TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS

TRPA AUGUST 2 & 3, 2012
STATELINE, NV

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Shute called the meeting to order at 1:02 p.m.

Members present: Ms. Aldean, Ms. Fortier, Ms. Reedy, Mr. Robinson, Mr. Sevison, Mr. Shute

II. PUBLIC INTEREST COMMENTS

Public Comment will be held after the state representative presentations.

III. APPROVAL OF AGENDA

Ms. Aldean moved approval.
Motion carried unanimously.

IV. APPROVAL OF MINUTES & ACTION SHEETS FROM PRIOR MEETING (S)

None

V. PLANNING MATTERS

A. Review and Action on Regional Plan Update Documents, Bi State Consultation Agreement and any other outstanding issues

Nevada Director Drozdoff said I think on behalf of John and myself we want to thank you for those nice introductory remarks. We have all gotten to know each other quite a bit over the last few months. So I think what John and I wanted to do at least initially was talk in more broad terms. I know that you will at some point go through the recommendations. What we want to do is tell you how we got here and why we chose the path that we have chosen. John and I got to know each other and began talking in earnest back during the last Nevada Legislative Session largely as a result of Senate Bill 271 but also because we were both new to our positions and new administrations and really wanted to begin a new relationship. I think it was the strength of that relationship that allowed us to get to the point to where we are today. Early we decided we did want to have

the stakes be more directly. Both states could probably be accused of letting their positions go on auto pilot and in almost an unfair way make TRPA have to try to resolve conflicts or differences of opinions or even philosophical approaches without the benefit of even much discussion between the two states. Obviously we thought that was not fair and we thought there would have to be a better way. So our relationship has been good and we have actually been able to work on issues not just Tahoe issues, and that has been nice.

Obviously our primary focus has been Tahoe and TRPA. One of our first decisions that we did work with Joanne and her staff on was to establish the timeframe for the completion of the Regional Plan. There was an agreement, very quick agreement, from both states that developing an updated Regional Plan was critical and was the critical first step toward improving relationships and getting things done up here. Once we established that deadline, we continued to speak monthly or more frequently than that. But we were monitoring the progress or lack thereof in the Regional Plan.

It was probably late winter early spring where the trip wires were beginning to go off that while there was a game plan to get the Regional Plan done and while there was a fair amount of agreement on many items, there were some particularly large and perhaps thorny issues that were coming up through the Regional Plan Update Committee that warranted some attention. As those sort of non-unanimous issues began to crystalize a bit and when it became in our view clear that this may not be heading in a direction that was satisfactory or that would lead to more of the same, we decided something different was needed.

At this point I will personalize this a bit, having been involved with the Nevada Government for quite some time. I was involved with the ill-fated Pathways 2007 effort and I did have a role to play there. It became clear to me during that process that it was not going particularly well and I guess we just decided that we really didn't want history to repeat itself. But our options were certainly limited at that point. TRPA had a very aggressive schedule and they have a way of doing business and the involvement of the states already was unprecedented but John and I and our respective staffs, some of which are in the room here today, we felt that if we didn't take a good hard look, with no disrespect to anybody, we felt that if the states didn't take more of a proactive role in a quick timeframe, probably the result would be no different than Pathway 2007 or frankly many other issues up here that become divisive. So when we looked at what we could do and the timeframe that was available to us, this concept of putting together a stakeholder group, I think both of us in our other reaches of our careers have gone to this approach in the past, and we have worked with stakeholders in an informal way and decided that this, given the timeframe was the best approach. We did this and I need to say this to you board members and

folks in the audience, we did this knowing full well that certainly everybody and the diverse stakeholders that are up here would probably take a look and have some concerns about process and I understand that. I understand it completely.

California Secretary Laird said it is a pleasure to be here today particularly with for the task that is at hand. Even though the Chairman said it was countless hours, my staff did count up that it was 75 hours in meetings and events and when I questioned them I realized it did not include travel time for me, so it was a considerable amount more. I subscribe to every single word that Leo just said. Then adding to it I want to talk about the difficulties.

The difficulties are the overlying realities that have been challenging in getting to a completed plan. There are the environmental goals to keep the Lake as blue as possible that originally drove the Compact. There were the ideas behind the Nevada bill that there was a concern about the economy and things that needed to be done around the Lake. The California legislature, which at times I have talked off a cliff, believes they finance 2/3 of TRPA and don't have that represented in outcomes of things. And there is a goal because whenever people in the last couple of decades haven't talked to each other, things go into court. So there is a goal to try to have a process where to the extent possible we can pull things back from that being the recourse that people think they have. And then when you look at local governments, local governments have the concern that things be done timely and as close to the local level as possible.

