two things are similar.

This is the order of preference for mitigating scenic impacts for a pier that has met the eligibility requirements. Ideally, it's on the littoral parcel where the pier is being constructed. And then in the same unit if it's not possible on the parcel. And then ultimately the very last resort is if, if none of those other mitigations can be accomplished, they could do it in another non-attainment unit.

This is a general provision. Again, the mitigation for a pier that's eligible in another non-attainment unit improves that degraded unit. And transferring a pier into a scenic non-attainment unit degrades that unit. So there are two different activities. I don't see anything to support the idea that this mitigation allowance would nullify the prohibition of a transfer in.

The second point of contention is that pier transfer provisions do not apply to this application. And it somehow is not an application for a pier transfer. This application is for a pier transfer because there is no other option under the Code. It cannot be for the transfer of a boat ramp, as the Code prohibits new boat ramps on private parcels. That's section 84.5.2.B. You couldn't transfer this banked boat ramp onto another parcel and build a boat ramp, because there is no new boat ramps allowed for private parcels. The other argument that the appellant raises is that there is a generic shoreline development right. That doesn't really have an assignment, it’s just a generic right that could be transferred and then later turned into a pier right. The Code doesn't have any provisions recognizing a generic right. After the boat ramp was banked on the resort parcel

Mr. Agan, representative for the applicant, communicated for many months with TRPA staff Tiffany Good attempting to persuade her to allow the transfer of the boat ramp to the Moody parcel where it would be banked. Then at some point in the future it would be converted to a pier, and then the pier application would come in. It would successfully circumvent the prohibition of the transfer of a pier into a non-attainment unit. They worked on that for a couple of years and she continued to refuse to do that. In December of 2023, the applicant finally submitted the application for the pier on the Moody parcel. A variation of this argument that's been raised is that the boat ramp itself could be transferred and then later turned into a pier. There is no allowance for a new pier on a private parcel. A transfer of a boat ramp would not be something that could be approved.

The third point of contention is that section 84.4.3.G.1 is arbitrary. The appellant argues it's arbitrary to allow transfers within a non-attainment unit and not between two adjacent non-attainment units. The appellant argues that it would somehow be beneficial to TRPA to allow pier transfers into scenic non-attainment units. This argument misunderstands scenic threshold evaluation improvement and attainment goals. So, it may seem arbitrary to the appellant, but those scenic thresholds are designed to be analyzed per unit. There are numerical ratings for discrete shoreline travel units with explicit standards to maintain or improve the rating and restore that unit. TRPA monitoring data shows that some shoreline travel units, including Cave Rock, remain worse than target, which means they must be improved and not merely avoid further degradation. Piers are visually prominent shoreline structures and TRPA treats them as key controllable drivers of scenic conditions in shoreline units.

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Contention four is that section 84.4.3.G.1 should not apply because the project will result in "shoreline improvement." What I took from the materials was that by complying with the scenic mitigation requirements in the Code there would somehow be a benefit. Again, the construction of a pier has a scenic impact. It's a significant scenic impact as all of the analysis in the Shoreline Environmental Impact Statement (EIS) revealed. Simply complying with the mitigation requirements does not mean it's an improvement to the lake. You're just mitigating the impacts that you're having.

The last point of contention is that TRPA has been inconsistent in interpreting the Code. As I mentioned Ms. Good had a two-year period of correspondence with the applicant's representative and held that same position the entire time.

Board Comments & Questions

Ms. Conrad-Saydah said there's an order to follow for mitigation and does that only apply if the action is allowed? So, essentially you follow that mitigation if in the first place, you allow for the project to go forward and otherwise that's moot.

Ms. Burch said that's correct. That would apply after the eligibility requirements have been reviewed and it's been determined that it is eligible to move forward.

Mr. Hoenigman asked if there is extra mitigation that would allow this to be able to happen. Any improvements that could be made on other parcels? Is that even allowed in the Code of Ordinances?

Ms. Burch said no, it's not allowed. The prohibition in this code section is very clear. There is no wiggle room for additional mitigation, for example. Because of the of the way that the threshold standards are measured and even through the Shoreline EIS, how it was evaluated, the effort to bring these scenic units into attainment, the discretionary transfer in that is driven by owners it was really important to the folks who were developing that plan that it not be allowed to occur.

Mr. Kieckhefer said when the HOA applied to remove and bank the boat ramp, was there any flip side associated with that application? Did they have plans for it?

Ms. Burch said no. They were banking it on the site, but it was shortly after that that Mr. Agan began communicating with Ms. Good and asking her if they could transfer the banked pier right to the Moody parcel without an application for a pier. They just wanted to move it and bank it on the Moody parcel. Ms. Good explained that that transfer had to occur in conjunction with an application for a pier on the receiving parcel.

Mr. Kieckhefer said the application to remove and bank the boat ramp was standalone. There was no indication in that application what would happen to that boat ramp after it was removed and the right was banked.

Ms. Burch said that's correct. There was a condition in the banking permit approval that required removal and restoration. And when the permit was acknowledged that had been reviewed. So they did the restoration work. Those banking permits include language that states that the permittee understands that this permit is not a conceptual approval of any future projects. Each of those

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banking permits includes that language so later if an applicant comes back and said, well, you know, what I really wanted to do with this was “X” there's no implied approval of that at this stage.

Mr. Kieckhefer asked if Ms. Burch was aware of any pre-existing agreement between the HOA and Mr. Moody.

Ms. Burch said I have not been made aware of any kind of agreement.

Ms. Aldean said there is nothing the applicant can do regarding the scenic unit which is also out of attainment that he wants to transfer the permit to. Even if the impacts of the pier are fully mitigated when it is developed, and the condition of the receiving unit is improved, that would not be considered incremental progress toward improving the scenic condition.

Ms. Burch said no, it's not. The analysis in the EIS and through that 2018 shoreline process there was an analysis. There are allocations that occur and end up in these non-attainment units. And during the environmental review process, there's a limited number of piers that are available. Some of those allocations will end up in a non-attainment unit and that was accounted for. It would be essentially uncontrollable. This doesn’t happen every day, but if you could transfer in and suddenly a particular scenic unit became very popular for those who wished to have piers and they started to transfer them in the Agency would essentially lose control over the process of moving that unit toward attainment.

Ms. Aldean said unless it was privately funded. For example, if someone had the financial wherewithal to make improvements in that unit to bring it closer to compliance, or into compliance, wouldn’t that be considered a benefit?

Ms. Burch said the way that the Code is written now, they would have to bring that unit into full attainment then they could transfer the pier into that unit.

Mr. Kieckhefer said the staff report indicated that staff reevaluated the unit itself pending the appeal or the application, or something to that effect. He asked whether that was accurate, or if it was just a cursory review.

Ms. Burch said staff didn't review it for this project, but the scenic units are evaluated on a regular basis. Staff did go back to the most recent evaluation to check to see this unit has come into attainment, but it hadn't. It was still it was still out of attainment. So they just double checked the most recent data that TRPA regarding the attainment status of that unit.

Mr. Aguilar asked which has a greater environmental impact, a boat ramp, or a pier.

Ms. Burch said new boat ramps on private parcels are not allowed. There are multiple reasons for that, one of them is invasive species.

Mr. Aguilar said the original owner of the boat ramp could replace the bad boat ramp with a new boat ramp.

