

TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD

Zoom

March 23, 2022

**Meeting Minutes**

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Bruce called the meeting to order at 10:18 a.m.

Members present: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Mr. Bass (for Mr. Friedrich), Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Members absent: Mr. Hicks

II. PLEDGE OF ALLEGIANCE

Ms. Hangeland led the pledge.

III. APPROVAL OF AGENDA

Mr. Bruce deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES

Ms. Aldean provided Ms. Ambler with edits for the February 23, 2022 meeting.  
Ms. Aldean moved approval of the January 26, 2022 minutes as presented and the February 23, 2022 as amended.

Mr. Bass abstained.

Motion carried.

V. TRPA CONSENT CALENDAR

1. February Financials
2. Release of El Dorado County Air Quality Mitigation Funds \$165,000 for the East San Bernadino – West San Bernadino, Class 1 Bike Path
3. Authorize TRPA to enter into a contract for environmental monitoring of the Tahoe Keys Lagoons Aquatic Weed Control Methods Test Project
4. Resolution of Enforcement Action, Justin Sheaff/Mountain Addiction LLC, Unauthorized Tree Cutting, California Tahoe Conservancy Property, Placer County, California, APNs 092-010-021, -035, *TRPA v. Justin Sheaf, Mountain Addiction LLC, Case No. 2:20-CV-00945 U.S. District Court for the Eastern District of California*
5. Appointment of Transportation Advisory Committee for purpose of adaptively managing TSC-1 threshold standard
6. Appointment of Threshold Update Initiative Stakeholders Working Group members

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Ms. Aldean said the Operations and Governance Committee recommended approval of items one, two, and three. The cash flow is strong driven largely by application fees. Item three, the Tahoe Keys Lagoons Aquatic Weed Control Methods Test Project Contract will exceed \$100,000 and will likely cost approximately \$1 million. This is being done to expedite the selection of a contractor to perform the monitoring lab services in support of the methods testing. It will be funded by the Lake Tahoe Restoration Act money. Staff has received inquiries from three potential bidders for the Request for Proposal that was issued on March 11 with proposals due on April 8.

Mr. Marshall said the Legal Committee recommended approval of item four with a settlement amount of \$20,000 for the Resolution of Enforcement Action for Justin Sheaff/Mountain Addiction. This case would also resolve the pending case of *TRPA v. Justin Sheaff/Mountain Addiction, LLC*, , Case No. 2:20-CV-00945 U.S. District Court for the Eastern District of California.

Consent items five and six were not heard by any committee.

### Board Comments & Questions

None.

### Public Comments & Questions

None.

### Board Comments & Questions

Ms. Aldean thanked Mr. Lawrence and Mr. Yeates for their willingness to serve on the Threshold Update Initiative Stakeholders Working Group members.

Mr. Rice moved approval of the consent calendar.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Mr. Bass, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

**Motion carried.**

## VI. PLANNING MATTERS

### A. City of South Lake Tahoe Recreation and Aquatics Center Project Overview

TRPA staff Mr. Nielsen said representatives from the City of South Lake Tahoe will provide a presentation on the City's recently adopted 56-Acre Master Plan and the proposed South Lake Tahoe Recreation and Aquatic Center. On the agenda this month is the consideration of a Community Plan amendment related to how height is proposed to be calculated for the Recreation Center. Next month, there'll be a staff recommendation on the Recreation Center project application. The purpose for today's presentation is to show the board and the public more context and background for the Community Plan Amendment. That amendment proposes a very targeted, limited scope, height amendment that is needed to support the design and function on the Recreation Center Project and only applies to that project. Second, is to provide

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a preview of the Recreation Center project that will be before the board next month for action.

During the presentation there'll be reference to the City's 56-Acre Master Plan and is not a Master Plan that needs to be approved by TRPA. A TRPA approval of a Master Plan would be for items such as a ski resort expansions or expansions of the airport. This Master Plan, somewhat like the Lake Tahoe Community College Master plan is a plan the City developed to establish a community vision for the property and to guide its future development over time.

City Manager, Mr. Irvin, Planning Manager, Mr. Hitchcock, and Capital Improvements Program and Facilities Manager, Mr. Marino provided the presentation.

Mr. Irvin said perhaps one of the largest projects on the south shore that the City is engaged in right now is the 56-Acre Master Plan and the multi-generational Recreation and Aquatic Center. This project aligns with the Regional Plan and will help to provide access to recreation amenities to all of South Lake Tahoe. The connectivity to the bike trails and pathways is built and has potential to be built out to even a more robust manner. It's an iconic project that integrates with the regional vision of the Regional Plan.

This started to gain traction in November 2016 when the voters of South Lake approved a two percent transient occupancy tax (TOT) increase, specifically to generate revenue for recreation amenities in South Lake Tahoe. The first project that was put on that list of projects to be built with the TOT was the multi-generational Recreation and Aquatic Center. The Measure P Oversight committee was formed and worked closely with their Parks and Recreation Commission as well as creating a parks and recreation foundation that will help them build a more robust programmatic funding stream, and also assist in any capital needs for the recreation center.

The California Tahoe Conservancy has been a great partner on this who provided money to conduct the Master Plan. But the greater collaboration effort was with the City and El Dorado County partnership to come up with a long-term maintenance, management, and development agreement for how the 56-Acre site can be managed, maintained, and developed over the years to come. In January 2022, the City of South Lake Tahoe's City Council and the El Dorado County Board of Supervisors approved this management lease agreement that set forth a great foundation for future development and management of the 56-Acre site. That collaboration with California Tahoe Conservancy and El Dorado County to get them here has been wonderful. He appreciated the work from Supervisor Novasel and others who were leaders on that to both himself and Don Ashton, El Dorado County. This will build upon successes that this area of the City has had in recent years.

(Slide 3) The top picture is the community plaza known as Lakeview Commons and El Dorado Beach. They have concessions and a new boat ramp, along with Champions Plaza, all of these things have been great amenities in the last few years. The trail network has been improved with Harrison Avenue improvements. The pedestrian connectivity to the 56-Acre site from those existing improved infrastructure amenities has been wonderful and connects an area that a lot of people who live in South Lake Tahoe refer to as the Heart of the City. The 56-Acres has the potential to be redefined as the Heart of the City and create a place where neighbors who live in various neighborhoods in south shore can come to recreate, gather, and enjoy the beautiful views of Lake Tahoe.

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Mr. Hitchcock said the 56-Acre site is the heart of South Lake Tahoe and includes mix of City and county owned lands. The site is bordered on the north by Lake Tahoe, on the east by Rufus Allen Boulevard, a residential neighborhood, and to the south is Al Tahoe ball fields, the South Tahoe Middle School, and the Boys and Girls Club. To the west is the is the Harrison Avenue commercial district. The 56-Acres is the City and county's recreation hub, it includes existing recreation center, ice rink, Campground by the Lake, and Lakeview Commons. It also includes other institutional uses that are located in this district, but outside of 56-Acres, such as the El Dorado County Superior Court, the City Police Department, the Boys and Girls Club, Lake Tahoe Unified School District, the Lake Tahoe Community College, and the US Forest Service Lake Tahoe Basin Management offices.

Master planning efforts began in earnest in 2021. The Master Plan vision includes the development of a multi-dimensional recreation center, an aquatic complex, proposed civic government center, and an outdoor event venue. Also connecting 56-Acres to Lakeview Commons and the Alta Mira site and improve pedestrian access to Lakeview Commons and intersection Improvements at Rufus Allen Boulevard. The plan also includes pedestrian and bicycle facilities connecting to surrounding destinations, and also to the regional pedestrian and bicycle network, and includes active and passive recreation opportunities within 56-Acres. The purpose of the Master Plan is to develop a comprehensive strategy for the project site, facilities, programs, and services in response to the community's demographics, social background and multi-generational recreation needs. The plan will serve as a guide from the City and Capital Improvement program planning, maintenance and operational planning, and budgetary decision-making.

How does this Master Plan relate to the Bijou/Al Tahoe Community Plan Amendment? Because of the Recreation Center and the need to span large spaces, the City is requesting an amendment to the Bijou/Al Tahoe Community Plan to allow lower roof pitches and additional height in order to accommodate these large institutional structures. The Master Plan also relates to the future area plan that the City will commence later in this year.

There was a creative approach to the public outreach process by developing a core planning team that included the City, county, and California Tahoe Conservancy staff who met on a bi-weekly basis to discuss the Master Plan Project as well as the Recreation Center. They developed a robust public engagement plan to guide their outreach for its engagement with a diverse range of park users, residents, visitors, community organizations, and local officials. The public engagement efforts included focus group interviews with key stakeholders, on site self-guided tours, online surveys, and three online public workshops. Total, ten online focus stakeholder meetings were conducted, over 150 community members participated in the three workshops, 50 community members participated on the on-site, self-guided tour at 56-Acres, and over 200 individuals participated in the online survey. Important feedback provided by the stakeholders and the public were incorporated and considered in developing the conceptual land use alternatives for the 56-Acre Master Plan.

This conceptual plan was adopted by the City Council on January 18, 2022. It includes a new entrance into 56-Acres which is the main street, it can be closed on for special events, such as farmers markets, and food truck events for example. The campground which used to be located to the north of the site adjacent to US Highway 50 will be relocated to the south. The facility will be upgraded to include Recreational Vehicle hook ups, yurts, and cabin camping. The Recreation Center will be relocated to the north of the site. The reason for this was to redevelop the existing Recreation Center that is located south of the ice arena would have been cost

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prohibitive and they also wanted access to the existing Recreation Center during construction. The project also includes play and gathering spaces as well as adventure play. For now, the existing Recreation Center will be repurposed for City and county government uses and will be demolished in the future. The existing Senior Center, historical museum cabins, and Art League will remain unchanged which are located to the south west of the site. However, they're in discussions with those organizations that are interested in doing public displays of a historic artifacts and putting artwork on display as part of an art and historic tour and walk.

(Slide 8) Is a simulation that shows the proposed new entrance in the 56-Acres, main street. It will include parallel parking on the main street. This area can also be closed down to have special events in 56-Acres that will attract locals and visitors.

At the last workshop they polled participants on the comfortability of moving forward with the Master Plan and associated alternative. Ninety four percent said they were comfortable or somewhat comfortable, moving forward with the plan.

The City prepared an Initial Study/Mitigated Negative Declaration for the Master Plan and Recreation Center. The City and TRPA both received comments regarding the Master Plan and Recreation Center. The City's response to comments were included in their initial study. There were three main comments; one had to do with impacts to the Pony Express trail, Lincoln Highway impact, impacts to aesthetics with the scenic roadway corridor and California Environmental Quality Act (CEQA) segmentation. The analysis concluded that there was no impact to Lincoln Highway or the Pony Express trail. The Lincoln Highway essentially follows Highway 50 and is paved over any trace of Lincoln Highway many years ago. Their analysis concluded that there are no traces of the Pony Express trail within the project site itself. Historically, the Pony Express trail leaves a solitary individual riders that took many different paths and those trails are not traceable anymore. There are designated historic resource related to the Pony Express trail in the Basin, however, they're located outside the project areas such as Friday's Station on the Nevada side as well as the Pony Express sculpture located adjacent to Harrah's.

The analysis also concluded that there were no impacts to aesthetics or the scenic corridor. This is an urban corridor, generally urbanized areas where man-made development is a dominant feature. However, because the Recreation Center is located approximately 160 feet from Lake Tahoe Boulevard and all the trees are being retained between the proposed site and Highway 50. The proposed Recreation Center will be adequately screened from the scenic highway corridor. There was also a comment that this segment of US 50 is a designated California scenic highway corridor. That's incorrect, it's actually eligible to be a scenic highway corridor and a corridor protection plan would have to be approved in order to get the designation as a California scenic highway corridor. Regarding the California Environmental Quality Act (CEQA) segmentation, there was a comment that the City segmented the environmental analysis process for 56-Acres as well as the Recreation Center. That is not at the case, the initial study that was prepared by the City analyzed impacts of 56-Acres at full buildout as well as the actual Recreation Center itself.

