

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Zoom/TRPA

July 27, 2022

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chair Ms. Gustafson called the meeting to order at 12:26 p.m.

Members present: Ms. Aldean, Mr. Anderson, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Members absent: Mr. Hicks

Ms. Gustafson introduced new Governing Board member Ms. Diss, Nevada Governor Appointee.

Ms. Diss said she was appointed to the Governing Board last month by Nevada Governor Steve Sisolak. She thanked members of the Leadership Team and Board for a warm welcome. She also thanked Mr. Bruce for all of his hard work and dedication to TRPA and to Nevada. She's an attorney by training, if not by practice and she worked at TRPA as an attorney in 2013/14. She then moved on to State Government, where she worked with Ms. Williamson for four years at the Nevada Public Utilities Commission and worked also in the Governor's office. For the past year, she's been in the private sector working in anti-bribery and anti-corruption compliance for a renewable energy company in Reno.

She's originally from Reno and has also lived in Tennessee, Northern California, and Washington, DC and has been back in the Reno area for the last ten years or so. She's married and has two small children. Like everyone here, Lake Tahoe holds a very special place in her heart. She grew up recreating here with her family and still comes to the Lake a lot. She's had interactions with the basin and with the Lake as a day tripper, overnight tourist, and even a seasonal worker one summer, and then working at TRPA. She's honored to be a part of this organization and to learn from all of you and get to know the Board members, the stakeholders and collaborators, and partner agencies.

II. PLEDGE OF ALLEGIANCE

Ms. Aldean led the pledge.

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III. APPROVAL OF AGENDA

Mr. Hester stated no changes to the agenda.

Ms. Gustafson deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES *(June 22, 2022 Governing Board Minutes will be in the August 24, 2022 Packet)*

V. TRPA CONSENT CALENDAR

1. Quagga/Zebra Mussel Infestation Prevention Grant Program application and Funding Agreement Resolution

Ms. Gustafson said the one item on the Consent Calendar was not reviewed by any committee.

Board Comments & Questions

Ms. Aldean suggested a clerical edit under the Now, therefore, be it resolved. "To" was omitted. "To including but not limited to."

Ms. Aldean moved to approve the Consent Calendar.

Public Comments & Questions

None.

Ayes: Ms. Aldean, Mr. Anderson, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Motion carried.

VI. ADMINISTRATIVE MATTERS

A. Election of Governing Board Chair and Vice Chair for the remainder of 2022 and for the 2023-2024 term

Ms. Gustafson asked for nominations.

Mr. Lawrence nominated Ms. Gustafson for Chair and Ms. Williamson for Vice Chair.

Board Comments & Questions

None.

Public Comments & Questions

None.

Board Comments & Questions

Mr. Hoenigman made a motion to elect Ms. Gustafson as Chair and Ms. Williamson as Vice Chair for the remainder of the term for 2021/2022 and for 2022/2023.

Ayes: Ms. Aldean, Mr. Anderson, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Motion carried.

B. Ad Hoc Executive Director Search Committee Report

Ms. Aldean said the Ad Hoc Executive Director Search Committee met earlier this morning and received a status report from Sonja Prothman and Steve Worthington with Prothman.

Ms. Atchley said Prothman was chosen as the recruitment firm to manage the executive director recruitment and Sonja Prothman and Steve Worthington are joining us today to answer any questions.

Ms. Aldean said every member of the Board should have been contacted by Prothman and interviewed. It's extremely important that they all play a role because this decision in many ways will determine the future of this organization going forward for the next number of years. In addition to that, a number of staff members were interviewed, the members of the Advisory Planning Commission, and 18 members from various stakeholder organizations. The feedback will be used in the screening process of candidates. The feedback from those interviews will be made available to Ms. Atchley later today and then the position will be posted online on Monday with a five week recruitment window. Hopefully, that won't have to be modified and they get a plethora of people applying for the position. If you do have names of people that you know who you think would be qualified for the position, please contact Ms. Atchley.

Mr. Worthington said he just completed his review of the profile draft and will send it to Ms. Atchley later today. That profile is a key piece of what they get to work for the recruitment. It's an effective tool and all of your participation has been great to help refine that.

Ms. Prothman said once they post the position there's not going to be a lot of information coming out. It's going to be a five week recruitment window. Most of the people that apply usually wait until the last week. They'll be busy once they post with all the advertising, the direct mail campaign, emails, and networking.

Ms. Aldean said there hasn't been a final decision with respect to the stakeholder panel interviews in terms of calendaring those and the Governing Board interviews. She asked

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Ms. Prothman to summarize the pros and cons of dividing this process into two days. She asked that all Governing Board members hold their calendar for both the fourth Wednesday and Thursday of October.

Ms. Prothman said those type of decisions are still in progress. Their process is to typically do a reception the evening before the interviews and then do the interviews the next day. It's been brought up to maybe have the interviews with all the stakeholder panels the day before so that the Board can watch. That's not typically part of their process. They've done 400 of these recruitments and will want to see what the goal is for doing that. The candidates will know they're being watched, the panels might be different so you might not be getting the feedback that you are looking for from the panels because the interview might be different which is something to think about.

Ms. Aldean said the process will be further refined and everyone will be notified of a final schedule for the interviews. She wouldn't discourage people necessarily from participating as a member of the audience during the stakeholder interviews, but it won't be mandatory, because there will be facilitation, and as she understands it that the results of the stakeholder panel interviews will be memorialized in writing and provided to every member of the Board.

Ms. Aldean announced that Mr. Hoenigman is the Vice Chair of the Ad Hoc Committee.

Presentation can be found at:

[Agenda Item No. VII.B Ad Hoc ED Search Committee Prothman Schedule](#)

Board Comments & Questions

Ms. Conrad-Saydah said she's heard that with a lot of searches lately that the labor market is not flooded with applicants and that they're seeing response times on job listings take longer than expected. Thinking about listing this in the month of August, when folks are still in summer mode, she's wondering if they could list it for longer to give it August and September, if possible, longer than the five weeks, if four of those five weeks are fully in August because she wants to make sure that there's enough time to do outreach and get people who are finishing up their summers, time to apply for the position. That's her one concern is the listing timeframe overlapping with summer. She's heard that some of these recruiting processes have been listed more than once even for these high-level positions because there's a lot of jobs and not a lot of people to fill them right now.

Mr. Worthington said they do see some listings that need to be repeated in the current labor market. This listing actually runs a little bit longer than five weeks. The first review date is September 11. The advertising is scheduled to start on Monday and will get into September a bit. He has about two weeks to interview and screen candidates and then draft a report that will be presented to the Ad Hoc Committee on September 28 for them to identify who they would like to have for final interviews. Those interviews are being targeted for October 26 and 27. It will be most likely a two day process. There's about four different touch points that to the Board and representatives have to provide feedback.

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Ms. Conrad-Saydah said that's helpful. She just wants everyone to be eyes wide open about the labor market right now, and the ability to make sure that they have ample time to recruit.

Ms. Aldean said if they don't get any applicants, by necessity, they'll have to extend the application period and everyone will have to remain nimble and flexible moving forward.

Ms. Aldean said being a part of the group that reviewed the companies that expressed an interest in providing the recruitment services, in her opinion Prothman was clearly the most qualified.

Public Comments & Questions

None.

VII. APPEAL

- A. Appeal of Condition of Approval for Reconstruction and Expansion of an Existing Pier, 1590 North Lake Tahoe Blvd., Placer County, California, Assessors' Parcel Number (APN) 094-160-008, TRPA File Number ERSP2020-2095; Appeal No. ADMIN2022-0014

Mr. Marshall said Legal Committee unanimously recommended that the Board deny the Appeal. They had good discussion about all the issues and good colloquy with the applicant as well. The presentation to the Board will be a slimmed down version of those basic issues.

(Slide 1) This is on the North Shore and the arrow is showing the existing pier structure. They have pier that is described in the staff report is defined as all that structure from basically the high water mark out into the Lake that reaches a certain depth and serves a certain function. Staff recognizes this as a pier and is non-conforming for a number of reasons.

(Slide 2) This is the view of the structure from the Lake from the end of the pier looking up towards the house. There is a walkway up to a stairway that leads up to the boulder, then the boulder houses the walkway back towards the house. As part of the walkway, a bump out sun deck shown on slide 3.

(Slide 3) The view in the opposite direction looking from the walkway out onto the sun deck, and then the stairs descending down and then down below is the section that is supported by piles, and that functionally serves as the place to moor and board boats, etc.

(Slide 4) This slide represents the as-built condition. The red line enhanced with the color is the high water mark. What is being discussed is what happens to the remainder of the pier that is left after they go through the rebuild.

(Slide 5) This is the first application that came in. Underneath on the left hand is the boulder that has the sun deck on it, and then the stairs down to the part that functions as a pier. The short underlying piece is the existing structure, and this was the original

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expansion that they wanted with the original proposal. The existing pier is non-conforming because it has structure on a boulder, a sundeck in the shoreline, and they clarified in the Legal Committee, it has a series of stairs that are over long under today's design standards to get down to the pier deck. Under TRPA rules, one cannot expand a non-conforming structure in the shoreline. The only way to get an expansion is if the pier structure is brought into conformance, then it can be expanded. What they were proposing to do was just to essentially take out the short section of the lakeward side of the pier and then expand it out into a new walkway pierhead and put a boatlift on it. Since a non-conforming structure can't be expanded, this was not acceptable, and they couldn't make the findings for this pier.

