

TAHOE REGIONAL PLANNING AGENCY
LEGAL COMMITTEE

TRPA
Zoom

October 26, 2022

Meeting Minutes

CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Ms. Williamson called the meeting to order at 9:51 a.m. on October 26, 2022.

Members present: Ms. Novasel, Ms. Aldean, Ms. Williamson, Mr. Rice, Mr. Hicks and Mr. Yeates.

Members absent: None.

I. APPROVAL OF AGENDA

Mr. Marshall stated that there were no changes to the agenda.

Ms. Williamson deemed the agenda approved as posted.

II. APPROVAL OF MINUTES

Ms. Williamson asks for approval of minutes from the September 28, 2022 Legal Committee meeting. Ms. Aldean makes the motion to approve the minutes as presented.

Motion carried by unanimous voice vote.

III. APPEAL OF TAHOE TRANSPORTATION DISTRICT/WASHOE COUNTY SCHOOL DISTRICT TEMPORARY USE (TRPA FILE #ERSP2021-0673); 771 SOUTHWOOD BOULEVARD AND 915 NORTHWOOD BOULEVARD; INCLINE VILLAGE, WASHOE COUNTY, NEVADA; ASSESSOR'S PARCEL NUMBERS 132-201-02 AND 132-012-05; TRPA FILE NO. ADMIN2022-0027

John Marshall presented for staff. [Slide 3] He reminds the committee that they are here talking about the permit that TRPA issued to the Tahoe Transportation District ("TTD") for up to two years of summer use of two properties in Incline [Village, Nevada] to use as parking and transit stops for the East Shore Express ("ESE"). As the committee knows, the ESE runs up and down Highway 28 on the East Shore and provides substantial public transportation to beach goers and other recreationalists wishing to access the East Side and to reduce the parking along Hwy 28. The temporary permit was issued by TRPA Staff Bridget Cornell who will be available to answer any committee questions.

The temporary use permit was issued by the Hearings Officer and then a group of 26 Incline residents and concerned citizens filed an appeal. The appeal goes to a number of questions that are addressed in the staff report. On this slide, you can see the two properties – the Northwood and Southwood properties. The Northwood property is the existing Incline Elementary School and serves as the backup parking if the Southwood location, the old Incline Elementary School, is full. The Southwood location provides the main parking and transit stop for the ESE in this area.

[Slide 4] This slide is a graphic from the permit for the Southwood site. [Slide 5] This is the Northwood site, the current Elementary School. What the committee can see here are parking lots that are utilized by members of the parking lot to park and then access the ESE at the designated spot.

The major issues for the committee to consider is, first, whether or not these parties have sufficient interest in these permits. Generally that's satisfied if someone is affected by the permit as issued. The issue was raised for staff because within the appellate papers, there was no demonstration that these folks either lived in the area or were directly affected by these transit stops. The committee may want to hear from them on this issue and then decide whether or not under the Rules of Procedure ("ROP") there's sufficient interest of these appellants to continue with the appeal.

Assuming the committee does find sufficient interest, the first issue goes to TRPA's Special Use Findings. This is a special use as a transit stop within the Area Plan. There are three special use findings and 2 at issue here, on 21.2.2.A and B. The first issue has to do with whether or not the proposed use is consistent with the surrounding uses. The findings are fairly clear from the Hearings Officer that given that these were old or existing school sites, the use of these as a bus pull up and parking lot are consistent not only with the old and current uses but also with the surrounding uses. Next is the special use finding regarding detriment to surrounding properties. Again, as set forth in the staff report, the Hearings Officer detailed his findings regarding why it would not be injurious or disturbing to the health, safety, or enjoyment of property of the surrounding entities. This brings us to one of the appellants' main concerns which is the mobility hub which is not the project before the committee, and the future development of the Southwood site as a permanent mobility hub for TTD to operate the ESE out of and perhaps other transit services as well. That is not what is before the committee today. What's before the committee is the continuation of use that TTD has been putting to these sites over a number of years and whether or not there were the appropriate determinations made for this seasonal, temporary use.

The next issue, folds right along and whether or not the Chapter 21 Use that staff identified which is Transit Station and Terminals was the appropriate designated use. Again, the major concern of the appellants' here is that it shouldn't be identified as a mobility hub, which it's not, or that it should try to identify with the purpose with what was identified in the application. While the application describes what the use is, staff went through the appropriate use chart within Chapter 21 and identified "Transit Stations" as the appropriate special use. Appellants' main concern is whether or not the other descriptions that occur within the record somehow are inconsistent with the use of transit station special use identification. For staff that's not really the legal issue. The legal issue is whether or not it was appropriate to identify this transit use as a transit station and terminal. From the weight of the evidence, it was appropriate and the only identifiable and correct use for what TTD is proposing here.