Presentation continued:

(Slide 11)

Mr. Marino said the design has an alpine feel using robust exterior materials and pre-cast concrete panels, stone facades, Cementous fiber board siding, corrugated metal siding and

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standard metal siding are a few of the materials being used. All materials are fire resistant and all of the colors blend well into the site. The upper elevation, which is the east elevation of the facility shows the entry point in a facility just left of center. To the left of that is the first floor locker room and behind that is the natatorium or swim center. The right side is the gymnasium.

The next elevation is the west elevation that shows the natatorium on the left side, with doors exiting into a common space. It also shows on the first floor the fitness space, dance studios, multi-purpose, and a second floor fitness area. Just to the center is the lobby space and to the right is the mechanical equipment and the natatorium behind that.

The next elevation is the south elevation that shows the natatorium and the mechanical space to the left, just center is the lobby, locker space and lobby just to the left of that, and administration and gymnasium space is to the right.

The last elevation is the north elevation that shows the gymnasium and mechanical space on the left, lobby in the center, right of the center shows the event space on the second floor, and to the right of that shows the natatorium facility and the mechanical space is behind those.

More information can be found for the 56-Acres Master Plan at <https://arcg.is/S91Tj> and the Recreation and Aquatics Center visit <https://southlaketahoereccenter.konveio.com/>.

Presentation can be found at:

[Agenda-Item-No.-VI.A-Recreation\\_Aquatic-Center.pdf](#)

### Board Comments & Questions

Ms. Novasel said on behalf of El Dorado County they're thrilled to see this project moving forward and thanked Mr. Irvin and City staff for a collaborative process. This is the Central Park of the South Shore, and it deserves this kind of look and change. It will fit in with the county library and will be nice to bring the seniors into a multi-generational area. The food truck and all that sounds exciting.

Ms. Faustinos said congratulations on a phenomenal process during this time of Covid. She disclosed that she spent a lot of time with the National Park Service on historic preservation issues and things like historic trails of NPS quality are something she looks at closely. It's very difficult to establish alignment with these trails that are consistent with historical records. She asked if there was any consultation with the Park Service and was any consideration given to adding some signage to the site that would acknowledge that the Pony Express went through this general vicinity?

Mr. Hitchcock, City of South Lake Tahoe said that they hadn't consulted with the Park Service but are willing to do that. One of the concepts that they've discussed internally is creating a historic interpretation trail as part of 56-Acres. Originally, the focus was on the history of the Washoe Tribe, but supported adding the Pony Express Trail to that historic interpretive trail system that they're proposing for this site.

Ms. Aldean said given the concerns that have been raised about visibility of the recreation center, were any other siting options explored? This appears to be the most massive structure that will be built on this site.

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Mr. Marino, City of South Lake Tahoe said they discussed several alternatives on the site but there were really some basis points for selecting the north site. One, is that the community spoke out about keeping the existing Recreation Center in operation during the construction of a new Recreation Center so that eliminated the existing site right from the get-go. Second, the community wanted the new Recreation Center sited closer to Highway 50 and Rufus Allen Boulevard for purposes of visibility and accessibility for the public. They looked at the existing campground area that is in the current operation of the of the site and realized that if they mixed the Recreation Center into the center of that they will have divided up the acreage in such a way that the master planning wouldn't be feasible, as they wouldn't be able to get a campground on the north or the south or any of the other amenities that have been developed out of the 56-Acre plan. That was a collaborative decision between the City and El Dorado County.

### Public Comments & Questions

Mr. Teshara on behalf of the Tahoe Chamber said they've followed this project all along. It's an exciting project and some of the key elements Mr. Marino talked about are the extensive public outreach, particularly during a challenging time of Covid. There was a lot of participation, a lot of input on the siting, and the overall Master Plan itself. It's an exciting project and is important that TRPA and City staff gave the board the context for the project today.

## VII. PUBLIC HEARINGS

- A. Bijou/Al Tahoe Community Plan Amendment: Allowable height for public service buildings on parcels owned by the County/City (56-acre Recreation Center Site)

TRPA Principal Planner, Ms. Self and Planning Manager, Mr. Hitchcock, City of South Lake Tahoe provided the presentation.

Ms. Self said this review considers conformity of the Community Plan Amendments to the Regional Plan. The City of South Lake Tahoe and the TRPA Governing Board adopted the Bijou/Al Tahoe Community Plan in 1995. The plan includes a guiding vision for the area as well as goals and policies, permissible land uses, and specific design standards to ensure that development is compatible with the natural and built environment. The City does plan to incorporate input from the 56-Acre Master Plan process and develop an area plan in the future. The proposed amendment before the board today is targeted for the allowable height, and then the architectural design standards for the potential Recreation Center only.

The City Planning Commission and the City Council reviewed and approved the proposed amendments and the City Council adopted the amendments January 18, 2022. The Regional Plan Implementation Committee recommended approval on February 23, 2022. The initial proposal applied to the entire 56-Acre site but based on RPIC's recommended approval there was a revision to only apply the changes to the Recreation and Aquatic Center only, and not the entire site. The Advisory Planning Commission unanimously recommended approval on March 9, 2022.

Presentation continued:

Mr. Hitchcock said the amendment purpose and need would allow additional building height up to 42 feet, with no minimum cross slope or roof pitch requirements. The amendment would

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facilitate construction of the new Recreation and Aquatic Center. The Regional Plan Implementation Committee recommended approval with a slight adjustment to limit the amendment itself specifically to the Recreation Center and height for all other structures within 56-Acre would not change and would follow existing rules. That would be reviewed during the area planning process. Height at the Lake Tahoe Community College and the Lake Tahoe Unified School District are not affected by the amendment because those heights are handled on an individual project basis by TRPA. Height for all the structures within 56-Acres would be subject to Chapter 73 of the TRPA Code of Ordinances.

(Slide 3) The star is the proposed Recreation Center. The 56-Acres is a subdistrict of District 4 Bijou/Al Tahoe Community Plan which is a district that is designated for government and institutional uses. It includes Lake Tahoe Unified School District, the City/County Government Center on Johnson Boulevard, the US Forest Service, the Lake Tahoe Community College, and the South Tahoe Public Utility District located the south.

(Slide 4) The Recreation Center is being proposed to be moved to the northern portion of 56-Acres and would be adjacent to the existing El Dorado County Library. In future buildout, there'll be a proposal to develop a civic center and government offices building in 56-Acres.

The current standard requires roof pitches 7:12 and is not feasible for large institutional buildings that require large spaces, such as recreational centers, gymnasiums, and auditoriums with that kind of roof pitch. Having a 7:12 roof pitch would exceed existing TRPA height standards of 42 feet. It would create a structure that's visually intrusive to the neighborhood and would increase energy demands to cool and heat large volume of space that's not being used which is inconsistent with TRPA and the City's sustainability goals.

The City prepared an Initial Study and Negative Declaration for this amendment. The Initial Study concluded that the amendment wouldn't have a significant impact on environment. The Initial Study Negative Declaration was approved by the City Planning Commission on December 16, 2021, and adopted by the City Council on January 18, 2022, also when they adopted the 56-Acre Master Plan. Their Planning Commission reviewed this project and issued a design review permit and a special use permit on March 10, 2022.

Presentation can be found at:

[Agenda-Item-No.-VII.A-Bijou-Al-Tahoe-Community-Plan-Amendment.pdf](#)

### Board Comments & Questions

Mr. Yeates comments as the Chair of the Regional Plan Implementation Committee and why this was limited to the Recreation Center only. When this matter came before them, all they had was a map of the area (refer to page 151 of the staff packet) and the amendment was for all buildings that would be built within this blue area. They didn't have the picture on page 152 of the staff packet showing the proposed Master Plan. There's been a lot of public comment that came out even before this agenda item was published for this Governing Board meeting. There's some amazing statements made in the opposition to this project and he doesn't share those views. He doesn't have any vitriol or ill feeling towards the City and this project. He was just concerned that this project and the work of this Master Plan should go through the process of being an amendment to an area plan consistent with the way they set up the Regional Plan.

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The purpose behind the Regional Plan Implementation Committee is to make sure that projects going forward are consistent with the Regional Plan. RPIC limited the height amendment to just the project that's going forward. This had a lot of work, it's important to the community, and had no problem with that. And that's the reason RPIC made that recommendation. He appreciated the City taking that recommendation and coming forward with that limited approach, and then coming back with an area plan amendment that would incorporate all of the Bijou items. This would be the third time a height amendment or a change to accommodate the Boys and Girls Club and some other areas in there. It's good to have an overall view of what they're going to do in this important area. After seeing the Master Plan, he's concerned about the Main Street coming off of Highway 50 and having another road that's coming off of there. Hopefully, it will be a one-way street or something so that the public isn't going to come back through into an already intense area. It looks nice on a piece of paper but that's a pretty busy area.

He raised these concerns because he didn't know what all was going to be proposed in this Master Plan, because he didn't have anything before him. He appreciated what the City has done.

Mr. Bruce agreed with Mr. Yeates' comments.

Mr. Bass said the City is very excited about this project. It is definitely set off the highway. Just to remind the board that there's the Tourist Core bordering this area plan with those heights that are available in that area.

### Public Comments & Questions

Steve Teshara on behalf of the Tahoe Chamber, consistent with their prior comments on related items, they encouraged the Governing Board to take the proposed action before them today.

### Board Comments & Questions

Ms. Novasel made a motion to approve the Required Findings, as described in Attachment D, and a Finding of No Significant Effect, as provided in Attachment B, for adoption of the Bijou/Al Tahoe Community Plan amendments as provided in this packet.

Mr. Bruce asked staff to confirm that this was for the Recreation Center buildings only.

Mr. Marshall said it's just as recommended by the Regional Plan Implementation Committee for the two buildings.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Mr. Bass, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

**Motion carried.**

Ms. Novasel made a motion to adopt Ordinance 2022-\_\_\_, amending Ordinance No. 2020-04, as previously amended, to amend the Bijou/Al Tahoe Community Plan as shown in Attachment E, Exhibit 1.

Ayes: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Mr. Bass,

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Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

**Motion carried.**

VIII. APPEAL

A. Closed Session

Mr. Bruce said he represents a property owner that has cell towers and leases those cell towers. One of those providers is Verizon, and because of that he feels that he has a conflict and will be recusing himself and Ms. Gustafson will chair this agenda item.

Mr. Yeates said because of significant economic investments in the family trust which he is the trustee of, he is going to recuse himself from this matter.

Ms. Gustafson referred to page 418 of the staff packet. There's an assertion that she might have a conflict because of being involved with the Tahoe Prosperity Center Board. She is no longer on that board, but even if she were, on advice of counsel, she doesn't believe that she has a conflict on this item and will continue to chair this item.

Ms. Novasel said she is still on the Tahoe Prosperity Center board, although she hasn't been at the meetings for a long time. At the advice of counsel, she doesn't feel she has a conflict and will be participating in this item.

Ms. Hill said she is also on the Tahoe Prosperity Center board and doesn't have a conflict.

Mr. Rice said he's also on the Tahoe Prosperity Center board and doesn't have a conflict.

Ms. Aldean made a motion to move into closed session.

Ayes: Ms. Aldean, Mr. Bruce, Ms. Conrad-Saydah, Ms. Faustinos, Mr. Bass, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

Absent: Mrs. Cegavske

**Motion carried.**

B. Appeal of Hearings Officer Issued Special Use Permit for a Verizon Wireless Monopine, 1360 Ski Run Boulevard, South Lake Tahoe, CA, Assessor's Parcel Number (APN): 025-580-007, Project File No. ERSP2019-0389, Appeal File No. ADMIN2021-0034

Ms. Gustafson said Mr. Bass is sitting in as the alternate for the City of South Lake Tahoe.