(Slide 6) This was the proposal to essentially move the pier northward a bit, and hook into the existing walkway right about at high water. In order to make the findings to approve this pier, TRPA concluded that the remainder of the old pier had to be removed, from that red line lakeward, so that includes the walkway and the deck bump out, as well as the stairs, and the old structure that was at more lake level. That's the condition that is being contested which is to remove all that non-conforming structure of what fits in within the TRPA definition of a pier.

The key issue they discussed this morning is if there was something in the application that would kick this out of the normal rules. TRPA staff position is that this is just like any other expansion of a non-conforming structure and it would have to be brought into conformance in order to get the expansion. They can't have it both ways. They can keep the non-conforming structure, or they can bring it into conformance and expand it, but not both. That's what the applicant is requesting is to get rid of the condition that essentially required them to remove the walkway and the non-conforming structures. That is what the Legal Committee decided to affirm that staff position and recommended the denial of the Appeal.

They talked a bit about the legality of various documents that you may hear from the applicants when they come up, or the effect of various TRPA site assessments that had the label of pier and deck separately. He emphasized that the purpose of those site assessments are for coverage purposes and not for the verification of shoreline structures. Staff doesn't look at what is labeled on the pier or those labels that were submitted by the applicant for that site assessment, they are not verifying those in the context of a site assessment. Those were not prior determinations by TRPA that these were two different structures. The thrust of their argument is that they should be treated differently. What they call the pier, which is the kind of lakeward section from the stairs down, and then the landward section of the path out to the boulder, and then the pathway and the deck bump out that they would like to keep. They talked a little bit about the precedential nature on both sides of this. They argued that there's a danger of TRPA staff being able to reach further landward of the structure and affect other non-conforming structures.

Staff's position is that's not possible because what's really happening here is bringing the pier into conformance, not other structures. The pier has to be in conformance and the definition of the pier is set in TRPA Code of Ordinances and TRPA's discretion. Staff believes that if this appeal is granted what they're going to be seeing is a lot of

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applications to try to differentiate parts of piers that are non-conforming that they want to retain and claim that they can then use the remaining structure to pier as the conforming part and expand that. They see kind of a mischief being possible with what the applicants are deciding.

Mr. Gatto, Attorney on behalf of the applicant, Mr. Adelman and also here today with him is consultant, Mr. Ogilvy. There was some good questions that were brought up at the Legal Committee primarily, Mr. Yeates raised a prior application that was brought before TRPA involving the former Ty Cobb deck and pier which was the Poe pier/deck. What came out of that discussion many years ago was this definition that TRPA looks at a pier now that focuses on the utility or the function of the structure, and that definition says that a pier has to be intended as a landing or temporary mooring. The question for the Governing Board is whether that deck that on top of the boulder, which was separately permitted and constructed from the appurtenance that actually extended into the water was ever intended as a landing or temporary mooring as a pier. He thinks that they can agree that but for that common stairway that leads down from that deck, if that stairway did not exist, and there wasn't a common access way between the pier and the deck, that deck would be allowed to remain as a separate legal non-conforming structure. The question is, are these two structures, or is it a common structure merely because there is a common access way or a common stairway.

The Appeal is solely from condition of approval 3.b.6 which requires that all existing structures lakeward of the high water line be removed as result of the project.

(Slide 10) The sundeck is at an elevation of approximately 6,239. The sundeck was never intended as a landing or a mooring, nor can it function as such.

The threshold question is does a separately permitted and separately legally recognized structure that is attached by a common walkway become a pier by the mere fact that it is attached.

There's been several regulatory agencies that have recognized the sundeck as a separate structure from the pier. While they are working under a different definition than TRPA of a pier, they recognize this was a separate structure and it wasn't a part of the pier.

(Slide 13) Is the original building permit application for the sundeck submitted in June of 1960. The application is to construct the walk, the sundeck, and the stairs, and it does not include the construction of the pier. Again, this goes to the intent of the original construction of this project. This sundeck was not intended as a landing or a mooring.

(Slide 14) Assessor's building records from Placer County again recognizing the sundeck as a separate structure from the pier, it was constructed separately from the pier.

(Slide 15) These are the TRPA site assessments that Mr. Marshall referred to. Again, while they're not binding on TRPA, this shows that the applicant in 2019 and 2015 site assessment consider these structures to be separate. This is something that this applicant, the current owner, has not recently thought up to try to segment this pier into two separate parts to be able to retain the deck. The deck was always considered a separate

structure from the pier.

(Slide 16) California State Lands Commission Lease. Again, there was some discussion about this during the Legal Committee. While the State lands does not include the deck as part of their lease, they do evaluate structures that are between the high and low water line for the public trust and they created this exhibit showing the deck as a separate structure from the pier.

(Slide 17) This is the 2018 MLS listing prior to the current owners purchase of the property. It advertised the sundeck as separate and additional from the pier. Again, showing that the intent was that these were two separate structures.

If the pier were to be destroyed and it was not rebuilt, in the three years for the time to be serviceable, they'd be able to maintain this structure. This structure would be a separate legal, non-conforming structure. Also, looking at the Poe case where you have what someone argued to be pier was a deck and the inverse kind of relationship there that the intent for this separate structure was never to be served as a pier. The mere fact that there is a common access way, should not join those two structures and require the removal of the separate legal, non-conforming structure by virtue of the modification of the pier.

Mr. Marshall said you can where the difference of opinion is, and what this structure is. TRPA defines that entire structure as the pier and if they want to expand to bring the pier into conformance in this case, move it to a slightly different location, they need to remove the old pier. What they're trying to do is maintain segments of that old structure of the non-conforming segments and have their cake too and expand the structure to serve how they want. They have a choice to either keep the structure as is, a non-legally, non-conforming structure, or they can expand it. If they do, they have to bring it all into conformance.

Presentation can be found at:

[Agenda Item No. VII.A & Legal Comm Item 3 Adelman Appeal](#)

Board Comments & Questions

Ms. Conrad-Saydah asked about the comment from Mr. Marshall about precedential aspects of this decision, that there's a number of non-conforming piers and if they allowed this, then all these other non-conforming piers would pursue the same sort of decision. What is the environmental impact of removing all of those non-conforming piers over time and building all new piers and has that been discussed or considered in the broader longer term vision for implications or applications of this policy?

Mr. Marshall said yes, in their environmental work for the adoption of the Shoreline Plan they looked at all these new ordinances which include the ability to build a pier like this. Essentially one of the concepts was if you're going to be moving towards non-conforming structures which is what the Regional Plan policies to direct them to. If they lose those opportunities and all they're doing is just allowing non-conforming structures to remain that changes the assumptions that they're into basically that environmental document

because it presumed that where you get some gain from the removal of non-conforming structures. In this case, they're generally talking about scenic values. This is not really so much a water quality question. They can heavily control the use within the shorezone and also visible structure, this is the two things that make this pier non-conforming. They would be losing the benefit gained around the Lake, in a cumulative sense and at the same time they'd be allowing the expansion which has additional scenic impact associated with it and wouldn't be getting as much of that trade-off.

Ms. Gustafson asked for additional information about the Poe case.

Mr. Marshall said it had to do with the question of the utility of the pier. This was the case that came before the Board prior to the 2018 adoption of the Shoreline Plan, and has to do with their old definition, which was, if you had a structure that extended over high water, you could argue that it is included as a pier even though it couldn't function as pier. The Poe's was just a deck basically laying on the beach. This doesn't really have to do with the conforming, non-conforming issue but whether or not it met the definition of a pier. In that case the applicant was saying that they had cleats on this deck that's sitting on the ground and could be latched onto, therefore, it would function as a pier. In part, that case was the justification for changing the definition of a pier to include not only length extending over high water by a certain amount, but also this utility and functionality requirement that they talked about at the Legal Committee. That case really centered on this notion that if you just had the deck that they're talking about on top of the buoy that wouldn't qualify as pier because it didn't serve as a lakefront use for boating. That didn't have to do with this kind of issue of bringing the pier structure into conformance if it was a non-conforming structure.

Ms. Gustafson said there's a lot of nuances in the definition of pier and structures. Obviously, if there's other structures between high water and the Lake or within that area, there are other types of structures that could be out there and isn't the intent in the shorezone policy to limit that, and to try to get back into conformance with all the structures.

Mr. Marshall said with one important caveat. If they had another structure that extended out that was non-conforming; maybe another actual sundeck with its own pier/walkway to someplace else on the property, and they just wanted to deal with this one, they wouldn't be going to that other structure and tell them that they needed to remove that also. If they wanted to remove it to claim scenic credit or offset some of the scenic impacts, they could do that. If it were completely separate, they wouldn't touch it.

Ms. Aldean said a portion of this sundeck is integral to the pier as a whole, because obviously they can't get from the end of the pier to the shore without crossing over a portion of that sundeck. This is kind of splitting hairs; would it be possible to maintain half of that sundeck portion that is not being used as a walkway to the shore.

Mr. Marshall said that would result in a further non-conformance. That's not how staff has been interpreting and applying in bringing the pier into conformance.

Mr. Yeates said essentially Mr. Gatto raised the point he raised in the Legal Committee. If

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you think about it, setting it aside from the pier situation and say you added a bedroom to your house for example. Is it now two structures or if you had a garage, etc., it's all part of the house. However the property owner started with his pier project, they may have just started with a sundeck but continued it out. What you saw was an existing pier and they want to expand that pier, even if they put a boatlift on a non-conforming pier that's an expansion that requires bringing it into conformance. They're building a much longer, probably a much better pier going out farther than the one now with a boat lift and that requires replacing or taking down the non-conforming pier. They're asking to take it back and leave the sundeck there. It was a built out pier and needs to be removed so they have the benefit that they want of their new pier. They can keep their existing non-conforming pier but if they want to meet the new standards, they have to remove the old pier. The precedent will be much worse if they just left a bunch of different piers out there as a result of getting a brand new pier. That whole structure has been built as a pier and how it was segmented together to get to that point, it's still a pier.