Finally, there were concerns regarding environmental documentation done for the project. First, that there's a provision of the ROP 6.2 that states that TRPA shall coordinate where feasible with any NEPA or CEQA process that is going on for the same project at the same time. There is no appropriate NEPA or CEQA project identified here. It's in Nevada so CEQA doesn't apply. NEPA may apply but there is not Federal action regarding the continued use and issuance of a special use permit so there is no NEPA process to coordinate with; therefore ROP 6.2 does not apply. Lastly, there were concerns regarding the Initial Environmental Checklist ("IEC") that was prepared. In some of the recent emails, somehow the IEC was identified as being prepared in

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2014. That is just the date of that form. The IECs were performed timely.

The last issue Mr. Marshall talked about were some of the conditions of the permit which is page 138 of the packet. In particular, condition 7 which addresses parking. TRPA Staff understands that, because of the popularity of the ESE, there have been some parking issues on site. Staff has been working with TTD to meet condition 7 which identifies where parking can be allowed. Given that there has been parking in the past on dirt and in areas where TRPA doesn't allow it, and TRPA wants TTD to be consistent with condition 7, staff is working with TTD to establish some ways in which dirt parking can be blocked off and better coordinate TTD's operation with this site so that when there's overflow into the Northwood site, that happens seamlessly. There are several TTD representatives available today who will be presenting to the committee. TRPA Staff believes the Hearings Officer's 2-year temporary permit was appropriately issued and there is substantial evidence to support the conclusions he made.

Mr. Yeates states that he received an email yesterday from the lead appellant, Vanderpool, providing a significant number of photographs and comments as well as his address which is on the street adjacent to this facility. He read the question on standing and had some email correspondence at it and reviewed the materials. Based on the Statement which is just generalized opposition without any real specificity that gave any sufficient sense of the interest in the appeal. Since that time, they have now sent in [sufficient evidence]. Mr. Yeates asks then if this is a time issue in getting such material to TRPA?

Mr. Marshall responds that if Mr. Vanderpool lives in the area and is directly affected by the traffic than TRPA accepts that as establishing sufficient interest. It's a fairly low bar, but appellants have to show some connection to the problem that they're wanting TRPA to address.

Mr. Yeates states that part of his nervousness about this standing issue is in his own experience in his legal practice about how lay people are given some breaks on some of the issues where they don't have an attorney involved. Nonetheless, Mr. Yeates did receive that information directed to all of the committee members that seems to suggest there are traffic issues and parking issues and it was presented by a person that lives adjacent to this parcel.

Mr. Marshall states that this satisfies staff's concern for having sufficient interest in the project.

Chair Williamson states that the committee can determine from this discussion that the appellants have met the requirement to show sufficient interest and therefore standing and can hear the appeal on the merits.

Ms. Aldean asks Mr. Marshall if the appellants could allege sufficient interest just based on the potential impact of the proposed project on the general welfare of the region? Is that too high a bar to clear?

Mr. Marshall states that that brings into question whether there is sufficient interest in the permit itself. This is not a constitutional standing question. It's whether or not, in the committee's judgment, there is sufficient interest of who is appealing an issue and is there sufficient interest in that party to allow them to bring the appeal. The committee can imagine if there's someone who has a vendetta against someone else and they decide to appeal a permit simply because they don't like the permit holder regardless if they have any connection to the subject of the appeal. Ms. Aldean is talking more generally about cumulative impacts. Mr. Marshall states that an appellant could claim cumulative impacts as sufficient interest but these appellants did not allege that they suffered those. However, based on Mr. Yeates' statements,

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the connection between the appellants and the adverse effect they're complaining of has been made.

Chair Williamson confirms with the committee that they're in agreement that there's sufficient interest of the appellants to hear the appeal.

Ronda Tycer of Incline Village presented for the 25 Incline Village appellants to the TRPA Legal Committee and the Governing Board. They are requesting that the Legal Committee recommend their appeal be heard, and that the Governing Board reverse the Temporary Use Permit for the TTD's East Shore Express.

She will refer from now on to the East Shore Express as ESE and to the Old Incline Elementary School as the OES. She will begin with proving their right to have their appeal heard by the TRPA Board before responding to the Staff rebuttal of their appeal.

First, Staff is wrong to recommend the TRPA Governing Board should decline to hear their appeal.

TRPA Rules of Procedure 11.6.1 does not require appellants to show they are "particularly affected," but only that they have "sufficient interest in the outcome of the appeal."

