

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Online Meeting
Via GoToWebinar

June 24, 2020

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Yeates called the meeting to order at 10:33 a.m.

Members present: Ms. Aldean, Mr. Beyer, Ms. Berkgigler Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Gustafson, Mr. Hicks, Mr. Bass for Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates

Members absent: Ms. Faustinos

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

Mr. Yeates deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES

Ms. Aldean moved approval of the May 27, 2020 minutes as presented.

Mr. Bass abstained.

Motion carried.

V. TRPA CONSENT CALENDAR

1. May Financials
2. Governing Board Appointment to the Environmental Improvement, Transportation & Public Outreach Committee

Ms. Aldean said the Operations and Governance Committee recommended approval of item one.

Public Comments & Questions

None.

Board Comments & Questions

Ms. Aldean said the new debt as mentioned in the staff report was issued on June 17 and the prior debt has been retired. The committee members extended their congratulations and appreciation to staff and our advisors for expediting the completion of the refinancing.

Mr. Beyer moved approval.

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Ayes: Ms. Aldean, Ms. Berkgigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

VI. PLANNING MATTERS

A. TRPA FY 2021 Budget

TRPA team member Mr. Keillor provided the presentation.

Mr. Keillor said this has been an incredibly challenging year due to both the direct impacts of the Covid-19 pandemic effecting everyone on a personal human basis and the resulting financial catastrophe from loss of tax revenues. Normally by this time, we would know what our state allocations were to put together a solid budget. Instead, we've had to make some assumptions based on inputs we've received from the states but there's still a degree of uncertainty on how the budget is put together. State funding does provide about 45 percent of the revenues with the rest coming from grants and fees.

Staff feels that this is a conservative budget that's achievable. It doesn't mean they can guarantee that this will be the definitive answers, both states are still in the process of finalizing their 2020/21 budgets and awaiting updated revenue assumptions. There are plans in place in case the situation deteriorates and will continue to monitor so if we need to, we can make any necessary adjustments. Overall, the budget put together is designed to reflect the budget reductions that they believe they'll be receiving from the states to execute on the work plan that was presented to the board last month and to protect to the extent possible the staff.

The budget challenges facing the two states is extreme and both have missing pieces before they can really wrap things up. California is facing a \$54 billion dollar short fall to a \$153 billion dollar general fund budget that's based on the Governor's original proposal in January. In the budget that was passed, they did a good job in narrowing that short fall down to about \$14 billion. It's our expectation that there'll be another round of budget cuts around August. Although, they don't have definitive numbers on the special funds that we draw our money from. We're reducing our budget by about \$250,000 in anticipation that there would be some reductions. Nevada is looking at a short fall of \$1.3 to \$1.4 billion versus a \$4.5 billion dollar fund. The administration is working with the legislature to convene a special session that will be held next month. They don't know what that final allocation will be until after that session happens. They've requested TRPA to propose cuts between 6 and 19 percent of our Nevada contribution. For the purposes of this budget, we've assumed the maximum of \$354,000.

Staff is being conservative on the revenues, not just on the state funds, but we're also going to decrement the estimate of planning fees by about ten percent. The grants budget is secure, all the grants that are in the budget are either firm under contract or the contracts are being finalized at this point. The inflow of Lake Tahoe Restoration Act money and other grants is providing a good influx of cash for this year. They did estimate the lower planning fees but there are counter arguments to that. There is a lot of anecdotal evidence that real estate in the basin is very high and is a hot market. It remains to be seen how that will play out.

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TRPA's cost structure is different from a lot of government entities in the sense that the compensation and contract expenses are roughly equal. That gives a great deal of flexibility in making these budget cuts in comparison to those entities that are people driven. Our work plan is dynamic, and the contract activity shifts from year to year. For example, the current year, a substantial portion of the contract money was focused on the threshold evaluation and other things like the US Highway 50 Community Revitalization Project and Main Street Management Plan. That work is going down and won't have as big of an impact next year. The future work for the 2021 budget is gravitating more to activities that are funded through the Lake Tahoe Restoration Act, transportation and Forest Service grants. Also, items such as the Tahoe Keys activities, AIS, and the west shore activities.

This is how we've managed to make these budget reductions without having to lay off staff or implement furloughs or salary reductions. It is not business as usual; they're going to freeze staff salary and head counts. They would only consider an increase in staff if there was a funding source for added staff. The bulk of the cuts were made in the contracting area, this is a change in the work plan between last year and the coming year. The bond refinance has been completed and were able to get a one year postponement of the first principal payment so that contributed a \$75,000 savings against the 2021 budget. They've also adjusted miscellaneous accounts such as the travel expenses. The aquatic invasive species and the shoreline funds have reserves. Therefore, they would not propose to transfer general fund money into those funds if they should run into a financial problem. Currently, the AIS fund is balanced but will be dependent on what happens to the boating season and watercraft inspection fees. The shoreline program is budgeted with a deficit, it's not a structural deficit but rather due to putting more money into the online permitting system so we can move forward with phase two of the shoreline permitting program. The basics of the mooring registration is able to cover its own costs. The general funds without shoreline balances out to zero as do the grant funds.

The Environmental Improvement Program Division is the largest spend and is driven by the AIS program. We're the programs fiscal agent so most of those costs go through TRPA. Current Planning and Long Range Planning and Transportation are next. The Research and Analysis function is the area where a lot of the reductions were made. The Research and Analysis is mostly financed by the general fund. Even with the reductions, there's still a lot of contracting. A lot of that is in the Aquatic Invasive Species program where almost everything we do is contracted out. TRPA's staffing is about three full time equivalents for AIS but there's substantial contracts for control and for prevention programs. In Long Range Planning and Transportation there's a shift in funding for these contacts in moving away from general funds to grant funds.

Presentation can be found at:

[Agenda-Item-No.-VI.A-FY-2021-Budget.pdf](#)

Board Comments & Questions

Mrs. Cegavske said Nevada has taken a 19 percent budget reduction on mostly vacancies that won't be filled. The legislature postponed their meeting until July because they're trying to get the building ready.

Mr. Lawrence asked if any of the proposed reductions will affect the vehicle miles traveled work.

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Mr. Keillor said there will not be an impact to the vehicle miles traveled work. For example, the threshold evaluation is done every four years and every time that comes around there's a surge in contract expenses for completing the threshold evaluation. It's not a year in year out cost for the threshold evaluation, rather it goes up and down. Fortunately, for the budget purposes, that effort is being wrapped up.

Public Comments & Questions

None.

Board Comments & Questions

Ms. Aldean made a motion to approve the Fiscal Year 2021 Budget as presented.

Ayes: Ms. Aldean, Ms. Berkgigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

B. Briefing of Tahoe Living: Housing and Community Revitalization Initiative and Designation of Working Group

TRPA team member Ms. Fink provided the presentation.

Ms. Marchetta said this is the startup of one of the six initiatives in next year's work program. Many will recall that when we adopted the 2012 Regional Plan, at its foundation they were emphasizing the update of our small community centers around the Lake. Where workers who support the local economy could live affordably without then having to choose to live outside of Tahoe and commute every day. There are many housing studies and assessments that are showing compelling data. Lake Tahoe doesn't have enough housing within the income reach of the Tahoe service workforce. This initiative is intentionally directed at providing that missing increment for affordable-achievable housing for our resident workforce who serve the Tahoe businesses. This initiative is going to concentrate the work on coordinating with the local partners and other essential stakeholders who are in the housing delivery system. They're going to ensure that a sufficient portion of what is a very limited remaining residential growth potential in Tahoe, under the growth management system is targeted at providing that affordable and achievable housing that needs to be in proximity to the town centers.