Ms. Burch said no, they could not. The boat ramp was legally existing because it had been there for so long. Once it's removed, they would have to go through an application process and there is no

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application process for a new boat ramp on a private parcel any longer. It would be a pier. They just become a pier at the time they're removed essentially.

Mr. Aguilar said but they could have left that terrible boat ramp in the water, but they chose to remove it.

Ms. Burch said yes.

Mr. Aguilar said a pier has less environmental impact than a boat ramp.

Ms. Burch said from the perspective of an invasive species risk, yes, the pier is a much safer structure because you're not able to launch a watercraft that may not have been inspected.

Mr. Settelmeyer asked what happens if it is no fault of their own, it gets destroyed. Do they have the right to rebuild? For example, say that there's a fire or damaged by others.

Ms. McMahon said yes, they could maintain existing facilities but couldn't expand it.

(Appellant presentation)

Mr. Gordon, representing Mr. Moody and his property in Douglas County, Nevada. My background is legal and land use. Mr. Agan is also here today. He's been practicing land use planning in the Tahoe Basin for since the 1980s. He filed an application in 2021 to take that banked boat ramp and transfer it to the Nevada property in Glenbrook in 2021, based on conversations with staff. He checked in a month later to check on the status of that application. Slide 17, picture in the lower right-hand corner is that old, non-conforming, environmentally damaging, with a lot of soil erosion, existing condition that has now been remedied. The good point is that boat ramp is now off the lake and we are now moving forward with a new pier.

Three months later Ms. Good said, no, we don't want you to bank this development right, we want you to come in with a new pier project. Mr. Agan said a new pier project is very expensive, time-consuming and there are a lot of consultants involved. He asked if they could just bank the entitlement for now and come back with a new pier later?

Staff said no, we want you to come in with a new pier now. Now we're 20 months since the original submittal. Mr. Again says TRPA new pier permit. Every communication with staff was a new pier permit on Yellow Jacket Road. He said based on this new application we need to take a photograph for scenic. Will you please approve this photograph? Email from Ms. Good again the challenging parcel we heard later, Yellow Jacket Road said it's approved. Your scenic visual for this parcel of where to put the new pier is in fact approved.

Twenty-seven months since the original submittal, we've now submitted that application for the new pier. It says, as previously discussed and directed, there was a pre-app meeting with staff. Mr. John Marshall was there as well, deciding to have a new pier application on this property. Slide 20, highlighted on the right visual mass calculations, construction documents, boatlift drawings, very expensive, a lot of consultants. It took almost a year to put together a new pier application and submit it at the direction of staff. You can see Yellow Jacket Road is on every single document.

Slide 21, part of the application, you can see "approved" stamped TRPA. What are we doing here? Taking the boat ramp transfer to a pier conversion on Yellow Jacket Road. On the right-hand side you can see significant construction drawings, analysis, scenic, a lot of time, money, and effort.

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Based on this stamp from TRPA we can move a pier here. It's been approved as far as the scenic vantage point.

Twenty-nine months you can see staff have now given this application a permit number, which means it meets minimum standards. The first correspondence from staff wasn't wait, you're in non-attainment, you have to go away. Staff asked for more information. What's your construction methodology? What's your site mapping? What's your updated shoreline exhibits? Again, time, money, and effort. We have a TRPA number and we're off and running for a new pier project.

Then we are here in 2024, 30 months later. Since the original submittal with Yellow Jacket Road on every single submittal with over $1 million spent on the on the banked boat ramp, this has been coupled with the bank boat ramp every single time, because we did have an agreement with the HOA to bank the boat ramp and move the pier. Also, we now have two applications we filed from the direction of TRPA. The property owner is well into seven figures on this process, which he has complied with Code.

It was denied for two reasons. Number one, you can see staff said the applicable Code section. A legal existing private boat ramp may be transferred with applicable eligibility standards in 84.4.2 and 84.4.3. Section 84.4.3.G.1 is the problematic provision. We were told three years later that we could not put this legally existing pier into non-attainment. This is not a legally existing pier; this is a legally existing private boat ramp that was converted. That section is not applicable.

We did the analysis. If you go through 84.4.2 “applicable” underlined. Applicable doesn't mean every single provision in both those sections has to be complied with. It's what's applicable. Slide 25, 84.4.2 eligibility; left hand side 1,2,3,4,5 all checked. We meet all those standards on the right-hand side; is this owned by a public entity? No. Not applicable. Is this a commercial tourist accommodation? No. Not applicable.

Slide 26. What's applicable and what's not? Is this a stream mouth protection zone? No. Visually sensitive area? No. One quarter mile of public drinking water intake? No. Scenic quality review? Absolutely. We have to comply with the pier color requirements. Check.

Slide 27. We talked a little about this earlier. You can see for scenic mitigation, it references additional piers and the ability to do mitigation on non-attainment units. Check.

Slide 28. Fish habitat mitigation. Not a problem. Lighting on private piers. Yes. Check. Floating piers. No. Accessory structures, prohibited structures, signage. We comply with all that next.

Slide 29. Here's where the rubber hits the road; B, C, D, E, F, and G. B-Additional standards for single piers. Absolutely applies. That's a very robust, detailed a list of design standards that we comply with. But we don't need to comply with multiple-use piers, agree. Public piers? No. Commercial and tourist accommodation piers? No. Expansion modification of piers? No. Finally, relocation or transfer of existing piers? No. We are not asking to move an existing pier from one place to another. We're asking to take a legal existing private boat ramp and convert it to a single use pier in compliance with 84.4.3.B and move forward with a more robust environmentally required and equivalent pier in a new area.

This is nothing new to have new piers and non-attainment areas. Slide 30, pier lottery system. On the right-hand side in Glenbrook, this is Mr. Moody's project. But the other four shown here are pier lottery approvals and non-attainment areas. Why is that? Because we could make the situation better. We're taking an old non-conforming problem boat ramp clean that up and now we're going to a non-attainment area. Mr. Agan has not only met code but exceeded code regarding scenic

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mitigation and scenic impact. Again, there's precedent that you're putting new piers in non-attainment areas.

I would respectfully ask today that you reverse the denial and grant the appeal. Or alternatively, we're happy to work with staff to have a more consistent approach. If you're going to allow new pier lottery projects to go on a non-attainment. Why wouldn't you allow a new pier to also go there that is environmentally beneficial to the lake? I would request that you ask staff to work with us on the code amendment that clarifies transferring non-conforming, environmentally damaging boat ramps causing shoreline erosion in exchange for a new project resulting in scenic mitigation enhancement.

The Code of Ordinance it states in order to preserve the scenic beauty and outdoor recreation opportunities of the region; there was a need to ensure an equilibrium between the region's natural endowment and its manmade environment. If you reverse this denial, we do have an equilibrium of an old boat ramp that's causing a lot of problems to the lake, or did in exchange for a new pier that will help that non-attainment area come out of it one day, and it meets Code and meets Mr. Agan's three years of work relying upon staff's direction.

Board Comments & Questions

Mr. Kieckhefer said he understood the point being made regarding the balance between the benefits derived from moving the boat ramp. He noted that the removal of the boat ramp was applied for by the HOA and was completed separately, outside of this application. He asked whether this is essentially the purchase of the boat ramp's banking entitlement from the HOA so it can be transferred to the private property, and what the nature of that relationship is. He questioned why the applicant should receive credit when the beneficial action has already been completed and they were not a party to that application.