Ms. Williamson confirms that the Legal Committee has determined that the appellants have sufficient interest. Ms. Tycer states that they don't need to all show that they were aggrieved. By right, they were all at the hearings and therefore have the right to appeal.

Ms. Tycer addresses the specific issues mentioned by TRPA in the Staff Report. She refers her responses to sections of the report.

Section A – Appellants Fail to Demonstrate Standing

She has covered this in her introduction. They have standing.

Section B1 – The Evidence Supports Special Use Findings

The first finding is — The ESE transit station is an appropriate use for the surrounding area. They disagree. The Staff rebuttal only addresses the "type of use allowed in the zone" and does not address the equally important "nature, scale, and intensity" of use. In fact, the majority of input from Incline residents over the years has been evidence that the nature, scale, and intensity of the ESE is damaging and dangerous to the surrounding neighborhood and the community at large.

[Slides XX-XX] The two-lane road is not big enough to handle ESE traffic. Every ESE bus and tourist car heading to the OES parking lot goes through the stoplight at the Highway 28 intersection with Southwood. As buses and cars turn through from Hwy 28 onto Southwood they go down a steeply curved two-lane road that in a few hundred feet leads past the OES to the Village Center and the US post office. Most Incline residents pick up mail on a daily basis because Incline doesn't have home mail-delivery. So hundreds of residents must go through that same stoplight and down Southwood past the OES every day.

The ESE causes traffic jams on both Southwood and Hwy 28. The ESE entrance to the OES parking lot is just a few hundred feet down Southwood from the intersection. During peak periods, as tourist cars go through this intersection before they can enter the OES, they pull to

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the right to wait along the curb. When cars are backed up all the way from the OES entry to Hwy 28 there is a massive spillover effect so cars on 28 cannot turn right to go down Southwood.

Section B2 – The ESE transit station will not be detrimental to surrounding property. Staff members contend the ESE at the OES does not include physical changes to the proposed location and conclude that it will therefore not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of the persons or properties in the neighborhood. They disagree.

Just because there are no physical changes to the property—as yet—does not mean that there are no negative impacts on Incline residents' health, safety, or general welfare. Nearby residents have provided numerous examples over the years—most recently appellant Aaron Vanderpool. His 87-page formal complaint to TRPA and TTD documents negative impacts to him and others in the neighborhoods. In his complaint he references increased crime, trespassing, illegal use of HOA and business property, public endangerment due to speeding, illegal backing up into traffic, illegal U-turns, pedestrians nearly hit by cars, a cyclist nearly hit, dangerous swerving around cars along the curb waiting to enter the lot, trash, noise pollution, and—against TRPA regulations—parking on dirt.

We believe these evidence-based complaints prove TRPA Staff is wrong in saying there are no injurious or disturbing effects of the ESE at the OES.

Further, Staff members contend that the Vehicle Miles Traveled analysis was a sufficient traffic study by which to conclude the ESE causes no increased traffic impacts. They studied only traffic impacts on Vehicle Miles Traveled and traffic volume. In fact, the ESE negatively impacts traffic, neighbors, and nearby HOA and business properties. These include people parking wherever they find space, loading and unloading recreational equipment and children illegally wherever convenient, and in their hurry to make the bus, making illegal U turns on a 2 way street.

Appellant Vanderpool's photos show endless traffic and parking problems. These negative effects in his formal complaint will be multiplied a hundred-fold should the ESE continue to operate from an expanded OES bus station. Staff's dismissal of their documented traffic concerns and complaints is simply wrong.

Section D – Staff concluded there was no need to coordinate with the FTA or NDOT because there was no NEPA or CEQA Action or Process with Which to Coordinate

Because the 771 Southwood property was purchased using FTA Federal funds via an application for funding in connection with a NEPA Categorical Exclusion Protective Property Acquisition by the Nevada DOT on behalf of the TTD, the primacy for regulatory environmental review considerations rests with the FTA under NEPA. Therefore, per TRPA Code of Procedures Chapter 6.2, TRPA should have coordinated its environmental review of the "change in use" of the property.

They continue to go on record that TRPA Staff misrepresented TTD's past use of the OES for the ESE. The Staff report says that the service has been operating for a number of years on a less-formalized basis. That statement is an obfuscation, vague and incomplete since the past use of the property was that of a 10-year inactive elementary school campus with 8 years of illegal, non-permitted TTD ESE parking and a non-permitted TTD bus transit stop. "Less-formalized" in this case means, "unpermitted," and "unpermitted" means illegal.

