TAHOE REGIONAL PLANNING AGENCY
LEGAL COMMITTEE

TRPA Offices
Zoom

November 20, 2024

Meeting Minutes

CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chair Aldean called the meeting to order at 8:30 a.m. on November 20, 2024.

Members present: Ms. Aldean, Ms. Faustinos, Mr. Kieckhefer, and Ms. Leumer.

Members absent: Ms. Williamson.

I. APPROVAL OF AGENDA

TRPA General Counsel Graham St. Michel stated that there were no changes to the agenda.

Vice Chair Aldean deemed the agenda approved as posted.

II. APPROVAL OF MINUTES

Mr. Kieckhefer made a motion to approve the October 23, 2024 Legal Committee meeting minutes as presented.

Motion carried by voice vote.

Ms. Faustinos abstained.

III. DISCUSSION AND POSSIBLE RECOMMENDATION FOR APPROVAL OF RESOLUTION OF ENFORCEMENT ACTION: TAHOE KEYS SMI, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("SUNTEX"); UNAUTHORIZED MOORINGS, FAILURE TO INSTALL AND MAINTAIN WATER QUALITY BEST MANAGEMENT PRACTICES, FAILURE TO PAY MOORING REGISTRATION FEES, AND UNAUTHORIZED COVERAGE, 2435 EAST VENICE DRIVE, SOUTH LAKE TAHOE, CA, ASSESSOR'S PARCEL NUMBERS 022-210-032, -040, & -044

Staff Presentation

Tiffany Good, Principal Planner with TRPA, presented details of the settlement agreement between the Tahoe Regional Planning Agency (TRPA) and Suntex, the new owners of the Tahoe Keys Marina, which aims to address long-standing environmental and regulatory issues while revitalizing the property. The marina, built in the 1960s, has suffered from years of neglect under previous ownership, resulting in violations such as dilapidated docks harmful to water quality and safety, unauthorized boat slips (66 of the 305 slips are unpermitted), six years of unpaid mooring fees totaling $78,690, and a lack of required Best Management Practices (BMPs) for water quality. The marina is situated in a highly sensitive area near Cove East, where significant investments have been made to combat aquatic invasive species (AIS) and improve water quality.

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Under the settlement, Suntex will replace the deteriorated docks with environmentally superior materials, pay all outstanding fees, and implement an interim BMP plan by October 2024 to address water quality concerns. Additionally, they will submit applications to legalize the unauthorized slips and prepare a marina expansion plan for TRPA approval, which will also require addressing outstanding concessions. Suntex has also committed to AIS management efforts and will pay a water quality mitigation fee based on discrepancies in recognized coverage. The agreement represents a collaborative effort between TRPA and Suntex, with the latter demonstrating a willingness to invest in the marina's improvement and comply with regulations.

TRPA staff highlighted the environmental and community benefits of the agreement, noting that it resolves numerous violations while positioning the marina for long-term revitalization. The proposal was recommended for approval by the legal committee to ensure the property meets modern standards and contributes positively to the South Shore community and Lake Tahoe.

Steve Sweet, TRPA Code Compliance Program Manager, emphasized the importance of partnership in achieving and maintaining compliance, highlighting Suntex's proactive approach from the outset. He commended their efforts in addressing unauthorized activities, particularly in concession enforcement, and noted their instrumental role in helping TRPA tackle longstanding issues. Mr. Sweet described the collaboration as a strong and effective partnership and expressed optimism about continuing this positive relationship moving forward.

Dennis Zabaglo, TRPA Aquatic Invasive Species Program Manager, echoed Steve Sweet's positive remarks, praising Suntex for their proactive and forward-thinking approach, particularly in addressing aquatic invasive species (AIS) control and management. He noted that Suntex is already implementing aspects of the settlement agreement related to AIS. Mr. Zabaglo emphasized the critical role of the Tahoe Keys Marina in supporting the broader lake community, as it is the only facility capable of accommodating large boats for mechanical services and launching. He highlighted that other marina operators are optimistic about Suntex's leadership and its potential to realize the marina's full value for the region.

Suntex Comments

Lew Feldman, speaking on behalf of Suntex, expressed enthusiasm for the company's comprehensive plans to revitalize the Tahoe Keys Marina. He highlighted the marina's decline from its former prominence and emphasized the need for a complete overhaul, rather than a simple rehabilitation. Feldman detailed plans to replace both waterside and landward infrastructure with state-of-the-art improvements that will enhance the environment, economic vitality, and overall functionality of the marina.

