

TAHOE REGIONAL PLANNING  
GOVERNING BOARD

TRPA/Zoom

May 24, 2023

**Meeting Minutes**

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Ms. Gustafson called the meeting to order at 12:23 p.m.

Members present: Ms. Aldean, Mr. Di Chiara (for Mr. Aguilar), Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Mr. Hicks, Ms. Hill, Mr. Hoenigman, Ms. Laine, Mr. Settelmeyer, Ms. Williamson

Members absent: Mr. Rice

II. PLEDGE OF ALLEGIANCE

Ms. Williamson led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Ms. Regan said Consent Calendar Item No. 2 for the Release of Placer County Water Quality (WQ) Mitigation Funds (\$500,000.00), for the Kings Beach Water Quality Improvement Project that is being removed from the Consent Calendar will be heard after Agenda Item No. VI.A, Lake Spirit Awards.

Ms. Gustafson deemed the agenda approved as amended.

IV. APPROVAL OF MINUTES

Ms. Aldean moved approval of the April 26-27, 2023, as presented.

**Motion carried.**

V. TRPA CONSENT CALENDAR

1. April Financials
2. Release of Placer County Water Quality (WQ) Mitigation Funds (\$500,000.00), for the Kings Beach Water Quality Improvement Project
3. Zacko Enterprises, LLC, Leah & Patrick Higgins; Pier Expansion with Boatlift Addition & Multiple Parcel Pier Designation; TRPA File # ERSP2022-1117; Project Location: 6160 & 6190 W. Lake Blvd., Homewood, CA; APNs 098-031-006, 098-032-014, 098-031-005, 098-032-013
4. APC Membership appointments for the Tahoe Basin Fire Chiefs primary representative, Chad Stephen, and primary alternate, Scott Lindgren and secondary alternate, Jim Drennan

Ms. Gustafson said there are four items on the Consent Calendar, item one was reviewed by the Operations and Governance Committee and three and four were not reviewed by any committee. Item number two was removed from the Consent Calendar and will be discussed after the Lake Spirit Awards agenda item.

Ms. Aldean said the Operations and Governance Committee recommended approval of item number one. All expenditures are within budget and revenues are at or exceeding projections. Planning fees are tapering off and could affect the budget projections. The Operations and Governance Committee heard item number two and decided to defer action without a recommendation based on the assumption that this item would be removed from the Consent Calendar for further discussion.

#### Board Comments & Questions

Mr. Friedrich said the proposal is for 84 square feet of additional mass. They talked about this last month that this is allowed under the new Shorezone Plan where parcels adjacent to this can be retired and they can do monster piers in exchange. It seems like we're starting to see a lot of these sizes of piers and boatlifts. Is this what was intended in the Shorezone Plan?

Mr. Marshall said yes, but that is not an agreement with Mr. Friedrich's characterization whether they are monster or not. The last time they looked at one of these piers, Mr. Friedrich's concern was that it wasn't truly a reduction in development potential because of the ownership pattern of the lots. This one is in different ownerships, it's more like a true multiple use as opposed to one family owning all of it. The findings and allowances are all within the design criteria that the Board adopted for the new Shorezone rules.

Mr. Friedrich asked if there was any public comment received from the neighbors of this project.

Mr. Marshall said no there was not.

#### Public Comments & Questions

None.

Mr. Hoenigman moved approval.

Ayes: Ms. Aldean, Mr. Di Chiara, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Ms. Laine, Mr. Settelmeyer, Ms. Williamson

Absent: Mr. Rice

**Motion carried.**

## VI. ADMINISTRATIVE MATTERS

### A. Lake Spirit Awards

Ms. Regan said TRPA the Lake Spirit Awards are alternating years with the Best in Basin Awards.

TRPA staff Ms. Ortiz provided the presentation.

## GOVERNING BOARD

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Ms. Ortiz said In 2011, TRPA introduced the Lake Spirit Awards to recognize individuals in our community who show exceptional commitment to protecting Lake Tahoe. Over the years we've honored 25 exemplary citizens and agency representatives who not only demonstrated a strong commitment to Lake Tahoe's environment but also modeled a spirit of collaboration.

During the pandemic, in celebration of TRPA's 50th anniversary, the agency bestowed "Spirit of TRPA" awards in lieu of Lake Spirit Awards to celebrate individuals by the decades who embody the essence of collaboration in the basin.

This year, our excellent selection committee comprised of TRPA staff and Governing Board member Ashley Conrad-Saydah received 20 nominations. The competition was as fierce as the nominee's commitment to Lake Tahoe, and ultimately, we selected six individuals for awards. There is one North Shore and one South Shore recipient for the categories of Citizen, Agency Representative, and Lifetime Achievement.

Heidi Doyle was one of the first female park rangers hired by the state of California in 1980. After 32 years serving mostly the State Parks in and around Lake Tahoe, she decided to retire. But, for anyone who has ever met Heidi you know that she is brimming with energy and enthusiasm, so she started her next career as the Executive Director of the Sierra State Parks Foundation where she is currently employed.

Her work with the foundation has raised many millions of dollars to reinvest back into the Sierra Parks and the foundation has been recognized nationally as a model organization for public/private partnerships. Heidi's 45 years of dedicated service and leadership to our California State Parks make her an excellent candidate for this year's Lake Spirit Award.

Jean Diaz is the Executive Director of St. Joseph Community Land Trust, who recently completed construction on and sold homes to three local households in South Lake Tahoe. St. Joseph Community Land Trust coordinated the planning, permitting, construction and sale of the homes. The homes are owned by the purchaser, but the land remains with the land trust. As a result, the homes will be permanently affordable for households earning below 120 percent of the area median income, even when they are sold. This creates ongoing homeownership opportunities for south lake residents that may not otherwise be able to afford a home. We are proud to honor Jean's invaluable work to preserve and expand permanently affordable homes for the Tahoe Basin's low and moderate workforce and families.

Helen Neff has been a leader on traffic safety in the Tahoe region in the past year. After being hit by a car herself and suffering serious injuries, Helen got to work improving pedestrian safety in Tahoe. She reached out to Take Care Tahoe about creating a traffic safety campaign, which she funded herself. This led to the launch of the Take it Slow, Tahoe campaign in June of 2022. Take it Slow signs are now placed around the basin and on a billboard seen you approach Tahoe from Carson City. This spring, Take Care will be distributing free yard signs around the basin with the Take it Slow message on them. This campaign would not have been created without the advocacy and support of Helen Neff.

Lila Peterson. The uniform room at a ski resort may seem like an unlikely place for an individual to rise up as an environmental protector of our lake, however Lila has done just that. She spent the entire season at Heavenly Ski Resort identifying waste streams that her department contributes to and worked tirelessly to find solutions. On her own initiative, Lila implemented programs to keep used uniforms out of the landfill, installed a Lomi™ (smart composter) in the employee center, recycled

several pallets of plastic wrappers, organized Blue Crew trash clean ups of neighboring streets impacted by ski resort traffic, created a clothing drive to help employees without winter clothes, and volunteered to lead the resort in implementing a zero waste program. Because of Lila's efforts she was asked to serve on Heavenly's Epic Promise C2Z (Carbon to Zero) team, which is normally reserved for senior managers and directors. She has also received multiple nominations for "Epic Service" awards.

Forest health and wildlife habitat improvement have always been top priorities to Roland Shaw. He joined the Nevada Tahoe Resource Team in 2003 after a 30 year career with the USDA Forest Service, where he led fuel reduction and forest enhancement projects.

He also conducted the first ever prescribed burn prescription for 100 acres in the Tunnel Creek area near Incline, successfully and safely. Near the end of his career, he also designed and conducted a helicopter removal of overstocked material for 500 acres of critical forest around the north and west sides of the Spooner Lake basin. The multi-million dollar Spooner Landscape Resilience Project costs were offset by timber sales, and the use of helicopters greatly reduced the level of impact to the landscape. As we celebrate Wildfire Awareness Month it is most timely to bestow a Lake Spirit Award to Roland to acknowledge his myriad contributions to making Tahoe's forests more resilient.

Don Lane is one of the longest serving Forest Service staff in the entire country. Don is responsible for maintaining recreation sites and crews that patrol Desolation Wilderness. His dedication to Tahoe over the last 30 plus years has connected countless numbers of people to the outdoors. His colorful story telling brings history to life and inspires everyone to be a steward of the Tahoe Basin.

Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VI-A-Lake-Spirit-2023.pdf>

#### Board Comments & Questions

None.

#### Public Comments & Questions

None.

- V. Consent Calendar Item No. 2: Release of Placer County Water Quality (WQ) Mitigation Funds (\$500,000.00), for the Kings Beach Water Quality Improvement Project.

Ms. Holloway, Deputy CEO, Placer County said this area of Secline Street is a high use recreation area with a lot of access to the lake. There is need for improvement from a water quality perspective. The other part of this project that will be talked about is Brockway Avenue that is perpendicular to Secline Street and is currently a dirt roadway.

This is an uncomplicated project from a pavement perspective of a roadway. These are basically paper streets, rights-of-way that are in control of Placer County that they are proposing to pave from a water quality perspective. In doing so, they are reorganizing and formalizing some of the parking that's occurring in this area from an access and residential perspective.

There are some existing residential uses on Brockway Avenue. Adjacent to Secline Street they have a property that is owned by the North Tahoe Public Utility District with their pump station along with some land owned by the California Tahoe Conservancy. There's been a lot of discussion with those

partners over the years.

These two streets are 45 foot road, rights-of-way that are being improved with a 20 foot road generally and about ten parking spaces. This project achieves environmental goals, improves the pavement, and advances some of their other initiatives in the region such as a parking management program in the future. They anticipate that these new parking spaces along Secline Street to be part of that strategy. It will be better in managing and controlling the access point, and the parking. The hammerhead on the south end is anticipated to be a turnaround area along with a microtransit perspective from TART Connect that will bring people to this access point. It will be an alternative to the parking to facilitate alternative modes into these areas.

This Secline Street portion of the Kings Beach Water Quality Improvement Project was identified as a phase. The water quality project was initiated and became a project in 2003 and this is a phase of that. In 2008, the environmental document for that bigger project was approved by the Placer County Board of Supervisors. In 2013, Secline was identified as a phase of implementation. In 2017, the Placer County Area Plan was adopted by TRPA's Governing Board and the Placer County Board of Supervisors. In the past three or four years, they've gone to work to get this to implementation. They anticipate going to the Placer County Board of Supervisors in June to award the contract. The solicited bids were opened, and the lowest bidder has come in under their engineer's estimate.