Mr. Marshall said there was a request for a point of order discussion that was made just before the break. Mr. Lien will be provided an extra minute of time to address those points during the context of his comments.

Mr. Marshall stated that the closed session was limited to only board members and staff.

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Mr. Marshall said this is an appeal of a permit that was issued by the Hearings Officer. They're not here on a new application. The issue is whether or not the board should modify, revoke, or leave in place the permit that the Hearings Officer issued.

The proposed facility is located near the intersection of Ski Run Boulevard and Needle Peak Road in the City of South Lake Tahoe, California. It located more on the Needle Peak Road side to the southwest of Ski Run Boulevard.

(Slide 5) Simulation provided by Verizon of the cell tower, looking from west-southwest from Needle Peak across Ski Run Boulevard with the proposed camouflage monopine.

Chronology: June 13, 2019 – City of South Lake Tahoe approves Verizon Cell Tower permit; November 24, 2020 – Lawsuit filed against TRPA and Verizon alleging a significant number of claims of relief. Currently, that litigation is pending, waiting the District Courts consideration of TRPA, Verizon's, and other parties motion to dismiss. October 14, 2021 – Hearings Officer Hearing . The same day the Hearings Officer granted the application and TRPA issued the permit is part of the staff packet. On November 2, 2021 – The appellants filed their appeal with TRPA. The parties have filed their respective statements of appeals, replies, and responses which have been provided to the Governing Board members as part of the packet.

The major issues are threefold, the environmental analysis, the adequacy of the environmental analysis, that includes whether or not they should be looking at RF emissions, etc. Then there was a question regarding scenic impacts and coverage. They've addressed various tangential items in the staff report and will not be addressing them unless there's a specific question. Bridget Cornell is the lead staff person for TRPA.

Three points regarding the adequacy of the environmental document, the Initial Environmental Checklist. First, as they addressed in the staff report; the scope of Initial Environmental Checklist (IEC) was appropriate to look at this particular facility. There is no TRPA plan other than the Regional Plan that is being implemented here, even though there's been allegations of some sort of plan by the Tahoe Prosperity Center, there is no greater Master Plan. The appropriate scope of the environmental document was the impacts associated with this proposed facility.

The scenic considerations as provided in the staff packet for the facility are proposed to be camouflaged and blended in with a surrounding scenery, with faux branches, and needles. This makes the monopine tower blend in, but it also raises an issue regarding PVC needle shedding that was raised by the parties. That was not raised in front of the Hearings Officer so there's no record of any objection at that point made by the opponents to the cell tower of the shedding issue.

Nevertheless, the appellants raised a concern regarding whether or not needles shedding from the cell towers create an impact to the Lake and to waters of the of the Basin. Staff asked Verizon to respond to this and they provided their expert report that concluded that the there'd be an unlikely impact primarily because one, these needles are PVC and do not degrade to the type of microplastics that are of concern to the Lake, and two, particularly with the cell site as removed from the Lake as this one, there is little opportunity for migration into waters, and then into the Lake. TRPA took that report and provided it to Dr. Monica Arienzo, Desert Research Institute who concluded that the report was reasonable.

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Notwithstanding that, TRPA and Verizon negotiated an additional permit condition, which is part of staff packet, to specifically address the needle shedding issues. It requires two things: First, the best available technology must be used to ensure that shedding is minimal to attack the source of any plastic debris. Second, that Verizon inspect at least twice a year, clean up, and dispose of all visible material. TRPA will do project inspections to ensure that upkeep of the needle dispersal is taken care of.

From staff's perspective, the Governing Board can make the necessary environmental findings that are provided and approve the modification. Impacts associated with RF emissions were left to the Federal Communications Commission (FCC) and Verizon's compliance with those federal standards. In contrast to items like PVC needle shedding are within TRPA's baliwick and they've addressed it. Lastly, the coverage issue is relatively straightforward. There is sufficient coverage on the site to account for the footprint of the facilities, the site is overcovered, and there'll be an excess coverage mitigation fee.

Presentation continued:

Mr. Lien, Attorney representing the appellants: At this juncture, he only wants to raise a fairly narrow issue. As you went into your 1 hour and 10 minute closed session, there were comments about discussing conflicts. While he thinks they can all agree they want to avoid any appearance of impropriety, it is impossible for them not to notice the incestuous relationship between the Tahoe Prosperity Center, which is openly a lobbying arm for the telecoms. It is funded directly and indirectly by the telecoms, and they believe that to be a violation of Article III, (a) (5) of the Compact which forbids any economic interest of board members or the staff and presumably some of you receive some form of benefit. It doesn't have to be a paycheck, but you can get yourself in trouble in this regard, and they'll strongly assert that in their litigation. Ms. Marchetta is a member of the Tahoe Prosperity Center board and a member of the executive committee. This raises question of whether even the staff as a whole may be conflicted. It does appear that the involvement of the Tahoe Prosperity Center creates the serious problem.

Presentation continued:

Mr. Jinkens said he supported safe technology and enhancements. He asked the board to seriously consider the evidence that has been and will be provided. This evidence will demonstrate that the proposed monopine on Needle Peak and Ski Run Boulevard should be denied or appeal upheld because of the documented harm it will do to the environment, water quality, and to the people who live in Lake Tahoe. He's the retired City manager of South Lake Tahoe, serving for eight years. He lives here full time, and he wants to be certain that the Lake and environment are protected. In his 35 plus years as a City manager in California, he's never seen a project like this handled with a lack of diligence and fidelity to the preservation of the environment, than this matter has been handled. The evidence of environmental damage is clear. He is not a litigant in this matter, he has no pecuniary interest in the outcome, rather a volunteer, concerned resident, and former public official who wants to see the right thing done. He's hopeful that the TRPA Board also wants to fulfill its mission to protect Lake Tahoe. This is a very serious threat to the Lake and TRPA's mission. Approval of the monopine cell tower sets the precedent for all existing, and proposed cell towers that big telecom corporations can do environmental damage without objection in Lake Tahoe. The Governing Board must not allow this to happen. The presenters to follow will explain the issue in the limited time that they have available.

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Mr. Berg, Attorney representing the appellants. Because their time is so limited, he'll focus on two game-stopping points which require them to vote in favor of their appeal. First, as a threshold matter, TRPA lacked jurisdiction to issue the permit, because Verizon has allowed the underlying City of South Lake Tahoe's special use permit for the construction and operation of the proposed monopine cell tower to lapse. Without a current special use permit from the City for this tower, TRPA cannot issue its own permit. The special use permit issued by the City of South Lake Tahoe was provided for a one-year period only, expiring at the end of that period if not utilized. Verizon did nothing at all to advance this project for over one year after receiving the special use permit from the City, and by its express terms the special use permit has lapsed.

On March 22, 2019, Verizon filed the general planning application for a major design review and a special use permit with the City of South Lake Tahoe, Planning Division to erect the 112 foot tall monopine cell tower at 1360 Ski Run Boulevard. After public hearings on June 25, 2019, the City issued the special use permit. The special use permit included as a general condition in condition three which states the following: This special use permit shall expire and become null and void one year after the date of granting unless such issuance is utilized prior to the date of expiration. On June 27, 2019, Ms. Eisenstecken filed an appeal to of the decision approving that special use permit. On January 14, 2020, the South Lake Tahoe City Council conducted its hearing on Ms. Eisenstecken's appeal. They City Council voted 3 to 2 to deny the appeal, and to uphold the special use permit. Consequently the City Council issued the special use permit to Verizon for the tower on January 14, 2020. Under condition three of that permit, Verizon had to use the permit by January 14, 2021 or else the permit would automatically expire.

Under California law, land use and zoning statutes often provide that variances, and/or permits automatically expire at one year unless used during that one year period. The purpose of the one year automatic expiration is to prevent reserving the use of land for future purposes when one has no present intention to commence upon the permitted use. Although, the permittee need not comply with every condition in the use permit in order to avoid expiration after one year, the permittee must take some affirmative good faith action employing the permit within that one-year period. This is black letter law in California, best articulated in the California Court of Appeals decision in *Upton v. Gray* which they discussed in their papers.

The only thing Verizon did within the one year period following the issuance of the City's special use permit was to transmit a copy of that permit to TRPA. The mere transmission of a copy of a permit does not meet the legal test in California for utilizing a permit for the purpose of avoiding its expiration under *Upton v. Gray*. Otherwise, a special use permit holder can reserve the use of land intended for a specific purpose almost indefinitely, without having to diligently pursue all the steps necessary to complete the project, that's the sin Verizon has committed here. Verizon's failure to use the permit during the one year period following its issuance means the permit has expired. TRPA's public record shows no activity by Verizon to move forward with its proposed tower within that one-year period. Verizon should have moved forward with its application during the period ending January 14, 2021 but it did nothing. It only began pursuing steps to complete its TRPA application several months after the January 14, 2021 expiration date, and because Verizon failed to utilize its variance during the one-year period, the City's special use permit has been rendered null and void. Without that City permit in place, TRPA cannot issue its permit for the project. The appeal must be granted on this basis alone.

Second, they have demonstrated that Verizon's monopine tower, if built, will illegally discharge millions of toxic PVC faux pine needles from the cell tower at heights of between 30 to 112 feet above ground level across a broad debris field as these fragments are stripped from the tower

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during the fierce windstorms and snowstorms that buffet the base of Heavenly Valley every year. The video that they submitted shows these pine needles made up of PVC severely degrade in the extreme temperatures and strong UV exposures of the Tahoe Basin. The fallen pine needles become brittle and fragment easily into tiny bits. These PVC pine needles and fragments will inevitably wind up in either nearby Bijou Park Creek, and the stream environment zone which is just a few feet from the proposed cell tower site or in the Ski Run stormwater system. Ski Run Boulevard is adjacent to the tower site on the other side. In both cases, these PVC fragments will be transported into Lake Tahoe, exacerbating the microplastics problem that the Lake is already suffering from. Critically, any and all of Verizon's PVC discharge from the monopine tower will be illegal under a host of Federal, State and TRPA laws. Verizon simply cannot discharge industrial quantities of PVC solid waste in an uncontrolled manner from a 112 foot tall cell tower in the environmentally sensitive and protected Lake Tahoe Basin.

TRPA staff in complete derogation of their duties to protect Lake Tahoe and its environs from pollution, are urging you to deny their appeal and allow Verizon to build another microplastic time bomb that will disperse tons of microplastic wastes into stormwater catchments, waterways, and then into nearby Lake Tahoe. The board has been appointed as governors on this important board to protect the Lake.

Mr. Berg showed an excerpt of a video done by local resident, Robert Aaron in November 2021 at the site of a Cingular Wireless, AT&T monopine cell tower located at 1857 Hekpa Drive next to Pioneer Trail and Washoan Drive. This video shows PVC sprigs and needles from the base of the tower on November 4, 2021. These PVC needles are brittle and break apart and blend into the ground cover. These needles are going to fall from 100 feet up in the air and will be dispersed by the wind over a very broad area. The idea that Verizon can come out twice a year and pick up all these pieces from the base of the tower and prevent this from being dispersed over a broad area is ludicrous. This is a massive amount of pollution. This happens at every single monopine tower in the area. Verizon's expert report states this stuff is very durable, and is not likely to degrade or become brittle, this is nonsense.

The Hekpa site is much more protected than the site up on the flank of Heavenly Valley, where this proposed Verizon tower is going to be located. There's extreme exposure to winds, UV exposure, temperature variations, heavy snow, and ice burdens. The idea that the needles are not going to fall down off the trees is nonsense. There's going to be pounds and pounds of this toxic pollutant PVC material falling over a wide debris field. The proposed Verizon site just a few feet from a stream environment zone and Verizon says it's 300 feet from the Bijou Creek drainage basin. It's also very close to Ski Run Boulevard, so it's going to enter into the stormwater system and eventually ending up in the Lake, one mile away. In the letter he submitted yesterday, he cited a number of different studies showing how this PVC material is particularly toxic when it breaks down in the freshwater environment. When broken down it can be toxic to fish, algae, plant material, and ultimately gets into the food chain and humans.