The project will involve significant investment, with waterside improvements, including docks and bulkheads, estimated at around $40 million, and the total redevelopment potentially reaching $100 million. Key milestones include submitting applications for waterside improvements soon, aiming for completion by fall 2025, followed by landward redevelopment starting in 2026, with an 18-month build-out.

Mr. Feldman praised Suntex's experienced team, particularly project manager Eric Metz, and acknowledged strong support from stakeholders, noting a universal desire to move away from the marina's current state. He concluded by urging the legal committee to recommend approval of the settlement agreement to enable the project to proceed swiftly.

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Committee Member Comments/Questions

Vice Chair Aldean asked how many marinas Suntex owns?

Mr. Feldman replied that the company owns just under 100 marinas.

Vice Chair Aldean asked whether it is common for Suntex to acquire and operate marinas with deteriorated infrastructure requiring extensive overhauls.

Eric Metz explained that while it is not typical for Suntex to acquire properties with significant infrastructure challenges, the Tahoe Keys Marina represented a "diamond in the rough" due to its potential. He emphasized that Suntex approached the acquisition with full awareness of the necessary transformation and is committed to the process of improvement. He noted that other marinas in Suntex's portfolio also undergo similar engagement and redevelopment, though each marina presents unique challenges due to differing water features.

In response to a follow-up question, Mr. Metz confirmed that prior to the acquisition, Suntex was informed about challenges, including unpaid fees, through interactions with staff – Tiffany and Steve. Despite discovering additional issues after purchase, Suntex has been actively addressing these challenges, supported by their on-site General Manager, Katie Linton. Mr. Metz concluded that Suntex is focused on moving forward and realizing the property's potential.

Ms. Aldean asked whether Suntex would currently qualify for Clean Marina certification, referencing their plan to submit an application within 90 days of the governing board's approval.

Eric Metz responded that Suntex already obtained clean marina certification the previous month. He clarified that clean marina certification primarily pertains to operational practices, while BMPs (Best Management Practices) and related environmental compliance requirements fall under Lahontan and TRPA regulations, which involve a separate process.

Julie Regan, TRPA's Executive Director, highlighted the transformation and potential of the Tahoe Keys property. She noted that the area, once slated for condominium development, became public land through litigation and TRPA's efforts. The Upper Truckee Marsh and Cove East now serve as vital resources for water quality and public access but still face challenges, including over 170 acres of polluted lagoons affected by aquatic invasive species. Ms. Regan emphasized the opportunity to revitalize the property, commending the proactive stance of the private owner, Suntex, and their efforts to align the project with Tahoe's natural beauty. She also recognized TRPA staff and stakeholders for their diligence in navigating complex legal and environmental issues, underscoring the importance of collaboration and environmental stewardship.

Graham St. Michel offered technical clarifications to ensure accuracy in the record. He noted that the $1.86 per square foot water quality mitigation fee, mentioned in Tiffany [Good]'s presentation, is not necessarily allocated to the water quality mitigation fund as might have been assumed. He also flagged a minor amendment to the settlement agreement, related to condition 8 which would be addressed during the motion. Additionally, Mr. St. Michel acknowledged ongoing discussions with stakeholders connected to the 1980 litigation to ensure compliance with prior representations and critical components of that case.

Tiffany Good clarified an amendment to paragraph eight of the settlement agreement. The original text, stating that Suntex would "purchase and operate one non-motorized decontamination unit," was revised to specify that Suntex will instead "purchase and operate

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one waterless cleaning station," replacing the original term for greater accuracy.
Belinda Faustinos expressed appreciation for the cooperative efforts from all parties involved, commending the work done for the betterment of the lake, emphasizing that it aligns with their shared goals.

Alex Leumer sought clarification on how marina slips are being counted in relation to transportation mitigation, referencing concerns flagged in a letter from the League and how this aligns with the litigation settlement agreement.

Tiffany Good explained that the marina is adhering to the 239 slips authorized in alignment with the earlier settlement agreement and the Tahoe Keys Master Plan from the early 2000s. The current settlement does not override the previous agreement. When Suntex submits an application for 66 additional slips to reach the total of 305 permitted slips, applicable traffic mitigations will be enforced at that time.

Alex Leumer asked for additional clarification, noting that some of the violations seemed to have been ongoing for years and inquired if these issues predated Suntex's involvement.