Ms. Aldean said the provision that they are contesting is 3.b.6. Was that discussed with the applicant?

Mr. Marshall said yes, it was discussed.

Ms. Aldean said if there was a verbal conversation, then it shouldn't have been a surprise to them to see that it was a condition contained in the permit.

Mr. Marshall said correct, they knew there was going to be a condition for removal.

Ms. Gustafson said because that was the issue that was keeping the existing pier from being conforming to begin with was the sundeck. So, trying to build a second pier was another way around that issue.

Mr. Marshall said yes.

Ms. Gustafson asked what the other non-conforming issues.

Mr. Marshall said the stairway.

Ms. Aldean asked is it optional or do they require single piles.

Mr. Marshall said this one is double piles.

Ms. Good said it's non-conforming for a few reasons. It extends into the side set back, the property boundary projection. Also, the deck height for piers is limited to a maximum elevation of 6,234, and the elevation of the deck portion on the pier that extends back to the upland is at an elevation of around 6,239 so it extends that pier deck elevation. That pier deck elevation is in place, and a requirement primarily for scenic purposes. The fact that it extends so much higher you can see the scenic impact of that. Those are the primary non-conformance issues.

Mr. Marshall said plus the deck is no longer allowed as a use within the shorezone.

Ms. Good said correct, it's not a permissible structure.

Public Comments & Questions

Mr. Ogilvy, land use consultant working with Mr. Gatto on behalf of the applicant. Relating to the condition, when they first made the modification for clarity, the staircase leading down from the boulder and the elevation is what they discussed initially in the relocation. Given work staff workloads and the amount of work in the system, obviously, project review has expanded considerably. He thinks their permit was issued something like 14 months after the date of submittal. This issue came up very late in the discussion of the condition. Given the duration of time, it was decided that they would go ahead and accept the condition and continue dialogue with staff and their interpretation.

Mr. Marshall said it was accepting the permit but contesting the condition.

Mr. Ogilvy said correct, it was contesting the condition and talking about an interpretation with staff which has led to today's discussion. The retention of the sundeck would still require mitigation to bring it into compliance with current standards. Whether or not the deck is viewed separate from the pier structure, would still require scenic mitigation, bringing the parcel into compliance with visual mass for the property. That's his interpretation but would look to staff to clarify that. Lastly, the heart of the argument is this utility and function of pier that's been deliberated, and whether the sundeck is part in parcel to the pier or a separate component. And from that function, he looks at it a bit different perspective than staff and that is if the appendage that leaves the boulder was never built or if it were destroyed, you would only have the sundeck. The sundeck and its elevation on top of the boulder, one would not have the ability to moor or land a boat. In that case, he would look to staff but he thinks if you look at the sundeck in its isolation, it will not meet the definition of a pier structure. So, the inverse is that you only have the sundeck would you qualify to expand the pier? And he believes the answer is, no.

He appreciated Mr. Marshall's point of a separate deck structure elsewhere in the shorezone, if they had a smaller pier. If this pier were located where it is proposed today, and the sun deck existed, it would not require removal of the sundeck. They were constructed under separate permits, with separate intent in a time prior to the creation of the Agency, and in part the project still requires compliance for all other standards, including water quality, and scenic. That utility piece of is it a pier alone as a sundeck that wouldn't qualify for expansion. On one side, it's not a pier but then on the other side seeking expansion, the entirety is pier and there's an inconsistency in that.

Board Comments & Questions

Mr. Hoenigman asked when they were allowing the expansion of the pier, was the total scenic degradation or the total coverage, or anything like that taken into account. If they had allowed this deck to stay, would it have been a smaller pier that they were allowed to build. Because they've been discussing the impacts on scenic quality, were they considering the whole thing as one and they wouldn't have allowed this pier extension that they want? Had they thought that they were also going to allow this deck to stay? Mr. Marshall said they wouldn't have allowed the permit without removing the structure

and is why the condition is there. What he wants to clarify with Ms. Good is that an existing structure doesn't need to be mitigated in and of itself. There's a separate shorelands scenic rating that has to be taken into account when you do a project. If in general you meet that with the existing structure, then they may or may not, it's their choice to use some of that structure to mitigate the new structure that's allowed by the new pier and is what they're trying to offset. They can do that in a variety of ways that doesn't have to occur on the pier structure. They can use other structure or other screening to accomplish that.

Ms. Good said that because they wouldn't have issued the permit and allowed that deck structure to remain, they didn't look at that in the review. Because the review was to remove the entire deck structure and look at the existing pier structure, and proposed pier to ensure that the proposed piers mitigated accordingly, and that the property as a whole is in conformance.

Mr. Marshall said they would have to redo that analysis. If in fact, the Board makes a determination that the Appeal should be granted, they'd have to go back and look at it the total pier structure, including the sundeck as their existing impact. Then they compare that to the new pier to see if that offsets, or they need to mitigate more or something like that. Most likely they would have to either, if they had extra that may maybe could keep the sundeck or they needed to mitigate more, they'd have to come up with some additional mitigation.

Ms. Good said yes, that's appropriate.

Mr. Lawrence said he certainly understands the applicants argument and perspective in viewing this as two separate structures. It's been his experience particularly with non-conforming structures, be it that his experience is more on the Nevada side than the California side. But there are number of non-conforming structures on steeper slopes, which have stairs as access. He agreed with Mr. Yeates in that it is one big structure whether you call a portion of the stairs that might have a bigger landing on it, a deck or whatever, but it was all kind of one structure. His concern is if granting the applicants appeal in trying to bifurcate these things into two different structures, if they have situations along the Lake where there are stairs going down and occasionally it widens out more than a stairway and might be landing on their plan, but it's still really the stairs and the access to the pier. If they go down this path, then basically the next application that comes down road that might have a non-conforming access stairway in the backshore, they will want to get that rectified because the backshore and this is all part of the structure. But if they go down this then there's the possibility that there will be two sets of stairways going down from properties to the Lake where they bifurcated and one stairway goes part way down, and they keep their landing and they build their pier. That's a bit of a slippery slope. It's a very unusual construction, he's seen a lot of innovative constructions that are old and non-conforming round Lake Tahoe. It does seem like, though, over the years this has become one pier and does seem like one structure.

Ms. Novasel said when the applicant was talking about if you were to take the two structures and separate them out somehow, that you could have an area where the deck would be and an area where the pier would be. You can't have half a pier. There has to be

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a way to get down to that extension on that pier beyond where the deck is and to her that's what makes it one structure. The area that they're using as a deck is partly the pier area and is the access to getting down to the water to get to your boat. You can't have that pier out there without the stairs to get to it.

Mr. Marshall said the motion needs to be framed in the positive. The motion is to grant the Appeal. To deny the Appeal and to affirm the Executive Director's decision, vote no. If you want to overturn the Executive Director's decision, vote yes. In order for the motion to pass, it's like a project vote for California and it would need five Californians and nine overall to vote yes on this motion. But if you want to affirm the Executive Director and deny the Appeal, then vote no.

Ms. Aldean made a motion to grant the appeal.

Nays: Ms. Aldean, Mr. Anderson, Ms. Conrad-Saydah, Ms. Diss, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Motion failed.

VIII. WORKSHOP

- A. Tahoe Living Housing and Community Revitalization Initiative and conceptual proposal on density, height, and coverage for affordable and workforce housing related to Chapters 30, 31, 37, 50, 52, and 90

Ms. Gustafson said the Board received written comments from Ann Nichols/North Tahoe Preservation Alliance, Ellie Waller, Carole Black, Doug Flaherty, Diane Heirshberg, Pamela Tsigidinos, and Tobi Tyler.

TRPA staff Ms. Fink and Ms. Bettinger provided the presentation.

Ms. Fink said coming out of the Board retreat they heard an appetite from the Board to get more deeply into these planning issues. First, they'll provide some background on the process, then more details of the current phase of work and policy proposals for affordable and workforce housing before the workshop.

The shortage of affordable and workforce housing is an increasingly dire crisis. It's been exacerbated by the recent pandemic and other current events, and if we don't take significant action soon, we're going to face a crisis in delivering even the basic mission of the Regional Plan. They're already seeing the difficulty in delivering the basic function to our communities. Those have been very much affected not to mention individual families and people.

Part of today's presentation will be on the process of the Tahoe Living Working Group and talk about how their work is unfolding and then look at how housing fits into the Regional Plan, and how it ties into some fundamental concepts of the Regional Plan. They'll also talk about the challenges that they still have today and how well they're doing at addressing some of those fundamental and environmental concepts of the Regional Plan.

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Housing is a very daunting problem to look at and particularly when you're looking at it through the lens of what your organization alone can do, it can look small. But luckily, TRPA is one of many partners that have been working for several years on the issue. In June 2020, the Tahoe Living Housing and Community Revitalization Working Group looked at actions that TRPA could take. This working group is a committee of the Advisory Planning Commission. This strategy of forming working groups, either through the APC or through Board Committees, is something that TRPA found works well, because they can bring practitioners with expertise in the in the topic and also representatives from groups that are affected by the issue together to advise staff on what works and what changes may need to be made to the policies.

(Slide 3) Is a list of stakeholders. There are four representatives from the Governing Board on the working group; two from the Regional Plan Implementation Committee, and two from the Local Government Housing Committee.