One thing Verizon doesn't say is how much of this stuff is going to be on the tree. The photo simulation shown by Mr. Marshall was of a plush monopine. They contacted representatives in the industry and a four-foot long branch of monopine with the PVC pine needles weights about 20 to 25 pounds. The photo simulation has hundreds and hundreds of these branches with some up to 12 feet long and thousands of pounds of PVC material on these monopines, millions and

millions of pine needles that are going to break and degrade and fall from the tree, get carried away and wind up in the Lake. There's no ability for Verizon coming out twice a year to clean this

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stuff up. It's an environmental catastrophe and if you are responsible stewards of the Lake, you should issue a moratorium on any monopines because this is happening at every monopine in the Tahoe Basin. This is an extraordinary discovery they made in November for the first time and it's something to take seriously. How can you possibly allow this particular monopine to go in without doing a full environmental analysis of this potential problem.

Presentation continued:

Mr. Miller, Civil and Environmental Engineer said he's worked for 25 years as a Water Resource Control Engineer for the California Regional Water Quality Control Board, Lahontan Region and as a chief supervisor over various regulatory units for 18 years at Lake Tahoe. His expertise is in water quality, law, and regulations under the Clean Water Act. If they uphold the appeal, they'll only be disapproving a waste discharge that is prohibited and illegal, the plastic and other uncontrolled waste from the monopine tower. The prior TRPA documentation and condition 11 don't evaluate the methods of waste control and offsite impact from wind and water carried plastic debris. Such uncontrolled waste discharges to lands and waters on or off the project site are expressly prohibited in the Lake Tahoe watershed under the California water code and regulations established thereunder. TRPA must uphold the strictest standards, there are no exemptions allowed. Due to the location of the project site near other public and private lands and waterways, Verizon cannot trespass and intrude itself upon their domains for industrial, solid waste collection efforts. Therefore, the windborne and waterborne waste will not reasonably be subject to collection. Condition 11 is untenable on its face and TRPA's staff limited scope of review is unsupportable, the appeal must be granted.

Now, speaking as an engineer on the increased fire risk associated with wireless towers of all types, but especially huge monopine macro towers with large wind profiles due to the branches and needles. Wildland fire risk is increasing, as are the number of towers and tower fires, including Verizon towers due to wind, electrical malfunctions, welding activities, wildlife interactions, pole overloading, and a variety of other factors, as news reports show. Contrary to the staff report, tower fires are not the same as other structure fires that may carry extra risks due to being energized. remoteness and inaccessible difficulties with extinguishing and effects on other structures and trees within the tower fall radius. Higher engineering standards and safety factors should be applied in recognition of the extraordinary Tahoe values and investments at risk. TRPA is setting the stage to burn this basin to a cinder, and quietly promoting the Tahoe wireless plan of the Tahoe Prosperity Center often under the guise of advancing public safety.

The Tahoe Prosperity's latest publication, The Envision Tahoe Community Report, was in the news recently citing wildfires and smoke as among the biggest threats to the lake-wide community in the most extensive current poll of its kind. Ignoring the increased fire threats associated with wireless facilities such as this tower, TRPA is clearly out of step with its own public, its own recommendations and regulations, promoting against all science, logic, and reason, the staff's approval of this project. Uphold the appeal.

Presentation continued:

Mr. Gresser, Co-counsel on behalf of Tahoe Stewards Environmental Trust, Tahoe for Safer Tech, and Monica Eisenstecken, and David Benedict. Today, they'll determine irrevocably the fate of Lake Tahoe, and this region. Their legal team have already established a substantial record on the environmental perils, the dangers to public health, and violations of Federal law, Compact law in California State law of the proposed Verizon Macro Tower.

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Four crucial points: First Congress's core mission in establishing by the Interstate Compact that public trust was to preserve the environmental quality of Lake Tahoe. Article V(d) of the Compact states, Regional Plan shall provide for attaining and maintaining Federal, State, or local, air, water quality standards, whichever are strictest in respective portions of the region for which the standards are applicable. The Agency may, however, adopt air or water quality standards or control measures more stringent than the applicable State implementation plan or the applicable Federal, State, or local standards for the region. The applicable standard continuously applied by the California Regional Quality Control Board; Lahontan region is zero discharge. The monopines proposed by the Verizon Macro Tower will deliver tons of hazardous waste directly and by runoff into Lake Tahoe in violation of the zero discharge standard.

Second, before you, is not a simple individual decision by the Board on a specific site application by Verizon. It may appear so, but don't be deceived, since all monopine situations are virtually identical, as Mr. Berg pointed out, the board is being asked to make a fundamental policy decision that will be cited and applied in every other monopine application throughout Lake Tahoe. But as they have pointed out, no one, neither TRPA staff, counsel, or Verizon has adequate information on the specific contents of the toxic brew they're being asked to permit to be discharged into the Lake. There's no scientific evidence that the biannual cleanup to mitigate the situation proposed by Verizon, Condition, 11, will be environmentally sufficient to justify Verizon circumventing the zero discharge standard.

Third, to propose Wireless Connect Tahoe Plan, contrary to what the staff report alleges, is clearly a public, not mere private project the wireless industry is lobbying on, the Tahoe Prosperity Center. The staff report erroneously states The Tahoe Prosperity Center Connect Tahoe is a private nonprofits effort. That effort is not a plan of TRPA or any other government agency, and, therefore, is not the subject of any decision before the Agency. You, yourself have just admitted in open session today that many of you are actively serving as members or advisory to the Tahoe Prosperity Center. Wireless Connect Tahoe is clearly a public private joint venture partnership, and subject to principal strictures and regulations pursuant to Article VII, the Regional Plan, and other Federal and State laws.

Lastly, there is an alternative, wise and balanced path forward which is to pause for 90 days, gather the best available scientific studies, expert opinions, assess, then decide. What value is gained by rushing through a momentous decision. The cost to all parties, even Verizon of an environmental catastrophe including the elevated fire risks of monopines are grave. The benefits to the Tahoe community, and TRPA itself of establishing a precedent of forbearance and heightened vigilance on a critical decision are immediate and great. The inconvenience of a ninety-day pause is minimal.

Presentation continued:

Mr. Albritton said he had the opportunity to meet Cody Bass after the City of South Lake Tahoe meeting, where the City Council voted to approve this facility. Mr. Bass didn't vote in favor of this project and to note the potential for bias but has every confidence in his integrity.

Mr. Albritton, outside counsel for Verizon Wireless. They have a panel to describe the time, effort, and expert diligence that went into the location of this facility. Speaking first, Mr. Schwartz, RF Engineering Manager from the South Lake Tahoe area. Second, will be Ms.

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Montanez, SAC Wireless who was involved in the location siting, alternatives, and design of the facility. Third, will be Mr. Carmickle, expert on photo simulations using drone technology, and last will be Mr. Hammett, Hammett & Edison Consulting Engineers.

Presentation continued:

Mr. Schwartz, RF Design Engineering Manager for the Tahoe Basin whose 25 plus years' experience in telecommunication network design and is responsible for Northern California and Northern Nevada markets. He's also been personally involved in network improvements for the Tahoe Basin for the last eight years. From a network point of view, the Tahoe Basin is a very large challenge due to the terrain, the mountains, dense pine trees, and large number of people that visit the area on any given day. He'll provide engineering data to support the highly needed Ski Run Boulevard site. They submitted their significant gap to the City of South Lake Tahoe in June, 2018 and that significant gap still exist today. The significant gap is very important to network performance that represents an area in the network that has no coverage, inadequate coverage, or is highly congested on capacity. They have a finite number of resources available at each site, and the network needs to be robust enough to handle up to 300,000 people that may visit the South Shore in any given weekend. As a resident of the South Shore, he's personally experienced network congestion here. It may work just fine on a Tuesday afternoon but may not work well during the weekend or times of high usage. They use proprietary state-of-the-art tools to analyze their network and provide propagation models for their coverage. Their models are scientifically based to accurately reflect their coverage and network performance, and they use empirical data to audit their tools to maintain a high level of accuracy.

(Slide 12) This chart shows live data and empirical data from their switch for the South Lake Tahoe area that was previously submitted to TRPA's Hearings Officer. This area covers from Stateline to Meyers. This is daily megabyte volume over 26 months with peaks and valleys day to day but shows a consistent increase in usage. They have consistent high peaks on the Fourth of July, Labor Day, and New Year's holidays. It's their job to make sure that the network works at all times during the average period and during the high demand periods. For over two years, they've seen a growth of 137 percent which is more than double and demand triples every 36 months, which is considerably higher than the national average.

(Slide 13) This chart shows the same empirical data and area with a different view. It shows a monthly demand, month over month, and year over year with a two year growth for May, June, and July.

(Slide 14) This is a map of the area where the proposed Ski Run Boulevard site is planned. The map on the left is existing coverage, the right is the same coverage with Ski Run Boulevard site added. The Tahoe PD site to the west, Harrah's and Harvey's to the northeast, and Angels Roost to the southeast.

This current site location is currently served by Harrah's Casino which is about 1.5 miles away and is showing signs of capacity limitations. The green areas of the map represent indoor coverage, or in-home coverage, and shows where expected coverage is available inside a home. The yellow area represents vehicle coverage that shows where expected coverage is available inside a car. The gray areas represent the outdoor coverage and the shows where expected coverage is available as someone walks down the sidewalk. Looking at these two maps, one can see where the significant gap is; it's the gray and yellow areas to the east and west of the proposed Ski Run Boulevard site, and how that site will resolve those gaps.

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(Slide 15) This captures the same area with without Ski Run but with their future Tahoe Seasons site which is another plan site in the area. The Tahoe Seasons site does not solve the significant gap.

(Slide 16) This map shows the same area with both Ski Run Boulevard and Tahoe Seasons active. These two sites complement each other and resolve different significant gaps in the network.

They invest a lot of time analyzing on a vast amount of objective engineering data to ensure that they have the right structure at the right location to provide the needed network performance and limit the number of structures in any given area.

Presentation continued:

Ms. Montanez, Program Manager, SAC Wireless on behalf of Verizon Wireless.

(Slide 18) Five-year timeline that SAC and Verizon have worked to obtain approval for the proposed cell site at Ski Run Boulevard. For over 4 years, the City of South Lake Tahoe and TRPA have thoroughly reviewed the site, including requiring the examination of 38 alternative locations. The site has already been approved by South Lake Tahoe planning. This will be the fourth public hearing for this site to obtain approval to build at this location. Lastly, this project is currently in building permit review with the City of South Lake Tahoe.

Verizon has considered 38 alternative sites for this proposed project and have come to the conclusion, along with both the City of South Lake Tahoe and TRPA that the current proposed location is the best option to meet Verizon service objectives and will have the least visual and environmental impact to the area.

The other alternatives were discounted due to being outside the service gap area, the location being too close to existing proposed utilities, locations with non-responsive and unwilling landlords such as the fire department. Constructability and access issues, land coverage issues which were insufficient amount of land credits required to site the cell tower on the property, increased visual and environmental impact where some of the candidates would have more of a visual impact of the area due to minimal tree coverage or more visible line of sight to public right of way.

(Slide 20) This slide shows the location of the proposed facility in relation to Lake Tahoe, which is more than one mile away from the proposed facility as well as showing the location along Ski Run Boulevard and Needle Peak Road.

The proposed design for this site is a 112 foot monopine and the branches will extend beyond the antennas to conceal them within the monopine. Verizon's antenna center line will be a 103 feet. Potential co-locators could then go at an antenna center line of 90 feet. The equipment will be concealed within a small shed next to the tower. The tower will be set back 20 feet from Needle Peak Road within a grove of trees.