Placer County had a town hall meeting in May 2022 and this project was highlighted as part of the public works booth. In August of last year, they did a number of meetings with the North Tahoe Business Association and the board of the North Tahoe Public Utility District. They've met with the Economic Vitality Committee and know that the Governing Board has received some letters with concerns. They've done two site walks with members of the Economic Vitality Committee trying to address and understand any additional amendments or considerations that they might include.

They are ready to go to the Placer County Board of Supervisors to award the contract for construction and this is the final step of bringing all the funds together in order to go to construction this summer. They understand the concerns of NTBA Economic Vitality Committee today, they have met with them and have tried to incorporate many of their requests to bike racks to location of the road.

#### Public Comments & Questions

Danielle Hughes appreciated the work that Placer County has been doing with them but in reality, they haven't had their questions fully answered. They aren't trying to stop the project or funding and are looking forward to a positive outcome and investment in improving water quality. However, they have concerns that the project is not aligning with the area plan. They would like to see a condition to ensure that it gets built in a manner that is consistent with that plan. The North Tahoe Public Utility Board did not move forward with a license agreement for the initial project. That board has decided to shift and are going to work with the Conservancy and Placer County to look at the planning effort for those properties. This is an important project that needs to consider those future projects that are moving forward. Because it didn't go through a proper design review of Placer County, please condition the project to assure that it's aligned with those visions in that plan.

Andrew Ryan, Engineer and Economic Vitality Committee member said they've been advocating in Kings Beach with their group for a number of years for walkability, live ability. He believes that they can all recognize that the development patterns around Tahoe are automobile centric and are all working to change that. With their advocacy, they are pushing hard to bring balance and continue to bring elements of the Tahoe Basin Area Plan and the shared use trail that represents thousands of

hours of community engagement from broad stakeholders. They want to see more emphasis on that than parking in this spot. It's okay as an advocacy group that don't always agree with Placer County but want to recognize that their work with the Department of Public Works, especially with Rebecca Taver has been positive and things are moving in the right direction. But they do want to have some assurances with funding and moving forward since the project is already out to bid and potentially awarded that it will reflect their concerns that are in the area plan. A way to do that would be to have the Placer County Planning Department review the project as a condition or since it's a joint document with the area plan and TRPA, have the Environmental Improvement Program permit that will be written for this, provide conditions to ensure that they can accommodate the boardwalk, that the wanted water quality improvements aren't inhibiting the boardwalk. If they are formalizing parking, that triggers these parking facility requirements within the area plan and get things such as screening, adequate trash and screened enclosures, and screening from the scenic side of the lake as well. Their ask is to have you support this project from a water quality perspective and support their work with the area plan.

#### Board Comments & Questions

Ms. Aldean referred to the third page of the Economic Vitality Committee letter where it states "Our review of the Tahoe Basin Area Plan and Vision plans would expect the following to be part of the Lower Secline project documents. Project elements we would like to see include....." Are these achievable or are they inconsistent with the project that Placer County wants to advance today? Or is there room to accommodate some of these recommendations?

Ms. Holloway, Placer County said her understanding with some of the asks that Mr. Ryan and Ms. Hughes have elevated, really relying on the language in the area plan which is a land use document. Many of those standards apply to private development or development of lands. This is a county road right-of-way. Not that they can't elevate those things, but it doesn't necessarily one for one apply to a road improvement project which is sort of what this has evolved into. Her understanding is that they've agreed to bring in bike racks to incentivize as many alternative modes as possible and have worked to better align Brockway Avenue. It's a 40 foot road right-of-way and a 20 foot wide road. It has the opportunity to move to the north or south in the design. The Economic Vitality Committee has helped them shape essentially where that would ultimately be located. The desire is to have this boardwalk which is in the area plan on the north side of the road. The north side would be the boardwalk then a 20 foot wide road and then immediately adjacent to homes there's a six foot buffer or roadside on the south side. This is something that they've bid differently but understand that it could be covered through a change order.

Mr. Keaveney, Placer County said after rereading the paragraph in the NTBA Economic Vitality Committee letter asking in summary, they ask that TRPA enact conditions on the water quality funding and EIP permit that address the following. Of the bullet points presented, any of the bullet points that relate to the boardwalk are something that have been presented just exactly as they are asking for the condition to be levied upon. Placer County has already met those requirements. Aside from allowing for 13 to 15 feet of appropriate width, they've done what they feel is the best condition for both the residents and the visitors and have reduced it to 12 feet. They were asking for 13 and they reduced it to 12 and feel like that's a compromise that works for everyone. Requiring a comprehensive operations and maintenance plan with responsibilities; he thinks they are heading in that direction. The first bullet point of ensuring consistency with requirements for parking facilities or parallel parking for the area plan. They've done what they feel makes an adequate project by presenting the perpendicular parking that they have out there, not adding any spaces from what there is now and

allowing people to turnaround. Within the county, they have a design exception request which would allow them to deviate from the area plan slightly to do that perpendicular parking. Altogether, feel like they have a well-supported project from the public.

Ms. Holloway, Placer County said they are amenable to doing some kind of operations plan. They make a lot of good points from the snow removal needs into the future to the overall coordination with the neighboring entities. The North Tahoe Public Utility District has a pump station there and the California Tahoe Conservancy also has land there. The area plan standard that talks about parallel parking, they are proposing perpendicular parking. There are ten spaces of perpendicular parking to the exception request. The intent of that language in the area plan was intended for a through street. This is a dead end street and is more of a parking lot in its ultimate configuration than a through street. It came down to more of a safety issue of the parallel parking being a bit more of a safe entry and exit onto a through public street as opposed to perpendicular parking. They feel that this achieves the goals of the project. There are ten spaces, they would estimate that they would only be able to get about three from a parallel perspective.

Ms. Aldean made a motion to approve the release subject to the conditions contained in this memorandum and a commitment from Placer County that the proposed project will be consistent with the area plan as appropriate and applicable.

Mr. Marshall said it's already a determination for the release that it's consistent. That condition in of itself doesn't add anything.

Ms. Aldean said it gives some assurance to the people that have concerns that certain elements have not been incorporated pursuant to the area plan, that in fact the area plan will be followed where appropriate. There are some changes that Ms. Holloway has just addressed with respect to the orientation of the parking and that is why she added "as applicable" to the motion. This gives them some flexibility to meet the spirit of the area plan if not the letter of the area plan.

Mr. Marshall said his concern is by including that condition, you are somehow assuming that it's not already consistent with the applicable area plan.

Ms. Aldean said she doesn't think it is in terms of the orientation of the parking, isn't that what Ms. Holloway just stated.

Mr. Marshall said Ms. Holloway stated that it is consistent.

Ms. Aldean asked if that was in the terms of orientation.

Ms. Holloway, Placer County said the area plan language does state on public roadways that it would be parallel, so, there is design exception process that they would go through to recognize the current proposed configuration.

Ms. Aldean said she was trying to build in some flexibility. It may not be entirely consistent with the area plan based on the modification that they are recommending, but it's justified.

Ayes: Ms. Aldean, Mr. Di Chiara, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Ms. Laine, Mr. Settelmeyer, Ms. Williamson

Absent: Mr. Rice

**Motion carried.**

VII. PLANNING MATTERS

A. Resolution in support of the Lake Tahoe Wildfire Awareness Campaign, May – October, 2023

Ms. Regan said they've been hearing consistently the concern around fire and evacuation and know the importance of community education around this. They've seen public education ebb and flow from 16 years ago of the Angora Fire to 2021 and the Caldor Fire. It's incumbent on all of us to ensure that the community is engaged since roughly 90 percent of wildland fires are human caused. There are now about 65 neighborhoods that are either fire adapted or fire wise communities in Lake Tahoe.

Ms. Gustafson read the resolution into the record.

Board Comments & Questions

None.

Public Comments & Questions

None.

Mr. Settelmeyer made a motion to approve the Resolution in support of the Lake Tahoe Wildfire Awareness Campaign, May – October, 2023.

Ayes: Ms. Aldean, Mr. Di Chiara, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Ms. Laine, Mr. Settelmeyer, Ms. Williamson

Absent: Mr. Rice

**Motion carried.**

B. Tahoe Keys Control Methods Test Project Update

Mr. Zabaglo said the first year of testing is complete and they are getting ready to begin the second year. Mr. Walcott, Water Quality Committee Chair, Tahoe Keys Property Owners Association will provide some context on the commitment and journey of TKPOA. Dr. Anderson, Science consultant for TKPOA will provide an update on the progress over the past year, and Mr. Patterson, League to Save Tahoe will give a perspective from the League and some of the efforts going on in the Keys.

The Tahoe Keys Control Methods Test is a large scale test project to address the weed infestation in the Tahoe Keys such as the Curly-leaf pondweed, Eurasian watermilfoil, and a native species at problematic levels called Coontail which are their target species. They've been working on solutions for this infestation that's 170 acres. The largest completed project to date is a six acre area in Emerald Bay. The area circling portions of Lake Tallac is around 17 acres and is roughly the same size as the project being done at Taylor Tallac.

This is an innovative approach at multiple levels. One, they are using innovative tools including one that was pioneered in Lake Tahoe with ultraviolet light to treat the target species and also the one



time use of aquatic herbicides which has never been tried before. It's a one-time application with follow up of non-chemical methods for the long term to control the infestation. Some of the milestones started with the success of the Aquatic Invasive Species program, starting with the boat inspection program preventing new invaders from coming in. This allowed them to focus on the species they had prior to the inspection program being in place. Achieving that localized eradication, gaining credibility, and allowing funding to come through to start tackling these larger infestations. Of course, the commitment by the property owner's association. Without their commitment and fortitude to move forward, they wouldn't be here today. The TKPOA assessed themselves to provide the needed funding for this project. A stakeholder committee was formed as a result of this complex and somewhat controversial project to ensure transparency, that the public process is robust and is where the idea of a test project came from. That led to the comprehensive environmental analysis with a significant amount of data collection done prior to establishing a baseline and then assessing the range of alternatives which includes a no project alternative. That's the one alternative that the analysis concluded would have the greatest harm to the Lake. It also concluded that the control methods test as proposed could be implemented safely. It recognized several redundant protections and mitigations such as treating early when biomass is low so there are not excess nutrients entering the system. Also having double turbidity curtains to ensure any herbicide was staying inside the treatment areas. On call divers to assess anything in the water and independent monitoring by TRPA. In January 2022, unanimous decisions by the Governing Board and the Lahontan Regional Water Quality Control Board to memorialize those mitigations. That led to a lot of work and collaboration to get the project on the ground about one year ago today.