There's three compelling reasons to focus the housing work on affordable and achievable housing supply. The first is that over the last 40 years of Tahoe development, they've been relying upon hope that the market would deliver at the affordable-achievable end but has not worked. In Tahoe, where the cost of land and construction is quite high, the market is not delivering at the affordable-achievable socio-economic end of the spectrum. This initiative sets the intent to find the right tools to assist the market. Second, this is very current to our times and we are being called on to take stock of the equity and inclusiveness of the system. Where we have existing systems that create an inequity and imbalance, we're being asked to acknowledge those inequities and be responsible about addressing them. With very limited exceptions over nearly a decade, the majority of Tahoe housing stock both old and new is continuing to go predominantly

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higher end housing that serves the needs of visitors and second homeowners primarily. That has created a socio-economic skew towards the large high end homes that are out of reach to Tahoe's workforce. In this current market without help and added incentives, they can't get there on the affordable-achievable. This is going to come far more important as we see suggestions that Covid may be creating an urban exit to Tahoe. We're required to do better on this increment of housing and is what the initiative is intended to do that. The third reason is that built into the Regional Plan are requirements to provide the need increment of affordable-achievable housing. That's needed in order to meet TRPA's regional environmental standards and targets such as greenhouse gas reductions.

Ms. Fink will be presenting on the sustainable communities strategy and the regional housing needs allocation requirements. Those requirements are now a matter of state law and local governments around the Lake subject to penalties if the housing requirements aren't met. We are running out of time in development capacity to meet this need. We have 4,000 parcels out of what was in 1980, 47,000 residential parcels.

Ms. Fink said today staff will introduce the housing and community revitalization initiative and ask for approval of a working group to launch this initiative. This initiative is an outcome of the housing work plan which was presented to the Governing Board in January and is one of the six strategic priorities in the operations work plan presented at the June board meeting.

A cornerstone of the Regional Plan is the growth management system which provides a backstop for meeting the environmental thresholds. A key element of obtaining those environmental thresholds within that growth management system is being able to have sufficient housing in-basin for the workers within close proximity to walkable, bikeable Town Centers. We are nearing the end of our supply of residential development rights, which is a little over 4,000. We want to focus our efforts on how we get a sufficient portion of that remaining capacity into the affordable-achievable market.

This concept of meeting this housing need is in some ways already baked into the Regional Plan through the Sustainable Communities Strategy, and the Sustainable Communities Strategy is how we meet our vehicle miles traveled and greenhouse gas targets. Because TRPA is the Metropolitan Planning Organization for the region, our sustainable communities strategy is required to show that we can accommodate this California Regional Housing Needs Allocation (RHNA). Local jurisdictions on the California side, are also required to show in their housing elements that they can meet these RHNA requirements or they can be penalized.

Over the last year, the Tahoe Prosperity Center and Placer County have conducted their own needs assessments in the basin, based on surveys and employment data, at more of a region-wide level, and have identified a greater need than the California SCS/RHNA requirement shows. About 5,100 is the overall housing need at all income levels, and the affordable-achievable range is around 3,700. This is for a different geographic area than the California RHNA, it's more region wide although, it doesn't include Washoe County. This is additional data to consider as we are devising our strategy.

In the south shore over the last ten years, over 75 percent of the homes sold were sold for over \$550,000 which is about \$200,000 more than a moderate income family can afford. In Placer County last year, only six percent of homes were sold to local residence. In order to get the affordable-achievable housing that is needed, we need to be intentional about how we plan for

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this and will likely need to offer a variety of incentives to get building to happen in this range. They may also need to look at bringing some of the existing housing stock into the affordable-achievable range and using the development rights conversions.

There have been some recent housing successes, and we can look to these to see what levers need to be activated to make affordable-achievable housing work. Since 2012, 113 new deed restricted affordable-achievable homes have been built in Town Centers; Domus/Kings Beach Housing Now in Kings Beach was built in 2013. This project needed additional density in order to work. This project came forward with a code amendment that allowed for that additional density. The project also faced some uncertainty in the permitting process that led to additional costs. The Aspens project is in the City of South Lake Tahoe's Tourist Core Area Plan near Ski Run Boulevard. This project needed some deferred fees and some public easements.

What they're proposing to do next is to dig into these issues with a working group that is dedicated to housing and community revitalization and that brings in community expertise into the discussion. The Mountain Housing Council and the Tahoe Prosperity Center have produced action plans and policy papers that they're building off of the action strategies identified in those documents. They've been looking at those strategies through the lens of the proforma that was developed for the development rights strategic initiative.

Slide six is a snapshot of the interactive tool: This tool will test different strategies and see how the costs to build different types of development would change. Then the costs could be compared to the affordability levels for the different income groups in Tahoe. The horizontal lines labeled affordable, moderate, and achievable are what's affordable for people in those different income levels. For example, on the left it shows how much it costs to build a typical single family home. The middle column shows the costs to build multi-family dwellings at 15 units per acre which is about the density that's possible in Tahoe right now without interventions. The right shows multi-family development at a density of 30 units per acre, which is more than is currently allowed in TRPA's Code of Ordinances. The different colors represent different cost elements, such as construction and labor, land, etc. This tool allows them to look at individual strategies, understand how they affect the cost of building, and compare that to what the Tahoe-specific affordable-achievable income groups can afford.

There are three root components of the mismatch between available housing and needed housing. These three are development costs and requirements on the top and affordability for local residents or local resident income levels. They're looking at how the top and bottom compare. (Presentation slide 7). The two elements on the top; development costs and development requirements make up the building environment that shapes what the market delivers. Larger houses cost much less per square foot to build to the point where only larger houses are able to generate the return on investment. Local wages in general are not high enough to afford those at the ownership or rental level.

This working group will allow them to tackle the housing need from both the local and the regional level. Each jurisdiction may want to focus on strategies that are unique to their jurisdiction. What can be done at the working group level is quantify what amount of the overall housing need strategies get them and then can evaluate the remaining gap and determine if there's regional strategies that they need to implement to fill that gap. They can also determine whether they need regional strategies to help speed and support the success of those local strategies.

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The proposal of the working group reflects both the local and the regional input needed. They're also proposing that this working group be housed in the Advisory Planning Commission in order to involve the local staff that are under the gun to deliver local housing needs. The APC charter sets this group to do this type of support work in a high level of technical detail to support the Governing Board. The working group is also designed to pull in community stakeholders.

The proposed working group would be made up of the local government staff members of the Advisory Planning Commission or their designees, four members of the Governing Board for the regional perspective, and eight community stakeholders, and ad hoc participants that may be identified by the working group. In addition, they would like this to be open to public and involved in the process.

The working group will provide fully developed recommendations to the Local Government and Housing Committee before going through the rest of the Governing Board process. The proposed stakeholder representatives are representatives of those communities that are directly affected by the outcomes of the work or those that have direct experience in the affordable-achievable housing market.

The proposed timeline is that by August, the working group would meet and agree on the objectives and the process. In September, they would determine if there's additional research needed to quantify which strategies are going to be the most effective to move forward on first. Assuming that there is additional research needed, there'll be time for that. They anticipate that by the end of 2020, there'll be a draft prioritized strategy list to bring to the Governing Board as an informational item. By March 2021, work will start on the top two to four policy recommendations.

To allow the growth management system to achieve the environmental thresholds, they need to provide for a sufficient amount of our remaining capacity to go towards affordable-achievable housing close to town centers. They're proposing to work through the strategies to do that by forming a working group that is a committee of the Advisory Planning Commission that can develop a mix of solutions and bring forward through the Governing Board process.

Presentation can be found at:

[Agenda-Item-No.-VI.B-Housing_CommunityRevitalizaiton.pdf](#)

Board Comments & Questions

Mr. Bass asked why their city representative isn't listed on the working group.

Ms. Fink said the plan is to have a city representative as one of the Advisory Planning Commission representatives. It would be a member of the APC or their designee.