So when you have those overarching goals, no wonder there is conflict because they are in conflict in many ways. What we were trying to do is figure out a way to finally get to the end on a plan and respect those goals in their entirety as much as possible. And I think that is the significance of what we have here today. It is interesting because you know the process was talked about and I have joked about some of my prior reincarnations, one of which is being the Mayor of a pretty lively town on the California coast 25 years ago. I used to joke that there were 50,000 people and 100,000 opinions and that was an accurate statement about Santa Cruz. And Tahoe is not dissimilar in many ways as I have learned more every day. People really care about this place and all have a stake in it and so unless you have a process that includes 10 or 20,000 people, they are going to feel somewhat excluded from what the process is and yet our goal was to have a workable group and make sure that from each side of the state line, there was an environmental viewpoint, a business viewpoint, a local government viewpoint, a TRPA viewpoint and as presented by the resources heads, a state viewpoint. That is the way we tried to look at those intractable problems that were in conflict, with people that represented as many interests that we could get in a room and try to work through issues.

It is as Leo said, not everybody got what they wanted. It was great to get to

know everybody and I join in the thanks. The highlight was when Claire challenged us all to put on our "big boy pants" and do something that she wanted at that moment. It was a phrase that reverberated throughout the negotiations at later times and that is what makes it hard, that we took the biggest of the issues in the plan, the ones where there were the most bottleneck and tried to work through them. That is why it is a compromise. So to cherry pick and say well we like these three issues and we really don't like these four, quite likely could be the three issues that somebody gave on to get the four. So it is really hard to fiddle with it on the big issues because the reason not everybody is happy is that it is not perfect from their point of view. Everybody from those different groups signed off on it because it was compromise and they got close enough to what they needed to feel that the overall package was good.

It is significant to say that we only took the biggest issues and there are probably many, many smaller issues that aren't part of this package that are very appropriate to consider and fine tune. They are still outstanding and that is what the process is for.

We were very clear that given the concerns about how this was done, we would come and bring it to this committee, have it move to the full board and make sure it went through the open process that was set forth for the plan. So that is why we are here today, but that is why we want to frame it as we launch it into your process so you know exactly what it is.

I think the other thing that is very hard to talk about but you have to be direct about is that if the plan were to have been adopted that started to come out of this committee, it wouldn't have addressed some of those larger concerns from different stakeholders and that is what we were trying to do. I think Claire at one point was really clear, she said "why do we have to do this because we have been through this process?" But if we are going to do the things to move it to a point where we have done our best to keep it out of court, to make it accountable, if it is to move local and to make it square with the Compact so it is legally defensible, to make sure that people think it is workable, whether it is a local planning department or for the environmental protection for the clarity of the Lake, that everybody have that in the give and take to make sure that that package reflected that at the end. So that is why I am grateful because there was some skepticism even among the people that were in the room at the beginning and I think that skepticism fell away over time.

The interesting thing to me was, and I agreed totally with what Leo said, we were trying to be polite, but I think there had been a benign neglect from the state level for a period of time. Part of the role of the states should have been to get people of differing views to get together to talk to each other directly, to try to work things out. I think that people were surprised on some issues how there

were common interests and when they talked together you could get somewhere because that hadn't been happening that way in a while. So that was very much the significance of the process. It now moves into this process.

After the third speaker we have a pod cast and some other things to do to try to talk about this to the broader audience while we are both here. I think it is really significant and Leo alluded to it, that the plan is very significant. This is historic to get to the end that people all think it is good, but it is not the end because we really have to make this process work. We have to keep talking and keep the people that have been at the table expressing their interests and working it out with each other. And there are a few larger things that are overarching for the Lake that are not necessarily totally embodied in the plan. One that I mentioned when we were talking and once again there is a local analogy from me: I had the misfortune of being on the Santa Cruz City Council at the time that 60% of our core downtown was destroyed by a 7.1 earthquake and we had to figure out how to keep businesses going with downtown gone and how to reconstruct right at a time of an economic downturn and just incredible challenges. What happened is that there were all these business owners that lost their building, just completely lost their building. They still had debt on the buildings and they had to borrow to rebuild and they had to rebuild bigger because they had to carry the debt of the former building and they had to do it to pencil out a business with the new one. As any City would do we had a parking district and we assessed them if they didn't provide parking based on their square footage. Lo and behold, everybody is building bigger to make it pencil out and all of a sudden the City has got one of the biggest bills for parking. We got economic development help from the Federal government to build parking as a way to help every individual business pencil out and make sure we could rebuild and we could come back. I was reminded of that when I went through this process because right now when it really goes to a developer or somebody that is building to build a green building and one that has less runoff and less impact and yet has to buy units to retire to be able to do the new building, it puts the challenge right there the same way. And over time, maybe there are ways, because if we ever do come back nationally as an economy, and if we are ever to have Tahoe bills and I know Senator Feinstein on our side is really interested in doing it, then maybe out of this process we have ways to guide some of that so whatever the investment is, it comes in the right places to facilitate what we need to do over the long term. I think that is another significant thing, having people join together on issues on what would it take for that kind of economic development and what will it take in a way that it really protects the environment and upgrades the environmental protection in relation to the Lake. Then if we are still unified around some of those issues working with the Federal representatives or whoever we have is a very positive thing that is incented by all the work that we have done thus far. That is why in some ways the words that are on the page for the compromises in the plan have larger meanings and

they have larger meanings that we have worked this out among different groups in a way that if we keep to this we can have that working relationship going forward.