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They contend that TRPA's granting of the Temporary Use Permit represented a "change in use," and was, in fact, an intensification of use of the parcel. The original NDOT/TTD Federal funding application stated, "For the last 9 years, Tahoe Transportation District has been using the Property for a seasonal transportation hub," when actually the past use of the property was that of a 10-year inactive school campus with 8 years of non-permitted TTD parking and a non-permitted bus transit stop.

They contend that there was a change in use, and that change was from illegal to legal, which Staff cannot deny.

The Incline residents know the ESE service from the OES has had an overall negative impact on their village core. For this reason, they are uniformly against the TTD operating the ESE parking lot and transit service at the OES in the future.

They also know that TTD and TRPA use the tyranny of small decisions to advance their objectives. This Temporary Use Permit approval is just one small decision following many other small decisions. TRPA has not done a comprehensive environmental study of the cumulative impacts of this Temporary Use Permit.

They contend TTD is wrong to operate the ESE at the OES, and TRPA Staff was wrong to approve the use permit.

They stand firmly on their entire appeal and ask you to do what's right. Reverse the TRPA Staff's Temporary Permit decision. Thank you on behalf of all appellants and citizens of Incline Village.

George Fink, Transit System Program Manager presents for TTD. The ESE was established as part of a systematic approach to addressing the chronic congestion in the SR28 corridor and is part of a larger regional transportation system that's been planned for more than a decade. The ESE operations began as a pilot program in 2012 operating each season from June through Labor Day for 8 years (2012-2019) in partnership with Nevada State Parks. In 2020 and 2021 the service was suspended due to the pandemic. This year the ESE came back as an extremely successful return to service following that 2-year pause. Despite a shorter operating season, only 72 days vs. 77, ridership was 29,161 riders. That's 79% of the 2019 operating season and this particular season was operated with only one bus rather than 2 which was typical before. The ESE parked around 3,188 cars getting those off the road throughout the season at both the old elementary school at 771 Southwood and the existing Incline Elementary School at 915 Northwood.

In the report submitted to TRPA that has the breakdown of all the parking, ridership, days, busses, and all the things that were required by the permit there were 7 recorded comments regarding the season, 6 of which came in during the season and the 7th after the close of the season. Aaron's [Vanderpool] comment came in two days ago which would bring the total to 2 after the close of the season. Of the 6 comments received during the [operating] season, 1 was a compliment, 4 were operational complaints related to East Shore, and 1 was an operational complaint related to an ESE bus returning to the yard in South Lake Tahoe. The 7th comment was received on September 26, 2022 from Doug Flaherty and contained numerous items.

There's certainly things to be done to improve the service as we go forward. Some of the discussion about backing up on Southwood, the gates can be opened earlier to make sure that people aren't backing up on to Southwood. For parking in unpaved areas on the actual school site, TTD can work to put temporary barriers there to prevent parking on unpaved areas. For the parking attendants, they can do a better job and TTD will do better training to ensure that the overflow lot is used properly. Of course, TTD did have some issues with information from

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Nevada State Parks not being communicated properly so TTD will work closer with Nevada State Parks to make sure that they are telling people coming to the park the correct information and that people are going to the correct place.

Mr. Yeates asks about the last photos Ms. Tyser shared, we're doing this shuttle to reduce traffic by taking people out of their cars and parking them remotely. Like any community at the end of the line, they tend to take a lot of the adverse impacts. Mr. Yeates is concerned about the line [of traffic] and the lack of signage that the lot is full. There should be signage out on SR28 to let people know that the lot is full so that they go to the overflow area. Mr. Yeates states that the permit conditions and the conditions that TRPA General Counsel has pointed to are pretty vague. Mr. Yeates thinks there should be more specificity about how this should be done and where complaints go and how they're dealt with. From the photos, Mr. Yeates is focused on the traffic consequence that is dangerous to bikers and other cars. These things haven't been worked out and there may need to be a better transportation plan worked out for this site. The other issue is the "Pilot Project Approval" and when that was done. Was that actually an approval through State Parks or through TRPA?

Mr. Fink responds that they've tried a couple different ways of doing signage on the street over the years. That's something to continue to work with Nevada Department of Transportation ("NDOT") as well as State Parks. That goes back to better coordination between the agencies particularly with NDOT to be able to allow something like a changeable message sign to direct people where they need to go before it becomes an issue. As far as the parking goes, you can see from the [images of] the parking lots that TTD submitted in their report that what you're seeing there is similar to any event opening up where you have initial stack on that; it is certainly not an all day situation. It's a point source in the beginning of the day and at the end of the day after the initial fill and initial download which is proven out through the data. There are some parking impacts there and what TTD is committing to do is to open the gates earlier so that they can try to alleviate that stack from people trying to get there early. Typically, gates are opened at 10 a.m. with the arrival of the first bus. As for the pilot project approval, Mr. Fink defers to TRPA as to what approvals TRPA had given at that point. Mr. Fink is not aware whether that was through the Park service, TRPA, or neither.