TRPA issued a permit and provided a regulatory role to ensure that the thresholds are being achieved. The project does this on multiple levels not only to ensure that potential impacts aren't realized but this is also leading to a restoration project. Also, ensuring that this project achieves the Aquatic Invasive Species program, achieving localized eradication predominately inside the entire but also reducing invasive species within the Tahoe Keys to a considerable level.

There's been numerous opportunities for the public to participate, provide input and learn about the project.

There were various treatments used such as herbicides, ultraviolet light, and combinations along with monitoring for water quality, herbicide degradation, fate and transport, nutrient levels, making sure that mitigations were implemented if needed based on the results and then efficacy, looking at the plant species and how they responded to those treatments.

(Presentation continued)

Mr. Walcott provided an overview from the permit approval through last season's testing. Mr. Walcott's been on the TKPOA Water Quality Committee for a few years and is on the association board. The Tahoe Keys has been at this for about 50 years and for more than 20 years they've had some dedicated homeowners and professionals like Dr. Anderson working to understand the problem and bring attention to it. That got them to this five year collaborative effort and then 12 weeks to implement the test. There were approvals provided by TRPA, the Lahontan Regional Water Quality Control Board, and the Tahoe Keys Property Owners Board okay and the funding to proceed.

Some wondered why they'd been working on this for five years and weren't ready to go. There's no money for implementation until the project is approved and, in their case, it was zero until the permits were issued. This was a controversial project, and it was difficult to get agencies or individuals to talk

in detail about the specifics.

The TKPOA had no less than five project reviews, go, no go meetings from February to May. In February, they gave this project about a 50 percent probability of getting to the start line and were looking at about \$1 million just from the homeowners. By May, they were up to 80 to 90 percent confidence level but then they were looking at \$2 million and didn't have those funds organized. After some consideration and discussions, they pushed forward.

While they are doing about one year's work in 12 weeks, they had to get through the list of seven miracles. The first one was water depth in the lagoons. There's a logistical side to this with boats in and out, launch ramps, treatments along the shoreline, and was there enough water to do the work. There's also the scientific element of this, are they going to get results that are repeatable and useful for the future.

They thought that the depth equivalent of 6,224 was about the minimum. They were right there, and the lake was falling, and they were spending money. Winter came in April, and they got around a half a foot after that.

The water temperature needed to be above 16 degrees centigrade but that had to happen before they could begin the test. It also had to happen while the lake was still rising. Based on all the information they had, it translates to slightly less than about a two week window in the last half of May. Everything has to be ready, and the meteorological conditions have to align or there is no test.

There were 12 contractors, more than a hundred people on the water and ended up with a great team.

The turbidity curtains and boat barriers are the physical elements that defined the test site and mitigation efforts. Beyond the physical, there's the procedural element, homeowner communication, etc. There were 25 test sites organized into three areas: Lake Tallac, the southeastern area of the Tahoe Keys and the west side. Within each of these areas, boating and all water activities were completely restricted.

They weren't able to get into a lot of the details until the permit was approved. The monitoring specs were influx until the 11<sup>th</sup> hour of the start. Standard water quality monitoring has to occur between 11 am and 2 pm and was quite a puzzle with all of the logistical considerations.

Lastly, they had to prove that they had flow into the lagoons. The Keys invested in a state of the art doppler device to measure flow by sending a sonar signal into the lake and lagoons, but the problem is it saw the lake very differently than it saw the lagoons and couldn't sort out the data. They ended up using a meter from the water quality department. They came very close to not implementing this project for this specific variable. He's not sure that this variable deserved the weight that it got. It boiled down to something slightly better than a coin toss for a variable now that they have some data on what happens in the channel, likely didn't have much of a potential impact on the test. As they move forward, they need to look at all of these mitigation measures carefully.

There were 75,000 data points compiled for 90 percent of the target. Dr. Anderson will talk about this more. No herbicides got anywhere near the lake. The summer was not without issue, the weather was horrible during the month of June. The economics were tough. The 3-year cost of this project is going to be four times what the TKPOA budgeted. They managed to close 75 percent of the gap. The

extended boating closure was an issue, many owners lost the summer, and few suffered economic loss because of rentals, etc. Because of the extended closure, water quality degraded to a level that was unacceptable.

They modeled herbicide degradation down to one tenth of the safe drinking water level and that supported the three to five weeks. When they put the procedures together that added a few weeks for a closure through mid-July. By the third week in June, they realized that wasn't going to happen and the date was moved to the middle of August. In the end it was 15 weeks.

There were extensive algae blooms in Area A for a couple of weeks in August. There were some areas of the Keys that were uninhabitable for a couple of weeks because of the odor. TKPOA hasn't lost sight of the goal of a long term solution for weeds that is environmentally sound, economically viable, and permissible.

They rolled out a referendum in October for the homeowners to fund a second year. The members did vote to support this project with a greater than a four to one margin. Their board has approved funding to kick off another water quality project for their circulation and treatment system addressing long term nutrients.

They don't know what the answer looks like yet and is the purpose of a three year test. They're confident that the great team will come up with a solution.

(Presentation continued)

Dr. Anderson said the monitoring was intensive. They had some elevated nutrients in the herbicide treatment areas and somewhat in the ultraviolet light treatment areas but did create a problem in Area A. They submitted their 162 page report on March 15 with a lot of good data.

Slide 36 summarizes what happened to the treatments and how they affected the plants. The green arrows are good. The metrics were could they produce this vessel hull clearance to make navigation possible in the Keys. Secondly, their metric was to produce biovolume by 75 percent, and third was to encourage the desirable native plants to do better. The Endothall only treatment was pretty much 100 percent control across all of the target species. It did produce the vessel hull clearance needed and also left the native Elodea plant alone and is recovering nicely this year. The triclopyr treatment alone was a very selective treatment only aimed at controlling Eurasian watermilfoil and didn't control the other plants. The reason they used that is because it's systemic and gets into the roots and has a longer effect. It didn't get a green arrow on the biovolume reduction because the other plants grew. It did get 90 to 100 percent control of Eurasian watermilfoil. They had good control with the ultraviolet lights approaching 70 percent or more biovolume with the ultraviolet lights and had some negative effect on some of the desirable native plants. It wasn't that selective but was effective. The combination treatments will be retreated with ultraviolet lights in 2023.

Slide 40, green is good, yellow not so good, and red is bad. This is a heat map that shows the effect of the treatments 120 days after treatment. There were 8,000 rake samples in one season to determine the condition of the plants in these sites. There were no herbicides escape into the west lagoon or outside the treatment areas. The only issue they had was getting down to a non-detectable level for Endothall at 45 days and Triclopyr was 105 days. One of the reasons was that there was high turbidity in Area A which blocked the sun from decomposing and degrading Triclopyr.

Group B, non-herbicide methods. They are now looking at what were the effects of year one on the treatments for the sites that they are going to be using Group B methods which have to have 75 percent reduction in the biovolume. In the next two weeks, the spring sampling will tell them where to go with Group B methods which include diver removal by hand and suction removal, bottom barriers and more ultraviolet lights.

(Presentation continued)

Mr. Patterson said the League's mission is to protect and restore the environmental health, sustainability, and scenic beauty of Lake Tahoe with a focus on water quality and its clarity. They believe that the Control Methods Test is directly linked to aquatic invasive species and the achievement of this mission. They don't believe that they will keep Tahoe blue unless they address the ecology of the lake and the Tahoe Keys in particular. They see the CMT as much broader implications than just can we control weeds in the Keys.

From 2012 to 2017, was learning about aquatic invasive species, the Tahoe Keys in particular. Implementing community engagement programs at the Keys and lake wide to understand where the weeds are and what they are doing. Then their personal investigation into what types of methods could be effective at controlling aquatic invasive plants. A financial commitment from the League, which is something that they had never done historically, is to have the League fund a project directly. They invested in non-chemical control methods, containment, and water quality improvement monitoring. In 2017, there were presence of harmful algal blooms on a more regular occurrence within the Keys and now the lake proper.

In 2018, the Stakeholder Committee was established. At that time, they supported that all methods be looked at. The current methods that Lake Tahoe had for fighting aquatic invasive species were not going to be effective in the Tahoe Keys. They had to look at emerging methods and proven methods which included targeted herbicides which was a big deal. The CMT was looking at something totally unique with a one-time use of herbicides. Could they knock back and maintain this in perpetuity without herbicides which would be great for Lake Tahoe. They were on board for testing. They also realized that it could take a long time to find the answer and needed to take their time and be methodical. They worked with partners implementing the first ever bubble curtain use for control of aquatic invasive plants. Bubble curtains have been used in aqua culture and other locations throughout the world since the 1970s but never for the containment of aquatic invasive plants. They designed and implemented this with TKPOA in 2018 and funded it.

They also started testing Laminar Flow Aeration which is the method of implementing oxygen into the sediment to effect water quality, reduce sediment for plants, and hopefully effect the long term growth of the plants. The LFA have now been incorporated in the CMT and shows the breadth of the CMT looking at everything that could be included in combination or isolation to address the issues.

In 2020, what they had suspected, and he had seen since 2016, that the infestation had already got out of the Keys and was in the lake. Lake wide monitoring which this group put together, and the Tahoe Resource Conservation District conducted demonstrated that we're talking about 105 acres. The second largest infestation in the lake is six acres at Emerald Bay.

They also had to double down on containment with a double bubble curtain. They worked on improving containment on the west channel, implementing an east channel containment project with double bubbles of different designs to see if they had different efficacies. This was the only place in

the world where this was happening. They worked with a company out of Toronto to design this curtain and implement it and are now getting a lot of attention collectively on bubble curtains as desalination is increasing, there's concerns with aquatic vegetation clogging intakes. They asked Tahoe how they were doing with their bubble curtains. What they are learning at the Keys has implications far beyond just this test.

They support this test for a lot of reasons. There was a commitment from everyone to try something. Status quo wasn't going to work. The no action alternative for this test had the most substantial impact on the lake. They needed to learn, try, and make progress together and execute under very hard conditions.