It has been great getting to know Leo in this and doing this and that has been one of the pleasures and for us I was telling stories just beforehand because I was standing next to the Governor when we did the press conference with the Secretary of Interior on the Delta water issues a week ago in which he was his lively self. But he is a different incarnation than his first time around 28 years ago. He is determined to get things done and he is determined to bring people together to do it. In my short 1 ½ years I have negotiated with tribes and brought them in support of marine protection where we have done compromises. We have reserves where there were limited opposition compared to before. The Delta, we have a path that is moving a lot of the historic opposition away from where they were and trying to work through it. And we are dealing in the desert with renewables to negotiate mitigations. And Tahoe is another example of that and it is why we are putting the special effort in trying to work things out and get people to work together.

So I really hope that it is something that continues and we really look to you to help us by moving this along, but also by recognizing the spirit in which it is offered so we can continue this over time. I am grateful for everybody that participated and Leo named because I think it was one of those things that people had their guards up going in but after a while when we had a track record of working things out and in some ways we left some of the toughest things to last, so that that track record would carry us through and do it. It is why I missed a cabinet meeting to be here today and did some other things because this is important enough to me that I want to see it all through. The Governor has changed his mind and I think he is coming to the Tahoe Summit in a few weeks and I think in part because he wants to put California's name behind what we are doing and make sure people know that we want there to be a new day in Tahoe. I appreciate the chance to join with Leo and present that today.

Mr. Siegel, California Attorney General's Office said I want to start off by echoing what the Chair said about the extraordinary effort that the Secretary and the Director took to pull together this package and I am actually surprised they only spent 75 hours to get this far. Having worked at Tahoe for quite a while, that was incredibly efficient. I want to start off by saying we support the recommendations of the Director and the Secretary. This is a compromise in the true sense of the word and from our point of view it is definitely less than ideal. However, we feel it addresses what we saw as the major flaws in the draft recommendation that is out for circulation. We believe that with the recommendations, the package will protect Lake Tahoe. Moreover, we believe that if the package is eventually adopted, it will go a long way towards reducing

tensions in the Basin and it will help preserve the Bi-state Compact. We believe that for those two reasons, the fact that this is a significant improvement, from our point of view, over the draft Regional Plan and because we think this could go a long way towards healing things in the Basin, we support the package of recommendations that the Director and Secretary presented to you today and we strongly recommend that you adopt them.

Committee Comments & Questions

Ms. Aldean said, obviously Tahoe is a contentious place and we all know that and we unfortunately have chosen in some instances to resolve our differences through litigation. These were pivotal issues, we all know that, and these non-unanimous issues that were addressed by the bi-state consultation group. Is the AG's office reasonably satisfied with the balance of the package? This is one component of the package, but we have a preferred alternative, Alternative 3, and all of the alternatives are being subjected to analysis, but are you satisfied to the extent that you can be satisfied with the balance of the recommendations coming forward out of this process.

Mr. Siegel, California Attorney General's Office said yes we are satisfied that with Alternative 3 being modified by these recommendations, the package is satisfactory from our point of view.

Ms. Aldean said thank you for that and I want to thank Leo and John for their hard work and diligence and I, as a local government representative, I did have a problem with the process because we labored with the open meeting law and complete transparency and everything revolves around the open public process and I understand from a practical standpoint that it is far easier to get things accomplished from the smaller, less than wieldy group of people that and I commend you for undertaking that assignment. The one thing I would ask of Nevada, because I am one of their representatives is as I go through this package, California is very out spoken when they have either supportive of something being recommended or have concerns of something being recommended and time and time again, I see the State of Nevada submitting no written comments. I would like to see the State of Nevada in the future become more engaged and hopefully this is a precursor to that engagement.

Director Drozdoff said I agree and I think that and I touched on this a little bit, I think that historically Nevada has been involved but what we have tried to perhaps not do to a fault is add another level of bureaucracy up here because we felt that this is perhaps what is not needed. But I think it is a fair criticism to say that we have not necessarily be as active as we should be and I would like to think that has begun to change. I know we have invested representatives from the Division of Environmental Protection and we have invested millions of dollars

to put together a Total Maximum Daily Load Program and work with our local governments to make sure it is implemented in a way that it makes the most sense for us. But I think you can count on the fact that we do plan, as John said, not to call this a day. We do plan to stay involved together and also we feel it is our responsibility to not just let TRPA try to fend for themselves and figure out where we stand. So I take your comment and I think it is a legitimate one and one that I feel we have begun to address and will continue to.