The working group got rolling in August 2020, and they started by bringing a technical analysis forward to the Working Group that helped the group prioritize a set of actions based on the amount of impact those actions could have on providing actual numbers of housing units and also reducing the cost of housing. They showed that from those actions they can anticipate about a 10 to 12 percent reduction in costs from TRPA actions. They're anticipating that compounded with that work of other partners that those actions would build on each other.

(Slide 4) Shows a simplified version of the set of actions and the timing that the Tahoe Living Working Group recommended, and that the Governing Board approved in January 2021. They have shifted a few items around based on timing, for instance, they completed one of the long term items in the near term phase, and also the Working Group has identified that some items need to be dealt with in a different order. Because there have been some minor changes, they've included an updated matrix of priority actions in the operations work plan which is going to the Board for approval next month.

The first set of actions were the near term actions, and the main piece of that was the Governing Board approved allowing Accessory Dwelling Units (ADU) on all residential parcels on the California side and that helped local jurisdictions comply with California law.

(Slide 5) They're now in the medium term phase, and this phase is looking at how they make it more financially feasible to build multi-family development types that provide smaller units and more diversity of housing sizes that they want to see for the local workforce. They anticipate that this phase will take a minimum of two years with already being one year in. The long-term phase will look at streamlining the and having more consistency between how they permit single family homes and multi-family homes because right now, multi-family permitting faces more barriers than single-family homes. They'll also be looking at the mitigation programs and how they may be affecting the cost of affordable housing.

(Slide 6) Housing has been built into the Regional Plan since early on and if you look at the 1987 Plan, there's a sub chapter of the land use element devoted to housing. In 2012, the

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Governing Board approved the Sustainable Communities Strategy as part of the Regional Plan, and that included a numeric housing goal, and that was tied to the State of California requirements for local jurisdictions to show that they can provide a certain amount of affordable housing. Now, they have the Tahoe Living Strategic Initiative which is part of the Operations Work Plan.

There's two themes that emerged from the Regional Plan that touches on the phase of work that they're in now. These themes are related to their environmental protection goals, and the first one is concentrating development in appropriate areas. This is a good planning principle that many regions do in trying to do compact development to reduce impacts on water quality, vehicle miles traveled, and get development where there's existing infrastructure. Another theme of the Regional Plan that's more unique to the Tahoe Basin is the growth management system, where they limit overall development and meter it out over time. Even within this growth management system from 1987, the Regional Plan always recognized that there needed to be kind of a set aside to encourage a affordable housing and multi residential development within that growth management system. From 1987 and continuing on there's a pool of bonus unit development rights, and in 1987 it was dedicated to affordable housing and multi-residential development rights which they've made adjustments to that over time. In 2012, it was the Regional Plan update that focused on incentivizing development in Town centers and is where they saw the height, density, and coverage incentives for development in Town centers.

This was also based on outcomes of the Total Maximum Daily Load (TMDL) that showed that the vast majority of sediment loading into the Lake was coming from the urban uplands. The 2012 Regional Plan also identified that there was still a need to mitigate the impacts of development on workforce housing. They had that pool of development rights for a affordable housing but there was still a challenge providing housing for people with incomes over affordable but who still couldn't afford local housing. That led to the 2018 Development Rights Strategic Initiative and that initiative was focused on looking at the growth management system and making changes within that system to make it easier to get development rights for redevelopment in Town centers, and for what they called the achievable category that is for the slightly higher income groups. This amendment also approved the bonus unit boundary which incentivizes deed restricted housing within the vicinity of Town centers and transit. In July 2021, the Governing Board approved that first phase of work that came out of the Tahoe Living Working Group and that again touched on these two themes. There's still some challenges that are remaining and they'll go through that in the next couple of slides to look at how they are doing at achieving the Compact development goals and how are they doing at providing that affordable housing. The local governments have identified that they still have a mismatch between available development rights and the needed housing types.

(Slide 12) Shows the shift of development into Centers over the last ten years since the 2012 Regional Plan amendment. Overall, there's been a shift of slightly under one percent for residential development into Town centers, but slightly more for tourist and commercial. This doesn't look like a lot but of the new residential development that occurred over the past ten years nearly half of it went into Town centers that's compared to the existing residential development where about 4.5 percent is in Town centers. They are seeing that the incentives are having an effect but there's more that they can do.

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There's been quite a bit of redevelopment since 2012 and a major project that happened right before 2012 which was the Heavenly Village Center that brought some of the mixed use, water quality, and vehicle miles traveled reductions that they would like to see in the Town centers. Since 2012 they've had some redevelopment projects that have taken advantage of Town center incentives such as the Event Center, Sugar Pine Affordable Housing project, and the Tahoe City Lodge. They've also seen projects deliver hundreds of acres of stream environmental zone restoration, and about 600 new units of deed restricted housing, or rental apartments. But a lot of the new development that's gone in has not taken advantage of those Town center incentives. They've seen a lot of one story, commercial development such as the Bijou Whole Foods or the Crossings of the Y that have provided some great community revitalization but they haven't been that mixed use development with housing that that they were anticipating. But what they have been seeing is that single family homes outside of Town centers taking advantage of the development footprint that there the development standards allow them. Single family homes are getting bigger and bigger and it varies some in what they see from community to community. There's definitely a demand for big homes but in Incline Village for instance they are seeing a demand for condominiums of all sizes for non-local worker uses. This gets again at this issue that the local governments have really been emphasizing in their working group meetings that it's relatively easy to get development rights for this type of housing such as large single family, or even deed restricted affordable through achievable but for smaller non-deed restricted accessory dwelling units or rental apartments that is the hardest type of development, to get development rights for.

(Slide 15) Shows how they are doing at delivering on that affordable housing need that's been identified since 1987 in the Regional Plan. Regional housing needs assessments that have been conducted by partner organizations such as the Tahoe Prosperity Center and the Mountain Housing Council, Washoe County, and, Placer County have done extensive housing needs research. Those studies have shown that they need an additional 4,500 units of affordable through workforce housing by 2026. In addition to those 600 units that have been built over the last ten years. The graph shows that over half of the existing housing stock is used for basically second home use types. Of the other 22,000 units, they think about another 5,000 of those units are vulnerable to eroding into the second home market over a period of time because they are single-family rentals that are most susceptible to being purchased and turned into second homes.

Board Comments & Questions

Ms. Conrad-Saydah said this a snapshot for right now, do they have any data that shows that change over time, particularly in the last five years?

Ms. Fink said yes, she can provide that.

Ms. Conrad-Saydah said it would be good to see a trajectory over time and maybe with that trajectory over time, where different regulations have come into place, too, so they can see the impacts of those.

(Presentation continued)

(Slide 16) Tahoe Living Working Group Priority Actions. Now, they're in this medium term phase. Today, they're going to be focused on the development standards in Town centers and in the vicinity of Town centers. And this is that focus on concentrating development in appropriate areas. At a future date, they want to start a discussion on building off the work of the Development Rights Strategic Initiative to look at continuing to address the mismatch of available development rights with needed housing types.

Board Comments & Questions

Mr. Anderson asked how they keep these new housing developments from converting from affordable or workforce housing into regular housing or vacation housing because that's something that may have happened over the years. Twenty plus years ago, he worked on a project at the Ski Run Marina area looking at low income housing that was there which was basically going to be turned into rental condominiums and ultimately became a hotel. If they're going to go forward with affordable and workforce housing then they need to maintain that housing.

Ms. Fink said one of the tools they have to protect housing is the deed restricted affordable, moderate, and achievable home. They've provided waivers from their mobility mitigation fee, and application fees. There's no cost for a development right if you're deed restricting the unit. They've tried to incentivize deed restricted units which protect the units over time. They've also recently increased the compliance language in the Code of Ordinances and deed restrictions for those types of units. If they are deed restricted, they're pretty well protected to the extent that they can maintain a robust compliance program. The units that aren't deed restricted that are market rate of apartment are a challenge in trying to keep those from turning into second homes, condominiums, or homes for remote workers which is helpful for the community in some ways, but it's not always providing support for the local businesses. There's challenges with that and local jurisdictions have some tools in their toolbox, too.

Mr. Hester said when they take out a affordable housing with a development, they have to replace it. What they're concerned with is not that but rather the single family that is being rented by the local workforce and that being converted to a short term rental or second home. That's the vulnerable 5,000 that they're looking at that they don't have a solution to yet.

Mr. Anderson said when they were following up with this project he just spoke about, there were also homes and condominiums that were being rented by multiple families. There could be 15 or 20 people living in a two bedroom apartment or a single family home. It's quite apparent even back then, that there was very much a shortage of affordable housing up here for the workforce. Are they taking into consideration qualifications for getting affordable housing versus somebody just saying they need affordable housing when they really don't need it? How are they looking at all the different state and county requirements for affordable housing qualification?

Ms. Fink said they have qualifications built into the Code for affordable, moderate, and achievable category. The person needs to demonstrate that their income meets those requirements. They're in the midst of doing an update to their achievable deed restriction

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to make it more focused on the having the household work in the basin rather than tied to their income. The system is that every year the people that live in the unit or own the unit are required to send them a compliance form verifying that they meet the requirements and then they will periodically do audits to check.

Mr. Anderson asked how they juggled the required qualifications for the different jurisdictions. These areas might have requirements in their own codes along with the requirements of State laws regarding qualifications for low income housing and how do they keep up with that? Is that part of the audit process?

Ms. Fink asked if he meant for example, if an apartment building or a unit might have a deed restriction from a local government and a deed restriction from TRPA or does he mean a statewide requirement that applies to all deed restricted housing or local requirements that are kind of a blanket?

Mr. Anderson said any and all.