Ms. Novasel said El Dorado County has been working on this through the Tahoe Prosperity Center for many years. She helped develop the first housing task force years before that. There are issues regionally and locally and the idea of using TRPA to help define what those issues are is critical in moving forward with the housing strategies.

Mr. Yeates said he agreed with Mr. Bass and was surprised that the City of South Lake Tahoe is not one of the members. He also hopes the California Tahoe Conservancy has a role in this. They're

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the land bank and we currently have projects that we're coordinating on through the California Administration.

Ms. Fink said staff has spoken to the California Tahoe Conservancy to ask them if they'll be one of the stakeholder representatives under owners of public lands. The working group would include owners of public lands, community land trust, an affordable-achievable housing developer, affordable-achievable service community, and others who have experience in the housing market such as a representative from the contractors association, realtors, a large employer, and the environmental community. They have specifically identified individuals but are happy to discuss.

Public Comments & Questions

Jean Diaz, Executive Director, St Joseph Community Land Trust said they're a 501(c)(3) that works to expand and preserve permanently affordable housing in the Tahoe Basin. They supported moving forward with this initiative and would be happy to participate on the working group.

Steve Teshara on behalf of the Tahoe Chamber said they're an active member of the programs on the south shore that developed the Regional Housing Needs Assessment that was published last fall and the Housing Tahoe Action Plan published in March 2020. They supported the proposed initiative and encouraged the Governing Board's support. It's been mentioned that there are missing elements on the working group. He said there should be a transportation stakeholder and there is a Tahoe Transportation District representative on the Advisory Planning Commission and might be a way to involve the transportation sector as part of this process.

John Friedrich, Founder and Director of the new Tahoe Green Jobs Coalition responding to the Covid crisis with an initiative to get local people back to work in green jobs. This also includes green affordable housing. It's been stated that accessory dwelling units would be even a more affordable option and encouraged the board to look at aligning with new California law on accessory dwelling units (ADU) to permit them sooner than later. This will be an opportunity to provide very affordable housing for some segment of the population and some supplemental income for locals with a minor developmental footprint has proven to be a successful strategy in communities across the country. They could provide some jobs to locals including aligning with current technical education programs at South Tahoe High School or community college work force development type programs.

Ms. Fink said there's been a lot of comments about accessory dwelling units. Staff did take conceptual proposals to the Local Government and Housing Committee before the Covid pandemic and received good input on what they'd like to see as we move forward with the proposal. That will be one of the first items discussed with the working group in how that fits into the bigger housing package.

Stacy Caldwell, Tahoe Truckee Community Foundation and project lead for the Mountain Housing Council commended staff for stepping forward into an implementation strategy, exploration of new tools, and streamlining processes. They're grateful for TRPA's support and commitment to the regional discussion and involvement in the basin wide activities as well as the footprint beyond the basin. She encouraged the continued collaborative approach as they keep the drumbeat for the community awareness and education around these issues. The collaborative exploration around policy improvements that can be made as a region, streamlining the processes, and then work together to share lessons learned and accelerate those solutions and be

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able to show up in statewide advocacy. They're incredibly hopeful as they ended their three year initiative of the Mountain Housing Council 1.0. The 2.0 work plan will launch on July 17. She looks forward to working with everyone to connect the dots of these efforts into bigger regional successes.

Heidi Hill Drum, CEO, Tahoe Prosperity Center thanked TRPA for the continued commitment to looking at innovated housing solutions. They supported staff's recommendation to continue that housing collaboration in the region and looks forward to participating as a community stakeholder on the working group. They started out as one of the many community partners through the Mountain Housing Council work who initially spearheaded this effort in the Lake Tahoe Region. They applauded Truckee and Placer County for their leadership in promoting housing projects in their communities. The Tahoe Prosperity Center took their lead and followed that to facilitate the Housing Tahoe Partnership on the south shore. TRPA is a partner agency as well as the City of South Lake Tahoe, Douglas County, and numerous partners around the region. Every partner agency has a role to play in promoting housing development in the region. It's not all new development, it's repurposing old housing, it's the accessory dwelling unit component, and is working collaboratively together throughout the region to figure out what those things are that will promote the right type of housing that's needed for the local residents.

Board Comments & Questions

Ms. Gustafson thanked Mr. Hester and Ms. Fink for their involvement from the beginning at the Mountain Housing Council. We've made incredible progress and at the Placer County July Board of Supervisors meeting they'll be discussing a deed restriction program for first time or local home buyers. She hopes that the working group can also include the Truckee Tahoe Community Foundation as well as the Tahoe Prosperity Center.

Ms. Novasel said she agreed with some of the comments made about the membership. The City of South Lake Tahoe needs a designated place within the working group, along with the California Tahoe Conservancy, and the Tahoe Prosperity Center.

Mr. Bass said he agreed with previous commenters. He said there should be an elected from South Lake Tahoe and is critical to this working group. It will be the elected that works with the city manager to determine the best staff member. The City has recently entered into a memorandum of understanding that is for the loop road project, but they're committed regardless of the loop road project to see that affordable housing being developed along with many other projects.

Mr. Yeates asked why four, why can't we have five? There's three on the California side; the coverage is a little bigger at Lake Tahoe and California probably has greater requirements such as the accessory dwelling units amongst other things. The City is part of the Main Street Management Plan for one example.

Ms. Fink said staff is happy to consider that. She said it was planned as even balance between Nevada, California, south shore, and north shore. There'll be the six representatives from the Advisory Planning Commission from each of the local governments with the option to add a representative from the Incline Village General Improvement District. Then there would be two representatives from the Local Government and Housing Committee along with two from the Regional Plan Implementation Committee. They were selected based on their membership of the

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board committees rather than their jurisdiction. They don't necessarily need a developer from both the north and south shores, so there may be a real estate representative who is focused on the north shore and possibly someone from the affordable-achievable service community focused on the south shore to get that balance.

Mr. Yeates said the City of South Lake Tahoe is represented on both the Local Government and Housing Committee and the Regional Plan Implementation Committee.

Mr. Hester said after the Main Street Management Working Group was established, there was discussion on who from the City should be on the committee. It was decided that there were two individuals that were appropriate. If there's a few other entities or people who want to serve, that's fine. Staff was trying to get a good cross section without getting too big of a committee.

Mr. Marshall said what also went into the selection was trying to avoid a majority of another board committee. For example, if a city representative were added then that would be a majority of the local government committee and we also need to consider a quorum of the Regional Implementation Committee. To some degree, they were trying to make this an Advisory Planning Commission working group rather than having to agenize committees such as RPIC or the Local Government and Housing committee.

Ms. Marchetta suggested that staff work with the City on how to get the best representation for the City. No one is objecting to involving a city representative and staff will ensure that the city is represented.

Mr. Bass asked if the board representative will be whoever is in the position. If the board member is replaced with another elected from the local jurisdiction, will it then be the person taking the new board position? If that's the case, then the city representative should be outlined in the same way that these other local jurisdictions are.

Ms. Marchetta said this may not need to be a TRPA Governing Board member. They can include the City and their representation in a way in which the City wants to be represented.

Mr. Bass said it's probably more appropriate for the city council to discuss and then come back. If that's the way, it's going to be for these other local jurisdictions then he believes the City would want it to be the same way for them.

Ms. Aldean said it's important to a certain extent to balance the representation from the two states but when it comes to housing matters, it's important to have the city at the table. She's willing to surrender her position as a member of the Regional Plan Implementation Committee to Ms. Laine as the city's representative.

Mr. Yeates said a city elected official needs to be on this working group. They're an important part of the housing in the south shore.

Mr. Marshall said the substitution of Ms. Laine for Ms. Aldean as a representative from the Regional Plan Implementation Committee would be the most direct way to accomplish this. It is going to be an appointment by the Governing Board so we can take action on it today. If the board doesn't want to do that, he suggested that they take the first motion and then staff can come back next month with the makeup of the committee.