Ms. Fortier said I would think at the end of this process I would be battle weary and have drawn my lines up solidly, but the fact of the matter is what I found through this whole process and I thank you all both very much is how much I have softened seeing what both sides and all sides needed from the RPU and where we are going with the RPU. It has been a very, very difficult process but I do believe that frankly you have taken us over the hurdle and I really am very grateful for the states input on this and for your leadership here. I would echo something that you said and that is that I hope that we have your attention long enough to get through all the next processes because we can come to an agreement but there is still an awful lot out there that is left to be done. I appreciate very much how you have really led us through this process and I appreciate all the input we have received from the State of California as well and I just wanted to let you know that this was a good, good deal.

Mr. Robinson said just a brief comment Mr. Chairman if I might. Thank you gentlemen again for your leadership and our respective Governors also for really kicking this whole thing off about a year ago and giving it the high level of attention it needed. When I was appointed to the board and took Allen Biaggi's place, who had been chairman for a long time, and Allen and I had been friends and colleagues for years now, myself in the Governor's office and he as Leo's predecessor and even before that, and we had long talks before I even came on the board and I don't think it is telling tales out of school, when I quote Allen in telling me, "you know what, the TRPA may be dysfunctional, it may not work anymore unless we can deal with the litigation issue and get beyond it and adopt a Regional Plan." I think a couple years ago that was at issue and at question. At least now we have a vehicle I think to proceed. It is not perfect, but it probably the best we could have hoped for and maybe in fact the TRPA is a functional, workable organization in the future.

Ms. Reedy said you have sounded almost apologetic for interfering and I want to say it was not interference, as I think it was time that the two states came together. There was the clash of the titans going on and we were on the ground getting the shrapnel, so I appreciate that. But I also appreciate the fact that this committee was able to bring the subject matter forward more clearly for what you had to discuss. I don't think you could have done your job without us doing our job, but it was absolutely necessary and while some of this I am a little

confused on, hopefully we will seek clarity over the next several days. It was time for the Governor's and the two of you to start talking and I appreciate that. Thank you.

Director Drozdoff said the point that John and I should have made which is you are right, we were very fortunate that you came to agreement on a majority of issues and you teased out and were able to articulate the concerns about what was left and that was absolutely necessary in order for us to take it to where we needed to go. When we were presenting, we should have thanked this group because it did get us to a point to where we could go from there.

Mr. Sevison said thank you all and you were brave for taking this on and I'm not sure I would have followed that lead with you. I commend you for the effort that you put in and pretty much for the product that you produced. I'll have to confess that I have questions and I would like at some appropriate time to try to resolve those questions. I think the process, while I fussed about it at one point, actually may have turned out to be okay and got us over a hump. But speaking as Placer County right now, we do have some areas of concern and we would like the opportunity at some early point to clarify them because there are some things in this agreement that have some significant impacts on us and we would like to have an opportunity sometime before the final hand is raised on this to somehow sort those concerns out. You have done a great job and we all appreciate that, but we do feel that we have some questions and would like the opportunity to resolve some of those issues. It may be just interpretation and not a significant issue. While I support the process completely, and don't want to rain on anyone's parade, we do have some significant questions we would like to work through prior to the end of this process. I congratulate you both on doing a great job.

Secretary Laird said thank you Larry. If I might speak to that for a second, because I think that is a very fair observation. If you get the package presented as it is and I think that is what you are going to be doing the next day or day and half or for whatever the time is and going exactly through those and I think that if you just look at it for what it is, it is natural to have those questions because when we worked on it with the group in putting things together, there are some things for example, there was one that unless you made it legally consistent with the Compact, you couldn't legally do it. I am sure people will want to argue about the policy and the merit of the policy but at some point in the process somebody will answer a question for you that says basically you don't have the legal authority to do that unless you make it consistent here, that would explain why it might appear to be the way it is in the package. And so that's why I am really glad you will be spending the time going through it because I think you will have the opportunity to understand it and understand where there is either a legal or policy or give and take or the kinds of things that got it there and I hope

that you feel okay about it when you get through that but the thing about it is I could almost guarantee that in hours and hours of discussions, no matter what your point of view is, it was represented in that discussion. That is why we feel some comfort with the outcome. People pressed it until you could figure out a way to slide between it on both points of view on something and make it legally doable with regard to the Compact or all the different things that lead to it being the way it is. There are many people here that were involved in those discussions that as you go through it I think can help with that. I appreciate the position you are in and when you said raining on the parade, you could cause some rain anywhere right now we would be grateful.