The League is maintaining its continued focus on the CMT but complementary projects as well. Without the CMT, none of the other project's matter, the CMT is key to the long term. The League remains committed not just to the efficacy of the control test but how do you implement it, where do you implement it, when do you implement it, and what do you monitor? They are learning if it affects the plants, they are learning how to do it which is equally as important for the long term. There are excited in 2023, to do targeted efficacy studies of bubble curtains and Laminar Flow so they have scientific data and perhaps layer some methods on the Laminar Flow sites and others to work in combination methods in year two.

They brought in a new partner that was essential and missing for most of that decade which is the Tahoe Keys Marina. It has new ownership and has engaged in an Environmental Improvement Program project with the League to test new technologies for better containment projects.

(Presentation continued)

Mr. Zabaglo said this test is just starting, there are a few more years to go. Nothing has been predetermined. At the end of the test all the information will be assessed to find the right solution for the long term.

Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VII-B-Tahoe-Keys-Control-Methods-Test-Project.pdf>

#### Board Comments & Questions

Ms. Aldean said this is a unique partnership and a lot of people vilify the Tahoe Keys, but we have to acknowledge its existence and move forward in a cooperative and collaborative way. Kudos to everyone.

#### Public Comments & Questions

Carolyn Willette understands that the boats were not allowed in the harbor and going out to the lake during the first phase of the test but are going to be allowed during the second phase of the testing? Since the boats spread the weeds, the conditions when comparing the different methods of the test will not be the same. Will the boats going in and out spread the weeds and affect the second phase of the test?

Judith Simon said it was an excellent presentation and commended everyone. The work done by some members of the public, including herself to ensure that these herbicides didn't get into the lake, bore

fruit. All these presentations will be available on the TKPOA website. She'll continue to monitor this project.

Dr. Anderson said during the first year the controls were outside the curtains. The comparison will still be good because this year they are outside of the curtains because there are no curtains. The controls will still serve their purpose because they were not involved in preventing boat traffic last year.

C. Destination Stewardship and Sustainable Recreation Update

TRPA staff Mr. Middlebrook and Ms. Friedman provided the presentation.

Mr. Middlebrook said Destination Stewardship and Sustainable Recreation are one of the key TRPA priorities through the Bi-State Compact calls for a recreation plan element for the basin which is one of the key recreation threshold categories.

The first part of the presentation he'll provide an overview of the Lake Tahoe Destination Stewardship plan which is the culmination of about a 16 month planning effort to create the first ever destination stewardship plan for the Tahoe Basin.

They all lived through the pandemic, especially in 2020 and 2021 with the rush of visitors coming into the region, escaping the lock downs in nearby urban areas and enjoying the outdoors. This is not a new challenge for the Tahoe Region. The Covid pandemic highlighted the challenges that we were already facing. Since 2018, TRPA along with the Forest Service through the Environmental Improvement Program have been working on tackling the topic of destination stewardship and or sustainable recreation for a number of years now. During the pandemic, they took the partnership and collaboration and for about 2.5 years a group of about 50 stakeholders met every week to discuss recreation challenges in the basin and put solutions on the ground including expanding the Clean Tahoe Litter program around the lake and starting an ambassador program. That was the short term immediate response to sustainable recreation issues brought on by the pandemic but there was also an identified need for a longer term approach of the Destination Stewardship Plan.

This is a partnership across the region. The first in our region, our destination marketing organizations which are transitioning to management organizations and our public land managers, recreation providers, businesses, and non-profits are all working together on tackling this challenge. This is one of the first times the land managers and marketers have worked closely together. The marketing organizations are also working across the region where south and north shores are no longer seeing each other as competition within the region.

At the core of this work has been stakeholder engagement and listening. They've engaged over 3,000 people in both residents, businesses, and visitors to the region through a multitude of stakeholder workshops, interviews, focus groups, and surveys to get an idea of the challenges and what solutions people want to be implemented across the region. This plan is also informed by a set of data analysis including a situational analysis that looks at the state and history of visitation and recreation in the Tahoe Region. A summary of that stakeholder engagement, a tourism impact model that looks at the economic side of the equation and what the impact of creating a more sustainable system means to our local businesses and tax revenue. Then an optimal value framework which is based on the future of tourism coalition which TRPA was an original signatory to and where are the key metrics of the sustainable recreation destination system. And are they in the range of being in a sustainable system or over or under shooting in certain areas. Lastly, a funding study that highlights or recommends

potential funding solutions moving forward will be discussed more in order to fund ongoing recreation infrastructure and management.

With this unique partnership, the other major accomplishment that has come out of this is for the first time they have a shared vision around what the region wants our recreation and tourism system to be into the future and that is a cherished place welcome to all. Where people, communities, and nature benefit from a thriving tourism, outdoor recreation economy. That vision is supported by four strategic pillars based on fostering a tourism economy that gives back turning that shared vision into action, advancing a culture of taking care, and shaping the experience for all.

Within the plan there are a number of actions around 28 total that are organized by those four strategic pillars. They are looking at a number of immediate short term actions that they'll work on over the next several years that will help achieve that vision.

They understand that just doing a bunch of actions doesn't necessarily bring long term systemic change to our overall tourism and recreation ecosystem. They need to continue the partnership that came up with this plan and established long term governance to guide that collaboration and oversee implementation of the recreation vision. Some of the immediate steps this partnership will take are around governance and establishing a formal destination steward council and building capacity of that council by hiring staff to manage the program and oversee the action teams which will help implement actions.

The Proposed Governance structure is organized the same as the Environmental Improvement Program and the Tahoe Interagency Executive Steering Committee. Slide 13.

Next steps: Next month the final Destination Stewardship Plan will be launched to the public. Then establishing the Destination Stewardship Council and hiring staff over the summer. This isn't just about a plan that has more recommendations, that needs more studies, and more feasibility reports, etc. It's also about action and addressing the concerns that they heard from the public. This summer there'll be a continuation of the ambassador programs. The City of South Lake Tahoe has their Park Ranger Program, the US Forest Service, and the State of Nevada have contributed money to supporting the ambassador program expansion on federal and state lands. Clean Tahoe is in their second season of picking up trash on the north shore. The Tahoe Fund is working on a parking enforcement study, and the Take Care program and stewardship messaging is going to continue to be a big strategy. The Take it Slow program was recognized during the Lake Spirit Awards earlier.

(Presentation continued)

Ms. Friedman provided an overview of the work that went into the Destination Stewardship Plan as well as other planning documents within the region translate into action and implementation on the ground and TRPA's role.

The Compact requires that TRPA establishes environmental quality standards which are the thresholds with recreation being one of those thresholds. The Compact also requires that they have a transportation plan as well as a recreation plan that guides how they manage those resources. The Destination Stewardship Plan is one example of how TRPA works with their partners to develop a plan and guide how projects are implemented on the ground. The Environmental Improvement Program is the implementing department of TRPA and is charged with advancing threshold attainment through implementation of projects on the ground. TRPA is the convener of the EIP and is uniquely situated

through the directives of the Compact and the plans to help advocate with the partnership to prioritize and secure funding for the priority EIP projects.

Sustainable Recreation and Transportation are one of the priority actions within the Environmental Improvement Program. They're grouped together because you can't talk about Sustainable Recreation without also talking about transportation. Most of the developed and dispersed recreation is accessed through the main highways. Transportation, transit, parking management are all important and can't have those conversations in silos. As they're implementing recreation EIP projects they look to plans like the Destination Stewardship Plan to see what actions in those plans should be incorporated into EIP projects. It includes things like educational signage like the Take Care Campaign, improved way finding, and interpretive signage to educate the public, litter, trash management, and parking management as well.

Slide 16 is from the EIP Tracker and shows sustainable recreation and transportation and stewardship projects that are in various stages of planning and implementation throughout the Tahoe Basin. The brown icons are the recreation and transportation projects, and the blue icons are the stewardship program projects.

Slide 17 are a few examples of recent sustainable recreation projects. The goal of the Greenway Multi-use Trail/Dennis Machida Memorial Trail is to have a Class 1 separated bike trail going from Meyers to Van Sickle Bi-State Park in Stateline. That project provides an alternative mode of to the private automobile and provides recreational opportunities. The East Shore Multi-use Trail is the trail from Incline Village to Sand Harbor State Park that provides a recreation opportunity as well as improved access to Lake Tahoe. That is also one segment of a larger trail that will eventually go from Stateline to Stateline in Nevada. Part of the larger goal is to have the Lake Trail to provide a Class 1 Trail around the entire Lake. The Spooner State Park Phase 1 Front Country improvement project. Nevada State Parks is making a lot of improvements with Phase 1 including a visitors' center, shop, and amphitheater. One of the goals of the state park is to provide a lot of interpretive signage and have a place where groups can gather to educate the public and create stewards of the environment.

Slide 18 shows some of the upcoming sustainable recreation and transportation EIP projects that will be implemented within the next three to five years. They include future phases of the Van Sickle Bi-State Park, Spooner State Park Front County improvements, future phases of the Dennis Machida Memorial Trail, the Meeks Bay Restoration Project, and the Kings Beach Day Use Area Improvement project. A lot of these projects have multiple benefits. They are recreation projects at their core, but they also benefit water quality, fisheries, and wildlife. One of the reasons recreation is such a draw here is because of the great natural resources we have.

Further out on the horizon there are more projects being planned and implemented. Corridor plans are worked on by TRPA in cooperation with partners. Two of the recent corridor plans include State Route 89 Corridor Plan completed a few years ago and are now seeing action coming out of those plans. They're further analyzing the Cascade to Meeks Trail that will include trails, parking, water quality improvements, and is implementing a lot of the visions and projects that were identified in that corridor plan. The same with the State Route 28 Corridor Plan that was completed a while ago and is getting to a point where they are furthering implementation on the ground. Future projects include the Spooner Mobility Hub which will be a multi benefit project that has parking, transit, and include a permanent Aquatic Invasive Species Inspection Station. There will also be another trail segment that will carry on from the East Shore Trail from Sand Harbor to Spooner.



Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VII-C-Destination-Stewardship-and-Sustainable-Recreation.pdf>

#### Board Comments & Questions

Ms. Aldean said there are a lot of exciting projects that have been incorporated into this plan. The objective is to change behaviors and disperse recreation. Do we have a monitoring plan to monitor the use of these various corridors and then use technology tools? In order to accomplish the objectives of dispersing recreation to minimize the environmental impacts and increase the enjoyment to the people who are using these facilities, we need to find some way of gently recommending to people that they not go “here” but go “here” instead.