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Mr. Beyer said he understands the content of being balanced between the two states but encouraged the committee to find an housing expert who has worked in either in the states or other areas of the state regarding housing.

Mr. Yeates asked if Mr. Beyer is suggesting someone that's had experience developing affordable housing.

Mr. Beyer said yes, that's correct. When the project was approved for Kings Beach it was a very lengthy process but there was an affordable housing developer that made it work. He's hoping we can find an affordable housing developer or someone who has expertise in the housing policy in Carson City or Sacramento. A lot of what will drive the opportunity is the legislative vehicles that can be utilized for development.

Ms. Fink said the staff report specified that there would be eight community stakeholders but based on some of the feedback, it sounds like there's a suggestion for additional suggestion stakeholders of the working group.

Ms. Marchetta said it would allow staff to move forward expeditiously if it's suitable to the board to take up Ms. Aldean's suggestion and include Ms. Laine as a member of the Regional Plan Implementation Committee. As far as adding stakeholders, many other stakeholders will be invited to these meetings. Part of the balance was trying to get a working group that was manageable. She suggested that we move forward with the substitution of Ms. Laine for Ms. Aldean and the increase the stakeholders to ten positions and will take into account some of the input about adding additional stakeholders.

Ms. Novasel made a motion to form the Tahoe Living: Housing and Community Revitalization Working Group, with the membership and responsibilities as described in this staff report and amended by board member comments.

Ayes: Ms. Aldean, Ms. Berkbigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

Mr. Bass made a motion to designate two named members of the Regional Plan Implementation Committee and two named members of the Local Government and Housing Committee for the Tahoe Living: Housing and Community Revitalization Working Group with the substitution of Ms. Laine for Ms. Aldean as a representative from the Regional Plan Implementation Committee.

Ayes: Ms. Aldean, Ms. Berkbigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

VII. PUBLIC HEARINGS

- A. Bijou/Al Tahoe Community Plan Amendment to expand the applicability of an existing special height standard to Lake Tahoe Unified School District property

TRPA team member Mr. Conger provided the presentation.

Mr. Conger said this proposal is a request from the Boys and Girls Club of Lake Tahoe to amend the Bijou/Al Tahoe Community Plan. This amendment would apply an existing special height standard to school district property. The proposed amendment effects District 4 of the Bijou/Al Tahoe Community Plan in South Lake Tahoe. Currently, a design standard that applies district wide, requires that roof pitches be between 7:12 and 12:12. The community plan also includes a special height standard that applies only to the Lake Tahoe Community College. That special height standard allows for height related standards such as roof pitches to be determined on a case by case basis. The second standard is the special height standard and is the subject of the amendment.

The Boys and Girls Club of Lake Tahoe has filed this application seeking an amendment to the community plan. The Boys and Girls Club presently operates a facility on the old Al Tahoe Elementary School campus adjacent to the South Tahoe Middle School. The Boys and Girls Club is planning to construct a new building at the eastern end of Lyons Avenue where it meets Rufus Allen Boulevard adjacent to the building they are currently using. They're seeking an amendment to the Bijou/Al Tahoe Community Plan to provide additional flexibility for building design. As revised, the special height standard would apply to school district property in addition to the Lake Tahoe Community College property where is currently applies.

This would allow roof pitches to be considered on a case by case basis for development on school district property. As part of this modification, staff is also recommending updating the Code of Ordinances chapter references within this section to reflect the code renumbering that took place in 2011.

Staff reviewed this proposed amendment to determine if there would be any potential for environmental impacts or negative impacts to thresholds or compliance measures. The result of that analysis is attached in the staff report. Staff also issued an errata sheet with a revised attachment E, specific to the thresholds and compliance measures. That analysis even with the revisions does conclude that the proposal would not result in significant impacts. The biggest issue area was scenic impacts and they're not anticipating any impacts there because buildings benefiting from the modification would still need to meet city wide design standards and guidelines. Any buildings seeking additional height beyond what the Code of Ordinances would allow would need to be accompanied with certain findings that would ensure against any major significant scenic impacts.

The Advisory Planning Commission unanimously recommend approval of the community plan amendment as proposed. The Regional Plan Implementation Committee reviewed the proposal this morning and also recommended adoption. Their action also included corrections to the spelling of the word "amendment" that appeared the revised Attachment E. The locations are on page 76, following line 19, page 92, lines 13 and 15, page 94, line 51, page 95 on the comment lines on pages 62-72.

Presentation can be found at:

[Agenda-Item-No.-VII.A-BijouAlTahoeCommunityPlan.pdf](#)

Board Comments & Questions

None.

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Public Comments & Questions

None.

Board Comments & Questions

Ms. Novasel asked if this special use designation could be used on other public buildings. There are other projects happening within the Bijou/Al Tahoe area that are having issues with height requirements for public use.

Mr. Conger said they chose to focus this one very specifically to the school district property. When they had early meetings with the city staff, they indicated that there is a desire to change the roof pitch standard throughout the Bijou/Al Tahoe area. Their preferred approach is to do that on a more global scale as part of an area plan that either focuses just on Bijou/Al Tahoe area or one that covers the balance of the city that's outside of existing area plans. They felt that it needed more outreach and analysis, and this was a specific amendment that could proceed absent doing the bigger fix.

Ms. Novasel asked if the roof pitch in this area plan different than other area plans.

Mr. Conger said yes. There's a specific standard in the area plan that applies to the Harrison Avenue district and the District 4 which is mostly public service area where the school, Sheriff's station, and ice arena are. It applies to only those two districts.

Ms. Novasel asked what the timeline was for the overall review. The limitations are difficult for public use facilities to maintain that kind of plan.

Mr. Bass said they recently had a presentation (not at the full council level) on the area plan amendment and will see it in the future for possible approval.

Ms. Novasel said if the City wanted to approve a change to the area plan, is it correct that it would require approval from the City and the Governing Board before they could move forward with a change.

Mr. Conger said correct. Usually the approach is to start with an informal presentation at the Regional Plan Implementation Committee to get general feedback on the proposal. Then after the City takes action through their Planning Commission and City Council, then it would go through the Regional Plan Implementation Committee, the Advisory Planning Commission, and the Governing Board.

Ms. Novasel said there's other public uses within the area plan that are going to have issues with this stringent requirement. She hopes that the agencies can start to work now in getting this plan changed if possible because it's already having an effect on future plans for public use areas.

Mr. Conger said the City is pursuing doing an updated facilities plan for the city in that area. There may be other amendments and design standards that they wish to address as part of that process as well that may come out of that conceptual planning for the 56 acre property.

Ms. Novasel said the 56 acres is owned by El Dorado County and the City is going to be working with the county on this.

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Mr. Bass said the City's Planning Commission has heard the Tourist Core Amendment that will move into the Bijou/Al Tahoe Community Plan. It was an informational presentation and will go back to the Planning Commission, City Council, and then TRPA.

Mr. Yeates read the Ordinance title into the record: Amendment to ordinance no. 2019-03, as previously amended, to amend the Bijou/Al Tahoe community plan by applying a special Height standards to Lake Tahoe Unified School District Properties, and other matters properly related thereto.

Ms. Aldean made a motion to recommend approval of the Required Findings as described in Attachment B, including a Finding of No Significant Effect, for adoption of the Community Plan amendment as described in the staff report noting the revised Attachment E and corrections read into the record in the presentation.

Ayes: Ms. Aldean, Ms. Berkgigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

Ms. Aldean made a motion to recommend adoption of Ordinance 2020-___, amending Ordinance 2019-03, as previously amended, to amend the Bijou / Al Tahoe Community Plan as shown in Attachment A.