Mr. Shute said I personally want to thank you for bringing the weight of the two states into the discussion, because I think that actually helped for people to see the bigger picture and find common ground. Thank you individually for the time you put in, because I know you both have a lot of other things that are high priority. We will take this and do the best we can with it. Also thank you for being here as I think this is a historic event.

PUBLIC COMMENT

Steve Teshara, Sustainable Community Advocates, said I wanted to echo the comments about the importance of the leadership shown by the states and to thank all of the members that participated in the group and to thank this committee who has paid a key role too. I just want to harken back to last year before the summit, Senator Feinstein asked that we conduct a series of community roundtables throughout the Basin and a number of us worked together to do that. One of the big issues that folks in the community identified was the issue that you just discussed, how do we get past the litigation cycle. One of the top issues that came out of those roundtables was people said there should be somebody that takes the leadership to try to prevent that from happening. So this process that just occurred while all of the discussion and issues and process and different things, nonetheless it took leadership, it took courage and it reflects what the community wanted as well which is how do we break the cycle of litigation and how do we move forward. So I just wanted us to remember that a year ago the community was asked and that was one of the key issues that they identified and typically I have been following TRPA for 30+ years and we would go through the process and the plan would be adopted and we would have litigation, then a judge would tell us to do in effect what just happened in a parallel process. I think it is good and helps to break the cycle so that we can move forward and I wanted to commend all the participants and leadership of this committee for allowing it to happen and I look forward to the discussion of getting into the details. I do understand the concept of the package. Thank you Mr. Chairman

Brandy McMahon, Douglas County said their county manager asked her to let you know that the Douglas County Board of Commissioners did endorse Alternative 3 and the Draft

EIS, the Draft Regional Plan and Draft Code and they have not had an opportunity to review the recommendations of the Bi-state Committee, but with that said Mr. Mokrohisky did participate in the Bi-state working group and thought it was a good process. He said that not all the recommendations are ideal, but in general he supports the recommendations and we would like to thank everyone that participated in that process.

Kyle Davis, Policy & Political Director for the Nevada Conservation League said the Nevada Conservation is a state-wide Nevada non-profit that works to advance environmental policy and other environmental issues in Nevada. Our organization is somewhat new to the issues around Lake Tahoe and we are definitely honored and happy to participate in these discussions. I would like to thank Director Drozdoff for inviting us to be a part of this process. As you have heard form a number of other speakers so far, certainly the final product that this group has come up with is not perfect as there is still significant concerns that the environmental community and my organization has with what we are looking at today. But I think it was a very good process, there was a lot of give and take and I think that it has been characterized well that we had a lot of very lengthy and important discussions and what you see in front of you is something we can work with. Provided as we go through this process and this agreement that you will be reviewing and it is implemented with what we have come up with and in the spirit of what those discussions were, our organization is prepared to support it.

Darcie Goodman Collins, League to Save Lake Tahoe said the League is grateful for the opportunity to have participated in these Bi-state consultation meetings. The working group proposal is not perfect and it may not be adequate to achieve Tahoe's environmental goals, however it contains substantial environmental safeguards and critical elements that will help revitalize Lake Tahoe's blighted communities. An updated Regional Plan is long overdue and as time is of the essence this may be the best possible solution and plan that can be achieved at this time. The League supports this Bi-state recommendation as long as it is kept in its entirety and without any modification throughout the Code process.

Laurel Ames, Tahoe Area Sierra Club said it has certainly been an interesting process from the outside and living on scraps of information and then it got a little better as time went on. We felt we had very little to say on this process and we are left with really four questions and that is how does this protect the lake, how does this protect the views, how does it protect the Threshold Standards and I can't remember the fourth. When we understand that, then we will understand how and when or if to support the compromise agreement and the alternative, both alternatives, the alternative to the alternative. I think that this is a very, very serious time for the Lake and I think we are really on the cusp of environmental damage and so from the Tahoe Area Sierra Club's point of view, it is really critical to make sure the environmental protections are serious, are to be implemented thoroughly and robustly and that we do protect the Lake and we do attain

the Threshold and we do achieve clarity.

Ellie Waller, Tahoe Vista resident said the local jurisdictions that participated in the team came with representatives and TRPA was present there and Placer expressed some concerns by adequately represented. Yes I think there are issues as stated with the process and I am not sure that the language has been completed vetted yet and staff has still been tasked to put these recommendations into Code and specific language and now it is the onus on us again, just like reading the EIS to ensure that that language has adequate represented a fair compromise and I am not sure how that will is going to come forward to us and how much time we will get. We will also have the FEIS coming back to us and I am just concerned that the overload of information and sorting through the different documents and making sure that we are adequately represented on all faces, be it local jurisdictions, TRPA, conservation groups or individuals is not fair.