Tiffany Good confirmed that all of the violations had been in place since the previous owners' time and that Suntex inherited the situation. She expressed appreciation that Suntex is now working to address and rectify the issues.

Ms. Leumer expressed appreciation for the progress but mentioned that she would like to have a more in-depth conversation offline to better understand how the violations persisted for so long and explore ways to improve enforcement to prevent future issues.

Julie Regan acknowledged Alex's question and agreed on the need for a broader conversation. She explained that enforcement had been challenging due to previous owners' resistance, which had hindered progress. She highlighted that this issue affected not just the marina's violations but also the larger invasive species program. She mentioned that the change in ownership helped break the deadlock, allowing staff to prioritize addressing the issues, and offered to discuss the details further offline with involved staff.

Ms. Aldean asked why more rigorous enforcement measures were not taken regarding the violations.

Lew Feldman commented that the previous owner of the marina had a history of criminal convictions, which made enforcement difficult. He noted that the previous owner was challenging to deal with and that the situation has improved with the change in ownership.

Steve Sweet explained that while enforcement and work on best management practices (BMPs) were ongoing with the previous owner, progress was slow due to the difficulties in working with them. However, with the change in ownership to Suntex, there has been a significant opportunity to make substantial improvements.

Mr. Kieckhefer pointed out that while TRPA recognizes 239 slips as permitted, the company is paying fees for 305 slips and will need to submit applications within 90 days for the 305 slips. He asked if all 305 slips would be operational for the upcoming season, even though only 239 are officially recognized.

Tiffany Good confirmed that all 305 slips will be operational for the upcoming season. She

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explained that the reason they are paying the registration fee for 305 slips is because the code requires any slip with access to Lake Tahoe, regardless of whether it's legally recognized, to pay the fee. The slips in question have been operating and will continue to do so.
Julie Regan acknowledged Alex's comment and explained that the Tahoe Keys has historically been difficult to bring into conformance with the regional plan. She referenced Lew Feldman's point, noting that the area has had a "wild west" reputation. The process of aligning the Keys with the regional plan and applying shoreline fees was long and challenging. The homeowners association previously resisted, claiming ownership of the land under the lagoons, which led to legal battles. The 2018 Shoreline program finally opened the door for a more integrated approach, which she believes will improve enforcement moving forward. She offered to provide more details about the enforcement history and challenges faced.

Public Comment

Doug Flaherty criticized TRPA's monitoring and compliance programs, calling the situation an "absolute failure." He expressed strong dissatisfaction with the lack of accountability within TRPA for the issues occurring under their oversight. Flaherty argued that the organization has the power to enforce compliance but has failed to address the violations, citing the previous owner's felony conviction as an excuse. He criticized TRPA for pushing increased development while failing to manage basic issues that are harming the lake. He urged the board to hold TRPA accountable and publicly reprimand them, emphasizing the inadequate enforcement efforts, particularly with only one person (Steve Sweet) handling enforcement.

Gavin Feiger from the League to Save Lake Tahoe expressed appreciation for working with Suntex, particularly thanking Eric, Jason, and Drew. He highlighted that the parking issue was the only missing piece in the settlement, which he hopes will be addressed when the 66 slips are permitted. He also mentioned looking forward to reviewing the AIS (Aquatic Invasive Species) master plan, which has been a focus since the shoreline plan's adoption. Mr. Feiger acknowledged the importance of enforcement, echoing concerns similar to those raised by Doug, and expressed eagerness to continue working on enforcement and other related issues in the future.

Mr. Kieckhefer made a motion to recommend Governing Board adoption of the Settlement Agreement as shown in Attachment A and as modified with the change to paragraph 8.

Ayes: Ms. Aldean, Ms. Faustinos, Mr. Kieckhefer, and Ms. Leumer.
Nays: None.
Motion carried.

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

Mr. Kieckhefer made a motion to move into closed session. The legal committee was in closed session for approximately 25 minutes.

Mr. Kieckhefer made a motion to move back to Open session.

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V. POTENTIAL DIRECTION REGARDING AGENDA ITEM NO. 4

None.

VI. COMMITTEE MEMBER COMMENTS

None.

VII. PUBLIC INTEREST COMMENTS

None.

VIII. ADJOURNMENT

Ms. Aldean moved to adjourn.

Meeting adjourned at 9:38 a.m.

Respectfully Submitted,

Katherine Huston
Paralegal

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

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