Ayes: Ms. Aldean, Ms. Berkgigler, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Faustinos

Motion carried.

- B. Lake Tahoe Unified School District-Boys and Girls Club Building, 1100 Lyons Avenue, City of South Lake Tahoe, California, APN 025-010-065, TRPA File Number ERSP2019-1596

TRPA team member Ms. Avance provided the presentation.

Ms. Avance said this is a joint project between the Lake Tahoe Unified School District and the Boys and Girls Club of Lake Tahoe to replace some old portable classroom buildings on the district property adjacent to the Al Tahoe Elementary School. The new modern building will house the Boys and Girls Club programs. The project requires Governing Board approval because the public service floor area is increasing by more than 3,000 square feet.

The existing Boys and Girls Club programs have been operating out of the old Al Tahoe Elementary School building since the elementary school closed in 2007. They've been sharing space with the various district ran preschool and TK programs.

The new building will be located at the eastern end of Lyons Avenue where it meets Rufus Allen Boulevard adjacent to the old elementary school. The project includes a 14,000 square foot single story building, parking and driveway modifications, landscaping, and BMPs for erosion control. This building is part of a joint use program between the district and Boys and Girls Club of Lake

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Tahoe and is being reviewed as an addition to an existing school use on site. Existing programs include after school tutoring and educational enhancement programs. The new building will provide specialized spaces for classroom and recreation activities.

The proposed floor plan includes a number of classrooms for tutoring and specialized studies and a central high ceiling multi-purpose game room for indoor recreation and larger group activities such as projector programs. The proposed single-story structure will be 28 ½ feet tall with high windows to provide light to the interior of the building and will have a similar design to other buildings on the campus.

The project had several potential issues that were addressed to ensure compliance with the Regional Plan. The project was reviewed against the Bijou/Al Tahoe Community Plan and design standards and meets all requirements for use and design. The parking requirements were considered for the existing and proposed buildings combined and compared to the existing adjacent parking lot, they found that no additional parking was needed. Although, the Boys and Girls Club is an existing program at the school there is no increase in capacity proposed because the total floor area is increasing. They did analyze the building for potential increase in daily vehicle trips. The largest percentage of students who attend the after school programs are already on campus at the South Tahoe Middle School. The only trips specifically associated with the program are the students who arrive by bus after school and are then picked up by their parents after the programs. This resulted in the calculation of 60 new daily vehicle trips which will be mitigated by a payment of an air quality mitigation fee. The project will require about 9,800 additional square feet of land coverage which is available as banked coverage on the campus. The project area also has around 386,000 square feet of excess land coverage and a portion of that will be mitigated as a part of this project. The proposed height at 28 ½ feet is two feet higher than the allowable height identified in maximum height table in the Code of Ordinances. As a public service project, it is eligible for up to four additional feet in height by making certain findings. Those findings were made by demonstrating that one, the structure will not extend above the forest canopy when viewed by Highway 50. Two, that the structure is located in a mature forested area and will not interfere with existing views. Three, the additional height is necessary to allow for the higher ceiling of the multi-purpose game room located in the middle of the building as well as the addition of high windows to bring in natural light.

The project is consistent with all requirements of the Bijou/Al Tahoe Community Plan and Code of Ordinances and all potential impacts have been mitigated.

Staff recommended Governing Board adoption of the findings in Attachment B and approve the project based on the staff report and draft permit.

Presentation can be found at:

[Agenda-Item-No.-VII.B-Boys-and-Girls-Club-Building.pdf](#)

[Board Comments & Questions](#)

Ms. Aldean referred to the staff report on page 111. It states that the City has no jurisdiction over the district because it's a special district within the State of California. In the absence of TRPA, who would be reviewing this project if the City doesn't have jurisdiction. How would this have been handled if it hadn't been in a community plan and TRPA wasn't available to review the application and the City was precluded from reviewing the application?

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Ms. Avance said it would have been reviewed by the state agency that oversees all of those. It's the agency that supersedes the City or the local jurisdiction for schools.

Mr. Morales, Project Manager, Boys and Girls Club thanked Ms. Roverud and Mr. Hitchcock from the City who helped them as they moved forward with this. Ms. Avance and Mr. Conger did a spectacular job. He thanked Ms. Marchetta and staff for their support of this project and is appreciated by the Boys and Girls Club community. TRPA met their needs which is also the needs of the community.

Public Comments & Questions

None.

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Mr. Bass asked if there was any ability to put environmental building LEED certified standards for these types of projects or is that currently in place with TRPA.

Mr. Marshall said they don't have any LEED certification requirements within the Code of Ordinances.

Mr. Lawrence made motion to approve the required findings (Attachment B) contained in this staff summary, including a mitigated finding of no significant effect

Ayes: Ms. Aldean, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Berkbigler, Ms. Faustinos

Motion carried.

Mr. Lawrence made a motion to approve the proposed project subject to the conditions contained in the draft permit, Attachment C.

Ayes: Ms. Aldean, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Berkbigler, Ms. Faustinos

Motion carried.

VIII. APPEAL

- A. Appeal of Approval of Lot Line Adjustment Permit, 460, 470, & 480 Gonowabie Road, Washoe County, Nevada, APNs 123-131-04, -05, & -06, Appeal File Numbers LLAD2019-0821 & ADMIN2020-002

Mr. Marshall asked board members to disclose any ex parte contacts with either the project proponents or the appellants. Under the Rules of Procedure, they can have such contacts, but they have to be disclosed prior to the meeting.

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Mr. Bruce said he also made prior disclosures during the Legal Committee meeting. Mr. Goldberg is casual friend or acquaintance that he's known about three years. They've met for coffee approximately three times and have other wise discussed community related projects. Mr. Goldberg spearheaded a conference in Reno about three years ago which he was invited and not charged a fee. Mr. Goldberg called him about this appeal and like Mr. Feldman, he spoke with Mr. Goldberg and doesn't believe that his casual friendship or acquaintance with Mr. Goldberg or the discussion with him or Mr. Feldman will impact his independent judgment in this matter. He will proceed in the decision making process.

Mr. Lawrence said he was contacted by the project proponent's consultant, Mr. Feldman twice. Once was about one month ago as the parties were exploring different settlement options that may or may not have involved adjoining state owned property. He provided the contact information of their Nevada State Lands Administrator to Mr. Feldman and wasn't involved in any further discussions. Mr. Feldman contacted him yesterday, asking him if he had any questions about this, which he didn't. He doesn't believe any of those contacts or conversations will influence his judgement.

Ms. Novasel said she's had two conversations with Mr. Feldman about the project and similarly doesn't believe it will impact her decision.

Ms. Aldean said she has also spoken with Mr. Feldman, counsel for the permittee. She also believes that her judgement will not be influenced by that discussion.

Mr. Marshall said Ms. Berkbigler had to leave the meeting for a preexisting doctor's appointment.

Ms. Gustafson said she didn't have any conversations with either party.

Mr. Beyer said he didn't have any conversations with either party. He previously owned property next door to that site but is irrelevant to this conversation.

Mrs. Cegavske said she's not heard of this gentleman.

Mr. Cashman said he didn't have any conversations with either party.

Mr. Rice said he's had frequent conversations with Mr. Feldman as they work closely on the redevelopment project at Stateline. However, to the best of his knowledge, he knows nothing about this case.

Mr. Bass said he didn't have any conversations with either party.

Mr. Marshall said this is an appeal of an approval by the Executive Director of a lot line adjustment for 460, 470, and 480 Gonowabie Road. As is evident from the materials in the staff report, the approval was for the interior lot lines to be shifted to resize the parcels into relatively equal size parcels. The major criteria for TRPA are whether or not there's an increase in development potential or any sort of change in non-conformance status. Staff found that there was no increase in non-conformity and there would be no increase in development potential. Therefore, staff issued the permit allowing the lot line adjustment. Reuben Richards and Robert Goldberg, two neighbors filed an appeal and stated a number of grounds as to why they felt the permit was improperly issued. Those included coverage, the extent of the findings, the scope of the findings

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including the initial environmental checklist and whether or not TRPA's could be taken given various restrictions within the deed and judgement regarding setback requirements.