Mr. Marshall said the question is they're all additive. They don't replace local jurisdictions if they have additional requirements. Generally, it's more the case that there is no local requirement. If there are additional requirements then the occupants have to meet all requirements to be entitled to live there. TRPA's are additive, not replacing.

Mr. Hester said for example, Placer County came up with a workforce housing requirement. TRPA is trying to align theirs so somebody building affordable housing doesn't have to get several different things in several different places.

Ms. Gustafson said on those multi-family and conversion, Placer County has by capping new short term rental permits and allowing only one per property. They're trying to discourage because they were seeing an abundance of people going out and buying duplexes and triplexes and trying to convert them into vacation homes or short-term rentals. They tried to put a stop to that but they lost some in that because they were vulnerable, and they went before they kept up with the market. Various jurisdictions are dealing with that in different ways. As new ideas come up, they are trying to respond it to preserve that workforce housing as much as they can.

Ms. Aldean said there is deed restriction with respect to affordability, did you indicate that they're also making it mandatory that applicants demonstrate that they are employed in the basin in order to be eligible to occupy these units?

Ms. Fink said the Tahoe Living Working Group moved forward some code amendments for the achievable category only. Affordable and moderate would stay the same, someone would still have to meet income requirements. Units that are deed restricted to the achievable category; the proposal was to replace the income requirement with a local work requirement. The household that occupies the unit would be required to have at least one member working a minimum of 30 hours per week in the basin.

Ms. Aldean asked why it was restricted to achievable.

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Ms. Fink said there was recognition that there's a lot of people that are on Social Security and retirees who have lived here for many, many years, and are appropriate residents for those units.

Ms. Aldean said during the review of the Sugar Pine Project she asked how they would ensure that the majority of these units are occupied by people who are working in the basin because that's the intent of this exercise. The response provided was that they are reaching out to employers. It would be nice to get kind of a postmortem on some of these projects to determine how many of the residents are actually people working in the basin. She understands that they can't do anything that's contrary to State law. It would be nice to get some data from these completed projects to inventory the people who are staying in those units and how many of them are actually employed in the basin. She's always been fearful of people coming into the basin to occupy these units. What a beautiful place to live especially if you can get it at an affordable price. Maybe the local jurisdictions need to consider developing a reservation list by reaching out to employers, determining how many of those employees are commuting into the basin from areas outside of the basin, and do a targeted marketing approach for future units reaching out to those people to ensure that a larger ratio of these units is actually being occupied by people working in the basin.

Ms. Williamson said she lives in the basin and her daughter's daycare providers who don't live in the basin have said that they couldn't keep working at the day care in Tahoe because it's too expensive to commute back and forth, and they couldn't find housing. Her son goes to school in the basin, and there are children that can be considered effectively homeless because they live in motels in the area. In addition to reaching out to employers, what about schools? School age children and children who live here and do not have stable housing. These are people that are very high on her priority list.

Ms. Gustafson said the Placer County Health and Human Services Department is constantly working with those in need to identify those issues.

Ms. Novasel said her daughter lives near Aspen, Colorado and they have deed restricted housing for daycare providers because it is such an issue. This is certainly something she's talked to Sugar Pine about. They haven't broken ground yet, so they can't get that information yet. The number one issue they have here in the basin is the return on investment. They are not able to provide the housing because they don't have a developer that can make a profit off of this kind of housing until they figure out a way to get there. What they did with Sugar Pine was give them California Tahoe Conservancy land to use which created that ability for them to do all these units. That's why they're seeing bigger homes built because the rate of return to those investors is so great and it's not for these smaller projects. This is where she believes this medium term will be talking about increasing some of this ability for them to make it more attractive to build these units that they need. They can put all these deed restricted and development projects, and they do have pool already of these kind of units, and they can't get developers to buy into it, because it's not feasible for them.

Ms. Gustafson said even just outside the basin in Meadow View Place near Schaffer's Mill and Martis Camp they worked with a developer on 56 units, and they're not full, because

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not enough people qualify because most of the employees up here are making too much money to qualify for the tax credit restrictions on income. It's a shame to see those sitting somewhat empty right now, because there is such dire circumstances with the workforce.

Ms. Aldean said integrating achievable into medium and low income would certainly help them achieve the rate of return they're looking for. Because if there is variable rates of rent, maybe it will make more financially feasible for the developer.

Ms. Novasel said Sugar Pine is just over 50 percent low and moderate and then the rest can be market.

Ms. Aldean asked if it was because of the pandemic that Sugar Pine hasn't broken ground.

Ms. Novasel said just all the stipulations and issues.

Mr. Friedrich said would like to hear more about the caps on vacation rental and disincentives for the non-public serving developments. He understands many of the public comments are about gee we're seeing more and more. If the market is delivering monster homes and vacation rentals, and they only have so much coverage to go around, and they're concerned about adding some marginal coverage for incentive where are the trade-offs? He was part of those discussions in the Tahoe Living Working Group but asked if they could share with the group about progressive fee structures, the Tourist Accommodation Unit (TAU) vacation rental issue, affordable by design, or other ways to incentive for the market to deliver the kind of housing they want through measures that disincentivize where the market's going now. So that they're not just looking at the end of the day of the market is delivering lots of huge footprints and now they have to come up with lots of incentives to do more dense coverage, and at the end of the day the trade-off is excess coverage on the Lake and mitigation coverage fees is another one. Is that something they could look at and not allow to over build non-public serving units. It like public transportation versus driving, most people drive because you can drive fast and park for free. Most developers are building big because that's where they make the return on investment. But what are the tools to disincentivize that to balance the field? Perhaps there's a place to make trade-offs as they're allowing more in the public serving housing types.

(Presentation continued)

Ms. Bettinger provided a presentation focused on development standards.

When talking about development standards they're really talking about TRPA development standards which are density, height and coverage. But also the local jurisdiction standards that they implement also play into this as well, which are primarily parking and setback requirements. Today, they are bringing forward a proposal to this Board that came from staff, the Tahoe Living Working Group, and the Local Government and Housing Committee. Staff is asking for guidance and direction before they move forward into the environmental analysis. The reason that they're talking about development standards is because they dictate the overall building envelope. They control how big of a structure you can have on your property, how many units can fit within that

structure, and they generally control kind of the look and feel of what our buildings end up being. While these standards do serve a variety of planning purposes, they often inadvertently disincentivize the type of housing that would typically house the workforce.

(Slide 17) Because of our roof pitch requirements combined with height, there ends up being a lot of unlivable space on the top floor. Similarly on the bottom floor, the red area is all devoted to parking. When you're building a single family home with this footprint, it actually works but when you try fit two units into this, it gets really small to the point where the return on investment for the developer is just not there. In the last couple of years they've been working with a few consultants to do some analysis and provide some recommendations to them on how to move forward with incentivizing workforce housing through the development standards.

The first presentation that you may have watched prior to this meeting was from Opticos Design, where they were talking about the importance of missing middle or middle housing, which is the type of housing that's kind of smaller scale duplex, triplex, and fourplex development and it seamlessly blends into a lot of lower density neighborhoods. It's particularly useful in the areas outside of Town centers.

The next analysis was done by Cascadia Partners They looked at the financial feasibility of building multi-family housing both in Town centers and outside of Town centers. Why are they so focused on multi-family housing? Because multi-family is very effective in that it can be built at a lower cost per unit and ends up being more affordable to the person living in that unit. Multi-family development needs a different set of development standards in order to be feasible. Oftentimes developers who are building multi-family run up against these development standards much quicker than someone who's building a single family home. In the past they have recognized that different uses need different development standards to pencil out and to encourage more concentrated growth in the past, they have increased their development standard allowances in Town Centers and right now it's allowed to be up to 70 percent coverage. They allow density up to 25 units per acre, and height up to four stories. The limitation in the Town centers right now is just the amount of land that's available, there's not a lot of parcels that are suitable for multi-family development, because these areas are relatively small.

Despite those higher development incentives they're still not getting the housing that they want to see in the Town centers and part of the analysis that Cascadia completed identified why. They found that because they allow higher coverage, height, and density, there are incentives, but the incentives aren't aligned.

(Slide 20) The example that they provided in the analysis was that on a 12,000 square foot lot at 25 units per acre that limits the development to no more than 6 units, and if you were to increase density or factor out density, and just rely on other standards, like coverage, height, and parking requirements it could get to 11 units. Furthermore, when you're developing only 6 units in a Town center, the analysis showed that you only need 34 percent coverage, and only 3.5 stories. By limiting the density to 25 units per acre, it's constraining the development incentives, that coverage and height are offering.

(Slide 21) In the vicinity of Town centers they are also focused on housing. These areas are really important for providing the density and support needed to have high frequency

transit in our centers, have thriving restaurants, shops, and businesses. As part of this recommendation they have recommendations for in Town centers, the vicinity of Town centers, and outside of the Town centers allow coverage up to 30 percent, density up to 15 units per acre, depending on where you are in the basin, and height is allowed up to 36 feet on a flat lot.

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Ms. Conrad-Saydah asked how they defined “in the vicinity of.” Is there a specified distance from the Town center?

Ms. Bettinger said in this they have focused on all the areas that are already zoned for multi-family. Those are typically pretty close to the Town centers. Those are kind of the two different areas; Town centers and then in areas that are already zoned for multi-family.

(Presentation continued)

In these areas outside of the Town centers they're against seeing that the density allowances are generally too low to encourage housing types like duplexes, triplexes, and fourplexes. Oftentimes, this is because these parcels in these areas are very small.