Mr. Gordon said this has always been coupled. Mr. Moody had an agreement with the HOA to say; I want to buy your entitlement and transfer that entitlement for a new pier. What is the process? Mr. Agan was hired and worked with staff every step of the way to say this is coupled. I drafted the agreement between Mr. Moody and the HOA. Step one was bank the boat ramp entitlement, which requires the mediation. Then Mr. Agan filed the first application to move that entitlement to Glenbrook. Staff came back and said, no, we want you to file for a new pier. That's not what we expected, but if that's the direction, let's go ahead and do that. We spent two and a half years working on a new pier. That extended past the due diligence deadline for Mr. Moody's agreement. So, he had to buy that entitlement. This is why we're here on an appeal. So you can see why we're here on an appeal. He spent a lot of time and money on that banked entitlement on Mr. Agan moving through the process, all in reliance upon every single one of those communications with the address on there that a new pier, assuming it met all the design standards and scenic mitigations, would be allowed at Glenbrook.

Ms. Aldean followed up on Mr. Kieckhefer's question. Who paid to mitigate the removal of the of the ramp?

Mr. Gordon said the HOA paid the contractor for the mitigation remediation, but our purchase price for that entitlement more than covered that cost.

Ms. Aldean said, suffice it to say, that the cost of the remediation was essentially included as part of the purchase price.

Mr. Gordon said yes, that's accurate.

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Mr. Kieckhefer said this is not the first time they have seen an applicant proceed quite far along a pathway with staff without any red flags being raised about eligibility. He noted a similar situation involving a single-use pier in an HOA, which he believed was on the north side of the lake about a year ago. He said he was trying to understand, from a staff perspective, why it took so long to flag this as ineligible.

Ms. Burch said this is the difficulty when there is a barrage of communication coming at staff regarding a particular parcel or wishes that an owner has about what they would like to do on their property. It isn't until there's a complete application that staff begin that review for eligibility, etc. If every time they got a message from someone who might be planning to submit an application that included the applicant's address. It's not workable if staff has to research that parcel and figure out whether or not it would be eligible. It's not a workable and it does result in this happening from time to time. There was an ongoing sort of disagreement between Mr. Agan and staff that there was this expectation that they could just transfer the pier to the Moody parcel and bank it.

There's never been any provision in our Code that allowed for the transfer of a pier and banking on a receiving parcel. There are other commodities where that is coverage, those sorts of things. You can move that and bank it on another parcel. But that has never been the case for a pier right. I believe that there was an unrealistic expectation that it would be something that they could do. Some of the assumptions that were made as this agreement was entered into, that there would be this ability to move the pier and bank it for later date on the Moody parcel. And since that wasn't possible, the staff requested that a full application be submitted. And the approval, which looks very impressive on the slide, is a process. And that was about seven months before the application was submitted.

Ms. Aldean said she had never seen the material that was shared and that it would have been helpful to have that information included in the packet. She noted that it implies there may have been a kind of unintentional misdirection to the client. It is difficult to make a reasonable decision when not all correspondence and information was available for review.

Our Code of Ordinances is complex, but it is written that way for a reason. There may be some alternatives for the client, but she was unsure whether she was interpreting the provision in the Code correctly regarding a pier relocation or a transfer to a less visually sensitive area. Is the receiving or intended area in a less visually sensitive area than the area where the boat ramp was originally located?

Ms. Burch said I recall in reviewing that it was at the same level of attainment. They're similar.

Ms. Aldean said the reason I mentioned that is that the Code does allow for the development. I presume a person would need to go through the lottery in order to be eligible for a multi-use residential pier, as stated under Code 84.4.3.G., "Relocation transfer of existing piers." Since a boat ramp is being categorized as a pier, the Code states that a pier relocation or transfer to a less visually sensitive area shall be eligible for one or more of the following options, including a multi-use residential pier serving two littoral parcels. I'm looking for other options that the applicant, or appellant, may have access to.

Ms. Burch said the reason that it says that it equates the boat ramp to a pier is because that's the only option. Once the boat ramp is removed, it's a pier. It can never be reconstructed as a boat ramp. In this transfer process, if it were being transferred for purposes of a multiple-use pier, that

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would involve more than one parcel. That would be the application that would come in with the transfer application. And then as long as that multiple-use pier proposal met the eligibility requirements, did the mitigation, and complied with the Code that could move forward.

Ms. Aldean said then you wouldn't have to go through the lottery because you have a banked pier entitlement.

Ms. Burch said whether it's multiple or single-use, if it's, if it's a non-attainment unit, you can't transfer a pier into that unit.

Ms. Aldean said it states into a less visually sensitive area. Doesn't that imply that it's not in attainment?

Ms. Regan said this was in response to Board Members Aldean's and Kieckhefer's questions. She wanted to scale up the conversation to the point in time when these discussions were being entered into. As the Board knows from its deliberations, these are the most complicated permits TRPA is involved with, involving the highest property values in the basin.

She explained that after 35 meetings of the Shoreline Stakeholder Committee mediated with a professional facilitator every code section of the 25 initial provisions that followed was "small-l litigated," so that they would not end up in "capital-L" litigation afterward. She noted that TRPA was not sued on the shoreline after seven previous attempts where it had been sued every time.

These decisions addressed how an old non-conforming boat ramp should be treated, where it could go, and what its future or next iteration could be. All of those matters were discussed extensively in 2018. Implementation began in 2019 and 2020, and these were early days of that process.

She pointed out that what often happens in these situations is that an application is requested, and then in this case a year passed without hearing back from the applicant. She noted that this does occur. TRPA has made a conscious effort, as the shoreline policy has been implemented, to make eligibility determinations sooner so that there is time for appeal if needed.

At the time, we would allow things to proceed until the applicant returned. She acknowledged that they are working to avoid "late hits," because applicants invest significant time, money, and energy in moving forward in certain directions, sometimes based on speculation. She said they are trying to improve communication upfront.

Ms. McMahon said both parcels are in a visually modified character type, but they're in different scenic units. The receiving scenic unit is in a non-attainment scenic area, which is why we found that the project was not eligible for the pier right transfer.

Ms. Aldean said that it is not less visually sensitive than the areas being permitted or the area from which the banked permit is being transferred. I'm trying to equate "visually sensitive area" with non-attainment.

Ms. McMahon said they're different. We have our visually sensitive scenic units that were established with the threshold which we report on every four years. With Shoreline Plan, we came up with four different character types. The type of mitigation for a pier is based on the character type that it's located in. So in some instances it's 1:1 and some instances it's 1:1.5 or 1:2, I believe.

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Ms. Aldean asked if it were correct that Mr. Moody would not be eligible for a multi-use pier either.

Ms. McMahon said if he were selected in the pier lottery, the pier right in question, could potentially be transferred to a scenic unit that is in attainment. He could sell it and send it to a different property.'

Ms. Aldean said I don't feel comfortable making a decision today because I have not had a chance to review in detail the material submitted by the applicant. The problem with technology is a lot of information can be lost in transfer of information. Because these projects are so complex and the Code is somewhat convoluted, I would encourage face-to-face meetings for both minor and major project reviews with applicants. It is unfair if an applicant does not know whether their project will ultimately be approved, while still being asked to spend an inordinate amount of time, energy, and money developing an application that requires significant research and consultant work.

I'm not prepared to make a decision today because I have too many unanswered questions. I want to be fair to the Agency and to staff because I recognize how hard they work, but also fair to the applicant.