Staff's position on those issues: The coverage issue was addressed, there was a mistake of an additional 270 square feet of coverage that was improperly assigned. That has been taken care of. The findings are supported, and all the findings have been made. The scope of the initial environmental checklist focused on the change that occurred by the change in lot lines, not the ultimate development of the proposal. The scope of the initial environmental checklist was appropriately on the action before the Executive Director and before the board today. This issue of TRPA's legal authority to approve this lot line as a result of this preexisting 1947 judgement and certain deed restrictions. There was a lot of conversation about that at the Legal Committee. The fundamental issue is that it is his legal recommendation that the TRPA board and TRPA as an agency does have authority to issue this lot line adjustment. In particular, the setback issue is not an issue for the lot line adjustment permit itself and that also Washoe County who are subject to all these various state laws has already approved the lot line adjustment.

Mr. Bruce said this morning the Legal Committee heard this item for the second time after continuing the item last month to gain additional information. The committee heard presentations from staff, the appellants, and the permittee on the merits of the appeal. The committee, which is usually constituted of five people, but Mr. Rice was not in attendance this morning. Of the four members present, the vote to uphold the Executive Director's decision to grant the lot line adjustment was unanimous. The committee recommended that the Governing Board vote to uphold it and deny the appeal.

Attorney Greg Gatto representing the appellants Robert Goldberg and Reuben Richards.

Mr. Gatto said appellants render a continuing objection to board member Ms. Berkbigler's participation in this matter as a violation of appellants procedural due process rights as well as Article VIII of TRPA's Rules of Procedure. Additional public comment from concerned neighbors was submitted to the board at the last hearing and are requesting that the board consider that information in the deliberations today.

They are here today on what at first blush may appear to be a simple appeal of a lot line adjustment but what in fact has been a process that has been manipulated and contrived by the applicants since the original submittal. In which has culminated in a \$10,000 political donation made just weeks before this matter was originally scheduled before this board.

In its application to TRPA for this project, when required to declare under the penalty of perjury that it had fully disclosed all restrictions affecting the property, the applicant concealed eight separate deed restrictions and a recorded judgement directly impacting the development. The applicant also double counted coverage resulting in an approval that exceeded the total allowable coverage for the project area. While the applicant contends that this appeal is frivolous, it admits that the coverage was double counted and but except for this appeal, that misrepresentation wouldn't have been remedied. The applicants manipulation of the process didn't stop there. On April 3, 2020 after this appeal was filed, the applicants lobbyist made ex parte contact with board member Mr. Berkbigler and began lobbying for dismissal of the appeal. There was continued ex parte correspondence between the two. On May 4, the lobbyist provided Ms. Berkbigler with additional information relating to the opposition to the appeal and requested a phone call for that week. The next day, the applicant wrote Ms. Berkbigler a \$10,000 check which amounts to 42

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percent of the campaign funds that she received this year for her reelection campaign. Three weeks after receiving nearly half of her 2020 campaign contributions from the applicant, Ms. Berkbigler participated in the Legal Committee and Governing Board hearings on this matter.

Because this is a quasi-adjudicated matter, appellants are entitled to a fair and impartial tribunal. While they appreciate Ms. Berkbigler's early remarks regarding her impartiality, the question is not whether she has an actual bias, but rather whether the pecuniary interest here gives rise to an unconstitutional potential for bias. Given the facts of this matter, the unconstitutional potential for bias irrefutably exists. The United States Supreme Court has held that a campaign contribution to a person sitting in an adjudicative of capacity can give rise to an unconstitutional potential for bias when the contribution is a significant portion of the total money contributed to the campaign and if it was made when there was the likelihood that the adjudicator will actually hear the case. Nearly half of Ms. Berkbigler's 2020 campaign funds were received from the applicant. These funds were received not only when this appeal was pending before the board, but a mere three weeks prior to the hearing. The campaign contribution was made only one day after the applicants lobbyist emailed Ms. Berkbigler with project information relating to the appeal and a request for a call to discuss this matter.

On the basis of these facts, there is no rational basis to argue that Ms. Berkbigler doesn't have a disqualifying conflict of interest. Even if Ms. Berkbigler doesn't render a dispositive vote in this matter, her current and prior participation have tainted the public's legitimacy of these proceedings. As the US Supreme Court has determined, this constitutes an irreversible error. The US Supreme Court in *Williams B, Pennsylvania* held that a multi-member tribunal must not have a guarantee of neutrality undermined by allowing a member with an appearance of partiality to participate in proceedings. As the Supreme Court explains, the appearance of bias demeans the reputation and integrity, not just of one jurist but of the larger institution of which he or she is a part. Ms. Berkbigler's near participation in these proceedings deprives the appellants of their due process rights. The deprivation of due process is the sole result of applicants' deliberative actions and the only remedy is to grant this appeal.

Regarding the substantive issues on the appeal, there are two primary errors with the environmental impact analysis conducted for this project. First, the environmental review utilized an improper baseline to evaluate project impacts. Focusing on existing development potential rather than change to the existing environmental condition. Second, the definition of the project in this case is too narrow and doesn't evaluate the reasonably foreseeable impacts of the lot line adjustment approval. This allows the applicant to piecemeal environmental review and in essence, exempt the significant impacts associated with development of the entire project completely from review.

With regard to the baseline analysis, TRPA's environmental review must focus on the project's impact on the environment, not its impacts on hypothetical situations such as conditions that might be allowed under existing development rights. In this case, the appropriate baseline is three vacant and undeveloped lakefront parcels. The question for TRPA is, what are the impacts that would occur from the conversion of three undeveloped parcels into three large estates with the relocation and rebuild of a single-use pier and rebuild of a multi-use pier. The impacts resulting from such a development have not been appropriately analyzed or mitigated. The potentially significant impacts associated with this project could be immense. The applicant itself has stated that it will have a total of 120 individuals working on the project for over two years. With minimal onsite parking, large cranes, and other heavy equipment utilizing the narrow right-of way on

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Gonowabie Road.

TRPA's initial environmental checklist requires analysis of changes to existing parking facilities or demand for new parking as well as any increase in traffic hazards to motor vehicles, bicyclist, or pedestrians. The public right-of-way on Gonowabie Road was uniquely developed to require a large turnout directly in front of 460 Gonowabie Road. This turnout is adjacent to a blind corner on an extremely narrow improved right-of-way. This public turnout allows for safe maneuvering and vehicle passing on what is essentially a single lane road. There hasn't been any consideration of this turnout when designing the driveway on 460 Gonowabie Road. Because single-family residences are exempt from further environmental review, there will be no additional opportunity to evaluate traffic, parking, and safety hazards. These impacts must be fully evaluated and appropriately mitigated as part of this project such as through a shared driveway with 470 Gonowabie Road or a northerly driveway approach.

The project is subject to a recorded judgement that sets 15 foot side setbacks for the property. Because Nevada law presumes the judgment is valid, they are requesting that TRPA adopt a condition approval of this lot line adjustment prior to construction. That applicant either obtain an judgement from a court with appropriate jurisdiction determining that the judgement and deed restrictions are inapplicable or demonstrate by substantial evidence that the project will not include any structures within the 15 foot no build side line established by the judgement. The applicant is focused on the judgements impacts to loss depicted on an unofficial and unrecorded 1932 map. This is a red herring. The lots referred to in the 1947 judgement are not as shown on the unofficial map but rather were created by deeds by virtue of metes and bounds description and is further described in the judgment itself. It's also important to note that the appellants have not sought to amend their lot lines or seek any variances from setbacks. They purchased their properties with improvements in place. By contrast, the applicant was fully aware of the existence of the judgment when it purchased its property and is seeking agency authorization to develop contrary to the judgments express term. Washoe County was not provided a copy of the judgement and therefore, didn't address this issue.