Presentation continued:

Mr. Carmickle, Previsualists, Inc., is a licensed landscape architect, specifically trained for visual analyses and simulations. He's been doing this for 29 years on a wide range of projects including, but not limited to, telecommunication sites. He was called in for this project because

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of his expertise in creating accurate photo simulations. He's also a commercial drone pilot, licensed by the Federal Aviation Administration (FAA.) Having a drone in their list of tools to establish scale and placement, gives them a level of accuracy unparalleled in previous decades. They can place a drone exactly where the top branch of a monopine is proposed, locked in place even with a light breeze it will remain fixed in place until the battery runs out. Each time a photograph is taken, the controller is checked to confirm there's been no movement.

(Slide 24) This image of the controller screen shows that the drone is fixed exactly above the base of the proposed monopine and it remains at 112 feet above the ground. The other benefit of the drone is being able to do live video feed from the height of the proposed tower. As they rotate around and do a full panorama of the surrounding area, they can identify any spots from which they might be able to see the top of the monopine. They're looking for roads, trails, homes, parks, and anywhere that they can see it from the drone would be a spot that they could take a photograph back toward the drone.

(Slide 25) This is Needle Peak Road highlighted in a blue circle where he stood to take a photograph for a photo simulation.

(Slide 26) This is the photograph taken from that spot on Needle Peak Road showing the drone in the red circle. (Slide 27) Photo simulation. This allows them to provide an extremely accurate depiction of what the monopine would look like having the exact scale and placement.

(Slide 28 & 29) This is from Ski Run Boulevard just uphill from Needle Peak Road. The digital image of the monopine is an actual site that was built by Verizon, photographed using the same camera and lens and merged with the base image in Photoshop.

(Slide 30 & 31) This is the drone as seen from Needle Peak Road looking towards Ski Run Boulevard with the monopine. And, of course, they need to show what the view would look like from some other key landmarks.

(Slide 32) This is the Heavenly Ski area along Keller Road. Because they can't see the drone from there, they use other accurate methodology, including Google Earth and 3D modeling to identify the exact scale and placement. From there the monopine will not be visible. (Slide 33) Again, farther up Needle Peak Road the site will not be visible.

He studied every location that had a possibility of seeing the monopine. Within a one half mile radius of the project, the monopine will only be visible right around the base of the tower, around the intersection of Ski Run and Needle Peak. These views are within 300 to 400 yards of the base of the tower. All the close up views are dominated by foreground trees and would be looking through trees to see the monopine. Any farther out than the 300 to 400 yards, the monopine gets lost in the forest. Views beyond one half mile away are relatively insignificant for two reasons: From no place does the monopine silhouette, like a lone tree against the skyline; and, secondly, at that distance the branches completely blended into the forest.

Presentation continued:

Mr. Hammett, registered professional engineer in the State of California. He manages a firm with 18 employees and is located in the San Francisco Bay Area, and is a longtime landowner, homeowner in the South Lake Tahoe area. A regular part of their professional practice is the calculation and measurement of radio frequency exposure conditions and has been his principal

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focus for 37 years. In that time, they've done more than 20,000 site evaluations, and McGraw Hill has published his book on this topic. As engineers, their job is straightforward; what are the exposure levels and how do they compare to the standards? Since they deal in only facts, they work across the field, doing consulting work for wireless carriers, for cities and counties, and for private landlords.

His engineering study as a matter of record in this proceeding, found that the proposed Verizon operation will comply with the Federal Communications Commission's (FCC) environmental protection requirements. This is true, even if there's a second carrier on the tower as one of the earlier speakers indicated. It's important to note that no one is arguing otherwise. This facility will comply with the FCC limits. The term 5G is often misunderstood. It refers simply to the latest greatest technique for encoding data on the radio waves. It's more efficient than 4G which is more efficient than 3G, and more efficient than 2G. He expects that there will be a 6G and maybe 7G as coding methods are further optimized. The carriers all continue to provide a mix of these technologies to serve the variety of cell phones and tablets of various ages that are available to subscribers.

Mr. Albritton addressed some of the appeal issues that came up. Somehow that this is a precedent that you are setting with respect to monopines in Lake Tahoe, and nothing could be further from the truth. As the appellant showed 20-year old AT&T tree built with older technology and evidently degrading after 20 years. There are seven Verizon Wireless monopines and the dozen monopines in the Tahoe area that have been there for decades. Not one tree leads to the next, each project is individual when it comes before you.

With respect to the South Lake Tahoe permit, they consulted with the City of South Lake Tahoe in November of 2020 to confirm that the permit had been utilized. They received an email back from the city attorney where they confirmed that by processing their application with TRPA, and at that time they were working with TRPA on a variety of issues, that they had utilized the permit for the purposes of South Lake Tahoe. They are the ones who govern their own code in terms of when permits are utilized or not utilized, that's not in TRPA's purview. So, the concept that somehow this permit cannot be pursued is absurd, and they're currently working with City of South Lake Town on building permit.

They consulted with Integral Consulting, who provided a report that appears in the staff packet. Integral Consulting confirmed that PVC is a heavy plastic, not subject to rapid degradation. For degradation there needs to be some kind of activities such as waves or other motion that breaks up the plastic. In this case, Integral Consulting confirmed that this is a static system situation where pieces of the branches that fall do remain on the ground; and third, that there are no conduits for this material to get to the Lake over one mile away. They're 330 feet away from the creek. It's down gradient but there are ground berms and other impediments to the travel of any kind of material like that. They heard at the beginning of the discussion today there was confirmation from TRPA's own consultant regarding these conclusions. The only evidence that the appellants have provided is a video of a 20-year old AT&T tree. TRPA staff has proposed, and Verizon Wireless has accepted a condition that says that they have to use all modern technologies to adhere the PVC to the tree itself and remove any debris every six months. In addition to that, the other condition is that TRPA will be inspecting the area every two years. There'll be regular inspections and improved monitoring and maintenance of this tree over every other tree that potentially has come before you in Tahoe Basin. Perhaps it sets a precedence for a better environmental management going forward.

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Regarding fire, cell towers are not energized and they do not self combust. The flash point for the plastics on this tree are much higher than the pine trees around the tower. It has a lightning rod and is designed to sustain fire and wind. The diesel generator has the double wall belly tank and a containment pad to prevent any kind of leak of the diesel. The staff packet includes letters from fire and police emergency response personnel, who ask that the wireless facilities continue to be approved in the Tahoe Basin because of the fires that require emergency response.

There were many other appeal issues raised by appellants but these are the principal ones that were raised today.

Presentation continued:

Mr. Lien said on behalf of the team, they thanked everyone for that additional two minutes in rebuttal. He requested to turn it over to Mr. Berg and Mr. Miller on the issues of plastic. One of the key points is all of this stuff about the need for wireless is completely irrelevant. What's relevant, is your standards under the Compact. Under the Compact, TRPA has to enforce whatever standard on water quality is the most stringent, and you can't even threaten a discharge of plastic.

Mr. Berg said Mr. Albritton said the AT&T tower that they showed was built 20-years ago. That's true, but it was redone in 2018. They replaced all the equipment on the tower, so, it's only about 4-years' worth of stuff, not 20-years of PVC. One can see how that degraded so quickly and fell off the tower in piles and piles. Verizon never has mentioned how much plastic materials are going up, it's literally thousands of pounds. They haven't provided the specifications of what this material is made out of, what plasticizers, and other toxic materials are in the PVC that are going to degrade, it's a toxic waste dump.

Mr. Miller reiterated the same thing and that it doesn't matter even if it was inert waste, it's still not allowed, it's solid waste and the Lahontan Regional Water Quality Control Board Basin Plan specifically prohibits the discharge of solid waste within the Lake Tahoe hydrologic unit. He's spent his life working to clean up messes from stuff like this for people that didn't understand or didn't think it was going to be a problem. This self-serving consultant's report on plastics is simply ridiculous.

Presentation can be found at:

[Agenda-Item-No.-VIII.-B.-Appeal-of-Ski-Run-Cell-Tower.pdf](#)

### Board Comments & Questions

Mr. Bass said the City of South Lake Tahoe passed an ordinance for large cell sites and are curious if they analyzed this current location against their current ordinance and what they found would be allowable. Also, have they looked within the current ordinance, and found future locations for different towers that would fit within their current ordinance.

Mr. Albritton, outside counsel for Verizon Wireless said there is a new ordinance that has a residential setback which makes siting more difficult. With that, the 38 sites that they reviewed would continue to confirm that this is the least intrusive location for the placement of this particular facility to provide service based on the other facilities that are currently functioning and providing the network for Verizon Wireless. The network is like a system of sprinklers on a

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lawn, they set the facilities a particular distance from each other so that there's a dominant signal that goes to the phone as it transfer from one cell to the next cell and have specific coverage area requirements. There is no other facility that would meet the old code or the current code with respect to those requirements which is where they've identified a gap, and that this is the least intrusive means of filling that gap even under the current code which would provide for approval of that facility.

They do have another future facility which is the Tahoe Seasons facility sited on the rooftop of the Tahoe Seasons Hotel. It's on the roof of the building inside of shielding that hides the antennas and looks like other chimneys on the building. This is obviously their preferred design; they prefer to go on existing towers and co-locate. As they understand a co-locator will be coming on to this tower and also fits within the code. They have other facilities in South Lake Tahoe, none in this area where they're going to be providing service to the Tahoe Seasons site, the Kokanee site, and the PD.

Mr. Bass said so, though, because of the residential setbacks, the current monopine being proposed would not be allowed under the current ordinance because of the setbacks. Is that accurate?

Mr. Albritton, outside counsel for Verizon Wireless said without an exception. They would have an exception under the code for that situation where there was no other opportunity that was outside of a setback for the facility.

Mr. Bass said he's familiar with the Tahoe Seasons facility. There's been a lot of deployment on Harvey's since 2019. The gap analysis that they were presented at City Council did not include either one of those sites as far as the gap in the coverage in South Lake Tahoe. Right now, what was approved under TRPA is still that 2019 analysis without the expansion from Harvey's, as well as what is going to be installed at the Tahoe Seasons Resort, is that accurate?

Mr. Albritton, outside counsel for Verizon Wireless said no, it's not. They submitted additional materials to TRPA. They were focused on how Harrah's and Harvey's were included in that. They've included the Tahoe Seasons facility even though that's not on air yet. The information that was provided was absolutely up to date. They have to provide dominant signal for a cell phone to work in the coverage area that they're trying to cover. The problem right now is that the Harrah's facility is overloaded which was shown by Mr. Schwartz. It's been increasing in volume and they have additional graphics that they can show that the network is actually overtaxed at this point, even in the area of South Lake Tahoe and even with the existing facilities. It's because they need to fill in that gap and split the cell, add capacity to the network in that area to address all of the demand that they are receiving.

Page 533 of the staff packet shows the transmission time interval, overload of the network. Each red dot is one hour of service, and the network is peaking out maximum TTI. Each line is a day. The blue graph is the number of people who are trying to get on the network and shows an increase over time. In the last year, over nearly 450 hours during the year, their system was overloaded and unable to perform. This takes into account all of the facilities that are providing service in the South Lake Tahoe area.

Mr. Schwartz, RF Design Engineering Manager, referred to the graph on page 533 of the staff packet. This is the Harrah's facility that's the primary server for Ski Run Boulevard site. On the left of the chart is the TTI occupancy which is the orange data and can never go beyond 100

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percent. It starts getting congested at 90 percent and at 95 percent they start shutting traffic. At 100 percent, depending on when the call comes through, the calls may be prevented from

connecting. This chart tells them that the site is out of capacity, and they've added as much capacity as they could to the Harrah's sector that is serving this location. Harrah's coverage hasn't changed, the enhancements that you're talking about are adding capacity, improving, and optimizing the Harrah's facility. It is still the primary server in the area and they've reviewed the fresh data of this chart. The blue peak on the right is New Year's eve 2022 It just didn't show on the on the chart. The blue data on the right is the peak number of users which is showing around 475.