Mr. Middlebrook said it is all part of what they are looking at in terms of sustainable recreation and destination stewardship. On the technology piece, the Tahoe Transportation District recently received a Federal Smart Grant which will upgrade their ability to track and count traffic coming in and out of the basin to get more real time information. For example, Sand Harbor State Park is looking at implementing a reservation system that will allow them to have more real time information to deal with that traffic that lines up at 6 a.m. on the highway. Then in terms of how they are measuring and monitoring the destination stewardship plan, it does have recommendation on potential metrics to monitor. They are also engaged with the Tahoe Science Advisory Council on a project to look at their recreation threshold and create a better way to measure fair share access to recreation and visitor experience. Regarding dispersing people and changing behavior through encouragement but also making it impossible for people to do the wrong behaviors.

Ms. Hill asked if the commitment to action, ambassador programs, litter management, parking enforcement, and stewardship messaging are what they are working on for this year.

Mr. Middlebrook said those were just a few examples of things folks are working on this year that shows there is going to be action on the ground.

Ms. Hill said she hasn't been able to participate but the Reno-Sparks Convention & Visitors Authority (RSCVA) and the Incline Village Visitors Center have participated for Washoe County as well. She wanted to ensure that these groups also help to push along projects that make the destination successful like connecting that East Shore Trail. It's going to take a lot of political will and a lot of community support connecting trails from Crystal Bay to Incline Village. There's an opportunity as well to ensure that they support these more difficult projects but essential projects. She wanted to make sure that any money that is raised is not pulling from potential transportation projects or work that they are doing on the ground to make sure that they move these major initiatives forward and that this group is in lock step with the Tahoe Transportation District, TRPA and working together. Making sure that we support all of these bigger efforts as a part of this work because it's going to take work and money to make sure those happen.

Mr. Middlebrook said yes, it is a partnership. This isn't necessarily a TRPA led project. They are for at least the planning process the fiscal agent, but it was all funding that was the passing of the hat and have a shared funding for the project and will have shared funding moving forward. The partnership does have ownership over it and noted her comments about transportation funding and some of those bigger initiatives. Some of the actions in the stewardship plan include supporting EIP projects and other transportation projects.

Ms. Faustinos said visitor surveys are really hard to get and asked what methodologies they used to get visitor surveys.

Mr. Middlebrook said for the planning process there was a visitor survey and a resident survey that were launched through various platforms and an email campaign. Those did have standards of significance and plus or minus variabilities. Those were all statistically valid and they rely on a number of surveys that happen regularly every two years. For example, TRPA does traveler surveys that intercept visitors at key recreation sites and other surveys that are conducted by folks from the Forest Service and State Parks. Their online surveys for the plan were also available in Spanish.

Ms. Faustinos said they've found that geocaching is a great way to do these surveys. Unfortunately, it cost a little bit of money to be able to get cell phone numbers. But as people are going through certain geographic areas, they get pinged with a survey which particularly at events proves to be a useful tool to get a great return rate on a survey. She asked if the final Destination Stewardship Plan will be on the agenda next month.

Mr. Middlebrook said this is the presentation that highlights it. They were not planning on bringing back a more in depth presentation to the Board but can make sure that they send it out to them to review.

Ms. Faustinos said the other thing to start thinking about, obviously in the Los Angeles area it will have a great impact on them but also thinks it will have an impact on other parts of the state that are tourist destinations is planning for the 2028 Olympics. That will draw a lot of worldwide travelers visiting the state.

Mr. Middlebrook said knowing about those events is something that they've talked about as a strategy for knowing when and how to market and international visitors is something Lake Tahoe gets a fair share of.

Mr. Friedrich asked if there were any updates on plans to limit or prohibit parking anywhere around the lake and enforcement of those possible new restrictions.

Mr. Middlebrook said parking management is a key priority. Sand Harbor is looking at a reservation system which will be a great pilot for the Tahoe Region. They also work with law enforcement who participate in the monthly calls. The Tahoe Fund is working on a parking enforcement study that is going to have a number of recommendations. The State Route 89 Corridor does call for transit and trail expansion and also the elimination of all roadside parking through that corridor for recreation access. One strategy is to increase the illegal parking ticket in Emerald Bay which is currently about \$50. There's also issues with towing and the limited capacity of the towing companies in the region.

Ms. Friedman said anyone who drives the State Route 28 from Spooner Summit to Incline Village recognizes the need to address the roadside parking. Part of that plan, similar to the State Route 89 Corridor, is to provide parking lots like the new parking lot at Spooner Summit referred to as the Spooner Mobility Hub. Then expanding a few of the existing parking lots that are peppered along that roadway and then have transit and the bike trail going through there. Once that's done, there will be no parking along that corridor. They're only enforcing no parking as projects are incrementally built. Similar to State Route 89 the Sheriff is committed enforce the no parking there and they've committed to increasing the fine.

Mr. Friedrich asked who is responsible for expediting these measures, imposing fines, and contacting the tow companies. How do we get this to happen soon? It's a glaring example of non-stewardship oriented tourism.

Mr. Middlebrook said it depends. Again, all of the above. Emerald Bay for example is the California Highway Patrol who does most of the enforcement along the highway corridor. He believes the County Sheriff will assist them with that. For the last several years they've received grant funding for increased enforcement in that area. But they are not the ones who control the ticket fines, that has to be worked through the County and Caltrans. For example, when they were increased on the State Route 28 Corridor, they were increased because there was a willingness to pay study done and then they had to work through the court system and County Judge to get permission to increase that. A lot of partners will need to be involved. Also, the differences between Nevada and California vehicle codes may require some sort of vehicle code change or legislation.

Ms. Gustafson said that's what the enforcement studies are about is to bring everyone together understanding that they need a comprehensive look.

#### Public Comments & Questions

Steve Dolan said a book by George Gruell commissioned by the US Forest Service says that around marshes and meadows, trails are not advised. They run the water away from the meadow and the marsh. Monitoring is very important and provides an example of how it hasn't been a standard. There was the 2011 restoration of Third Creek in the lower Incline Village area in the amount of around \$12 million. In 2017, the winter was like the most recent one and the same situation is going on right now. There was so much water that the diversion of that water worked in terms of spreading it out but when it comes back together, it blew a part the US Corp of Engineers work there. He notified many people, maybe even someone here but definitely in Incline. Some of those logs are long and are heading toward the lake from 2017. They pulled one out last year, but the point is that no one is monitoring it. That section of the stream's infrastructure failed and it's moving toward the lake and is dangerous and ceases to be what the intention was when the work was done on Third Creek. Ms. Friedman has been a big help and has been on tours in that area.

Doug Flaherty, Incline Village resident said unless you live here in Incline Village or the East Shore, it's very difficult for the Board to understand how crucially dangerous the E-bike situation is becoming in Incline Village and on the East Shore. You need to come up with a monitoring evaluation to find out how many E-bikes are using the trails. A friend of his was almost hit twice within two or three minutes by a band of teenagers on their E-bikes. They didn't have warning bells or vocalize they were there. They climbed up onto the trail off a side trail and were almost hit twice with no apologies. It's like they are grouping or ganging up with these E-bikes.

#### D. Tahoe Regional Trails Strategy Update

This agenda item was deferred to a future meeting.

### VIII. REPORTS

#### A. Executive Director Status Report

##### 1) Tahoe In Brief – Governing Board Monthly Report

Ms. Regan said on page 162 of the packet, there are photos of the Board Retreat.

## 2) Strategic Planning Retreat and Work Plan Update

Ms. Regan said they are still producing detailed notes and incorporating ideas. It was very productive at the retreat to discuss where we've been and where we want to go. Throughout the day they looked at how they've made progress over the last ten years of the Regional Plan and some of those basic principals that they talked about even today, the agreements that were made between the two states which was a pivotal time in the Agency's history back in 2012. Then they looked at the current state of affairs, a scan of the landscape of statistics and walked through some of the data points that somehow defy reality when you live through these today such as traffic. It feels like traffic is worse but when you look at the numbers that isn't the case but there are reasons why it feels that way because visitor patterns have shifted, and the use of public lands has increased. They're trying to get to the bottom of that in some of these planning processes that you just heard about.

They then looked at the six initiatives and looked to the future based on input that the Board provided throughout the last year on how we can boil that down into a smaller set of strategic priorities.

(Presentation continued - Mr. Hester)

**Tahoe Living** – brings together housing and community revitalization along with water quality, stormwater, transportation, and complete streets. During the Regional Plan Implementation Committee meeting this morning we covered things like mixed-use, complete streets, and housing. Work that is going on in the local governments, work that is going on here, and work that our students from the University of California, Davis are working on. This is continuing that and are picking up items that the board has discussed during the year, as well as continuing with the housing work.

**Keeping Tahoe Moving** – You heard a lot about Destination Stewardship. One component of this is those destination sites, working to protect them and working with those who operate them to manage them well. That's coupled with the kinds of transportation changes that the Board also talked about. Demand management and using some of the technologies such as broadband, to create an intelligent transportation system that's not always on signs. For example, within a certain boundary there's a notification that Sand Harbor is busy, but Zephyr Cove is not. Plus, there is a whole new generation of transportation planning tools coming along with big data. Some of our models that we use along with the RTC's and COG's use in California are all going to be changed. They'll be looking at new technology for planning and on the street implementation. Public safety and evacuation are a concern. As part of this Keeping Tahoe Moving, there will be a strategic priority to convene groups that are responsible for evacuation. Staff have already started meeting with Fire Chiefs and other public safety providers.

**Restoration and Resiliency** – This is continuing all the good work of the Environmental Improvement Program and the transportation improvement program for both states and federal. Looking at funding, looking at accelerating environmental improvement and transportation projects. Many have heard about the Green Tape Initiative that TRPA participates in.

For resiliency, we have a multi partner strategy around the basin to deal with climate and has morphed from what they had about six or seven years ago when they had an award winning climate

mitigation plan, now they have evolved to focusing on resiliency. That's going to involve projects, infrastructure changes, as well as code changes.

Those are the three that staff recommend continuing as explicit strategic priorities.

**Measuring What Matters** – At the workshop they felt that this was a fourth priority. What staff heard from the Board was that measurement and the plan, check, do, adjust or adaptive management approach with measures and regular reporting is something they should integrate into everything. They will continue to work with the Tahoe Science Advisory Council. They are also working top to bottom within the Agency to see if they can get a line of sight from thresholds to formal and informal plan performance measures to the work plan that will be coming back next month and get this cycle built in annually.

(Presentation continued)

Ms. Chevallier said one of the activities in the afternoon of the retreat was to break into stations to hear thoughts and ideas about these initiatives. One was to incorporate the fourth initiative into the three.