Ms. Conrad-Saydah asked if the applicant and the HOA came to their agreement on this transfer before approaching TRPA.

Mr. Gordon said yes, it's my understanding is Mr. Moody and his consultant, Michael Fahey, met with the Agency before entering into that agreement. Once that agreement was entered into, we had a due diligence period when Mr. Agan was hired and worked with the Agency confirming this process and the ability to put a new pier at Glenbrook.

Ms. Conrad-Saydah asked if it was correct that the agreement from TRPA preceded the drafted HOA agreement with the applicant that you said you wrote.

Mr. Gordon said to clarify, the property owner did his due diligence himself because he spent a lot of money on that entitlement. He met with TRPA and was comfortable with that interaction and entered into the agreement with the HOA. Mr. Agan was hired to process the permits. He first processed the permit to bank the entitlement, move the entitlement, and then directed by staff to file the new pier application, which he did. And then there was that second letter saying we need more information on that pier entitlement. So he spent time and money doing that. And then eventually, as you heard three years later, got the that got the denial. We did our due diligence leading up to that, given the amount of money spent on the remediation and the entitlement.

(Staff rebuttal)

Ms. Burch said there is a private agreement and TRPA is not a party to those types of agreements. The HOA obtained the permit to remove the boat ramp and was completed as a separate process from this pier application. I don't think that there's a tradeoff going on here where boat ramps are going to remain on the lake if we don't allow people to transfer piers into non-attainment units. I don't think there's a structural problem in the Code that's being highlighted by what's happening here. I do think there was a long period of interaction between staff and the applicant. There was also a lot of resistance to the idea of submitting the pier application. I don't know why that is.

They wanted to bank that right on the Moody parcel and that's not something that our Code provides for or a mechanism for approving. The approved stamp on documents is a very routine thing. It happens usually prior to the submission of an application. What it is, is the applicant or the owner who's thinking about submitting an application, they send photographs to staff, say, please let us know what the scenic vantage point will be for the scenic analysis. Staff review the photos;

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they pick one and they send it back to them. That allows the applicant, if they choose to move forward, to do their scenic analysis based upon an approved vantage point. That is not an approval of a pier. That did not include any kind of review of eligibility for this parcel. That's a routine thing that staff does.

It answers one question; what is the scenic vantage point for analysis period. When these applications come in, it's an application number. There's no permit number until a permit is issued. I have reviewed all of the things that were included in the slides that the applicant's counsel has shown us here today and I do not see anything in that communication that would suggest that staff was misleading. Mr. Agan deals with permits through the Tahoe Regional Planning Agency and has for many years, and staff does not do an eligibility analysis until that permit application comes in. That's just the way it has to be because if they were doing eligibility reviews on every email inquiry that came in, they would never be able to finish their work.

This does happen sometimes, and I think with this one, one of the big problems was that resistance to submitting the application at all. And that that took quite some time. When a pier allocation is issued through the lottery, that does not mean that that parcel is eligible for a pier, that eligibility analysis is yet to come. The way that the allocation system works was anticipated in the review of the Shoreline Plan.

An application for a pier transfer is a discretionary relocation of an existing right. The Code prohibits non-attainment units so that scenic restoration efforts are not overwhelmed by incremental owner driven relocations. This is a critical distinction that was made during the development of the Shoreline Plan. The Shoreline Plan and its EIS anticipated that some allocations would end up in these non-attainment units. And they accounted for that in the environmental analysis. But allowing owner driven transfers into these units would prevent TRPA from controlling its work in moving that unit toward attainment. That's a Compact requirement and is one of our scenic thresholds. This is the way we manage those units and move them toward attainment.

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Mr. Kieckhefer said isn't it always owner driven? An owner is going to apply for the lottery. These things don't just appear out of nowhere. No one wants this.

Ms. Burch said reviewing this for the Shoreline Plan, they had to make an assumption that it would be somewhat random. The distribution of the allocations probably isn't completely random, but they would be distributed around the lake. If a transfer is occurring, that's the owner deciding that they would rather have a pier in this area. More folks have the resources to buy these pier allocation or pier rights and transfer them in. There could be a scenic non-attainment unit, if you had a free ability to transfer into any non-attainment unit at any time. You could have a unit that was getting forced further and further out of attainment because of those owner driven decisions, that this particular stretch of the shoreline is a nice place to have a pier.

Mr. Kieckhefer asked if the lottery could do the same thing.

Ms. Burch said the lottery is fairly evenly distributed around the lake.

Mr. Miller, Senior Environmental Specialist for TRPA said for the most part, it's for single parcel piers it's random to where those would end up because it's a pier lottery for multiple parcel pairs. It's dependent on where their properties are, typically next to each other, they can go in for that multiple parcel pier, but again, that comes down to a random drawing as well. So the selection is a bit more random.

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Mr. St. Michel said there's a limited number of allocations for the lottery. So they're capped. Whereas like the transfers, those could move around and there might not be the cap. That's one other difference.

Mr. Kieckhefer asked when the last time was, that we had a boat ramp get closed and transferred.

Ms. Burch said it's typically pier-to-pier transfer. And that would be prohibited in this instance also.

Ms. Conrad-Saydah asked if we continue the denial, what are the options for this applicant if there is still interest in pursuing a potential pier application? I understand it may involve the lottery and/or bringing that whole area into attainment and then trying again.

Ms. Burch said it would essentially be some type of new application.

Mr. Miller said they would have to apply to either the single parcel or multiple parcel pier lottery. They'd have to meet all the eligibility criteria for a new pier which, as the applicant demonstrated, they're slightly different and would have to go through that process. But as far as the existing banked pier development right could potentially be transferred to another parcel that has pier development potential but it would not be able to be transferred to the Moody parcel.

Ms. Burch said a parcel within the same scenic unit, if they wanted to retire, their pier could transfer to this parcel. So, they could transfer within this unit.

Ms. Williamson said this is one where it's the reverse process for voting. If you want to make a motion, because this is an appeal of the executive director's decision to deny a permit, a motion to grant the appeal would be required. For that motion to pass, it must receive at least five affirmative votes from Nevada members and nine affirmative votes overall. Staff are recommending that the motion is not passed. The appeal will be deemed denied if no one makes a motion and no one makes a motion to grant. If someone wants to make that motion to grant, it must be five affirmative votes from Nevada and nine overall.

Ms. Aldean said as Ms. Conrad-Saydah suggested if you want to hold this in abeyance, that it would require a different motion. A denial in abeyance.

Mr. St. Michel said if that's the decision, the vote on that would be any eight. I appreciated Marsha handling the question about these arguments about staff having approved or permitted. The arguments that the Board is allowed to consider must have been in the Statement of Appeal. We see a couple of exhibits in there, but not all of that. Some of those items shown on the screen weren't in there. If there's new information or something like that, it should have been in the appeal and staff should have been able to consider that.

Staff would need direction on what we are doing with the continuance. As Mr. Miller just said, the questions answered are going to be the same. I've seen some of these that happened years ago before I got here, that we're still sort of churning through. My predecessor, John Marshall, always used to say that there were winners and losers with the Shoreline Plan.

From my perspective as your counsel, I've reviewed both positions and this is a straightforward code provision that we're trying to work around and a lot of creative arguments. I'm not sure that we would be faithful to the Code as it's written or the EIS developed for the Shoreline Plan if we try to do something different here.