Bridget Cornell with TRPA explains that the pilot project approval was not an approval by TRPA. She believes that is in reference to some funding that TTD got at the time. As Mr. Fink stated, this is part of a comprehensive East Shore Management plan. The pilot project was a test case to see how the shuttle would operate by capturing the residents in Incline before heading to Sand Harbor. If anyone has driven along the East Shore from the North headed towards Sand Harbor in the summer, traffic frequently backs up all the way to Incline Village. That is one of the problems that the pilot project was seeking to address but the pilot project was not previously approved by TRPA. Over the years it was brought to TRPA's attention which is why the permit was brought forward now as a temporary use.

Ms. Tyser mentions that the comprehensive East Shore Pilot plan was designed to decrease Vehicle Miles Traveled ("VMT") and alleviate parking along the East Shore. There is no reason Incline should be sacrificed for this greater good. If, in the 2022 season, the ESE counted 3,188 cars driving into the basin from wherever their entry was to the old Elementary school, then parking and saving 14 miles round trip, that is not going to reduce VMT to save the Lake and it's not going to reduce the bumper to bumper parking along the East Shore.

Committee Comments & Questions

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Ms. Aldean states that it's been suggested that some of the offsite parking is from an adjacent apartment complex and she wonders if anyone from TTD can validate that? Do they know if all of the cars parking offsite are people who are utilizing the transit service?

Mr. Fink responds that as far as people parking offsite, TTD has control of the old Elementary school but does not have control of the surface streets in Incline Village. Therefore TTD has no idea who's parking where or why [outside of the old Elementary school].

Ms. Aldean asks if the attendant onsite has observed the parking habits? If people are parking outside of the permitter of designated parking and exiting their cars and boarding the express, you know that they're TTD's passengers.

Mr. Fink responds that TTD is not currently tracking where people are coming from as far as walking into the yard. The parking attendants are there more to govern parking not to observe the ridership. If that's something TRPA would like to see in the future, TTD would certainly be open to that.

Ms. Aldean states that she thinks it's important. Part of the problem is that the ultimate solution is not only having parking of this nature available in the Basin but having satellite parking lots outside of the Basin where these people should be intercepted if they're intending to come into the Basin to go to Sand Harbor. It would be nice if there could be poll conducted of the approximately 3,100 people coming in from outside of the area, if they could be intercepted from outside the Basin and transported into the Basin that would be the ultimate solution. This isn't what's before the committee today but Ms. Aldean believes this should be part of the final transportation plan going forward.

Mr. Fink states his agreement and that this is the entire SR28 corridor plan from 2012 that outlined a system that included not only internal mobility hubs and circulation but also external mobility hubs and intercepts. What's important to remember that for any external intercept to work, there has to be a transit system in place within the Basin to move people coming in and that has not materialized in the Tahoe Basin as of yet. These things are incremental and it takes a long time to move things forward in Tahoe but that is the plan. Incline Village is not a "sacrificial" community, it's one part of a larger system and it happens to be the one that is up now. Obviously, Tahoe City has a mobility hub and TTD is moving forward with improvements on SR28 which would include a mobility hub at Spooner Summit. These things are not an "or", it's an "and". We need both the internal structure within the Basin and the external structure to go along with it but the internal needs to be built first otherwise there's nowhere for people to go.

Tara Frank, Transit Planner and Analyst with TTD, refers the committee back a few years to the SR28 National Scenic Byway Management Plan. That incorporates the pilot project and was in partnership with Carson City County, Douglas County, Incline Village General Improvement District ("IVGID"), NDOT, Nevada Division of State Lands, Nevada Division of State Parks, TRPA, U.S. Forest Service, Washoe County, Washoe Tribe, and NV Highway Patrol. It started with the SR28 National Scenic Byway Management Plan with this pilot project which has continued to be the subject of the discussion today, but also included the other mobility hubs which would serve as those intercept lots. It was a part of a greater project to address things from a Regional perspective because it's absolutely recognized that that is necessary. It was planned by all of the partners from the Regional perspective. It comes with funding issues. At the time, it was funded by largely by Federal Highways funding which is now outdated. TTD is looking at transit funding and how that can develop solutions. TTD is working to get those partners back to the table. TTD

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has completed additional portions of that management plan with the bikeway. The other projects in consideration were the Incline Gateway which is the roundabout that was also completed and the NV State Park General Management plan update, among others.