**Tahoe Living** – They heard from Board members and the League to Save Lake Tahoe that they are interested in keeping the Regional Plan front and center looking at the benchmarks and incentives that they set to realizing environmental redevelopment that they envisioned at the time. Continuing to look at those benchmarks and the incentives to see what they can do to continually revise or discuss to make sure they are meeting the needs they would like to see. They want to look broadly at all options for the locations and funding to address affordable housing even if it's beyond town centers where it's applicable. They want to ensure that there is open space and nature included in those complete community plans.

**Keep Tahoe Moving** – Transportation is among the most pressing challenges and priorities in the basin. Great progress is being made but bold and coordinated solutions are going to be needed by us and all partners around the basin to make progress. Continuing progress on some of the major priorities and transportation such as the trails and transit to continue to disperse use and connect users is top of mind.

**Restoration and Resiliency** – A lot of great work is happening they just need to continue to expand it and ensure there is a good workforce to keep it going. Exploring biomass technology and solutions is critical. Maybe they can create more incentives for private property owners to implement restoration projects on their lands. They want to prioritize implementation of sustainability actions such as electric vehicles, electric boats, and climate smart codes. Effective preparation for catastrophic wildfire and comprehensive environmental analysis for restoration actions is a priority.

Staff would like to hear any additional feedback today and would like to get endorsement of those strategic priorities where staff will use as guideposts for developing the FY 24 Work Plan and Budget. There's a lot that goes on at TRPA outside those strategic priorities. They all can eventually be linked usually through a mapping exercise of how it all flows up, but they want to look at the core activities that are required by the Compact and how they flow in with the strategic priorities to build the Work Plan to assign where staff time and priorities go.

Once that's completed, she wants to work on refining the processes to align with implementing that

work plan and strategic priorities. How do we make sure we are engaging the public effectively on them, how do we review our board committee structure, do we have the right structure so we can address what they need to address, and establish solid reporting and adaptive management processes. They'll review whether the Tahoe In Brief report is the right vehicle to get the right information to the Board on what's coming or maybe they should look at the reporting on what's been accomplished on strategic priorities and what's coming up. Again, establishing those benchmarks, performance measures, and being able to look at where we are, how's it working, are we meeting our goals, if not, let's refine.

Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VIII-A-2-Strategic-Planning-Retreat-Work-Plan-Update.pdf>

#### Board Comments & Questions

Ms. Aldean said with respect to these restoration projects and EIP projects, would it be beneficial to create something similar to the League to Save Lake Tahoe's "Eyes on the Lake" such as "Eyes on the Environment." You could enlist people like Steve Dolan to be our ambassadors in the field, so it reduces the amount of staff time necessary to monitor these key environmental areas.

Mr. Hester said Ms. Regan is planning on a number of community meetings and Ms. Chevallier is working on how to be better plugged into the community. Ms. Aldean's idea is a great adjunct to that strategy.

Ms. Chevallier said we have some programs in place already and we could look to see if they are touching all of the strategic priorities. The more we can get the public involved to help augment our eyes, ears, and monitoring the better.

Mr. Friedrich asked when the Work Plan comes back, to what extent will we be mapping out a calendar, for example addressing specific projects for policy initiatives within those priorities. Some of those sticky notes during the exercise were more specific than we're looking at today. Would the Board want certain things to come back them, for example. There were a lot of ideas and believes there was a general sentiment about having more proactive policy initiatives that fit in these buckets and be less reactive to what comes to us and getting more of those on the agenda. What's the process by which those will be added to upcoming calendars where the Board can suggest things to be added that perhaps on the sticky notes that are not yet added, etc?

Mr. Hester said typically what they've done on the strategic priorities is to bring the Board a GANT chart with when they expect what to happen but that doesn't cover the some 30 core activities that we do here such as the monthly permitting process. There are items that have had performance measures such as how quickly they respond to inspection requests, etc. You'll see all of that, but they'll try to revamp it. They'll try to cover those performance measures that they have in the past that might mean something. The priorities will have a work plan for them.

Mr. Friedrich said very specific action items that would go under each priority. Things that are coming up through committees such as climate codes, density, transportation, parking enforcement, etc. When do they see more of those on upcoming agendas, so they are taking on specific items that are under those priorities on a more regular basis.

Mr. Hester said under each of the priorities, list the things that they are talking about. For example,

Keeping Tahoe Moving, what are they going to do about ITS and broadband. They'll explicitly talk about when they expect things to happen.

Mr. Friedrich asked what opportunities does the Board have to provide some input and direction on when they are considering things and at what pace.

Mr. Hester said that's what the Work Plan will have. What they're hoping is that it's specific enough that the Board would say "yes" do that. If staff comes back every month and the Board is changing priorities, they are not going to get anything done. Staff will try to bring something as specific as possible but not locking staff into things that they don't know for sure are going to happen.

Ms. Regan suggested that the Work Plan give the timeline for some of those key initiatives that map to their three to six month board calendar. Staff has a six month calendar where things ebb and flow. Today, we continued an item that will go into an undetermined month. It's a fluid dynamic.

Ms. Gustafson said Board members can also provide reports or make suggestions during the monthly Board member reports on the agenda. They can provide that feedback if we're not getting to something.

Mr. Hester said what they are trying to be careful about not getting too many priorities. They need to have a smaller set that they can get to and will try to be as specific as possible about what's in there and when it comes but can't get everything in there.

Ms. Aldean asked if there was a compilation of all the comments made during the retreat exercise and if those could be sent out to the Governing Board. She's not suggesting that they add to the Work Plan, but they may be able to augment with things that are considered to be of lesser importance but are nevertheless worth considering.

Ms. Chevallier said they have a compilation of the sticky notes and are going to use that to inform the Work Plan. They will get the list out but also then show how they distilled that into the Work Plan.

Ms. Hill moved to endorse the priorities for staff to prepare the Work Plan.

**Motion carried-voice vote.**

### 3) Executive Director Six-Month Performance Update

Ms. Gustafson said a lot has occurred when she looks at where they've come from and accomplished in only six months.

Ms. Regan thanked the Governing Board for their support over the past six months. To the Executive Team, Operations Group, and the entire staff, thank you. There are many things taking place at TRPA and will highlight a few today.

We have a lot of meetings but what do they achieve? Activity does not equal achievement so what are we getting to? We have a lot of measures at TRPA but one of her first priorities was meeting with every staff member. She's fortunate to have the most talented team. Currently, there are no openings at the Agency. There has been ten organizational shifts and some promotions, restructures as a result of her position and are flying a new internal only restructured position for a Science and Policy member to the Executive team to highlight that science and policy connection.

Over the past six months there's been 30 board actions, not including some perfunctory items such as approving the monthly financials. There was the Waldorf Astoria project permit revision but also things like approving the Federal Transportation Improvement Program (FTIP) Amendment which might see administrative but that represents \$100 million in transportation investment. These actions are making a difference on the ground. Today, we not only wanted to talk about the Destination Stewardship Plan but talk about those projects. It was important for Ms. Friedman to share the EIP practical implications of those projects on the ground.

She's done over 35 direct stakeholder meetings over the past six months. One of those key stakeholders was Serrell Smokey with the Washoe Tribe. That has opened even more doors of conversation between TRPA and the Tribe. They were already engaging with the Tribe but one idea that came out of that was to have one TRPA staff person, Victoria Ortiz, who will be the liaison with the Washoe Tribe. They continue to identify more projects that can be worked on together beyond what's already happening.

The first of the year kicked off the Nevada and California legislative sessions. She made a trip to Washington, DC with Tahoe stakeholders. The annual report production from last year was able to be used in all those meeting opportunities.

TRPA is doing a lot more in Spanish, Ms. Ortiz and the team have been interpreting Spanish speaking workshops and is something they've never done before. We have a new web translator for different languages on trpa.gov. It took a lot of work with the technical staff like Ms. Allen and those staff that work with that software. They are doing a lot of that and incorporating a lot of the equity goals from the Equity Committee of staff into the Work Plan and Budget. Also, things like the Trails Strategy that will be ongoing.

Last year, she gave two talks on the Cape in Cape Cod and the One Cape Summit. The power of doing that is the relationships that are folded into the day to day work. Since that talk last summer, they've had multiple engagements on items like affordable housing. We're now on their Advisory Group for a regional strategy on Cape Cod who have very similar issues.

Great job on the unanimous vote on the Lake Tahoe Community College project. You heard from Jean Diaz one of the Lake Spirit award winners about the St. Josephs Community Land Trust three new affordable homes in the City of South Lake Tahoe. Lyn Barnett started that trust about 20 years ago when he was working here at TRPA. Then there's the Tahoe Living Working Group with staff and board working to advance affordable housing.

The press picks up on the big projects like the Waldorf Astoria. Meanwhile people are grinding it out scanning two to three million pages of documents from our file room in a project that Nevada through the budget is funding to support. There's also been other funding support through Federal Rescue Act Funds to get that done. There was the \$11 million that went to transportation grants that you heard about last month.

Thank you to Ms. Gustafson for doing an incredible presentation at the State of the South Shore Address. Member Laine and other members of the community went out to hear about what's going on at the South Shore. We have to get our message out and one of her passions is to be engaged with the community to make sure that they are available and that there are publications such as the Tahoe In Depth. The Tahoe Keys generally gets a lot of community engagement and public comment. At last



week's webinar they answered dozens of questions for that item specifically to free up more time for today for board discussion. They're planning more of that in the future to hold webinars that are of big topics of interest the week before the board meeting.

She was recently invited to the Vice President's residence at the Naval Observatory for an Earth Day event. It was an honor to represent Tahoe on the national stage.

The Nevada delegation came together from all aspects of this process for our Nevada budget approval. The Agency got additional monies plus the one third share and keeping California whole, record federal appropriations and expanded partnerships with many of our partners. There's been a lot of hard work to build those relationships so they can talk to our congressional state representatives with one voice through advocacy.

Ms. Regan will be doing Coffee Talks around the basin as part of her community engagement.

Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VIII-A-3-Executive-Director-Six-Month-Update.pdf>

#### 4) Executive Director Six-Month Compensation Adjustment

Ms. Atchley said in combination with Ms. Regan's summary of accomplishments over the last six months, there is also a motion for a compensation increase. When Ms. Regan was offered the position of executive director in November of 2022, the letter included an eligibility of 2.5 percent pay increase after that six month review. Staff is recommending that Ms. Regan receive the 2.5 percent pay increase effective May 28, 2023, in accordance with that signed offer letter and staff report.