Ms. Williamson suggested that we try two motions. If anyone was going to make this motion, we can see where it goes. If someone wanted to try a motion for continuance, we could do that too.

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Mr. Kieckhefer said with due respect to our general counsel, I don't think it's cut and dry. Our Code is clunky. I think we've got a section dedicated to boat ramps that contemplates this conversion and transfers and then refers to our separate section about piers. It talks about applicable eligibility standards. Mr. Gordon points out a relevant point: if I want everything in 84.42 and 84.43 to apply, I would say that, but our Code says, 'applicable standards.' Which of those standards are applicable, I think, is a relevant question. To me, that's open for interpretation.

Mr. Settelmeyer said there is a question of having all the information in front of us with dates on it. So we know exactly when the agreement occurred with the HOA which I think there's a very good case against the HOA that entered into an agreement with someone, took funds and didn't necessarily have the ability to deliver. But I'd like to see that information laid out chronologically and the discussion with TRPA who was aware of the deal, and how long they were aware of that. Unfortunately, it got through the process and got to the point where they realized it didn't occur. I also understand the reluctance of the applicant because it's like, well, just put a new permit. But I already had this deal over here. Timelines would help solidify that for my mind.

I go back to Natural Resources, what's best for the environment? That old boat ramp or a new pier? What is our goal and objective of TRPA? It should be the preservation of the environment. That's what I'm trying to look at and at the same time to wrestle with the rules. What's the best way to remedy this? Allow the applicant and the HOA to get into $1 million lawsuit potentially and bankrupt the HOA. Chronologically it would help me to have all that written down. Otherwise we can go forth with the motions.

Ms. Aldean said if I had been the applicant, I probably would have made the purchase of the development right contingent upon getting a pier approved on my property. I agree with Mr. Settelmeyer that we are to make decisions based on the evidence before us. I don't like to make decisions if I'm not fully informed, and at this point I don't feel like I'm fully informed.

So, I would make a motion to continue this item and encourage staff to re-engage with the applicant to see if there's any way to move this forward. Any incremental increase, even though it may not be full attainment, if you can fully mitigate that pier and it's a non-attainment area, but then you have the benefit of having the mitigation work that was done to remediate the impact of the boat ramp. It may not be compliant with our Code, but it's a win. I've been through multiple shorezone approvals that were litigated, and the last thing I want to do is to revisit shorezone. But it has been pointed out that it's a little clunky and could use some refinements.

I don't want to misdirect people, realizing that our Code is in some cases inadequate or subject to misinterpretation. I hate to allow it to continue to mislead people who are engaged in negotiations in good faith.

Ms. Williamson said we have a motion on the table for continuance for a timeline, chronological information, more background information to the extent that we can. I agree though if the appellant did not present it, I have a hard time with that. Make sure that we have everything that staff have in a chronological order for a continuance to also consider Code revisions in the future. That may or may not be possible on this appeal. But we need to talk about code revisions to make sure that it's not as clunky.

Ms. Williamson said code revisions would not be brought back for this appeal but in the future, we want to bring back code provisions.

Mr. Kieckhefer said it's good to get clarity in code and I don't feel like it currently exists.

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Ms. Conrad-Saydah thanked the legal staff and the team at TRPA for making the issue as clear as possible, as well as for all the public materials provided. She said she believed what was being discussed involved a private agreement that TRPA was not privy to, and that the Board would want to see that reflected in the timeline. I don't think that we should be opining on whether that private agreement was appropriate, it was separate from TRPA's role in the matter.

It would be very useful to have a clear timeline of the private agreement and the related discussions with TRPA. It's not our responsibility to fix that issue, as it is an agreement that would need to be addressed through other means or litigation. She reiterated the importance of separating those issues and expressed appreciation that the legal analysis had been as clear as possible given the information available at the time.

Mr. Hoenigman asked for clarification, is it correct that we are only allowed to consider information that was in their appeal and not any other information that could be presented in the meantime. Because if so, then we already have all the information we're going to get.

Mr. St. Michel said the rules say arguments and basis for appeals that are not included in the Statement of Appeal or staff's position paper shall neither be raised nor considered by the Board. It's the Agency's rules here, it's not like the court. Staff are not going to be taking you to court because you considered evidence. There were some items shown today that I don't believe were in their papers which I thought would have been good to see because staff might have been able to generate that kind of chronological history.

Mr. Hoenigman said but we could get new information and that it would be fine for us to consider in the appeal in the future.

Mr. Settelmeyer said I appreciate the concept of the motion and have no problem proceeding on different motions. It comes down to where I'm looking at a situation where I don't believe that TRPA hasn't done anything wrong. I don't think the applicant has done anything wrong. But how do we get to justice? Do we want to force someone to go into $1 million lawsuit when our rules through the lottery would allow this to occur. It's not like it's a hard no, that this is something bad for the environment. Trying to weigh all that is a very difficult decision. How do we get to the proper end? Do we make people go through a lengthier legal process that only benefits the attorneys?

Ms. Hill asked what this looks like in a continuance for the Board and looking at the Code. If we were to continue this item, ask for that timeline, and for the additional information that we did not have in our packet. If we discuss this again, the Code still will not have changed. Is there anything that I'm missing from TRPA's standpoint on what that would look like and when this would be brought back.

Mr. St. Michel said my suggestion would be that we go back get the additional information, look through the staff records, and present that to the Board. But if the outcome that we come back to is that this is still precluded from the Code. That's the position that we must come back and present to the Board again. It's difficult to be in this meeting when we're agendized to talk about an appeal to then to go back and look for a code revision to adjust the code can be difficult. If the board's preference to state what we understand the rule is with more clear language, staff can do that. But if we want this rule to be clearer in the Code, it's a completely different policy and would rather not include that in the motion. Then have that discussion in the future, come back, and say that staff still feels that this appeal is doesn't fit with our current Code.

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Ms. Hill said that's my concern with continuing it. I'm having a hard time with the motion.

Ms. Regan said we feel that this is as cut and dried as it can be. I think our pursuit of our mission of lake clarity when you implement it in a code, there are difficulties, and this is a good example where we can look at that. Staff are putting our draft work plan together and we'll be holding the strategic planning session in May. I'm happy to talk with the team internally after this to see where we landed. Remember we came up through an appeal related to rock crib piers. We as a team decided that we didn't have enough incentives in the new implementation of shoreline to fully incentivize removing rock piers related to invasive species concerns which have changed a great deal in the last ten years. We'll talk about boat ramps and if we need to look at that but not prepared to say yay or nay how that will turn out. But we're happy to take that offline separate from this matter. We're always looking at improving how we implement the Shoreline Plan and to be clearer in the code.

Ms. Aldean said if we want to do that separately and delete that from the motion, that's fine with me. In terms of coming up with new language and proposed code revisions, but there's nothing that requires us to deny the appeal. Can't it just be held in abeyance? The permit is still in the file, but we're not taking action on the permit. That gives us time to reevaluate our Code, determining if there are needed clarifications or if we want to look at incremental progress as opposed to bringing something into complete compliance before a transfer like this is eligible for consideration.

Ms. Burch said the suggestion was that if we hold it in abeyance, there may be some change to the Code or some future action that could provide some relief to this appellant. Going back to the example of the Thompson rock crib pier issue, it's not easy to amend the Code. It's a great idea to say here's an applicant who's ended up in a sticky situation and there's some way for us to tweak our Code to make that better. In this situation, there were a lot of ideas about what each party wanted. One wanted to have this pier right to transfer to their parcel. There were a lot of ideas. Ultimately, as mentioned, with the Shoreline Plan, there are winners and losers. Because these scenic units are directly tied to our threshold attainment, which is our mission under the Compact.