Public Comment

Chair Williamson states that any appellants who have designated Ms. Tycer to speak on their behalf are not permitted to make public comment at this time.

None.

Committee Deliberation

Mr. Yeates states that his concern is that even though this is a temporary use and the pilot project prior to COVID and now post COVID, he understands the importance of this temporary use but he's not convinced that the due diligence has been done to the extent required for such a project. Mr. Yeates therefore supports the appeal because he thinks that TRPA should reach out to NDOT and NV State Parks and Incline Village folks to come up with a transportation plan with better signage, how complaints are managed, etc. These are things that TRPA should try to resolve since there's time ahead of the next parking season. Mr. Yeates doesn't think this requires significant environmental review but does require some more due diligence.

Mr. Marshall responds that the committee does have the ability on appeal to modify the permit conditions. If the committee feels that the permit conditions need to be strengthened or made clearer or address something else, they have the options to recommend to the Governing Board to be amended to address their concerns.

Mr. Yeates states that he feels the committee needs more time and doesn't feel that they can toss out mitigation measures. For example, they don't know what NDOT can do in terms of better signage or working with State Parks to have them hand out informational material.

Ms. Novasel states that she wants to bring another perspective to the conversation. When they do pilot programs, there are always impacts. Looking at pictures of this, there are clearly impacts that have not been address properly but she doesn't want to "throw the baby out with the bathwater" and say that this [service] needs to stop. There's a condition in the permit that states that TRPA reserves the right to amend any portion of the permit. What the committee is dealing with today is whether we can find the right language to give TRPA or permittee the ability to make the necessary changes. Pilot programs are how we get to a process that works so Ms. Novasel supports making amendments that gives TRPA and the permittee more direction and authority to improve the service without stopping the process.

Ms. Aldean asks if the appeal is denied, can the issuance of the Temporary permit be stayed in order to address these issues? She thinks that they need to be more inclusive after receiving a lengthy appeal from Incline Resident Diane Becker whose appeal to TRPA was that we involve community members who are experiencing the impact from these projects. TRPA should go to the Washoe County Sheriff's Department to see if they'd be willing to ticket people parked along the roadway. Ms. Aldean states that she thinks more people need to be brought in to develop a more robust enforcement program.

Mr. Marshall responds that first, there was an extensive Hearings Officer process where most of the appellants had input. He states that the committee may also want to look at the life of the

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permit. Right now this permit is for 1 year or season and can be extended to another season. If TTD wants to operate next season, they either need to extend this permit, or the committee has the option to not extend and TTD will need to come back to a new permit for next season with various additional conditions and issues addressed as have been discussed.

Ms. Cornell adds that regards to the adjacent parking, there is quite a few multi-family developments in the area including an apartment complex directly across from the old Elementary school site. Some of the parking impacts are from this apartment complex. There were parking issues while the transit service wasn't operating. Ms. Cornell agrees with Ms. Novasel's comments regarding pilot projects. Part of the appeal of approving something on a temporary basis is an information gathering opportunity. TRPA along with TTD were hoping to gather feedback in these kinds of situations in order to continue to develop the service and support the longer term planning process. Regarding some of the complaints that came in during the season, staff passed those along to TTD and they were responsive. Because the gates were opening as the first bus came in, there were traffic backups. TTD adjusted to open gates early to allow people to park ahead of time.

Ms. Aldean is not comfortable moving forward with extending the permit until these issues are resolved which is why she made her suggesting to hold the extension of the permit pending proper remedies by the TTD and broadening the group brought to the table to provide meaningful input. This is obviously having an impact on the community; at least one of the appellants lives in close proximity and she thinks the committee needs to show some deference to him and other members of the community who may not be involved in the appeal. The other question she has for Ms. Cornell is whether or not the lot is currently closed?

Ms. Cornell confirms that the old Elementary School site is fenced all the way around so the gates are only opened for the purposes of the ESE project. A different part of the site was used for staging of construction equipment unrelated to the ESE.

Ms. Aldean states then for observational purposes this is a good time of year to see how many people are parking offsite and outside of the gates and surmising where those cars are coming from. If they're not parking there to access the transit system, then they are coming from the immediate neighborhood. She thinks this is important because this is a large part of the appellants' argument is that people are not abiding by the rules. There's a lot of additional investigative work that needs to be done to make this palatable. This is why Ms. Aldean suggests that they hold the permit in advance, give direction to staff to cooperate with TTD to investigate the implementation of some more robust control measures and to address in a meaningful way some of the problems that this transit location has created for the adjacent neighborhoods.