#### Board Comments & Questions

None.

#### Public Comments & Questions

None.

Mr. Settelmeyer made a motion to increase the Executive Director's salary from \$195,037.00 to \$199,929.60.

Ayes: Ms. Aldean, Mr. Di Chiara, Ms. Diss, Mr. Friedrich, Ms. Hill, Mr. Hoenigman, Ms. Laine, Mr. Settelmeyer, Ms. Gustafson

Absent: Ms. Conrad-Saydah, Ms. Faustinos, Mr. Rice, Ms. Williamson

### B. General Counsel Status Report

#### 1) Review of Compact Open Meeting Law and Conflict of Interest Requirements of Interest Requirements

Mr. Marshall said the three things he would like to cover today are the Open Meeting Law (OML), TRPA's ethical obligations, and ex parte contacts and requirements. Also, available are materials from

the Nevada Attorney General's Office which has a guide on their website to the Nevada Open Meeting Law. How do we get there? It's through the Compact Article 3(d) that states that our meetings shall be open to the public to the extent required by the laws of the state of California or the state of Nevada, whichever imposes the greater requirement applicable to local governments at the time the meeting is held.

This is one of the few instances in which the Compact incorporates state law. Unlike other areas, you can't necessarily preempt any inconsistent state law because the Compact says you need to follow one or the other. TRPA historically and still follows the Nevada Open Meeting law as the stricter of the two because primarily it has more strict obligations or prohibitions on what meetings can go into closed session. Article 3(d) doesn't wholly incorporate either state OML. It does say the meeting shall be open to the extent required by these two laws. We have a lot of our own rules regarding noticing and various other things that are covered by the Nevada OML but we look to the Compact and our Rules of Procedure for those items.

The legislative intent is obvious for conducting the public's business and should be done to the maximum extent possible in the public. In some ways, Covid was a challenge for that, in some ways, it's expanded opportunities for public participation through the different ways in which we can now broadcast and allow people to participate. The OML applies to public bodies which are two or more people that are conducting the public's business. In almost all instances when this group gets together, they are acting as a public body for a committee meeting or Governing Board meeting. When it's an informal committee that needs to be recognized as a committee, it hasn't particularly approved by the Governing Board, but it operates to make recommendations to this body, it's a public body that needs to meet noticing requirements and other requirements of the open meeting law.

A meeting is what the OML applies to. If there is a meeting it must be conducted and consistent with the Open Meeting Law. If it's not a meeting, then the OML doesn't apply. A meeting is a gathering where there is a quorum present, there's deliberation, and there's an action. All of their meetings essentially have these components. Whenever they get together, it's rare that there is something that can take place that is not meeting. Generally, you want to conduct those things with public participation anyway. What is not a meeting is social functions, attorney client communications and training regarding legal obligations of the public body under the Nevada Open Meeting Law. Things to be careful of are creating a meeting when you don't intend to. Serial communications or walking meetings. They can't conduct business outside of the public eye by serially communicating with each other orally, email, text, or telephone. For example, the chair talking to the vice chair, and talk with various other members, deliberate, and come to a decision, come into open session and execute that decision. That's a violation of the OML because that deliberation was happening behind closed doors. One of the common mistakes is hitting "reply all" to a group communication.

#### Board Comments & Questions

Mr. Hoenigman said they are not allowed to deliberate but can they share information and get feedback to incorporate into things?

Mr. Marshall said information flow is fine but when they shift from information flow to feedback, that's close to deliberation. If one member called another and asked what they thought about something, that's probably deliberation but you don't have a quorum. Where it becomes an issue is where there's four of you talking and those four people constitute a quorum of a committee. They can have those conversations but need to be careful about the extent to which they have them and the

number of board members you have them with. Keep in mind all the various committees because that's a smaller number; if it's six people, the quorum is four. If it's the board, four is not a quorum.

Mr. Hoenigman said you can't send out something to everyone and get individual feedback to compile or discuss.

Mr. Marshall said no, you cannot. That's polling which is not allowed and would be deliberation. Staff just sent the Board a poll asking for feedback on the retreat on what they would like to see in a future retreat. That was not deliberating towards an action. If you're talking about mixed-use definition and asked another member what they thought of that are the kinds of things that they need to be careful about. You can check in with a couple of people but can't extend beyond that.

Ms. Laine said El Dorado County has five supervisors; they can only talk to one other person about any specific item. Someone starts out by saying have you talked to anybody about the Frontier project for example. It gives you an opportunity to stop it if you have already spoken to someone about it. Sometimes a person will box you in by coming to you and not asking that question and diving into a conversation and now has taken away her ability to go talk with someone else.

Mr. Marshall said with five supervisors, three is a quorum. You have to be your own watchdog because neither he nor the public knows what's going on. This is an implementation of the Open Meeting Law that rests in each individuals' hands as public servants.

(Presentation continued)

Staff takes care of the noticing and agendas. Fundamentally, there are some tighter timelines in the Compact and provide greater periods of notice.

Board members can only discuss and deliberate on agenzied items. If they are not agenzied, they may be able to make some comments. For example, they individually can say something when they go around the room for Board member comments. But to have a discussion and deliberate about something it has to be noticed with enough specificity to allow the public to know what it is that's going to be discussed. For example, today's Regional Plan Implementation Committee agenda for the City of South Lake Tahoe's items was long because they wanted to talk about a whole lot of items. It was generally a longer agenda item than you would typically see because either they can specifically refer to something or it's an item in combination with the staff report they can identify what specific point is to be discussed. There's some feeling that the more controversial an item is, the more specific you should be regarding notice. We try to error on meaningful conciseness so they can get the feeling of what the range of communications can be had on any particular agenda item. But you can't go beyond that. If you want to discuss something that is related to some aspect but is outside of a reasonable reading of the agenda item, need to ask for that item to be expanded on the next agenda or to find another way to get your thoughts across that you want to talk about. No action can be taken if it's not agenzied.

Under the Nevada Open Meeting Law, you need to notice the meeting which is essentially the first page of the meeting packet. Then you need to have an agenda which is often the same document. The Compact requires us to notice the Regional Plan and related amendments with a 21 day notice requirement. It's not an agenda, it's a notice that is published in the newspaper. Where this has been illustrated recently is in one of the comments we received on the telecommunication towers, and they compare a Nevada TRPA agenda with a TRPA notice. It serves two different functions. The notice is

what's published in the paper, not our agenda. NTRPA does it a little bit different by publishing in the newspaper both their notice and to some extent their agenda. We notice at least three weeks in advance the Regional Plan level type changes. Sometimes we over notice but would rather be safe than sorry for noticing requirements. Then there's the seven day notice and agenzizing for the actual meetings.

Under the Nevada Open Meeting Law, it's very limited when we can go into closed or executive session. Under the OML, the executive director and general counsel performance evaluations must be conducted in open session. They can go into executive or closed session for legal communications under the OML, that's a non-meeting as opposed to being in closed session. It's basically the same thing.

#### Board Comments & Questions

Ms. Diss said it's different in California. Part of the reasoning of having the evaluations in open session is because any delegation of authority that's established in statute, then whoever that authority gets delegated to, they become a public body. You can't delegate the authority for an evaluation to a subcommittee because then that subcommittee becomes a public body that then has to have an open meeting. Not only the general formation of subcommittees but any time you delegate those specifically outlined authorities that are in statute.

Mr. Marshall said even though it's not an official committee of the Governing Board or a public body, even the Advisory Planning Commission is subject to the OML. They create a subcommittee either informally or formally, the open meeting law applies.

(Presentation continued)

Under the Nevada Open Meeting Law there's multiple ways of providing legal public comment. It's either at the beginning of the meeting, with each agenda item, or at the end of the meeting but you have to provide some opportunity to provide public comment prior to taking action. That's either by a general public comment period in the beginning or specific comment periods with each item then you need to provide a subsequent comment period for items not on the agenda. The Agency provides the public with the ability to comment on each item and then a general public comment period at the end.

Rules of Procedure 2.16. We don't follow the Nevada or California Open Meeting Law regarding the video/teleconferencing policy.

#### Board Comments & Questions

Mr. Settelmeyer said with the remote participation capped at five times per year, how does that apply if he's going to be a little late or has to leave early because of a meeting and he calls in to ensure a quorum, does that teleconferencing time constitute it being a remote meeting.

Mr. Marshall said if you make it to TRPA, it doesn't count against the five remote meetings.

Mr. Marshall said a violation of our obligations to be consistent with the Nevada Open Meeting Law can result in an invalidation of an action. It has great consequences for the work and effort of everyone to bring an item to adoption. A violation could be of technical nature or if it's a substantive violation then potential remedy is that the action is invalidated. Nevada Open Meeting Law has both

civil and criminal penalties for violations. He takes the position that those things are not incorporated within the Compact's outreach or what meetings should be open but can't say that would be a defense to a board members intentional violation of the Nevada Open Meeting Law while sitting as a TRPA Board Member.

Ms. Aldean asked if there are any open complaints with the Attorney General's Office.

Mr. Marshall said yes. We have one from Doug Flaherty that has been with the AG's office for a year plus. It seems the Open Meeting Law complaints are very slow these days probably because of the resources available to the Attorney General. He's been in contact with the Deputy Attorney General who is doing the work, so far nothing particularly negative coming out of that. There may be some suggestions for better agenzizing or something like that.

Mr. Di Chiara said there are two pieces of legislation moving in the Nevada Legislative session that will affect the Open Meeting Law; Assembly Bill 52 and 219. AB 219 mostly relates to public meetings that do are not being held with in person component. In AB 52, if there is a vacancy of a public body, that vacancy would not count towards the quorum. It would make it easier in terms of the Nevada Meeting Law to have a quorum if there was a vacancy if someone wasn't elected or appointed. Both of these bills have passed at least one house in a bipartisan fashion.

Mr. Marshall said it wouldn't apply only because the Compact specifically sets our quorum rules. That would pre-empt that flexibility that might be provided.

Mr. Di Chiara said there are a few items in one of those bills that relate to noticing.

Ms. Laine said if you comment on someone's Facebook page for example, two days before a City Council meeting another member makes a comment on Facebook and then she comments later, and then a week later the Mayor comments, is that considered a violation of serial communication?

Mr. Marshall said this test is really functional, not so much what specific mechanism you are using. Whether it's social media or texting each other, if what in essence they are doing is communicating and deliberating then it counts. The aggregate of that comment list over time can have the same function as calling someone up. Because it's not face-to-face or because it's on a public social media account, it doesn't matter. It's the function of what's happening that you need to look at.