Susan Gearhart, West Shore said I thank you for all the time and effort you have put in, the League, Kyle with the Nevada Conservation and I think what we will all look and read and try to simulate, much like Larry's comments had to say is okay we have the Alternative 3 and now we have an amended version. When I take that back to the Compact is it achieving what the Compact needs, the intent of the Compact requires of any new Regional Plan. When we talk about economic revitalization and I know how globally that is, but I also see it as a long term objective and not something that should happen in the next 10 years that we have all these brand new things. I need to weigh and read and discuss further, but the work you have done is admiral.

Jennifer Merchant, Placer County Executive Office said I just had a question for you Mr. Chair, will we have an opportunity to ask questions as you take each area and move forward.

Mr. Shute said yes we will take it up in chunks and as we go through each chunk we will do like we did with the committee before. There will be committee questions, public comment, committee discussion and then the next section.

Jennifer Merchant said okay then we can address any questions or concerns we have incrementally because obviously would not be the time to get into that specific detail.

Mr. Shute said yes.

Roger Patching, Friends of Lake Tahoe said I want to echo the compliments to the Chair and the representatives of California and Nevada and the entire Bi-state consultation effort. As has been mentioned by others, we are reviewing the findings and the Friends of Lake Tahoe at this particular time wants to listen to the responses as you go through it piece by piece, but I am particular happy that Larry made mention early on that there remain unanswered questions and we have those too, but they probably are not the same questions but the issue is pretty much the same. As we follow through this, I would

just like to add that John Laird mentioned that this was quite a learning process and I am sure that it has been. In that context, I think it will continue to be that way. This is just really the start of this process and I would hope that everybody will be patient, not necessarily throw rotten tomatoes at either side because this struggle will continue for some time for the same reason that Larry has questions that he needs to be answered that I am sure are valid, so do we. I would just caution that we are beginning a Bi-state process and I want to thank Clem personally for his participation in that effort also.

Ms. Marchetta said I want to extend a thank you to Secretary Laird and Director Drozdoff and I can't really enhanced how you all expressed it but we are right there with you in our appreciation for the very hard work that they put into putting people at the table talking to one another who really haven't been talking to one another well for a very long time. I am thankful for that and I appreciate the package that has been brought forward. My purpose today and tomorrow is to help members of the public as well as the committee understand that package and understand some of the compromises and tradeoffs and the basis for it. I will be taking the lead on the presentations but I want to acknowledge the team here who is ready and able to provide insights and details and answer questions.

Ms. Marchetta presented the first component of the Bi-state agreement and it deals with level of delegation and the appeal process. We dealt with three areas as we developed the appeal process. We established a meaningful appeal process and the two states and the group generally supported a reasonable appeal as a check on abuse or mismanagement of the delegated permit authority of local jurisdictions. So the agreement dealt with timeliness and scheduling and what you see is a very short 6-month timeframe to move from start to finish on an appeal. The agreement dealt with the scope of the appeal so that we would avoid duplication and redo and avoid frivolous appeals because there would now already have been an opportunity to fully review a project at a local government level as well as an appeal process at the local government level. The challenger must have fully participated at that local government level – it is a concept called exhaustion. Secondly, the agreement retained the annual recertification of area plans by TRPA based upon an annual audit. This Draft Plan provision still remains intact. Thirdly, we adjusted what I will call the delegation allowances. You all remember the table that reflects projects of regional significance: the group adjusted downward the size of a project that would require direct TRPA review. The two states defined more projects as being of potential regional significance and those projects would require direct TRPA review. Local governments as they build a track record could potentially increase their level of delegation over time.

Committee Comments & Questions on Delegation and Appeal

Ms. Aldean said we received a replacement sheet for Exhibit A which added back in all development within resort recreation designations and was there another replacement sheet as I noticed under the Code changes under 17.7.1 the square footages are the same as they were originally proposed.

Ms. Marchetta said if you look at the Leo/Laird letter, pages 1-3 of that letter are the correct language.

Mr. Shute said as I understand it, the Code provisions are as they emerged from the committee and was drafted by Arlo and the consultant and would have to be changed ultimately.

Ms. Aldean said so this doesn't reflect any of the changes resulting from the Bi-state consultation.

Mr. Shute said change in Exhibit A was because by oversight an earlier draft of the consultation agreement was put in there and not the final draft.

Ms. Fortier said I want to expand on how we came to the agreement on reducing some of this and what I meant by "big boy pants." Essentially when we were looking at this, at least local government was looking at this, what we were trying to do was to get something that we could reasonably look at in the next four years. The notion that there was going to be a huge development happening any time soon I think was one that we all essentially agreed probably was not going to happen. The idea of having incremental increases and building trust that way, not just trust for the environmental community to trust local government, but also for local government to trust that we are doing this process together and the idea that after we had come to an accommodation on smaller projects we would all be more familiar with the process and would have the possibility of coming back and reviewing what is within a local jurisdiction's capacity as well as need.