Mr. Bass said the Tahoe Seasons Resort is within two blocks of this this new tower. When they look at the Tahoe Seasons Resort, there was some analysis but he remembers this data from when this was in front of them in 2019. (Slide 16) It's similar to the same and sees that they have the Tahoe Seasons added and what's confusing is it makes that green line come all the way out and would seem to change the gap analysis for this tower location. His point is, it just seems that when you add that Tahoe Seasons Resort that green goes way out and all of a sudden there is not a coverage gap that they traditionally had. It does seem to him that when the Tahoe Seasons tower added, which they approved and is only two blocks from this current tower, he doesn't see the coverage gap after that.

(Slide 15) Mr. Albritton said that gap remains.

Mr. Bass said within the yellow there's no gray, it changes a huge amount of the gray and white to yellow and green. He would like to see a current gap analysis with that Tahoe Seasons Resort that they already approved and is moving forward to show that they would still need this tower in that location. It is very controversial and it doesn't fit within the current code and ordinances in South Lake Tahoe.

Mr. Bass asked how they deploy in a national parks when they're dealing with an area similar to this. He would imagine that there's placement that they work with a national park.

Mr. Schwartz, RF Design Engineering Manager said it depends on the park. They currently have facilities in Yosemite National Park and in multiple state parks across Northern California and Northern Nevada. They work with the governing office and look at their code and what their recommendations are with the best place to site a tower in that area. It's depending on where they are at but always try to blend in and provide the least obtrusive solution to the network need.

Mr. Bass asked if they would share the proprietary information with the national park service on where they believe the best locations are. He's been told that's proprietary and TRPA is not allowed to have that information to figure out the best placements.

Mr. Albritton, outside counsel for Verizon Wireless said going back to their 32 site analysis they provide coverage maps and analysis for each of the alternatives, showing why those alternatives don't provide the coverage that they need. Some of them were on forest land. He's worked on sites from Yellowstone to Yosemite and they provide not as detailed information to the to the park service in terms of where to place facilities. There usually aren't as many alternatives in those situations for providing service into those areas. They put facilities in those areas and there's no difference of proprietary information that they're holding back. There's an alternative

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analysis in the staff packet and there's coverage maps for each one showing why they don't provide the service that they need.

Mr. Bass said he understood that they were asking for that information and were told that it was proprietary and was not available per the Executive Director on this Board. And this was not just Verizon, but AT&T and other telecom providers.

Mr. Albritton, outside counsel for Verizon Wireless said that they do enter into non-disclosure agreements with third-party peer reviewers, in order to provide all proprietary information for peer review by local jurisdictions.

Mr. Lawrence said regarding the micro plastic and the shedding issue. He heard from the applicants that they commissioned a study and the study came to conclusions of basically no impact. Was there a peer review on that study or ask for a third opinion? If they did, what were the conclusions and who did they ask that opinion of?

Mr. Marshall said they did not do a peer review. They requested input from the Science Council. Ms. Regan can address this more specifically but basically, representatives looked at the Verizon provided study and said it was reasonably done. It was not super in depth but looked at the basic format of the analysis. The two items that stood out from the study, and they've not heard anything to contradict this is that there is a direct connection between these faux pine needles which are made of PVC, and the kind of microplastics that are found in the Lake which the Desert Research Institute found. Without evidence that the plastic needles are the source of the microplastics in the Lake, there isn't any evidence in the record that's been presented to them that shows that the faux pine needles are a source of what they're finding in the Lake.

Mr. Lawrence said he probably shouldn't have used the term peer review, as that's not really necessary in this case. He's glad they solicited input from the Tahoe Science Advisory Council. In the space of microplastics there's been a tremendous amount of work from some of the council members, by the Desert Research Institute as well as the Tahoe Environmental Research Center. He's assuming if it went to the Science Council that those were the institutions that at least took a look at the study to see if it looked reasonable.

Mr. Marshall said principally it was a staff task, not necessarily the Tahoe Environmental Research Center, he doesn't believe they reviewed it. Take it for a very high level review, if this something that fits within a reasonable examination of the issues and look more at what is available, the actual science on the record, as to whether or not the shedding leads to microplastics in the Lake. That's where there is just an information gap, and it's also the fact that there is the type of microplastics that are found in the Lake are not the PVC that would be anticipated from degradation of the faux needles.

Mr. Lawrence asked if staff was TRPA staff or the Tahoe Science Advisory Council staff.

Ms. Regan said this was an informal review from Bob Larson, the Program Officer for the Science Council, and Dr. Arienzo who took an informal look at that document that Mr. Marshall referred to. There was no official peer review or science project around it. They know that there is a good body of work that is accumulating from the Desert Research Institute and the Tahoe Environmental Research Center, UC Davis folks. The report makes a distinction between the monopine PVC which is different than what is the emerging body of work that they're looking at in the Lake, and the microplastics being detected on the beach, which are found more in plastic

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water bottles in particular, and clothing fiber. So there is a distinction, but this is an ongoing area of research, and a lot more research will be done and undertaken in the coming months and years. There wasn't an official peer review but there was an informal look at the document.

Mr. Lawrence agreed it's a growing body of work, but there's a substantial amount of work that's been done, particularly by the Desert Research Institute. When you mentioned the executive officer for the Science Council as well as the researcher for the Desert Research Institute, he's glad they had that independent check.

Mr. Lawrence found the information regarding the gap analysis to be very interesting. He asked what the policy of Verizon or the industry as a whole was for the end goal. Is the end goal to cover the entire Basin in green? Or when they're doing their gap analysis, how do they figure out exactly where that gap is?

Mr. Schwartz, RF Design Engineering Manager said it's site by site. There are a lot of hours of analysis that goes into it. There's no goal to turn everything green, it's all about the need. As the demand increases at such a severe rate, they need to make sure the network is robust enough to stay ahead of that demand. They look at many maps and a lot of data to find which location best offloads the network. Harrah's is a consideration in this example and what the significant gap is in that area which is the coverage map. Overall gain is to make sure the network is robust and any 911 calls go through at any time.

Mr. Albritton, outside counsel for Verizon said it's like a set of sprinklers, but they're following where the call demand is. A cell site can only cover so many people at the same time, and when that gets overloaded, they have cell split, and add a cell site that will provide capacity. It has to be located in a manner that it works with the other cell sites so that each phone has a dominant signal as it passes from cell site to cell site. It's demand-based and there are also coverage objectives for recreational areas or other areas where there might be a particular need, even though there might not be a very strong demand and that's how the network is established.

Ms. Conrad-Saydah said this one item is bringing up the comparison between maintaining a scenic view shed and avoiding creating demand for more plastics and its waste. She asked where the industry is headed in selecting alternative materials beyond plastics for these types of towers that still maintain scenic view sheds but don't create demand for more plastic and engender more plastic waste within watersheds or scenic areas.

Mr. Albritton, outside counsel for Verizon said the monopines came out in the 1990s and they were not that great, they've got a lot better. This is the first time that this issue has come up for them. Generally, and even as they were approaching the approval of this facility, TRPA was asking for more branches and more aesthetic cover. There's an opportunity for the board in Conditions E and H to take the volume of plastic into account and identifying what the tree branch count will be, how high the branches begin on the bottom of the pole, etc. and take that into account in the final design. They're always looking for new opportunities in terms of how to stealth facilities. The trend they're seeing more of these days is to put in faux water tanks, and other types of unipoles. This particular facility is the type of location where one would want to put a faux tree and is certainly something the industry may begin to look at. The microplastics that were found in Lake Tahoe were 90 percent fibers and linens from clothing and plastic remnants from tires, as well as cigarette butts, and that the amount of PVC was extremely small, if at all, and lumped in with other groups. This type of plastic is used in plumbing for homes, landscape irrigation, and any number of things. The amount of plastic going into this particular

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monopine has to be compared to the amount of plastic that would go into a residential home, or any number of other structures. They are aware of the issue and working towards taking it into account going forward. There's an opportunity for the board and its conditions to direct a reduction if they care to do so along with monitoring conditions. These towers have been in the Tahoe Basin for decades and they're not seeing in the analyses done on the Tahoe water any high level of this type of plastic.

Ms. Conrad-Saydah isn't quibbling with that, rather she's thinking long term about trying to reduce plastics across the board, whether it's in plumbing or on these monopines. The amount of monitoring enforcement that will be needed to ensure that Verizon is cleaning up the waste will put a burden on TRPA staff. She suggested that there should be a consideration of a cost recovery account for public employees to be able to bill to an account for those types of monitoring on towers in the area. She understands that there's a cost recovery or cap for permitting, but not for monitoring an enforcement of the conditions that are put into the permits. As the number of towers grow through this area the demand for staff time will grow and that's putting public dollars into a business decision on these on these towers.

Mr. Albritton, outside counsel for Verizon said Verizon Wireless is putting an initial deposit of over \$5,000 for the monitoring as part of the condition of approval. He believes staff has taken into account the economics for their time in the condition of approval.

Ms. Conrad-Saydah said if you think about the lifetime of having to monitor this this tower twice per year, it's insufficient for staff time to do that monitoring over time. She's looking for a cost recovery account to be paid into and build against for staff time for all of the towers in the area.

Ms. Aldean said with respect to addressing coverage gaps, elevation is important. Based on the map that was shown, there are a lot of small cell sites as well that have already been installed. How do the towers relate and interact with these small cell sites?

Mr. Albritton, outside counsel for Verizon said generally the cell towers provide umbrella ubiquitous coverage throughout a coverage area. Small cells provide capacity relief in very small areas, sometimes a radius of about 500 feet, so they don't provide the ubiquitous coverage that allows you to go from one place to another, but they do offload the capacity demand for that immediate area of that small cell. They're used for that purpose rather than for coverage purposes.

Mr. Schwartz, RF Design Engineering Manager said the small cells shown on the map earlier are located along Highway 50, which is more offloading the Harvey's site. If there are Harvey's points down Highway 50 or Harrah's points towards Ski Run, all of those things are considered when they've identified the gap. So, the gap is showing coverage and capacity for the Ski Run Boulevard site.

Ms. Aldean asked if they are required to get a permit for the installation of those small cell sites on private property.

Mr. Albritton, outside counsel for Verizon said yes, they are required to get permits for all of their facilities; encroachment, building, wireless permits for small cells in the right of way, and on private property. They go through an extensive permitting process generally for all of their facilities in the Tahoe area.

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Ms. Aldean said the subject of structure fires was brought up. Mr. Albritton addressed this on behalf of Verizon that the likelihood of a tower catching fire is pretty remote. Are there any statistics regarding the frequency of fires related to cell towers as opposed to power lines, for example?

Mr. Albritton, outside counsel for Verizon said he's been involved with wireless companies for over 30 years, and the fires that occur are generally errors by welders who are working on the tower and start a fire. The most well-known wireless cell tower fire was in the Malibu Canyon, where a company overloaded Southern California Edison poles and a high wind caused the pole to topple and start a fire. There's no spontaneous combustion of cell towers. The antennas are basically taking RF signals through coaxial cable like a TV up to the antennas.

The radios themselves are in the equipment shelter and is where there's heat from the radios which have cooling systems and fire suppression systems within the equipment shelter itself. The equipment tower is monitored 24/7 by the emergency operations center for the cell system. There's an 800 number on the front of every cell tower that will reach the emergency operations center. There are photographs on the Internet of cell towers on fire, and generally it is a welder or some worker who has created that kind of problem, they don't spontaneously combust but would melt the metal pole under extremely high heat. The plastic on the outside has a flashpoint of 850 degrees and the pine trees will burn before the plastic melting or burning. The principal problem with wireless facilities going out in a fire like they've had in Sonoma County, is that the fiber cable to the tower can be melted or burned by the fire within the ground or above the ground.