It's a difficult thing to say that maybe we could loosen the Code up a little bit and relinquish some of our control and ability to bring those scenic units into attainment. That's a big task and requires a significant amount of additional environmental review because the original EIS didn't account for that. It specifically said that these owner driven transfers shouldn't be allowed to be directed into these non-attainment units. Anticipating a code change while the permit sits in limbo is maybe not a great solution for the applicant either because it could be a few years.

Ms. Aldean said I'm not an advocate for the applicant. But I believe, as with the rock crib piers, that oftentimes it would be wonderful if we could address all of the environmental concerns in the Tahoe Basin in an instant. But we've been in existence for many decades and we still have work to do. I'm looking for some way to achieve some incremental progress in the interim, because we have a lot of work that remains undone. I'm not basing this on a desire to necessarily see another pier at Lake Tahoe. I don't think piers, by their nature, are scenic or can improve the scenic quality of an area, but they are an important component of our recreational experience at Lake Tahoe. There may be some way to make some incremental progress rather than take the position that it's all or nothing.

Ms. Burch said with respect to the removal of these boat ramps and the notion that maybe allowing transfers into non-attainment units will encourage folks who have a boat ramp to remove them. I don't think those two things are connected. If a boat ramp is removed, that is a valuable pier right at that point. And it can be transferred to many, many places around the lake that are in

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attainment. That pier right is extremely valuable and feels that there is a big incentive for people to remove those boat ramps. In this particular case, it just happened that they had prearranged where they wanted that right to go. And as it turned out, that wasn't a parcel that was eligible to receive the right. In terms of feeling like we're exchanging an environmental benefit if we don't allow this, I still think that incentive is there to remove the boat ramps. Because they are left with this valuable pier right.

Mr. Aguilar said given all the information we learned during this hearing can the parties go back to the table and figure out a settlement? Second, because we are going to allow TRPA staff to come back with new information, is it only fair to allow the applicant to come back with new information too? Third, I did meet with the applicant and wanted to make that disclosure.

Ms. Burch said regarding the question on whether the parties can go back to the table and reach a settlement without the Board taking action on the appeal. I would say no unless we do something that is in direct contravention to the Code. Staff would have to do is make a determination that this project can move forward, even though it is strictly prohibited by the TRPA Code. I don't believe that that's a settlement that staff could enter into.

As for the additional information, that's in the hands of the Board at this point, because our rules do say that the time to submit evidence has passed.

Mr. Aguilar said I understand that, but there was information withheld from the Board by staff and that's a different predicament and a different legal argument.

Ms. Burch said no, I don't think there's any information that's been identified that was withheld by staff.

Ms. Gustafson said I believe that was evidence introduced by the appellant.

Ms. Burch said that it would be within the board's discretion how they choose to accept additional evidence.

Ms. Gustafson asked staff if our maps are clear on where attainment and non-attainment areas are. I thought they were clear from my past work.

Ms. McMahon said we have an online GIS map with all the GIS layers and it's very clear.

Ms. Gustafson said following up on how much the appellant has invested in trying to pursue this option, should that have been a simple checklist? Can we either improve our processes or should people that are used to applying for permits have red flagged and asked that specific question early on? I understand we can't get into emails without full applications, but typically you research those issues before you invest this kind of money. And I and that's where I'm confused because I think those maps are pretty clear.

Ms. McMahon said we have the online maps and the Code of Ordinances is available online. We have internal checklists that we use. I'm assuming the consultants have their own system for reviewing projects. We have a pre-application meeting to meet with applicants and we can provide a letter before an applicant submits a full application. That was available at the time this project went forward.

Ms. Gustafson said as I understood it the owner took advantage of that. I don't know if the consultant was involved.

Ms. McMahon said I checked and didn't see a record of that.

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Ms. Gustafson said the reason for potentially bringing this back and having all that information chronologically would be important and I support that concept.

Mr. Gordon said we would be in support of holding this in abeyance and working with staff and providing the additional information. I reserved the right in my notice of appeal to provide additional information. The deadline to submit my presentation was yesterday at noon, not earlier. My apologies if you got the information late, but I just followed the protocol. I'm happy to make sure I get all this information sooner so you have it for the next go around.

Ms. Faustinos said we come back to the same basic principle, is the project in compliance, or isn't it? I don't think a delay is going to change that. This is a black and white issue. This distracts us from continuing the important work that staff does on a daily basis. And if I thought that there was a "fix" then I would support additional time and scrutiny. But I just don't think we're going to end up there.

Ms. Aldean said it has been stated that the appellant has spent a lot of money pursuing this along with his attorneys and consultants to understand the process. If the denial is upheld and he comes back with a modified application that may be permittable, he will not be charged another permit fee. Wouldn't that be a fair offer?"

Mr. Hester said staff spends a lot of time with applicants before a formal yes or no. For example, we've spent years with Boatworks in Placer County. Yes, you could do this, but you find out there's polluted groundwater. Those things require iterations. Barton Hospital is a great example. They held themselves back for a year to do groundwater research. Now they're holding themselves back because they're working with Cleveland Clinic and they may want to redesign their projects. There are a lot of times and you could look at emails and make a case that we committed to something that we really didn't commit to. And that's why we have the checklists and so forth.

We will be coming forward to you in the next couple of months with some artificial intelligence driven tools that applicants can use online, so they can see that they really haven't met all the code. We try not to do late hits but there are times when it's not something we can avoid. I don't know if we'd want to set a precedent of if you come back because you found out something in the process that you get to go through the application without paying additional cost.

Ms. Aldean said unless it's an oversight by TRPA.

Ms. Laine said she shares the same thoughts as Ms. Faustinos and I'm going to support staff's work on this matter today. If we need to go back and look at the Code and clean up the application process, I will support that as well but that's a different matter.

Ms. Williamson said the motion is for a continuance. Including chronologically, ordering the information we have or are allowed to have that staff didn't see and is outside of the appeal.

Mr. Kieckhefer said he had prior conversations with Mr. St. Michel, Ms. Burch, and Mr. Gordon.

Motion for Continuance:

Ayes: Ms. Aldean, Mr. Aguilar, Ms. Gustafson, Mr. Kieckhefer, Mr. Rice, Mr. Settelmeyer

Nays: Ms. Conrad-Saydah, Ms. Faustinos, Ms. Hill, Mr. Hoenigman, Ms. Laine, Ms. Leumer, Ms. Williamson

Absent: Mr. Bass

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Motion failed.

Mr. Rice made a motion to grant the appeal.

Ayes: Ms. Aldean, Mr. Aguilar, Mr. Kieckhefer, Mr. Rice, Mr. Settelmeyer

Nays: Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Ms. Laine, Ms. Leumer, Ms. Williamson

Absent: Mr. Bass
Motion failed.

8.A Incline Village General Improvement District Beach House and Guard Shack demolition and Rebuild Project, 967 Lakeshore Boulevard, Washoe County, Nevada, Assessor's Parcel Number (APN) 127-280-01, TRPA File Number ERSP2025-1343

TRPA staff Ms. McMahon, Principal Planner provided the presentation.