Mr. Rice states that he is in support of denial of the appeal. This is something that has been going on for not too long of a period, it's a pilot project, and if we don't build it, they're going to come anyway. The people who have been parking along SR28 and creating the hazards that we are trying to have an effect on are still going to come if we don't allow this mobility hub. He understands the feeling of the locals who live in Incline Village; he experiences the same thing in Zephyr Cove with people going to Nevada Beach and Round Hill Pines. Those people fill up the parking lot so that you can hardly go to the market or get your mail but that's another problem which will be resolved with the transportation hub at the Event Center. He believes that the parking hub here [in Incline Village] is something that's very much needed and he concurs that, since we're going into the slow season, we'll have time to address the signage issues. Therefore he agrees with Ms. Novasel and supports denial the appeal.

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Chair Williamson proposes a motion recommend denial of the appeal but limit the permit to one season and before granting a permit for next season require that the permit include conditions including signage, more robust language to direct overflow parking, opening the gates [to the lot] earlier, better training, better enforcement of barriers to parking on soft coverage, coordinating with NV State Parks on correct information to people parking with the express, direction to staff and TTD to work with the community as we add to these requirements in order to issue the new permit next year.

Ms. Novasel agrees to make the above motion.

Mr. Hicks states that someone should really talk to the Washoe County sheriff on enforcement because if they're not going to enforce the parking requirements, to get assurance before this is a permit condition.

Mr. Marshall addresses that this is a significant issue for a lot of places in the Basin and we're trying to deal with them on a broader scale so he recommends that parking enforcement not be attached as a specific condition for this particular area. Staff can come back to the Board with informational items on what is happening because it's a common issue. It requires work in a coordinated fashion with all parking enforcement agencies, not just the Washoe County sheriff. Mr. Marshall doesn't want to put a condition on the permit that requires the sheriff to agree to enforce before the permit can be issued. The parking issues on this particular site through better use of markings, temporary barriers, etc.

Mr. Hicks responds that he doesn't think the condition should be that the sheriff has to agree but that since this is a pilot project, they should use that pilot project to look at all critical issues affected by this project. He agrees with what Mr. Yeates and other committee members have highlighted about traffic and safety concerns. He recognizes the concerns with the Incline Village residents who have to put up with the issues. He thinks TRPA needs a better understanding of what can reasonably be expected [from the sheriff] in terms of traffic enforcement.

Ms. Novasel suggests adding a condition to work in coordination with law enforcement. Mr. Hicks agrees that TTD should be directed to consult with local law enforcement authorities and to address their concerns and advise TRPA of the enforcement plan for this pilot project in this location. It will help with other pilot projects in other parts of the basin.

Ms. Novasel amends her motion to add the condition to direct TTD to work in coordination with all local law enforcement to develop an enforcement plan.

Mr. Yeates asks Mr. Marshall to clarify how the timing of this permit works. His understanding is that the motion as suggested would be approving something that's already happened in the past year?

Mr. Marshall states that the permit was issued in May 2022 for the 2022 summer season and the appeal is on that decision. This permit could be extended another year but the motion, as Mr. Marshall understands it, is to condition that extension on the satisfaction of enhanced conditions of approval and involvement of the Incline residents and coordination of local law enforcement. Staff will bring the permit through another public process especially given the committee's express concerns about involving the Incline residents.

Mr. Yeates is still concerned that the community has been very vocal about their fear and loathing of the mobility hub or anything else TRPA might possibly do in any transportation plan

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they might want to put together to the extent that they feel TRPA is just blowing them off is not going to help TRPA politically. Mr. Yeates is adamant that something in the motion addresses their concerns, that there is going to be some level of enforcement. It seems similar to what TRPA went through with the 2018 Shorezone plan. They didn't come down heavy handed on enforcement but they got a lot of information out about how the new shorezone plan would be implemented. Nothing like that seems to be in place for transportation. The public needs to think that TRPA cares as they try to do things that benefit the Lake, the transportation program needs to be viewed positively among the Basin communities. Mr. Yeates does not want this to be swept under the rug.

Chair Williamson states that this is exactly what she's trying to capture. Transportation is the name of the game and while they need to continue to solve these transportation issues, they need to hear and take into account the communities concerns, and work to improve this particular project operation.