(Slide 22) On a 6,000 square foot lot at 8 units per acre, you can't actually get to a multi-family development. It would only be one unit. A 6,000 square foot lot is a common parcel size in these areas. Even though they allow multi-family in these areas, all the areas that are shown in various shades of red allow for multi-family. But again in a lot of these areas, they allow it but you can't actually get there because of the density standards. And this goes to show that the densities are too low to support transit and services. They did an analysis of gross density which is a little bit different than allowable density. Gross density is looking at the sum of all densities spread out over all of the parcels.

(Slide 22) Shows the gross density of Town centers and within one quarter mile of Town centers. Even though they allow up to 25 units per acre density in the Town Centers, the gross density is actually much lower. In the Stateline area in the South Shore which is the densest area is less than 10 units per acre and typically they want to see between 15 and 20 units per acre gross density to support high frequency transit. They're seeing that they need to focus on higher density in these specific areas. One of the reasons why they are focusing on both in Town centers and outside of Town centers is that the number of available parcels that would be suitable for multi-family would be looking at land capability whether they are privately owned, again there is a very limited amount of parcels that are available for that inside of Town centers. But when they expand it to even one quarter mile outside of Town centers that number increases pretty significantly.

All of this background leads them to the work that they are doing around shaping TRPA's development standards to incentivize that type of workforce housing, development, and implement other Regional Plan goals. As they move into the environmental analysis in the next phase, they would like to consider options for density that support transit services and encourages walkable communities.

There are three density proposal options for Town centers: First option would be to allow increased density up to 40 units per acre in Town center, as a starting point for densities in these areas. The reason that they're looking at 40 units per acre is because that is the allowable tourist density in the Town centers and is a good starting point to help incentivize housing over tourist units in these areas.

The second option would look at moving towards allowing or enabling local jurisdictions in California to implement the California Density Bonus law that was passed in 2021 which allows developers who are building multi-family developments with a portion of deed restricted units to increase the density on top of what is already allowed.

For example, if a developer is building multi-family development that has 25 units that are set aside for deed restricted affordable housing, they could go up an additional 20 percent density on top of what is allowed. This has been requested from local government staff members and has come out of the Tahoe Living Working Group. Lastly, they would like to look at a no density option through a pilot program partnering with the local jurisdictions. They would like to explore whether they can rely on other development standards to dictate what the overall look and feel of the development is and then the developer can decide how many units are feasible.

Outside of the Town centers in the vicinity, they would like to look at a few options that would encourage that middle housing type and affordable by design housing type. The first option would allow up to three units on all lots that are already zoned multi-family, this would be regardless of parcel size. The second option would be to increase densities outside of the Town centers but in areas that are already zoned for multi-family up to 25 units per acre. Again, that would allow that example in the previous slide at 6,000 square feet, one could get to multi-family that would provide opportunities for those parcels to go a little bit larger.

Similarly, with coverage they're exploring options for coverage that would support water quality in soils and provide the flexibility that's needed to build compact development that's close to the centers. The first coverage option in Town centers would utilize stormwater infrastructure to provide water quality in soil protection. This option would allow TRPA to partner with local jurisdictions and developers who are interested in building a 100 percent deed restricted housing developments. As part of that they would install stormwater infrastructure that would capture and treat the stormwater runoff before it reaches the Lake. There are some good examples of this already happening in the basin.

One area are the stormwater basins that were installed to treat the runoff from Heavenly Village, and as part of that, they were built to accommodate up to 95 percent coverage and they've actually seen a reduction in pollutant loading in those areas. This would be in targeted areas, in Town centers, and would require a partnership with local jurisdictions and developers who are interested. But they think that there are options out there outside of the traditional coverage system that would provide flexibility to developers with the amount of impervious surface that they're adding and would provide water quality benefits.

Board Comments & Questions

Ms. Conrad-Saydah asked if that is like a natural bioswale or is it engineered water filtration.

Ms. Bettinger said it's engineered.

(Presentation continued)

Outside of Town centers they would like to look at an option that would expand some of the Town center coverage incentives to deed restricted multi-family or Accessory Dwelling Units. In Town centers they allow up to 70 percent coverage and would like to look at whether they could expand that 70 percent allowance to deed restricted housing outside of Town centers. The additional coverage would be available for only the deed restricted unit. If someone were putting an ADU in their backyard for example, and they were already at their 30 percent allowable coverage, they would like to look at whether they could allow them to have an additional 5 or 10 percent coverage for that deed restricted ADU. In the analysis done by Cascadia they saw only about 34 percent coverage would be needed for a duplex, and about 42 percent coverage would be needed for a triplex, and that 70 percent might be more on the high side but for the purposes of the environmental analysis, they would like to analyze the full envelope and then narrow it down. Anytime they do allow additional coverage it needs to be mitigated which currently happens through excess coverage mitigation fees and transferring in coverage. Through this environmental analysis, they'd like to look at alternative mitigation strategies that would go a step further in incentivizing deed restricted housing and how can they shape the mitigation fees and requirements to incentivize the type of development that they want to see.

Height: The objective with height is to maintain the scenic thresholds and maintain the character of the communities. They're not intending to allow a lot of extra height that is not in line with either the scenic regulations or community character. Because of this, the height proposals are not significant, but they do feel that they would provide a little more flexibility to developers just needing that extra one or two feet in order to make their development pencil out. The height proposal in Town centers; one would be to enable California jurisdictions to take advantage of the height flexibility that's included in the California Density Bonus law. This law is not just focused on density, it also includes some other incentives for height and parking as well. They've received some requests from local jurisdiction staff to look at whether they could allow local jurisdictions in California to take advantage of this. The second option that they'll review in the environmental analysis would look at clarifying TRPA Code and Regional Plan language. Now, in the height chapter of the Code of Ordinances it lists number of stories and number of feet, and so developers have to abide by the number of stories. For example, in Town centers they allow four stories and 56 feet. They've received feedback that they would rather see the number of feet stay the same but take away the number of stories because they might be able to fit additional stories in that total height. They would like to bring back some code that helps to clarify that language. In the vicinity of Town centers they would like to reduce or remove roof pitch allowances for deed restricted housing. The roof pitch requirements for the top floor can be very steep which can create an unlivable top floor

and it also requires households to heat the top floor when it might not even be a livable space. They are also hearing that the roof pitch requirements are not necessarily in line with the more modern architectural styles. As part of this, they would like to again look at whether they can reduce or remove these roof pitch allowances for deed restricted housing.

Staff has pointed out some of the options that would be more appropriate for in pilot programs but there is some interest from the local jurisdiction staff in pairing some of these incentives with incentives from their end. For example, if TRPA were to allow higher density that could be appropriate to pair with reduced parking requirements, or potentially no parking requirements, if it's in a very specific location that's served by transit and close to services. As part of this phase, they'll continue to work with local jurisdiction staff to see if there are opportunities where they can build in these pilot programs and even test the impacts and the results of some of the options that they're bringing forward today.

Before they get into the interaction component of this housing workshop, she noted that this is the proposal that came out of the Tahoe Living Working Group. They'll be moving into the environmental analysis after this and they plan to analyze the complete picture of everything. They would like to look at the highest density but doesn't mean that it will be in the final proposal. A lot of these options would be implemented through amending the Regional Plan and Code of Ordinances but would also need to be amended through the local jurisdictions area plans. The local jurisdictions will have the option to take advantage of these options if they feel like they are in line with the needs of their community. These would not take immediate effect in all of the local jurisdictions; it would be of on a case by case basis.

Presentation can be found at:

[Agenda Item No. VIII. A Housing](#)

Ms. Bettinger assigned Board members and the public into breakout groups for height, density, and coverage. The group will have the opportunity to ask questions and discuss the proposal for each of these. At the end, staff will do a report out.

Questions:

- What part of the proposals do you want them to continue to develop?
- What additional options or ideas do you have that you want them to consider?
- Are there any specific concerns or questions that you want them to address in the next phase of going through the environmental analysis?

Virtual members of the public that are online can participate by going to www.menti.com and enter the code provided on the screen.

Mr. Marshall said all of these rooms are open for the public to attend these breakout groups. If they want to participate and provide input, please go to the front meeting room across the hall from the Board rooms. There will also be a public comment period at the end of this workshop.

Report out by Mr. Hester, Ms. Fink, and Ms. Bettinger on breakout groups:

Mr. Hester said all three groups supported the concepts. There was some qualifications that they'd like to make sure that the concept of a stormwater system really working better than limiting coverage there and have science to prove that and include monitoring as it's implemented. The infrastructure that they're talking about isn't just engineered systems with pipes that run into the Lake but systems that may have some engineering aspects but deal with water in a green way, like artificial wetlands or retention basins. Some of the ideas people really liked or wanted to add was that as a percentage of coverage goes up, it's not just for if you're putting in a stormwater system, it's not just for deed restricted because it makes sense if you're going to put in an area wide system to capture the market rate housing there too. Also, look at mixed market and deed restricted. It was pointed out that they left out the Tahoe Valley Town Center. All three groups had a hard time staying just with coverage, they wanted to say, yes, you can have more coverage, if it doesn't go to parking, and if there's transit, etc. There were concerns about maintenance and displacement. Concern about coverage becoming parking. Along with that, parking maximum and things like that. There was a lot parking discussion. Also, there's a boundary on that which is in this basin, where they do have natural disasters like the Caldor Fire, they need to make sure that there's at least enough transportation, and maybe not public to get people out. They may need to look at having a place for one car per unit, for example

The summary is to go a little bit bigger on the stormwater systems and sort of inconclusion. If somebody wants to build a storm water system outside of the Town center, that's okay. The concept was stormwater systems anywhere there's much development and keep coverage elsewhere.