Public Comments & Questions

Pat Davison, Contractors Association Tahoe Truckee said I bit my tongue and didn't come up earlier and I just wanted to provide a voice of support and I truly believe the Governing Board could have tackled these issues and looked forward to that process. Be that as it may, we are now talking about the recommendations and I did want to offer a couple of suggestions for the appeal process. I am a fan of a vigorous process so I wanted to offer two things though that I did not see in the description. One would be that the party being appealed would have an opportunity to challenge the automatic stay. The way that this is

written, as soon as the appeal is filed it stays the project that there would be an opportunity added in that that party would be allowed to present their case as to why the project should not be stayed. The second is that I did not see a timeframe when the Governing Board would take up the issue. I would respectfully request that those two suggestions be considered by your committee. The other is a question in regards to the adjustment downward on the residential square footage, in the Regional Plan Update Alternative 3 it was 50,000 square feet and the recommendations here are 25,000 square feet, so my questions are clarification. Are we talking about parcel size, it is disturbed area, what exactly was the thought behind that square footage in describing size and then how many parcels are affected and any additional information that could be provided to explain that downward adjustment.

Brandy McMahon, Douglas County said I am looking at Page 3 of 8 in the issue sheet Number 1, in the Table 13.7.3-1 it says all measurements are new building floor area and if you go to Page 1 of 3 Exhibit A, it is the Bi-state recommendation they didn't include that language in there, so I would like to see that language put back in there because it is my understanding this is for new building floor area.

Alex Leff, Friends of the West Shore said we are just looking for some assurance that the local jurisdictions will still have to undertake environmental review for projects that they are approving that haven't already been exempted by TRPA under the Compact, hopefully that can be added.

Laurel Ames, Tahoe Area Sierra Club said I have a request. This initially became with issue sheet Number 1 and Shelly Aldean mentioned revised sheet Number 2 and then that was when I got lost. So it would really be helpful to know before we start the conservation which issue sheets we should be looking at.

Ellie Waller, Friends of Tahoe Vista said because the process of local jurisdictions approving larger projects is new, I propose that the Area Plan building permits be reviewed quarterly for the first year. Code 13.8.2 requires the submittal of those permits quarterly and after the first year the process the annual review to verify the compliance seems to be fine, this will allow the Area Plans to be more fully vetted. On the appeal process, the appeal process fee should be reconsidered, the amount capped at $1,000 between local jurisdiction fee and TRPA combined. What prohibits the local jurisdictions from raising their appeal fees to equal the TRPA fee? I have concerns on that not saying that we are going to be filing law suits on a regular basis as nobody wants to do that and what is the process for "I" listed under the appeal process in very limited circumstances consistent with Goal 3 (see below), the TRPA Governing Board may modify a local government decision on a project to make the decision consistent with the Area Plan. I would like to see a definition to see what consistent is and what

does the process entail to modify that decision.

Jennifer Merchant, Placer County Executive Office said a couple concerns under this section, specifically the legal and practical procedural concerns. The recommendations as proposed for appeals erode Placer County's or any local jurisdiction's ability to defend CEQA land use decisions because the administrative remedies are unclear. It says here that all administrative remedies must be exhausted for California jurisdictions, the end state of that we believe is the California Supreme Court, so does somebody need to go through the entire CEQA process, because of course legally we need to go through a CEQA process in addition to any EIS process required under TRPA's Code. We can't just do as a California Charter County, can't just do a TRPA process and we cannot delegate our authorities given to us by the State of California to a subsequent process, so we are concerned about what exactly that means. Who do people appeal to? Do they appeal to TRPA, do they appeal to us, what if they appeal CEQA to us and we lose that law suit? What happens if we win that law suit? Who pays to defend the law suit? If it has gone through a California jurisdiction, do we have to pay to defend that or does TRPA have to pay to defend that? There are some pretty significant legal questions here and you know I am not an attorney, I can get part way through this but I can tell you our county counsel has reviewed it in the short period of time that we have be able to see the documents and have significant questions that we would like some answers on, so I don't know if you would like to direct your legal staff to meet with our county counsel or how you would like to resolve some of these questions. Frankly I am not experienced enough to answer all the right questions, but I am experienced to know that we have some questions and concerns that I believe needs to be resolved and I would like to get there one way or the other please.

Dan Siegel, California Attorney General's Office said I want to emphasize that this compromise is fragile and I know there is pressure on each side to move things around and it can very easily crumble if it is moved around and I also want to address one of two of the comments that we just heard. The Friends of the West Shore was saying what about the EIS requirement under the Compact. My understanding and your legal counsel can correct me is that the agreement allows for appeals to determine whether or not, if some asserts that a local government approval of a project is not consistent with the Regional Plan or consistent with the Compact and the Compact contains an EIS requirement, so I think their concerns are addressed in the recommendation and I don't think that is a problem. In terms of the administrative remedies, exhaustion of administrative remedies, my understanding is that is local governments wanted that provision in there which is to benefit local governments, not to create additional burdens on local governments and the intent that there would be a requirement for anyone subject to the exhaustion provisions of the Compact that they go to the local government if there was a planning commission

decision, for example they would go to the planning commission and challenge that or if it is a city council or a county decision that they challenge that and give the local government an opportunity to make any corrections rather than just coming right to TRPA.