South Lake Tahoe Fire and Rescue will have to review the tower with respect to all of their requirements under the fire code and the tower will have to receive a sign off by the fire officials before it can be built. It goes through every fire limit restriction that any construction would go through. The building code has extremely high wind withstanding and seismic requirements. All of these structures are built to sustain those kinds of weather and seismic activity, and to keep the system running as part of a state network required for emergency operations.

Ms. Aldean asked if the needles are coated with a fire retardant.

Mr. Albritton, outside counsel for Verizon said he understands that they are fire retardant themselves, but not covered in a fire retardant.

Mr. Bass said in regard to entering into a non-disclosure agreement and working with TRPA to produce a regional plan, Verizon would be willing to enter a non-disclosure that they wouldn't share their information with their competitors, so that can be informed to write policy that creates a planning document that shows the best place for these towers.

And, does it not take the right location to promote the best co-location, thinking that they want the least amount of towers to get the most coverage with multiple telecommunication companies? Also, do they not need to have that planning document for the entire basin to get that done in the best possible way?

Mr. Albritton, outside counsel for Verizon said he's been doing this for 30 years and in the early days the plan to cover the entire San Francisco Bay Area was going to be with 28 towers. That was in 1984 before the Internet, the mobile phone, and before the mobile phone was combined with the Internet. It was based on two radio frequencies, today, Verizon Wireless will be

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operating on five radio frequencies. At that time, they expected to have two percent market penetration for cell phones to people and there is now more cell phones in the United States than people. There's been the merger of the Internet and the cellular network. If someone asked

them for a plan of where their network was going to be, there's no way that any of the carriers would have been able to tell you how that would have evolved and that continues today. Small cells are a new technology.

The carriers are constantly trying to buy enough RF frequency, the real estate of cellular in order to meet the demand that they're facing from the community. They never know what frequency the Federal Communications Commission (FCC) is going to sell to them. The last frequency was from the old UHF television stations. That was the frequency that was available and required the networks to be designed around that frequency which travels a shorter distance than the old frequencies but carries more capacity. It's impossible to produce a single planning document that's going to show what the ongoing demand is going to be. It can be the construction of a hotel, a bridge, and changes in traffic patterns that affect where the facility is going to go. Also, changes in technology, how much data is put through, and the changes in terms of what everyone uses the cell phones for and autonomous vehicles, autonomous buses, drones, and other wireless applications of the Internet of things are all changing the demand supply network for wireless. A Master Plan can't just be drawn up to show where the facilities will go. Verizon Wireless and other carriers generally look out about three years for their planning horizon.

They're basing it on information like Mr. Schwartz showed you, the ongoing demand over three years, where the demand is coming from and where they have to put it. With the planning processes that they have to go through, they can't keep up. They can't even keep up with the demand that they're seeing and frequently have to change plans in the middle of the stream to try and get something approved and through. It's impossible to have a master planning document that that will would adequately or accurately describe what it was going to look like and would be out of date before the document was completed.

The non-disclosure agreement he's mentioning is for a peer reviewer. So, if someone disagreed that they had a significant gap which is not before the Board today, but was before the City, and it was said you would like this third party engineer to review the data to confirm that you absolutely need this site, and this is the best place to put it, then they'd enter into a non-disclosure agreement with that peer reviewer so they get the data that they need and can give the City the appropriate guidance. They don't give the information directly to the City or to a governing body like TRPA because of sunshine ordinances that make it impossible for them to keep that information confidential. But they will give it to a third-party consultant who can advise on the information they've provided.

Ms. Faustinos said as they talk about the proliferation of the need for cellular devices and what they did to themselves as a society by allowing smoking to get out of hand and then had to roll that back, for example. Hopefully, they'll learn from all these lessons. They have certain strictures in terms of their responsibilities as board members today, in the issue that they're taking up. However, she agreed with many of her fellow board members, and the issues that they presented. She particularly wanted to elevate the comments made by member Conrad-Saydah to figure out how to pay for all of this, which ultimately comes back to themselves as consumers. Realistically, the Agency cannot continue to bear these increased costs, because there's not a bottomless pit, they have to be responsible for government spending. Yes, they can do better planning and addressing some of these impact issues. But at the end of the day, they have to

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keep in mind their responsibility as governing board members in this context which unfortunately puts some constriction on what they can do.

Ms. Aldean asked if they've ever considered including a permit requirement having to do with the removal of obsolete towers.

Mr. Marshall said not that he's aware of. The only thing that's perhaps relevant here is that as they perform maintenance and upkeep on this tower, they are obligated to use the best available technology at that time. There is nothing in this permit that would require them to decommissioned at a certain point.

Ms. Aldean is not suggesting that they can necessarily determine when the pole becomes obsolete. But if Verizon ultimately abandoned it, shouldn't they be obligated to remove it and restore the area.

Mr. Marshall said yes, they should and believes they have the ability to do that. In particular because of the extent of the any plastic that's attached to it and then the pole itself. If that's the boards desire, they can further modify the permit with a condition requiring that.

Mr. Bass in the history of TRPA they never really have devised a plan for large cell sites and the locations of them. Do they have the authority to devise such a planning document that would put approved locations that these sites could be at?

Mr. Marshall said he believes they have the authority to initiate such a planning effort. The degree to which they can assign a particular spot, especially if it's private property to be available, is something that they'd have to address at that particular time. It is theoretically within their regulatory ambit. As they heard from Verizon's representative, the degree to which they'll be able to get participation or buy in on those particular sites over a particular time will be somewhat questionable.

Mr. Bass asked if they had the ability to force the co-location, meaning not just making Verizon open it up for co-location but making the other telecommunications use these towers instead of building a new tower.

Mr. Marshall said the way that is accomplished is through the alternatives analysis. Essentially to say, they have to co-locate unless they can establish that it's not feasible to co-locate.

Mr. Bass asked if they could make that analysis happen through a third party.

Mr. Marshall said they could require a third-party analysis to establish the fact that there is or isn't a reasonable alternative.

Ms. Gustafson allowed Mr. Gresser to ask his earlier question during board comment.

Mr. Gresser said there's a zero discharge standard on hazardous waste into the Lake. Why doesn't this impose an affirmative obligation for the prospective polluter, Verizon to disclose and to inform itself as to what all the contents are, chemical compounds and otherwise, of these monopines. And why doesn't TRPA itself have an affirmative obligation before allowing such a tower to understand exactly the chemical analysis every single component in a monopine to ensure that that the discharges are safe. If the answer is that they don't know, then the right

thing to do, is postpone this decision and have that study done by an independent expert so there's a good idea of what is being eminently proposed to being discharged into the Lake.

#### Public Comments & Questions

Robert Aaron asked if this was consistent with the Regional Plan. First and foremost, he would love for the Board to uphold this appeal. When Mr. Albritton discussed the PVC being displayed off of the towers, he did mention fiber about clothing, but the material that is used in some of these towers is called fiber reinforced plastic (FRP.) AT&T and Pac Bell have been deemed that they need to remove a cable 8 miles long with 3 pounds of lead per foot between Baldwin Beach and D.L. Bliss State Park. It is leaching lead, he believes microplastics to be the new lead. The microplastics are the same thing. The engineers' decision on abandoning those cables decades ago, your decision today in denying, allowing an appeal for the permission of an 112 foot cell tower is parallel to that. When they dropped those cables, they did not believe or think that they were going harm the Lake like they did. One tower contains 2.5 tons of potential microplastics. There's a tower that is within 1,000 feet of the Lake. The proposed tower at 1360 Ski Run Boulevard has a small cell tower within 400 to 500 feet of this massive monstrosity of plastic that they plan on putting forth. He asked that any responsible adult re-evaluate their long-term decisions and when to evaluate the potential harm their decision might make.

Melina Walish lives with her family on Ski Run Boulevard. There are several towers already installed on Ski Run Boulevard, and they have no problem with the current cell service. This is not about making a 911 call, it's about catering to out of town streamers. As a long term local resident, she and her neighbors strongly oppose the installation of this macro cell tower. Not only is it in violation of the local City ordinance, but it also puts the residents, wildlife and the environment at major health risks due to radioactive emissions and plastic microparticles shedding into the Lake. It is very common on Ski Run Boulevard for floods and atmospheric rivers to flow from the top of Ski Run Boulevard down into the Lake. The informal review that you're saying was reasonably done is based on what Verizon provided. There was no official peer review and was never questioned by a third party. She's disappointed and discouraged that their concerns have been ignored, despite their continued objection, voiced in many of these meetings. She asks that you please hear them now and grant the appeal.

Ben Lebovitz said the visual representations provided by Mr. Carmickle are completely inaccurate. The professionalism that he concludes is of merit, is wrong. From the screenshot that he took of the drone footage, the drone was positioned above the tree line, therefore, the trees are below the tree line, there is no possible way that the tower would sit below the tree line in the simulations. He's a professional Photo shopper and designer for Google and has worked for Apple, Verizon, and AT&T. He should be fired for what he's providing, it is admissibly incorrect, and hopes he loses his license to fly, etc. On Verizon.com coverage map, they're advertising no lack of coverage in the entire basin. How can you listen to them, tell you that there is a lack of coverage with their public communication and advertising agenda to share that there is such a need, there is not. There is a plan in place to adequately provide coverage where it is lost when there's a great number of visitors, and it is done in a safe way. What is the limit before the committee, before TRPA? What is the limit to the onslaught of emotional distress between the community? What is the limit for the 2.5 – 3 years of fighting this battle with inaccurate information? What is the limit it takes to have TRPA review a permit with accurate or inaccurate information? What is the limit for an individual resident to uphold TRPA standards for their own endeavors? What is the limit for providing the solutions to the housing crisis for TRPA? What is the limit that they allow themselves to create accessory dwelling units that are

within the standards of TRPA? What is the limit for inaccurate information from the land and sensitive materials provided by TRPA? What is limit before you're charged for negligence for your actions by approving a permit that has misinformation?

Noel Farmer, lives in the affected area and his family has had a home here for 50 years. They've seen a lot of changes at the Lake. His grandchildren are the fourth generation to now visit here. His first objection to this is when they were going back to the original approval, he received notice from TRPA about the installation of this pole. He was informed in that notice that he would later receive a notice from the City informing him of the City's Planning Commission's meeting. He never received any such notice and had no opportunity to speak against this. In the presentation, there was mention that there is no possibility of any of this pollution reaching the creek that runs behind his property. There's also another creek that's part of a spring that runs through his neighborhood that drains down onto the street and runs nearly year round. All of that debris will blow out into Ski Run Boulevard and enter that creek whether it goes across the street into the drain where the creek goes under or just simply blows westward and falls into the creek, it is absolutely going to reach the Lake.

He's located in the gap coverage area and has three bars right now; he has no problems with cell coverage. They showed that coverage with and without the pole and that yellow has no houses or road at the top of Ski Run Boulevard. Another consideration that came up that he never got an adequate answer on is what would be wrong with moving this tower 200 yards up the hill and putting it on top of the water tank. It seems that would put the tower on a height comparable to Harrah's, and would give a broader coverage, and no one seems to approach that subject. Not to mention that it would be virtually invisible on top of that water tank. They all have an obligation to look back at history, Lake Tahoe should have been a National Park. It was sheer happenstance in Congress and fighting that Yosemite became a park, and Lake Tahoe did not. If one looks back at the traffic plans and engineering maps that were done in the 1950s for what was going to be here; the freeway around the Lake, the bridge across Emerald Bay, the 250,000 people there were going to be living here, and they stopped it and TRPA was formed as a result of that. The first director of TRPA was his father in-law at that time. He is infinitely familiar with the workings. Please uphold this appeal.

#### Board Comments & Questions

Ms. Gustafson assured both the public, the appellants, and permittees that they've heard and diligently sat through quite a bit of discussion on this item today. They've also received a tremendous number of emails, and on behalf of the board, they review those and take into consideration all of the comments. They're greatly appreciated by the board.