Ms. Bettinger said on density all of the groups didn't have any major concerns with any of the proposed density options but there was some questions about how the no density option would work out and how parking would be included in that. So, when they talk about the pilot programs and a no density option that they need to look at how all of the development standards would play into that and create a menu of incentives for developers. There were a couple of comments where people wanted them to look at the role of the State Conservancy's with land donations. For the most part they wanted them to apply these incentives to only deed restricted developments. A few of the concerns were that they need to come up with incentives for all income levels. Some of these would be more appropriate such as the California Density Bonus law would be more appropriate for those lower income levels. So, definitely focusing on the full range of affordable all the way up to it achievable and how do they incentivize that whole range? A couple of things people wanted included in the analysis was the environmental impact of the workforce not actually living in Tahoe. One of the groups requested that they do an analysis to identify at what density does it pencil out and create a 12 to 15 percent return on investment for a developer. And that density should be the starting point for the density that they come back with.

Board Comments & Questions

Ms. Gustafson said staff stated that all groups agreed that density should only be granted for fully deed restricted projects, and going to what you shared before and what they've witnessed, should there be some market rate availability to make the project's pencil? Is that a tool? Do they need to consider all be it minor, because you have to get to that 12 to 15 percent return.

Ms. Novasel said the Sugar Pine Project is a prime example, 50 percent market rate because that's how they made it pencil out. Although, that still gave them over a 100 deed restricted units. You do need some balance.

Ms. Bettinger said to clarify, there were some comments, not necessarily all the options should be specifically for deed restrictions but the more options outside of Town centers where they're allowing higher density for that smaller scale, multi-family, which should be applied to deed restricted. But larger multi-family that are getting that density bonus, those would need to have a market rate component in order to pencil out.

Mr. Hoenigman said they really have to look at what is feasible, what gives you that kind of return. Because they say they want it all to be deed restricted but if 100 percent deed restricted isn't feasible, they won't get any. That will be one of the levers, they'll want to see how to get the most deed restricted units and then shape the other parameters around that density, coverage, and parking, etc.

Ms. Aldean said looking at Sugar Pine Village for example, not all of these incentives were available to them. The incentive that made it pencil was the fact that they had market rate units integrated into the project. Every one of these projects is to require a certain amount of negotiation. Every site is a little bit unique and has different aspects to it in terms of the topography and location. These projects have to be considered on an individual basis. If they're developing a menu of options, those are the options. These are the incentives available, which incentives do you need? If they come back and say that none of the incentives are going to provide them with the rate of return that they're anticipating that's when you go to them and say, "Okay, you could have X number of units that are market rate" just to increase the rate of return.

Ms. Novasel asked how you put that into a regulation.

Ms. Gustafson said she goes back to a point system. That's probably not popular but if you can somehow quantify it, in some sort of a point system, because it will then take advantage of a lot of different circumstances around the basin. They're so unique. For example, the Town center in Tahoe City is too small to do anything. There's not enough area, so they have to be extremely flexible to get housing accomplished. They don't have multi-family or much of a Town center area.

Ms. Aldean said land prices are probably the most formable obstacle.

Ms. Novasel said there was discussion about using Conservancy properties which is what the California Governor used. That's how they got Sugar Pine is by giving the project some

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free land. El Dorado County is looking at their surplus properties similar to what the state did. How do they incorporate and incentive with these surplus lands into the regulations?

Ms. Aldean said Mr. Hoenigman mentioned putting out a Request for Proposal. If there is a well situated piece of property that's owned by a nonprofit, then you put it out to bid and see who comes forward. If you need additional incentives to make it pencil, then that's when you go to the option of allowing them to incorporate market rate.

Ms. Williamson said she benefited from Mr. Hoenigman having some developers perspective, and Mr. Yeates having been through this during their discussion of how to put this in the Code. There has to be a balance between the flexibility all of us are asking for and giving developers a little bit of certainty. One perspective that was shared is that if developers have no idea what might be permitted or not, they may not take the gamble. Having some parameters or menus, seems to be important so the developer community knows what they're getting into and what they're expecting. Have some parameters, but within that, flexibility for every site, be it the slope and how close it is to the Lake all matters, so they're not just setting arbitrary numbers for everything. They need to find that middle.

Ms. Novasel said it is in process of hearings, or whatever. They do that at the county level. They require pre approval hearings so they can try to figure out where those nuances are before the developers get to involved.

Mr. Hester said they have these in artificial silos; density, coverage, and height. He's seen the point system where there are a bunch of different things not just these three, environmental benefit, etc. Bringing this all together to create a package is something they didn't talk about. But the point system or some other way to do that is what Ms. Williamson is talking about, is exactly right, they'll have to do that.

Ms. Fink said both groups one and two talked about allowing significantly more flexibility for height in Town centers. They spoke about some of the items Ms. Williamson mentioned such as maybe they could for certain sites, go up to the tree canopy. At first, they talked about maybe not having any sort of height cap but then issues came up about needing certainty for developers. They discussed using the tree canopy as something that they don't go over, and also making sure that properties that are lakeside of the highway, that they would not allow the additional heights there. They talked about a potential maximum height of 90 feet, which would be about seven stories in areas where it's appropriate in Town centers. The group also mentioned, not measuring from the lowest point on the parcel or the project area which they currently do and maybe looking at an average between the lowest and the highest point.

When they started talking about reducing or removing the roof pitch requirements, Mr. Hoenigman mentioned that pitched roofs are cheaper to build, so maybe they should look at increasing the height but also allowing higher pitch roofs that might be cheaper while getting at additional space. There was some interest in additional height outside of Town centers too, but there were some natural cutoffs like you're not going to build an apartment building with an elevator, probably outside of a Town center so it would be unlikely to get buildings over a certain height.

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Group one had some ideas for the environmental analysis to look at potentially tall buildings affecting the lack of light for trees, so that might be something that they should look at in the impact on soils and hydrology so it's not just the scenic impacts of the building. There may be other impacts that we need to consider as well. There was also some concern about boxy buildings, so making sure that the design is compatible with the neighborhoods.

Group three encouraged staff to work with local jurisdictions on the design if they are going to go from allowing any number of stories, making 56 feet, be the cap looking at sound walls and designs which might be something that local jurisdictions do.

There were suggestions to look at some of the buildings in Brockway, California that had some very nice designs that allowed flatter roofs with dormers, and some different kind of pitches.

Ms. Aldean said there was a resistance in their group to remove the restriction entirely in areas outside of Town centers.

Ms. Gustafson said she lives in an area called Lake Forest which is not a Town center, it's a former commercial industrial area and main highway route through North Shore. Yes, in her backyard, it should be higher, and denser there. It's walking distance to town, they might not get it in Tahoe City because of the stream environmental zone, because this is high capability developed plan, full of old warehouses, former gas station sites, and old, old restaurants. Those are areas where it is circumstantial around the basin, so, say never outside of a Town center, yet here's an area that was commercially industrial. How can they use that to help with the housing need?

Ms. Aldean asked if they could identify maybe a retired developer who's developed projects in the Tahoe Basin as a consultant, either doing it on a pro bono basis, or doing it for some sort of modest compensation, it would really be helpful to maybe put together a Request for Proposal as Mr. Hoenigman suggested to look at the economics of these deals. Someone who has some practical experience with the density, height, and other restrictions that are imposed by our current Code to give them an idea of what will really be the most effective incentives to promote affordable housing development.

Mr. Hester said to get to some of these items discussed like getting to a 15 percent return on investment, they'll need to have that expertise.

Public Comments & Questions

Gavin Feiger, League to Save Lake Tahoe said they've been the only environmental voice consistently at the table throughout the Tahoe Living Working Group. He appreciated working with the staff, Governing Board, and the Advisory Planning Commission. It's been going really well, so far. They found some good compromises on some of low hanging fruit for density and height. Coverage and development rights give them heartburn. He's said this at every meeting for the last two years. But now that they're headed that direction and starting to narrow in on those, they're interested in discussing coverage as long as they also discuss parking in a similar level of detail. He doesn't think that has come out

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from Board direction yet, but based on the discussion today, he hopes that this is a chance today to give that direction that coverage and parking be looked at similarly. Same kind of thing with Development Rights, not just looking at the residential units of use and the difference between a studio in a Town center, and a lakefront mansion but looking at the effects of Tourist Accommodation Units or short term rentals as a residential use. Some of the conversions that have been happening, multi-family to airspace condominiums to short term rental. Some of the unintended consequences that we've seen come up from the Development Rights Initiative and also looking more broadly at Development Rights than just the residential units of use.

Ann Nichols said this is just such a sea change that it's shocking. She went through all this with the Regional Plan update back in 2008/09 and has been a realtor for 50 years, sold and built commercial. Another good idea was TRPA deciding that Tourist Accommodation Units could be condominiums and that's when all the trouble started. The developers wanting to make as much money as possible, decided to build condominiums just like that Nine 47 project with 40 units that was just approved on the consent calendar last month, no employee housing, no workforce housing, big, tall building monolith. This is about real estate values, it's not unique to Tahoe, but Tahoe at the same time is a unique spot, they're not a city. She knows the frame of reference on South Shore is different about heights, and density and infrastructure but you've got to remember the North Shore has a two lane road from Sand Harbor to basically Tahoe City and it can't be increased in size. Yet, they're talking about a population increase that's radical and there's no not one mention about capacity and what the infrastructure can handle. Ninety feet high, this is nine instead of two units per lot, or actually it said ten. This is shocking stuff, and everybody is shaking their head, oh, yeah. So, is this just another good idea which is the more, more, more units, density, and height that's going to solve any everything. Well, it hasn't for the last 15 years. Where's the evidence that this is going to work, and the reason it costs a lot to build here is because property values have gone through the roof. Then with Code and building permit fees is a lot of money and you're not addressing those issues. You're just doing the same thing you've always done; you're doubling down on a failed policy.