Ms. Laine said if you have a Facebook account in your official capacity, and someone writes something on you Facebook page that you either don't agree with or didn't solicit and you hide it or delete, is that considered a violation of a constituent's first amendment, right?

Mr. Marshall said that's a fairly complicated analysis, but he doesn't think so unless a court has held that your public Facebook account is a public forum. You could compare it to an open meeting or something else that the government is sponsoring as a public forum then first amendment rights apply. He would have to know more about the specifics to say whether or not there's a specific first amendment problem with deleting something that was posted.

Ms. Laine said she mentions it because this social media realm has taken off and we have to be careful as members of the TRPA Board or other capacities about what you put out there and think about how it could be perceived.

Mr. Marshall said the other thing you need to be careful about is public records. By creating your public facing or any website, if you are conducting the public's business on that website and you create a record, you can delete it if you do it consistent with your public records policy. But the drafting of it potentially becomes a public record then there is another set of laws that apply to public records that can also lead to violations of maintaining or having to respond and provide public records in that instance.

(Presentation continued)

Mr. Marshall said the Compacts ethic requirements compared to Nevada and California Code of Ethics are relatively sparse. In Article 3, of the Compact there's a general requirement that no member or employee of the Agency shall make or attempt to influence an Agency decision in which they know or have reason to know that they have an economic interest. Members or employees of the Agency must disqualify themselves from making or participating in a matter of the Agency when it's reasonably foreseeable that decision will have a material effect that's distinguishable from its effect on the public generally on the economic interest of the member or employee. For TRPA's purpose of an economic interest is fundamentally income generated in the basin, real estate or other investments in the basin. Source of income and if you are a director or officer, partner, trustee, or employee of a business operating in the basin. If there's something we are doing that might affect it, please contact him and they can discuss their ethical obligations and whether or not their participation creates a conflict of interest and what needs to be disclosed. Recent press on Supreme Court Justices and what they can do, doesn't apply to us, don't take that as precedent.

#### Board Comments & Questions

Ms. Diss asked if there was an example of indirect versus direct. If the business entity or real property in which the member or employee had a direct or indirect investment.

Mr. Marshall said direct is going to be something like being paid. An indirect would be something that affects that business that pays you.

Ms. Aldean said for people who may have an interest in the Tahoe Basin, for example when the Agency was considering the Shoreline Ordinances and some of them had buoys. The test was whether or not they would benefit anymore than anyone else in a similar situation and disclosure was only required and not recusing oneself.

Mr. Marshall said correct.

(Presentation continued)

Mr. Marshall said ex parte contact is meeting or communicating with somebody outside the context of a public meeting. It's information that the public does not have the opportunity to share. In general, there's a division between quasi-legislative matters and quasi-adjudicatory matters. Quasi-legislative is when you are adopting general rules such as master plans, regional plans, and sort of planning document. Quasi-adjudicatory is when you are applying those rules to a specific factual circumstance. Most often for us it's a permitting decision to get a pier. That is a permitting decision, a quasi-adjudicatory action that you are applying specific codified criteria to a specific set of facts.

Adoption of the Washoe County Area Plan is a legislative action. In Homewood there is a master plan

which is a legislative document and there is a permit that was issued underneath that master plan. You start to talk to somebody about whether or not they should amend the master plan and at the same time maybe you are talking about whether or not the permit should be revised. Always error on the stricter policy. If it's close to a quasi-adjudicatory action assume that those are the rules that are going to apply. If it's clearly something like a planning level document, then that's generally a quasi-legislative matter. If it's quasi-legislative, it's okay and probably encouraged to have discussions with interested folks on the legislation before you and you don't have to disclose an ex parte contact regarding quasi legislative matters. You may choose to, but you are not obligated to.

#### Board Comments & Questions

Mr. Hoenigman said his understanding from the Keep Homewood Public folks is that they've been contacting the Board members. Is it correct that would that have to be disclosed?

Mr. Marshall said correct. You would disclose at the time you take action.

Mr. Hoenigman said as a board member, they should be speaking with the public about a lot of different things. But would also need to disclose that.

Mr. Marshall said generally yes, but there is a feeling for quasi-adjudicative matters, having ex parte contacts is not appropriate. There are people who choose not to have ex parte contacts for quasi-adjudicatory matters because you are communicating about something specific that the public doesn't have access to. What is reflected is the ability of decision makers to make a decision based on the public record, that's what you are obligated to do. If you are having contacts outside of the public record and not disclosing and summarizing what those contacts are then you could potentially be relying on something that the public doesn't have the ability to comment on or to know about. You would need to disclose those contacts at the time. At some point, we can discuss conflicts of interest and what point for due process reasons, you should not participate. Countervailing to that an obligation to participate and shouldn't recuse because of inconvenience. Particularly with project votes because you need a super majority of Board members for a project vote. If you unreasonably recuse yourself, that could have a significant impact on the ability or the Agency to approve projects whether it's economic development projects or environmental restoration projects.

Ms. Aldean said for the TRPA Governing Board members who are elected officials, part of their job is listening to their constituents. Say there is a controversial project, and you receive a myriad of phone calls and emails, is it incumbent upon us to keep track of everyone we discuss a project with and disclose that at the meeting prior to the vote?

Mr. Marshall said there is a difference between responding to an email and receiving an email. It's not an ex parte contact if people send you comments.

Ms. Aldean said but what if you are expected to respond?

Mr. Marshall said if you are responding, if there's a discussion, then yes you should be keeping track of those to disclose them.

Ms. Gustafson asked if the ex parte contacts statement be added to the cheat sheet as appropriate.

Ms. Gustafson asked Mr. Marshall if he could talk about the written public comment. She's assuming

that when the Board members receive these and staff are copied that staff is keeping track of them for the public record. She received an email from Mr. Chain threatening to sue her because his comments were not made part of the record yet.

Mr. Marshall said there is a difference between what the public record is and public documents or public records. Something that is sent to you is a public record. The Agency keeps it and if someone requests it, we'll provide it to them. If it's submitted to us in response to an agenda item, then it becomes part of the public record for this meeting. There may be some expectation that once you submit something to the Governing Board, no matter what it is, it needs to be posted on our website. Maybe that's what they are trying to get at, is its now part of the public record and am going to sue because it hasn't been posted yet. That is a different question for us to handle on a case by case basis.

Mr. Settelmeyer said if you follow the rules to its absolute conclusion, we'll never be able to do any business. There has to be some reasonableness within this discussion. If things are sent to an individual in an individual capacity, that is far different, that gets you into the question of is it quasi-adjudicative? That's the question to him at heart, not if it is a legislative matter. We have to keep that separate in our minds because if it's just a regular matter that we're voting upon, people are contacting us and sending emails. In a legislative context, one time, he received 6,000 emails in one day.

Presentation: <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VIII-B-1-Review-of-Compact-Open-Meeting-Law-and-Conflict-of-Interest-Requirements.pdf>

IX. GOVERNING BOARD MEMBER REPORTS

Ms. Gustafson said she'll be out for the June meeting and will definitely need the California Board members here. Vice Chair, Ms. Williamson, will run the meeting.

Ms. Regan said Mr. Rice had surgery and that is why he wasn't able to attend today.

Ms. Regan said she and Ms. Chevallier met with Erick Walker, Lake Tahoe Basin Management Unit Forest Supervisor on Monday and discussed the Third Creek and Incline Lake project.

X. COMMITTEE REPORTS

A. Local Government & Housing Committee

Ms. Hill said the Tahoe Living Working Group met in April to further develop height, density, and coverage amendments and their focus on making deed restricted housing more financially feasible. The next step is to give a briefing on these amendments to the Local Government & Housing Committee on June 14. The changes will go to the Governing Board in the Fall.

B. Legal Committee

None.

C. Operations & Governance Committee

None.



D. Environmental Improvement, Transportation, & Public Outreach Committee

None.

E. Forest Health and Wildfire Committee

None.

F. Regional Plan Implementation Committee

None.

XI. PUBLIC INTEREST COMMENTS

Steve Dolan said earlier today he distributed a 3-page handout at the dais. It is a map of Third Creek in Incline Village with its tributaries. Third Creek has become the number one most important creek on Lake Tahoe. It has recently in 2022 become the only recognized habitat for the threatened species Lahontan cutthroat trout. That was stated by Craig Oehrli who is a Lake Tahoe Basin Management Unit Forester. At the Seven Springs Fork there is a tiny meadow which is the one being talked about in the email he provided with the You Tube, Lake Tahoe Basin BMP violations connection. That meadow is where the things are happening. The other thing about the importance of Third Creek is Dr. Laney Galen in 2018 determined that Third Creek and Incline Creek one hundred yards from it are the two most genetically important creeks on the lake because they never go dry. They've maintained this historical life process.

The US Forest Service, at least in the past up until this year, has said that Third Creek is not habitat for the Lahontan Cutthroat Trout, now they have to because now it's their own determination. That might change the permit that TRPA has released to them on the basis that it is not Lahontan Cutthroat Trout. The rest of this document deals not only with that but the request to stop that meadow work. He's been asked by many including some Board members who he has spoken with at the US Forest Service. There were five foresters over three years managing that area. On this team thing, those are the people who have witnessed everything that's claimed in the video. He would like to see the permit reviewed and stop the work at the meadow for 2023.

Doug Flaherty, TahoeClearnAir.org said the US Forest Service handling and monitoring of this project that Mr. Dolan spoke about is unacceptable. They're devastating that entire Incline Lake area. Not to mention that the Toiyabe National Forest completely disregards the whole Mount Rose Corridor as far as looking after some of the environmental issues going on up there. If there's any way that TRPA can weigh in on a personal level if you can't stop the permit, make some calls and get this straightened out. One of the reasons they are in this position is because TRPA in the past has shed its responsibilities of oversight and monitoring by signing these Memorandums of Understanding. Once they do that, the Forest Service is on its own merit to follow the regulations. We can't rely on them to look after the environmental interest of the Compact in the Lake Tahoe Basin. From a reasonable standpoint, please do your best to stop this permit and get this cleaned up.

XII. ADJOURNMENT

Ms. Aldean moved to adjourn.

GOVERNING BOARD

May 24, 2023

Ms. Gustafson adjourned the meeting at 5:00 p.m.

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](mailto:virtualmeetinghelp@trpa.gov).*

DRAFT