For purposes of today, there are some limitations on their direction and actions that they can take even though there's many, many issues wrapped up in this discussion that are broader points of discussion for the future.

Mr. Marshall said the item of context is that before them are two requests, one is on behalf of staff, with the consent of Verizon to modify the permit to include Condition 11 regarding the faux pine needles. There's also an errata that went out last night that was a result of Ms. Aldean and himself looking at the indemnification language, and strengthening it to make certain that it covers concerns regarding increases in frequency, etc. Then there's the action on the appeal which is to an existing permit and the action requested of the board is to revoke that existing permit.

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Ms. Conrad-Saydah said It appears that the permit modifications that are before them are not as expansive as their discussion. Their discussion included modifying the permit to have fewer plastic needles and require that Verizon pay the cost of tower removal and site remediation.

From her estimation, they would need a bond. That's a lot of significant modifications that they don't have before them, what is the extent of their vote today?

Mr. Marshall said the board can provide direction to staff to modify with the conditions, and generally describe them, and then staff can refine that language. It would be important to have the basic performance measures for site remediation and disposal. For the cost, add to the bond that's now required, the cost of the additional inspections if staff believes that they need to increase that amount. Regarding the design, TRPA staff looks at the amount of faux material as a way of concealing and providing scenic protection. The density is what staff decided was appropriate for the scenic considerations. The Hearings Officer approved a site plan that had the basic densities set, and it's important for them to stick with the site plan unless they believe that fewer branches can accomplish the same scenic levels of protection. For those coming forward, they'll be more sensitive to that balance between the amount of plastic utilized and the protection necessary to keep the scenic ordinances in compliance.

Mr. Bass said they're here for this appeal because of a lack of planning on the issue. He believes for them to get what they need with regards to communication facilities; they need to do a robust analysis of what exists and where they're trying to go and what they're going get. He respectfully disagreed with Mr. Albritton around the fact that it's constantly changing thing. It may be true in the Bay Area where there is large development happening all the time. But here in Lake Tahoe this board thankfully has stopped development, and they are not going to see massive development that is going to change the needs of their infrastructure for communication. From his perspective, they need to show the communication industry that this is Lake Tahoe, they are tasked to protect the environment of this region and basin and ensuring that they only have what they need of those towers is critical, especially when it comes to the Federal Communications Commission (FCC) power against local government.

The local government only has 60 days when a proposed tower is submitted or it's automatically approved. That is an issue and feels that TRPA has the authority to create a plan that advises where these towers can go and the experts tell them where towers should be so they can all be co-located with all three major telecommunication companies. It needs to start with this appeal, not only because they need to show that they are willing to take on the telecommunication industries the same way they took on the casinos in 1980s and they must protect the basin. There are gaps and towers are needed but they need to do that in the most professional possible way and best for the environment. For him, it's about planning and not about stopping cell phone towers and is why he's not afraid of the litigation. If they start the planning effort, they will not ever reach litigation before they finish that effort and then allow cell phone towers to be constructed in the best possible places.

Also, this tower currently does not comply to the current code in South Lake Tahoe. That is something that did change from 2019 to now. The code was adopted when the Hearings Officer heard and approved this permit. The Hearings Officer is not bound to the City code, in his opinion, it should be taken into consideration, especially when he looks at the map on the Tahoe Seasons Resort deployment that hasn't happened but was approved from the City. That is within two blocks of this cell tower, and it clearly makes a big difference on the gap of what they are trying to fill. He'll be voting to uphold this appeal and asked that the Board take that into consideration. Not to

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stop cell phone deployment or even Verizon but to have a much more informed plan and position for them to work from.

Mr. Lawrence said this has been difficult, there's been a lot of great points and good discussion. From the planner in him, he said in many ways he agreed with Mr. Bass. He feels there's more work to do regarding design standards. What is that design to find the balance between meeting the scenic standards, but not damaging the ecosystem. A lot of talk about gap analysis and co-location which falls under location standards. How strong can they be in requiring co-location? How do they look at gap analysis? He's not entirely comfortable with what the process is. It seems a little subjective to him. Then there's the microplastic issue. It was mentioned about the Hearings Officer approving but not necessarily being consistent with the City's most recent ordinances and feels that's an issue that TRPA needs to take a look at. He knows it's not a requirement, but needs to be considered, and maybe a requirement moving forward. The Agency does need to take a closer look, but at the same time he's a firm believer that at a minimum, a public agency needs to review and make decisions based on the law and the code. If they're going to make changes, that should be moving forward and not necessarily to an entity that already has an application in under the current rules. There are good points from everybody and does think the Agency needs to take a look, but when he's voting, it will be on the Hearings Officer decision and whether it met TRPA code.

Mr. Bass said with regards to adding conditions to the permit. One of the requirements of why they had a setback in the City was the diesel generator has to start every Wednesday. They know there's battery technology from Tesla and many other companies that would actually suffice the ability for that backup. Could they require that it be a battery because of the distance of the residents instead of the diesel generator?

Mr. Marshall said yes, they could if there is a basis to make that decision. The Board could consider, but make sure that they have a basis in the record for their decision on that issue.

Mr. Bass asked could a basis point to the City ordinance and the setback.

Mr. Marshall said he doesn't believe the City ordinance in of itself provides the necessary substantial evidence to say here's the reason why a battery as opposed to a diesel generator is appropriate. They would have to look specifically at that issue to make certain that there's a reason why in this location.

Mr. Bass asked what about the City's net zero sustainability goals by 2030.

Mr. Marshall said the City's goals again are the City's goals and should be taken to account when the City takes action. The other thing is that Tesla charging also comes with its own potential impacts that need to be addressed. Make certain that the record has that in it. While this issue is a new one for TRPA's process. He's hesitant to say that that they have a good record to make that change, unless there's something in the record that they can point to that establishes why a Tesla charging battery might have impact be required instead of the generator. They've approved generators, he believes, with all their other cell towers. He doesn't feel at this point they can force them to choose some other emergency source, unless there's something in the record, he's unaware of.

Mr. Bass said within the vicinity of a residential home because they're having to start a generator every Wednesday along with a fuel truck that's showing up to fill up the tank. There are many reasons why a battery would be so much better for the homeowner and the neighborhood. With

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the technology, it doesn't need to be Tesla necessarily, there's technology that can run a cell site for 24-plus hours and then there's deployment of a mobile generator if it went over 24 hours. Verizon could easily figure that out with their engineers. It is a requirement that they should consider trying to help the appellant find a middle road for them.

Ms. Aldean said she's been transparent with her fellow board members that as a private citizen she's had concerns about the possible impacts of electromagnetic energy on human health. However, as a member of TRPA's Governing Board, she's more constrained. As pointed out in staff report, the Agency is a creature of Federal law, and must defer to the Federal Communications Commission (FCC) on general matters related to human health and environmental impacts of RF emissions. As a member of this board she sees no factual deficiencies in the staff's analysis and conclusions or any evidence of Tahoe specific adverse impacts of RF. An amendment has been made to address the applicants concern about needle shedding.

Ms. Aldean made a motion to approve the findings contained in attachment B to the staff report, including a finding of no significant environmental effect, subject to the following amendment: The second paragraph of section 2 shall now read "The installation of the monopine facility will not harm public health, safety, and enjoyment." The remainder of that paragraph remains unchanged.

Mr. Marshall said he and Ms. Aldean discussed this issue that she just identified and what she accomplished by making that edit to the finding is that they are not making a determination on the safety of RF emissions. Rather they're looking at the presence of it the tower itself. That's what the finding is based on, not making a finding regarding the relative safety of RF since they are deferring to the Federal Communications Commissions (FCC) determination on that issue.

Mr. Marshall said there's a permit that's been issued, the board is making a determination on whether to modify, revoke, or leave the permit alone. All those votes require the same voting pattern, which is a 5/9 vote; 5 affirmative votes from California, and 9 votes overall to either modify the permit or in the case of the request of the appeal to revoke the permit. To be consistent with staff recommendations, it would be to vote yes on motions one and two, and to vote no on motion three which would be the revocation of the permit under the appeal.

Ayes: Ms. Aldean, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson

Nays: Mr. Bass

Recused: Mr. Bruce and Mr. Yeates

**Motion passed.**

Ms. Aldean made a motion to modify Permit number ERSP-2019-0389 for the Verizon Wireless Monopine with Special Condition 11, as set forth an Attachment, A, and as modified by the errata sheet distributed earlier today, which states parenthetically that the design installation or operation of any improvements (including any increase in tower operational capacity or signal characteristics such as frequency or strength.) In addition, a condition shall be added requiring Verizon to remove the tower and restore the area if at some future date, the tower is abandoned or deemed to be obsolete. Furthermore, Verizon shall enter into good faith negotiations with TRPA to develop a cost recovery agreement that more accurately reflects the Agency's cost of monitoring the maintenance of the monopine and removing any associated debris.

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Ayes: Ms. Aldean, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson

Nays: Mr. Bass

Recused: Mr. Bruce and Mr. Yeates

**Motion passed.**

Ms. Aldean made a motion to grant the appeal which motion should fail in order to affirm the Hearings Officer determination.

Nays: Ms. Aldean, Mrs. Cegavske, Ms. Conrad-Saydah, Ms. Faustinos, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson

Ayes: Mr. Bass

Recused: Mr. Bruce and Mr. Yeates

**Motion failed.**

VIII. REPORTS

A. Executive Director Status Report

No report.

B. General Counsel Status Report

No report.

IX. GOVERNING BOARD MEMBER REPORTS

Mr. Bass asked about re-agendizing the discussion around planning for future cell sites as they move forward.

Ms. Marchetta said there's a priority setting process and they'll take that agenda item up in that process.

X. COMMITTEE REPORTS

A. Local Government & Housing Committee

No report.

B. Legal Committee

No report.

C. Operations & Governance Committee

No report.

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### D. Environmental Improvement, Transportation, & Public Outreach Committee

Mr. Lawrence thanked Ms. Regan and TRPA staff for sending out the good news regarding the Environmental Improvement Program funding coming out of Washington DC. He thanked everybody that worked so hard to get some needed funding for environmental improvement work, including the Congressional delegation. It's nice to see all of those wins that they got over the last month.

### E. Forest Health and Wildfire Committee

No report.

### F. Regional Plan Implementation Committee

No report.

## XI. PUBLIC INTEREST COMMENTS

Doug Flaherty said he'll be following up in the next few days with staff connected with a submission today under public comments to the Governing Board having to do with a Washoe County Board of Adjustment Appeal that was heard yesterday by the Washoe County Commissioners. That appeal involved the Ann Nichols Group, the Granite Bay Condominium Owners Association, and himself. The Washoe County Commissioners denied both his and Ann Nichols appeals points. They've exhausted their appeal process through Washoe County and they're coming to the TRPA board. He'll be following up in the next few days with staff to get the appropriate paperwork completed for an appeal and a complaint against Washoe County and TRPA. The appeal is on his behalf regarding the denial of his appeal. The complaint is against Washoe County and TRPA regarding the failure to meet applicable sections and intent of the Federal TRPA bi-state Compact and the TRPA Code of Ordinances in connection with the approval of the special use permit that was appealed last night.

Mr. Marshall said staff will speak with Mr. Flaherty in the coming days. The action that he is seeking to appeal is an action taken by Washoe County under local law, not an action that was taken as a matter of delegation. In first reading his papers, it is not appealable to this body. It is a separate action for a separate permit issued by Washoe County for its own processes. To make certain that he understands Mr. Flaherty's concern, they'll be discussing that with him in the coming days.

Robert Aaron said he'll be filing a Proposition 65 against the proposed tower on Ski Run Boulevard.

## XII. ADJOURNMENT

Ms. Gustafson moved to adjourn.

Chair Mr. Bruce adjourned the meeting at 3:52 p.m.

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Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler".

Marja Ambler  
Clerk to the Board

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