Ms. Aldean states her agreement with Mr. Yeates. For example, TRPA went to great lengths with Short Term Rentals to involve public and come up with a process that reflected true consensus at the end of it. Ms. Aldean believes that's what the Incline appellants are looking for here in fact, one appellant said specifically that TRPA has become well known for its integrated processes in terms of reaching out to the public. She thinks TRPA fell short on this project. Considering that this site was used for a long time "informally" and without TRPA oversight, this contributed to the community's feelings that TRPA doesn't care or isn't aware of what's going on at this site. This is a large component of an overall scheme to address the need for improved transit in and outside of the Basin.

Mr. Marshall asks for a clearer recommendation to the Governing Board for direction to staff for what process to follow. What he's heard from the committee is that TRPA should not extend the permit until these conditions are met which includes directing staff to take the permit back to the Hearings Officer or should it come back to the Board.

Chair Williamson gets consensus from the committee that they will recommend that the permit comes back to the Governing Board.

Ms. Cornell asks that the committee clarify they're recommending that they'd like the permit revised to incorporate the additional conditions?

Ms. Novasel makes a motion to recommend to the Governing Board to deny the appeal but that staff not extend the permit to next season until it is approved by the Governing Board with additional conditions including improved signage, better training, opening gates earlier, coordination with local law enforcement, and inclusion of community feedback/public participation, coordinating with Nevada State Parks on the correct information, and barriers to parking to prevent parking on soft coverage.

Ayes: Mr. Rice, Ms. Aldean, Ms. Novasel, Mr. Yeates, and Ms. Williamson.

Motion carried.

Presentation can be found at <https://www.trpa.gov/wp-content/uploads/Agenda-Item-No-VI-A-Tahoe-Transportation-District-Washoe-County-School-District-Appeal.pdf>.

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IV. DISCUSSION OF OUT OF BASIN PROJECTS

Item continued to November 16, 2022 meeting.

V. COMMITTEE MEMBER COMMENTS

None.

VI. PUBLIC INTEREST COMMENTS

Doug Flaherty thanks members of the committee and especially Mr. Yeates for their wisdom. He states that no one is opposed to a bus hub, they're opposed to the location. The chair should not have shut down public comment from the appellants because it would have required some sort of crystal ball to understand what they would have said so it could have still been connected to the issue. His comments were going to have been about solutions which were brought up during the hearing. In saying that, he would like the committee members individually to consider what harm it would do, if any, if in that eventual Board decision that they made it clear that the automatic second year would not be part of the process going forward meaning it would be removed from the original permit condition. Also, that would go a long way to satisfying additional public comment and making sure this whole thing is vetted a little more clearly. He also requests that they have a community meeting. There's no harm in it and it would further community input. He doesn't know of any Incline Village resident who's been rude or disruptive during their comments; they've all been very civil.

Aaron Vanderpool states that he was going to comment earlier and wanted to fill in the rest of Ronda's five minutes since she didn't use her whole time but he'll speak now. One of the problems of this project is getting the evidence. It's very obvious to him what goes on here but it takes a lot of time to get the evidence. The pictures [that Ronda Tyser presented] were from only a couple days that he was able to make the time to take photos but he sees the same thing every day [during the ESE operating season]. The videos tell a much better story but just being there tells a big story. One of the big issues that he takes issue with is that this use is similar to the old Elementary school. This use is clearly different. Mr. Vanderpool went to that school and when it was operating as a school there's the wave of dropping kids off in the morning and afternoon, it's not all day or randomly. Everyone knows where they're going, tourists don't know where they're going. Even when there are signs people aren't going to park there. Even when the lot wasn't full he witnessed people parking and driving on HOA property and parking in the business lots and walking in. For any of that, he'd like to see an independent party collecting this data. Looking at this project trying to solve the problem on 28, all you're doing is kicking the can down the road by still allowing this to move forward in this neighborhood. This is a low income neighborhood. The wealth gap's grown so big you have all of Incline empty and then the working class lives here. It's an extra burden to us. As far as the police, he's had many discussions with police officers who have told him they don't have the resources to enforce in his neighborhood. One officer told him that they've basically given up on that neighborhood. He's been standing and talking with a police officer for a car parked under a No Parking sign and the officer told him that he has discretion on giving a ticket and he chose not to give a ticket. Obviously the Basin needs public transportation but this is just terrible. All he hears from the TTD is that there is a larger transportation plan but when you look at the specific site here, it's

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not a good idea. You're bringing the tourists into the low income area and creating these safety and environmental issues and an extra burden on people like himself having to go out and actually prove what's obvious.

VIII. ADJOURNMENT

Mr. Yeates moved to adjourn.

Meeting adjourned at 11:24 a.m.

Respectfully Submitted,

A handwritten signature in black ink that reads "K. Huston". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Katherine Huston
Paralegal

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