Judith Miller, Incline Village resident and former resident and motel owner in Tahoe City for many years. She's very concerned about our critical shortage of workforce housing, and thinks they have some good ideas for midterm and long term improvements but finds it concerning that they're not looking at the existing housing stock in particular short term rentals, because these would be a potential near term solution. Incline Village unlike most of the other base in communities, was a planned development that is almost equally divided in single family homes and condominiums. Nearly half of the 8,000 units or condominiums. The vast majority of short term rentals or condominiums. She can't give accurate numbers because it looks like the Washoe County GIS open data warehouse no longer has short term rental data. But nearly a 1,000 short term rentals are currently advertised in their community and based on earlier data she can estimate that at least 750 of them are condominiums. If a ban had been imposed, or even just a limit set, they would still have many of these typically smaller and more affordable units available for their workforce. They already have so many vehicles in the basin, it would be disastrous in the event of a wildfire. Summer traffic has become a nightmare. Incline Village and Crystal Bay has hundreds of additional tourist accommodations in the pipeline, which will only

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exacerbate these problems. More short term rentals will make an already bad situation impossible, and threaten the health and safety of visitors, residents, and last, but not least, our precious lake. She knows some of you already have caps, but she implores you, as a Regional Planning Agency, to place a moratorium on short term rentals to increase workforce housing, at least until these life safety and transportation issues can be addressed. It will take several years to develop new housing units and applauded their efforts for that. But you can do something today to provide workforce housing as well as safeguard our communities. Please put a ban on short term rentals or a moratorium.

Pamela Tsigdinos, full-time resident of Incline Village asked respectfully that the TRPA Board send this proposal back to staff for much needed research and analysis to address several critical overlooked issues that directly affect Nevada. First, Nevada property rights law differs dramatically from California. It's imperative that staff seek knowledgeable legal advice to determine what can actually be enforced in Nevada under current property rights laws. Second, the Governing Board and staff must address the elephant in the room. There will be no enforceable affordable workforce housing program without actual compliance monitoring. Without proper monitoring, this well-intention program will be abused by developers and real estate investors seeking maximum return on investment. Please consider that there are already deed restricted, affordable housing units in Incline Village that have been usurped. These units have been sold and resold at fair market value. Third, TRPA must not green light more development into the Tahoe Basin, without further restricting short term rentals in Northern Nevada. It's time for the TRPA Board to reconsider its ill-informed 2004 decision to allow short term rentals as permitted residential use. This decision has opened the door to real estate speculators, out of town property, management, companies, and other business interests to prioritize vacationers over full-time residents and local workers. There is currently no short term rental limit in Incline Village and Crystal Bay and little to no compliance to hold non-permitted short term rental operators accountable.

Finally, TRPA cannot simply apply a cookie cutter, high density approach to a workforce and affordable housing problem without acknowledging and addressing what others have said. There is a distinct Tahoe environmental challenge, wildfire and extreme weather risks. There are problems with capacity already, they cannot manage what they currently have. More units will lead to more congestion, more abuse. Please direct staff to engage a developer who understands how to design an environmentally appropriate workforce housing project relevant to Tahoe communities. Please, please, as others have, they need more addressing of issues that are currently a problem in North Lake Tahoe which have not been considered here.

Tobi Tyler, Sierra Club Tahoe Area Group said they need a larger conversation here about what is realistically sustainable for the basin. What it sounds like is being suggested is increasing development beyond a sustainable level and could very easily cause further deterioration of Tahoe's rural character. Although increasing density in urban areas is a laudable and sought after goal to prevent or slow sprawl. Using these density arguments here in these mountain areas, and Tahoe, will not only further erode local trust in government, but would further deteriorate natural resources, scenic beauty, community well-being and traffic concerns that are already at over capacity. Regarding the BMPs to mitigate this increased development as one person noted, the BMPs that have been put in

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place to date are not maintained or monitored to determine effectiveness. So, relying on these BMPs is not a plausible or appropriate mitigation strategy.

Ms. Gustafson said the Board received a number of comments on this item as well.

IX. REPORTS

A. Executive Director Status Report

1) Tahoe In Brief – Governing Board Monthly Report

Mr. Hester said staff is now going to provide a monthly report rather than the quarterly report. If you have any comments or question on this report, please contact him.

TRPA staff member, Ms. McIntyre is one of 47 people on the National Wildfire Commission. Also, Mr. Zabaglo was appointed to an invasive species nationwide group.

Mr. Hester said with the new members there are a number of changes that need to be made in the committees. Mr. Marshall, Mr. Hester, and Ms. Gustafson put together the document that the Board members can note what their committee/working group preferences are. Please note your first, second, third, and fourth choice, because they need some of the members to take three or four committees. The membership requirements and charters are attached to the committee/working group list. Staff will work with Ms. Gustafson and Ms. Williamson to assign the new committee appointments.

Ms. Gustafson said they recently did this on another board she's on. They can't honor everyone's first choice and trying to make all the balances work for the various state and local government appointments but they'll do their very best to honor everyone's request.

B. General Counsel Status Report

Mr. Marshall said they're filing briefs and two cases this week; The Eisenstecken case which is a challenge to the Ski Run cell tower. They just filed their motion to dismiss the third amendment complaint. They brought in the City of South Lake Tahoe, so, they're filing a brief as well as Verizon. Please let him know if you'd like to see all of these briefs.

They are also filing this week, a dispositive motion in the Bryant v. TRPA case. This case has to do with the non-littoral buoy owner who brought an appeal after a denial. He's challenging TRPA's action of denying his request for a non-littoral buoy. Lastly, they filed the administrative record, and this is then the merits brief that hopefully will resolve the case.

Ms. Aldean asked if this is in house or outside counsel for these two cases.

Mr. Marshall said the Bryant case is being handled with in-house counseling and Eisenstecken is being funded by the applicant Verizon so that's outside counsel.

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X. GOVERNING BOARD MEMBER REPORTS

None.

XI. COMMITTEE REPORTS

A. Local Government & Housing Committee

No report.

B. Legal Committee

No report.

C. Operations & Governance Committee

No Report.

D. Environmental Improvement, Transportation, & Public Outreach Committee

No report.

E. Forest Health and Wildfire Committee

No. report.

F. Regional Plan Implementation Committee

No report.

G. Ad Hoc Executive Director Search Committee

Ms. Aldean said she'd like everybody to check their calendars for availability on November 3 because they are anticipating the possibility of a special meeting for the final selection versus a decision after the de-briefing. They need to reserve that in the event they elect to continue it into November.

XII. PUBLIC INTEREST COMMENTS

Steve Dolan, Director of Friends of Third Creek said they've been monitoring the US Forest Service for many years, but in particular the past three years, where they've been removing the Incline Lake Dam and, in that process, they have violated so many rules regarding best management practices and management of the environment and the fish up there. Three years ago, when he approached TRPA about violations going on up there, he was told that TRPA has a memorandum of understanding with the Lake Tahoe Basin Management Unit of the US Forest Service and that nothing could be done by TRPA regarding managing the US Forest Service. The Forest Service does a lot of good things but their contractors aren't managed properly. They ripped out from the root 400 trees

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without a single fence or waddle to filter the water running off from the rains. They also had no dust mitigation. Well, the first confrontation he had with them they put in the fencing, and then the waddles. They never did dust mitigation with eight inches of dust that covered a square mile of the Incline Third Creek area up there. Last year decided to do some dust mitigation, and their solution was to pump the water from the artesian springs that have remained after the emptying of the Lake, which is illegal. The Nevada Department of Wildlife is very upset about and wrote letters to them. That was all just to work on the dam.

This year they're going to redo the meadow that has been evolving in the five years since the draining of the Lake. That meadow has chosen its path, it's doing beautifully. They don't seem to understand that downstream, last year, when they diverted the water from the springs to do dust mitigation, and water they're planting. They could have brought it in but they didn't. They killed the stream below the old dam, literally dried up the marshes, the ponds, and the stream for a mile downstream. He's submitted pictures to TRPA. He's made a lot of complaints and has video showing this dust. He has video showing the dried creek And now, because of the last winter's big rainstorm which refilled the water that had been sucked out of the meadow and refilled the stream below the meadow to the point where the confluence is of the Third creeks wings. This is where the beaver's pond is and because it got flushed out and filled up, a beaver migrated there just recently. This project of theirs to change the meadow is about to begin again.

Besides, Friends of Third Creek monitoring them, he sees that as something for TRPA to do with the US Forest Service, especially around Third Creek, which is an incredibly special creek on the Lake. It's the only registered Lahontan Cutthroat Trout stream on the Lake and is the most genetically diverse stream on the Lake. The Nevada Department of Wildlife and Fisheries has been studying the spawning habits.

There are eight different types of fish that spawn from April through December in that creek. Washoe Tribe has made it the only creek the Lake that is registered habitat for the Lahontan Cutthroat Trout. The US Forest Service and Nevada are coming together to try and re-establish it that way. There are good things happening, but with regards to this creek all the way up to the summit, there are things going on with the US Forest Service that TRPA needs to monitor. The Forest Service has a machine snowmobile proposal, and Third Creek is now the dividing line between the wilderness and the forest, so, they we need to try and influence them to keep this riparian zone viable.

XIII. ADJOURNMENT

Mr. Yeates moved to adjourn.

Ms. Gustafson adjourned the meeting at 4:25 p.m.

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Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler". The ink is dark and the signature is centered on the page.

Marja Ambler
Clerk to the Board