The Incline Village General Improvement District (IVGID) are requesting approval of a project that includes the demolition of an existing beach house which includes a concession area, bathrooms, and one of two guard shacks as well as a bar structure. The project also proposes construction of a new beach house, guard shack, bar, and a covered bandstand. This is an approximately 14-acre lakefront property located in Incline Village managed by the Incline Village General Improvement District for use by Incline Village residents and their guests.

The existing guard shack is proposed to be demolished. There is also a lake-facing view of the beach house proposed for demolition; this includes the concession area. Additionally, a bar structure is proposed to be demolished.

There is a view of the beach house from Lakeshore Boulevard. At the back of the beach house are the bathrooms, which are currently closed; porta potties are being used instead. The construction site is accessed from Lakeshore Boulevard. Upon entry, there is the existing guard shack, followed by the beach house both of which are proposed to be removed and replaced.

The proposed plan includes a new guard shack located at the top right of the site. The entrance to Incline Beach will be reconfigured. Existing parking spaces will remain but will be restriped and improved for ADA accessibility. A new beach house will be constructed, which will include a kitchen, a breezeway, and bathrooms. The existing beach house is very old and does not meet current public health and safety standards, so it needs to be replaced and modernized. A new bar is proposed in front of the restrooms, and a 240-square-foot covered bandstand is proposed to the right.

The new beach house layout includes the concession on the left side and bathrooms on the right side, with the bar located in front. To the right of that is the bandstand, followed by the guard shack. The project will use earth-tone colors and materials, consistent with TRPA design guidelines and the Washoe County Area Plan design guidelines.

TRPA conducted a scenic review of the project because it is visible from the lake, and Incline Village is a designated recreation area. TRPA determined there would be no scenic impacts because the

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proposed structures are one story, set back from the lake, located below the forest canopy, and designed with earth-tone materials to blend into the natural surroundings.

A comprehensive review of the project was conducted. Regarding noise, music has been occurring on the beach for the past 15 years, and no impact is anticipated. However, a condition has been added requiring that music end by 10:00 p.m. each night.

The project is located on high capability lands (Class 6), which are suitable for development. The site is within an established service area for Incline Village residents and their guests, based on a 1968 deed restriction. This service area is not expanding. The parking lot is not expanding, and the project is limited to replacing existing facilities. The primary use of the site—beach recreation—is not expanding. Therefore, staff determined that the project would not increase vehicle miles traveled and would not require additional "people at one time" (PAOTs), which are development rights required for new or expanded recreation facilities under TRPA code. All applicable findings were made.

Public comments were received early in the process, with approximately five members of the public opposing the project. Concerns included the design of the buildings; however, staff determined that the project complies with TRPA and Washoe County design standards. Additional concerns included the cost of the project (a board-level issue) and beach access. The 1968 beach deed is not regulated by TRPA, and no changes to access are proposed as part of this project.

A more recent comment letter raised a concern that the project was being processed as a public service application. It is, in fact, being processed as a recreation application, and that clarification has been made for the record.

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Board Comments & Questions

Ms. Conrad-Saydah noted that the presentation referenced five objections. We heard support this morning and received written letters of support. Beyond the five areas of objection you identified, what has been the overall public response in terms of support versus opposition?

Ms. McMahon said there were about five letters received which some also spoke this morning. It was five people in opposition and three people in support. The project was also approved by the Incline Village General Improvement District Board.

Ms. Aldean asked how many of those people objecting to it were from the Crystal Bay area.

Ms. McMahon said I don't know. That's been a long-standing issue because the beach is for the residents of Incline Village. As per that 1968 deed restriction, and then at a later date, IVGID annexed in an additional area, including Crystal Bay providing water and sewer. They have access to other recreational amenities, but not this beach.

Ms. Aldean noted that this is outside our purview, but I'm asking out of curiosity, as their perspective may be somewhat different.

Motions:

Ms. Aldean made a motion to approve the required findings, including a finding of no significant effect (Attachment A)

Ayes: Ms. Aldean, Ms. Bennett (for Mr. Aguilar), Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Kieckhefer, Ms. Laine, Ms. Leumer, Mr. Rice, Mr. Settelmeyer, Ms. Williamson

Absent: Mr. Bass
Motion carried.

Ms. Aldean made a motion to approve the proposed project subject to the conditions contained in the draft permit (Attachment B)

Ayes: Ms. Aldean, Ms. Bennett (for Mr. Aguilar), Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Kieckhefer, Ms. Laine, Ms. Leumer, Mr. Rice, Mr. Settelmeyer, Ms. Williamson

Absent: Mr. Bass
Motion carried.

9.A Executive Director Status Report

Ms. Regan Team Tahoe has had some significant developments over the past few months regarding our broader partnership on Tahoe issues.

First, we have soft-launched a new website, "Restore Tahoe EIP," which serves as a landing page for the Environmental Improvement Program (EIP). The EIP Committee has been briefed on this effort, and Board Member Faustino has been highly engaged in the project for well over a year. We collaborated with more than 80 EIP partners to create a unified and visually compelling platform. The site was introduced at the summit and is currently available in a test phase as we address remaining issues. It can be accessed at https://restoretahoe.org with a full rollout planned in the future.

Many thanks to our Communications team and the EIP Communications and Funding Committee, who have dedicated months of effort to this project. This platform will be a valuable tool for showcasing and supporting the many restoration projects taking place around the lake.

We also continue to use the Team Tahoe banner for trips such as our recent visit to Washington, DC. While there, our visit coincided with Senators Cortez Masto and Rosen's "Battle Born Breakfast," a monthly gathering to discuss state-related issues.

Our delegation was diverse and included long-standing partners, notably Chairman Serrell Smokey and Lydell Wyatt representing the Washoe Tribe, as well as participants from the North Shore, South Shore, Nevada, and California. The group also included nonprofit and government partners, including the Tahoe Transportation District Board Chair and Executive Director. During our time in Washington, we met with leadership from the U.S. Forest Service at headquarters, the U.S. Department of Transportation, and members of both the House and Senate delegations.

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Discussions covered the modernization of the Santini-Burton Act, as well as Fiscal Year 2027 appropriations under the Lake Tahoe Restoration Act. We submitted our priority list to Congress ahead of the March 15 deadline. The federal surface transportation bill is currently being drafted, and we met with key committee staff and transportation leaders to discuss priorities.

We also addressed the Water Resources Development Act (WRDA), which is updated every two years. Through this process, we secured $6 million for a pilot program focused on aquatic invasive species in high alpine lakes. While the language was written broadly, it is effectively targeted at Lake Tahoe, and to date, no other lakes appear to have applied for these funds. We are now working on mechanisms to deploy this funding to address emerging threats such as Golden Mussels and other invasive species.

Overall, the trip demonstrated the strength of our partnership and collaboration. We aim to conduct these large group visits annually each spring, and we appreciate everyone who has participated in past efforts.

At the state level, both Nevada and California remain actively engaged. In Nevada, the Legislative Oversight Committee has already held two meetings during this interim session. The February meeting focused on fire, emergency evacuation, and forest health, and was very well attended. The next meeting, scheduled for April 10, is expected to draw similarly strong participation.

In California, a subset of Team Tahoe recently visited the State Capitol. Special thanks to Board Member Alex Leumer for participating in meetings with California partners. Devin Middlebrook continues to coordinate these efforts across the broader Team Tahoe partnership.