Attorney Lew Feldman representing the permittee.

Mr. Feldman said this subdivision has about 220 parcels. The three parcels that have been adjusted equalizing the frontage. In accordance with Washoe County's procedure and TRPA's approval, this slide 22 represents the record of survey and the recorded map that reflects the now recorded status of the adjusted parcels which are now being challenged by this appeal.

Slide 23 shows that the Reuben Richards parcel is the lakefront parcel located in the lower left hand side noted in green at 458 Gonowabie Road and Robert Goldberg's parcel is up above across the street noted in red at 459 Gonowabie Road.

What has been advocated is that TRPA doesn't have the legal authority to grant a lot line adjustment because lot line adjustments would interfere with no build zone that was apparently in the eyes of the appellants, the vision of the original sub-divider, and has somehow been fortified by a 1947 judgement. The Richards parcel has been the subject of boundary line adjustment which has created a fairly unique shape for Mr. Richards lakefront parcel.

If you overlay the 15 foot side yard setback that these folks advocate is the outcome of a clearly clerically infirmed judgement, Mr. Richards parcel is undevelopable. It has 21 feet of frontage and

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with a 15 foot side yard setback, it would require 30 feet before there was an opportunity to develop. This parcel has a one foot side yard setback and encroaches onto Gonowabie properties parcel next door.

Not only is Mr. Richards who says TRPA doesn't have the legal authority to grant a lot line adjustment, already had a lot line adjustment whether it's he or his predecessor in interest. Astoundingly, so has Mr. Goldberg. Looking to left hand side of slide 26, there was a fairly vanilla parcel delineation for 459 Gonowabie Road and that parcel was adjusted to create a fairly unique pie shaped parcel which is where Mr. Goldberg's improvements are partially located. They spill out onto the right-of-way and to the adjacent parcels owned by Nevada State Lands.

On 458 Gonowabie Road, on the right hand side there is a one foot side yard setback, on the left hand side, the trash enclosures are constructed within the right-of-way and the fence and retaining wall are constructed on the adjacent property. This parcel wouldn't be developable if the side line setbacks that these folks advocate where in fact enforceable or in place. They are aware of no parcel within the 220 parcel subdivision that has ever been subject to a 15 side yard setback.

Mr. Goldberg's parcel at 459 Gonowabie Road, is similarly struggling with its parcel lines. Some of its improvements including the driveway (there is no driveway) has a zero front yard setback. Not having any parking in front of you own property could contribute to the parking problem on Gonowabie Road. This also has a one foot side yard setback on the left hand side and improvements have spilled over to Nevada State Lands. That is also the case on the other side of 459 Gonowabie Road.

This aerial photo (slide 29) further depicts the migration of improvements at the Goldberg parcel onto publicly owned lands. The migration into the right-of-way as well as the violations for the Richards parcel, both of which are telling TRPA that you don't have the authority to approve a lot line adjustment, notwithstanding the fact that both of their parcels have benefitted from a lot line adjustment.

When this subdivision was created it didn't have the traditional Covenants, Conditions and Restrictions. It had the actual deed restrictions contained in the deed. Each deed contained ten restrictions and the notable restriction with respect to their argument is restriction number seven: "Any dwelling or other building upon set property shall be at least 15 feet from the front property line and at least three feet from each side line." That apparently doesn't apply to their properties.

Slide 31, restriction number two states that "No part of said premises ever, at any time shall be sold, conveyed, leased or rented to any person other than of the Caucasian Race." This is a different era and there's other offensive or at least in terms of our sensibility's unenforceable provisions in this judgment. Item number six states that we have to be connected to a cesspool or septic tank and which in Lake Tahoe has to be exported. This judgment arose because a property owner who had acquired land subject to all ten of these deed restrictions came up with a creative idea to do a work around and deed the property what appears to be a friend and deeded free of all ten of these restrictions. The friend proposed to construct a saloon, a boarding house, a casino, and a hotel within this residential subdivision. Not surprising, some people thought that was impermissible and in violation of the original deed restrictions and brought a lawsuit forward. The outcome of that lawsuit was to confirm deed restriction number three, "All said property is restricted to be used for private residential purposes only." The judgement, however, offensive some of these provisions are, confirmed all ten of the original deed restrictions enjoined the

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construction of the casino, saloon, boarding house, and hotel. It ordered the plaintiff's attorney to prepare the findings of fact and conclusions of law. The plaintiff's attorney correctly recited in the findings of fact these ten deed restrictions including number seven which is misstated here in the judgment and the conclusions of law, the attorney had a clerical error pre word processor. Number seven intending to describe side yard and front yard setbacks has a clerical error.

Slide 32, the correctly restated number seven involving setbacks is "Any dwelling or other building upon said property shall be at least 15 feet from the front property line and at least three feet from each side line." Neither of which have been complied with by the appellants. The error occurred innocently by deleting "from the front property line and at least three feet from." It read that the only setback that applies is a 15 foot side line setback. The underlying litigation had nothing to do with investigating side line for front yard setbacks. It only had to do with commercial uses. It's astounding that with that knowledge, you are being told and is being advocated that even though this judgement is defective on its face, that you are bound by it and can't take the action that is being requested.

We're here because the adjacent neighbors who have both undergone lot line adjustments and have no compliance with any side yard setbacks are trying to frustrate by the book lot line adjustment application which is subject to TRPA's determination that number one, it doesn't increase development potential. Two, that it doesn't increase non-conformity which staff has determined which is certainly the case based on the facts and TRPA correctly applied these criteria.

If a 15 foot side yard setback applied in this subdivision, about 53 percent of the lots would either be undevelopable or limited to a single wide. If it applied to 460 Gonowabie Road, the unintended consequence of that miscarriage of justice would be a driveway that obliterates the parking because that would be the only place this lot could be accessed.

In conclusion, the neighbors who have undergone lot line adjustments along with several other parcels in the Gonowabie Road area are telling you that because of a defective 73 year old judgement with a clerical error that has never been applied to any parcel in this entire subdivision that a fabricated no build zone argument has emerged. It is frivolous and completely void of merit.

They requested that the board confirm the Executive Director's recommendation and approval of the permit and deny the appeal.

Mr. Gatto said the first distinction here is that any prior lots that were created contrary to the judgment were not done with agency authorization. What the applicant is seeking here is for TRPA to authorize a lot line adjustment that directly contradicts the judgement. As a matter of law, regardless of what the opinion of what the judgment states, as long as that judgment is in effect and until it's overturned, that judgement is deemed valid and must be respected. The other distinction is the applicant bought these lots with full knowledge of the deed restrictions and the judgement and what it's seeking now is collateral attacks on that judgment vis-à-vis an agency. The appellants were not aware of that, in fact when they bought their property, the property was already improved. What they're seeking now is to collaterally attack the judgment by an agency action and based on the authorities that they've cited in their briefing; they believe that this is not appropriate here.

Mr. Yeates asked for Mr. Marshall to explain what our jurisdiction is regarding this lot line

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adjustment and the extent of the environmental review necessary for the boundary line adjustment that staff has recommended.