Regarding agency work, the Board took action last month on updated forest health thresholds. We are now shifting focus to recreation threshold updates. A key component of this effort is improving our recreation inventory to better assess the sustainability of public lands, including Forest Service beaches, Sand Harbor State Park, Emerald Bay, Vikingsholm, and other California State Parks and Conservancy facilities.

We are grateful to both California and Nevada for recently awarding TRPA grants to support this work. These resources will help ensure we have strong data to inform decision-making, similar to what supported the success of the forest health and water quality threshold updates. The recreation threshold update is expected to generate significant community interest.

We have also experienced several staffing changes. Tiffany Good, who has been with the Agency for over a decade, has departed after relocating to Sacramento during COVID and decided to remain there. We are grateful for her many years of service. Julie Roll is stepping into an expanded role within Permitting and Compliance Department.

Justin Lanoff, one of our inspectors, will be leaving to attend graduate school. He is currently deciding between Columbia and Northwestern, where he plans to pursue a master’s degree in sustainability. We wish him the best and are actively recruiting for his replacement.

Additionally, Mr. Hester has formally announced his retirement, effective in September. We will begin recruiting for a Chief Planning Officer/Deputy Director.

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It is also intern hiring season. We are recruiting across several departments and look forward to bringing in talented individuals, many of whom have historically transitioned into permanent roles at TRPA.

Looking ahead, the April 10 Nevada Legislative Oversight Committee meeting will focus on sustainable recreation, destination stewardship, tourism, and transportation. Upcoming Board committee meetings, including the Environmental Improvement Program Committee and the Transportation Committee.

In May, we will present an update on the new Reporting and Accountability Department, led by Ken Kasman. This team is developing a dashboard to improve compliance tracking, particularly for large projects such as the Event Center and Homewood, with the goal of streamlining oversight and increasing efficiency.

Please also mark your calendars for the May Board meeting on Wednesday, followed by a strategic planning session on Thursday at Granlibakken. We are exploring the possibility of a field tour on Wednesday afternoon, potentially including the Fanny Bridge project and other Tahoe City sites, depending on agenda timing. Dinner will follow, and the retreat will take place Thursday.

Before closing, I would like to highlight two items approved on consent. First, the Lake Tahoe Unified School District is moving forward with bond-funded improvements, including the renovation of Tahoe Valley Elementary School. This investment will significantly benefit the South Shore community by upgrading aging facilities.

Second, the Caltrans Meeks Bay Bridge project continues to advance. As discussed during your field tour, this effort is part of a broader restoration initiative that includes forest thinning, meadow restoration, and expanded use of cultural burning practices led by the Washoe Tribe. This project reflects the integrated approach we are taking to ecosystem restoration.

Finally, Director Settelmeyer will be stepping down due to a career change. While this is his last Board meeting, he has agreed to return in the future so we can properly recognize his service. We are deeply grateful for his contributions and leadership.

9.B General Counsel Status Report

Mr. St. Michel reported that the Kent Bryan case involves an individual seeking to obtain a buoy for a non-littoral parcel. Summary judgment motions are currently being briefed, and we anticipate submitting the case to the court by early to mid-summer.

Mr. Flaherty's lawsuit against the Agency regarding approval of the Washoe Tahoe Area Plan amendments is in its very early stages. We are working with him to establish a briefing schedule.

Regarding the unpermitted boat rental concessions, all parties have now been fully served, and the final party has submitted an answer. Unlike in previous litigation, where we pursued default judgment, this case will proceed with responses from all parties. As we approach the boating season, we will see whether our enforcement efforts serve as a deterrent. The parties have maintained that their activities are not commercial in nature; however, we will continue to document and present evidence, particularly if such activity resumes in the coming months.

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In the Eisenstecken matter, which involves a cell tower on Ski Run Boulevard in South Lake Tahoe, we have continued to engage in productive settlement discussions. Director Regan has been closely involved in this effort. The plaintiffs have agreed to a proposal, which I will present to the Legal Committee in closed session next month. Actions will depend on the Committee's direction.

10. GOVERNING BOARD MEMBER REPORTS

Ms. Gustafson said they've named Clayton Cooke as the new Placer County Council.

Secondly, the Dollar Creek housing project that we've been working on for quite a long time will have a public meeting April 2nd, 5:30 p.m. to 7:30 p.m. at North Tahoe High School. The public will have the opportunity to weigh in on the new design and the project.

Because of earlier public comments and quite a bit of public comment in our communities relative to Liberty Energy, they are coming to the city council meeting on April 21st in South Lake Tahoe. We are also working with them on doing a virtual town hall for North Shore to also allow them to dispel some of the rumors that are going on around the community with headlines such as no power at the elementary school starting next year. There is a process that they go through but it's important for us to give them opportunities to vet that publicly and to answer people's questions.

Mr. Settelmeyer said Washoe County Sheriff's Department and Search and have been kind enough to do some work at Marlette for us. A box was found there a while ago while cleaning up the lake and nobody knows what it was.

This is my last meeting and thank everyone for everything we've been able to accomplish. I know you'll continue to accomplish far more. I look forward to seeing you all again at another time.

Ms. Leumer said the California legislative session is underway. We won't know the results for a few more months, but there's going to be a number of bills relevant for Tahoe. There's a handful of bills about how or whether or not to regulate data centers in terms of energy consumption, environmental review, and water usage. A couple of bills on Golden Mussels and a few on beneficial fire. One specifically trying to help build more capacity and directing some of that money to tribes to do more beneficial fire on the ground, which I think would be appreciated here in the basin with the leadership the Washoe Tribes has had.

Ms. Laine gave a shout out to El Dorado County staff regarding the Tahoe El Dorado Ted Area Plan who have poured their heart and soul into this. They've done several public outreach meetings with more to come. They live here and you can see that embodied in the plan. I'm excited for the environmental review to be finished and then have an opportunity to bring it before the Board.

Second, I've learned quite a bit from being on the board, particularly from Mr. Settelmeyer's participation. I thought I knew about Nevada, but maybe I was course corrected. Thank you for your sincere participation and the effort that you put in.

To John Hester, I know that this has been coming for a long time. How many people will you need to hire to fill your position?

11. COMMITTEE REPORTS

A. Local Government Committee

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No report.

B. Legal Committee

No report.

C. Operations & Governance Committee

No report.

D. Environmental Improvement Program Committee

No report.

E. Transportation Committee

No report.

F. Regional Planning Committee

Mr. Hoenigman said the Regional Planning Committee heard a presentation on the El Dorado County Tahoe El Dorado Area Plan. They are creating an area plan for the entire unincorporated part of the county. Whereas right now they only have an area plan for Meyers. The one thing that will be really pertinent to the Board is that they opted out of our phase two requirements for housing where we granted more height density, reduced parking, and more coverage to allow for fully deed restricted housing and instead worked with the community and found an option that works for them and provides basically the same level of incentives for housing.

They're taking the height down, which a lot of other areas wanted to do, but they're throwing some skin into the game with land and development rights and extra coverage, and tax incentives. The meeting today was to kick off the environmental impact statement scoping.

G. Tahoe Living Working Group

No report.

H. Threshold Update Initiative Stakeholder Working Group

No report.

12. PUBLIC INTEREST COMMENTS – ON ANY ITEM

No comments.

13. ADJOURNMENT

Ms. Williamson adjourned the meeting at 1:51 p.m.

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Respectfully Submitted,

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.

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