Mr. Marshall said TRPA has jurisdiction within the basin at the highest level of environmental issues. He'll differentiate between lot lines versus setbacks. Now, we're just talking about lot lines. TRPA has jurisdiction to regulate lot lines if they have some sort of impact on the environment. When you look at the criteria that guides the board and executive director's discretion in addressing lot lines, it has to do with development potential and any degree of non-conformity with TRPA rules. That forms the basic core jurisdiction. We don't apply setbacks, those are derived from local law or Covenants, Conditions and Restrictions. We don't apply those setbacks until a building is proposed for construction. This is not about setbacks, it's about whether or not TRPA has the ability to consider this application where the local jurisdiction in Washoe County has already made the determination that the lot line can go forward under state law. TRPA's jurisdiction resides in whether or not we have the legal authority to approve this lot line and because of the findings that have been made regarding the lack of any increase in development potential or no increase in any sort of non-conformity that it can be approved at staff level.

Regarding the scope of environmental review. Mr. Gatto would like the board to consider this to be an approval of the ultimate development. Therefore, that's the scope TRPA should be analyzing here, that's just not the case. What we're analyzing here is the scope of the action before you which is the movement of these two internal lot lines and what does that change to the development potential. They can develop those three lots right now, so any action that TRPA is taking, is not allowing development, it may be altering development. TRPA needs to look and see whether or not the alternation in fact causes any environmental harm. That's what the initial environmental checklist was looking at was whether or not there was any change in development potential as a result of the lot line adjustment, not the ultimate development.

Regarding the ex parte arguments in particular the arguments relative to whether or not the board can take action notwithstanding any sort of issue with Commissioner Berkgigler accepting a contribution. He disagreed with Mr. Gatto's legal conclusion that one board member who is not present for this item, her accepting of a campaign contribution requires that the Governing Board approve the appeal. That is not what the law says and that because the potentially effected board member is not participating in this final decision, there is no reason why those contacts for contributions would preclude this board from taking action on this appeal.

Presentation can be viewed at:

[Agenda-Item-No.-VIII.A-Appeal.pdf](#)

Board Comments & Questions

Mr. Rice said it seems that no matter what is decided, it will be adjudicated at some level in court. For one, he thinks the request for the adjustment of the lot line was significantly investigated and discussed and is not in favor of overturning our own decision and leave that to another body.

Public Comments & Questions

None.

Mr. Marshall said the motion needs to be in the affirmative to grant the appeal. If you want to

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affirm the Executive Director's determination, vote no on the appeal. If you want to reverse the Executive Director's determination and uphold the appellants appeal, vote yes to grant the appeal.

Board Comments & Questions

Mr. Lawrence made a motion to Grant the Appeal, which motion should fail to affirm the Executive Director's determination

Nay: Ms. Aldean, Mr. Beyer, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Mrs. Cegavske, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Bass for Ms. Laine, Mr. Yeates

Absent: Ms. Berkbigler, Ms. Faustinos

Motion failed.

IX. REPORTS

A. Executive Director Status Report

1) TRPA FY 2021 Operations Work Plan

Ms. Marchetta said the Operations Work Plan is included in the staff packet starting on page 369. It outlines the six strategic initiatives that Mr. Hester went through at the May Governing Board meeting. This document is providing detail on the starting points for those initiatives over this coming fiscal year. At last month's meeting there were comments that this document seemed broad. This work program document is now going into some detail to define the focus areas of the actual tasks.

Last month there were comments made about ongoing accountability against the work program. The quarterly and annual reports are used as one mechanism to provide the board with regular updates on progress and accomplishments in addition to using items at the regular board meetings. In addition, staff is looking at taking Ms. Faustinos suggestion and building in a dashboard into the quarterly and annual reports, and executive director reports that would show measures of progress against the work plan. The work plan is a living document and adjusts as needed. These broad initiatives will be further developed out with some detailed schedules and deliverables that generally go to the board for review.

Ms. Regan said some of you may have already received the special 50th Anniversary edition of the Tahoe in Depth. Staff will be sending the board a copy of the paper along with some other giveaways that were planned for the 50th anniversary reception which was not able to take place due to Covid-19. Also adding that June 24 is the 13th anniversary of when the Angora fire started.

B. General Counsel Status Report

Mr. Marshall said today they filed the status report back to the District Court. The court is going to hold a status conference in early July. We'll find out then how we'll start resolving the merits on the claims against TRPA. At the same time, promoting the continued defenses against the individually named defendants. Also, they recently received a notice from the Nevada Attorney General regarding a complaint on the March Governing Board meeting. They'll be working with the Attorney General to ensure that they have the response as to why

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there was no violation of Nevada's open meeting law. They'll coordinate with them to see if there are any ways to do the public outreach any better to ensure that the maximum participation is done under the law.

Board Comments & Questions

Ms. Aldean asked if the complaint was that it was too cumbersome of a process to send in written comments during the meeting.

Mr. Marshall said it had to do with the event center and its approval. The individual who lodged the complaint alleged that we advertised the GoToWebinar and the day of the meeting switched it only to a live stream so there was no way for people to comment. That is factually incorrect. For some reason they were unable to get to the webinar but there were many who did and provided comments. That's the primary complaint that there was no way for individual members of the public to address the Governing Board. The other one had to do with the errata for the event center agenda item. That errata was provided to the board around 7:00 p.m. the evening before and then was posted to the website about 15 minutes later. There's was an allegation that it was not consistent with the open meeting law.

X. GOVERNING BOARD MEMBER REPORTS

None.

XI. COMMITTEE REPORTS

A. Main Street Management Plan and other components of the US 50 South Shore Community Revitalization Project

None.

B. Local Government & Housing Committee

None.

C. Legal Committee

Mr. Marshall said in July there'll be another appeal and a show cause hearing on the Mountain Addiction enforcement matter.

D. Operations & Governance Committee

None.

E. Environmental Improvement, Transportation, & Public Outreach Committee

Mr. Cashman said they had presentations on the Regional Transportation Plan and the State Route 89 Recreation Corridor Management Plan and work is continuing on both of those.

F. Forest Health and Wildfire Committee

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None.

G. Regional Plan Implementation Committee

Mr. Yeates said there be two area plans and an amendment to an area plan coming soon. In addition, vehicle miles traveled matters as well as seeing parts of the Regional Transportation Plan. He suggested that staff consider scheduling this committee either before or after the Governing Board meeting days.

XII. PUBLIC INTEREST COMMENTS

Gregory Ressio congratulated TRPA on their 50th anniversary. It's interesting that the creation of the TRPA was centered around the proposal to construct a highway and bridge across Emerald Bay. There were probably arguments supporting the bridge at that time included increased prosperity, serve population expansion, and improve public safety. Thankfully, those interested in preserving the basin's pristine environment at that time measured the bridge cumulative impact which resulted in no need for the expansion even 50 years later. The interesting part is that an identical situation to the bridge threatens the basin today with the rapid expansion of cellular transmission sites for the purpose of prosperity, population use, and safety. Public record is that cell towers and micro site permits are being expedited through local planning commissions for the cumulative purpose to enable wireless five gigabyte service capacity in the region as soon as possible. Cellular service providers are federally entitled to expand their site and local planning commissions are only able to regulate land use and esthetic criteria. Once they permit these sites, they're setting a precedent that the local agencies must permit additional sites and co-locations. Without regional control, soon we have constructed the proverbial Emerald Bay bridge in the form of excessive towers all because of an apparent urgent need for prosperity and we didn't take the time to assess the regional impact. TRPA should be the front line regulator for wireless expansion in the region. A regional wireless transmission ordinance should be established to standardize land use and esthetics for wireless transmission tower and micro sites. A moratorium is needed on current wireless towers and micro site permits and construction until a regional wireless transmission ordinance is in place. He requested that the board promote the expansion of underground fiber supporting the basin. This underground fiber should be place first before permitting any additional towers or micro sites for the purpose of surge capacity storage.

XIII. ADJOURNMENT

Ms. Aldean moved to adjourn.

Chair Mr. Yeates adjourned the meeting at 2:50 p.m.

Respectfully Submitted,



Marja Ambler
Clerk to the Board

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review