Staff Response to Comments & Questions

Ms. Marchetta said I do believe that there is actually a timeframe on the appeal packed in here, so it has a time period for filing, time period for getting it to the board and then a second time period. If the board doesn't decide it the month that we take it to the board, it can be extended one month, with the whole thing start to finish in 6 months.

Mr. Marshall said why don't I start with the question about the exhaustion and I think Dan addressed some of them but basically remember that for local jurisdictions to approve a project under this delegation model they are doing two approvals simultaneously right, they are complying with state law and they are being delegated TRPA authority. This appeal process really has to do with only the TRPA delegation portion. So for California jurisdictions, they have to comply with CEQA when they undertake their own approval process and there is exhaustion requirements that go along with CEQA and for appealing within the local jurisdiction from a planning commission to a city council or county commission, or board of supervisors and then those decision have to be done in accordance with CEQA. TRPA's approval process would be delegated and basically overlaid on those same processes. What these appeal processes have to do with is essentially TRPA's approval that if someone wants to appeal to TRPA Governing Board on a project, they have to exhaust their local government appeal avenues first, not litigation, just those administrative appeals that go from planning commission for example to county board of supervisors or city council, if there are any. If there are not, then they can appeal directly to TRPA. But they have to exhaust the available processes first, just like they would have to exhaust available processes before they initiated a state law suit. So there aren't any additional exhaustion requirements, any new or different ones, it is just the same kind of exhaustion requirements that local governments do and so if someone wants to bring an appeal to TRPA, they first have to make certain that they get a final decision out of the local government.

Ms. Aldean said that I have reread this now and there is onus on TRPA staff to act to determine whether or not an appeal is frivolous within 60 days but there doesn't seem to be the same rigid timeframe for action taken by the Governing Board and I think that this is the concern.

Mr. Marshall said we will come back to that, but right now I am just trying to address Jennifer's points about exhaustion and the more legal side of things. So I

think I would welcome the opportunity to talk with Placer County's Counsel because I think we need to clearly understand that there is a separate state process that Placer County, the city and El Dorado County have to go through regardless of what TRPA's delegating and then there is TRPA's process and I firmly believe that we are not adding any additional processes that they wouldn't already have to go through under a CEQA process. There is going to be the chance to appeal the delegation approval of the project to TRPA because it is TRPA that delegated it's authority, but that in and of itself, I don't think it poses any additional requirements on the local jurisdiction nor does it interfere the separate operation of California State law on their own CEQA obligations.

Ms. Aldean said however the appellant cannot appeal on a CEQA issue to TRPA because TRPA is not bound by CEQA, right.

Mr. Marshall said TRPA would not review the CEQA issues or any compliance with state law. Consistency with their general plan for example or other tangential issues like that may be involved in the same project. This is only an appeal on the TRPA issues that the local governments are undertaking under the delegation.

Mr. Shute said so that would include the Article 5, which is the EIS requirement.

Mr. Marshall said Article 7.

Mr. Shute said Article 7 would include the provisions.

Mr. Marshall said yes.

Mr. Hester said if you look at Item F.2 IIF, within 60 days of an appeal being presented to TRPA staff, we are supposed to prepare a recommendation for the Governing Board and if you look at Item G on the next page, the Governing Board is supposed to hear it when it is presented to them or one month after that. So that is your definitive timelines. If you look at G.B

Ms. Aldean said but that only has to do with the initial meeting.

Mr. Hester said if no action is taken at the initial meeting.

Ms. Aldean said but it doesn't say when the initial meeting takes place that is the problem.

Mr. Shute said I think the intention was that that 60 day period for determining whether the appeal is frivolous is also the period when TRPA staff would make a recommendation and it would come to the Governing Board within those 60

days.

Mr. Hester said that is the intention.

Ms. Aldean said without violating the basic premise of the document, I think that is an important clarification to make, so if we could incorporate clear language because that evidently represents the intent of the consultation group that would be great.

Mr. Shute said I think if the minutes would reflect some of the clarifications and that we can carry it forward on that basis.

Mr. Marshall said it is 60 days for TRPA to make a recommendation to the board, so it just depends on when the monthly meeting comes along, so it is give or take.

Ms. Aldean said basically if you just said after that 60 days expires, the next regularly scheduled board meeting would be the time when the appeal would be heard.

Ms. Marchetta said I've been told there is some question about what document we are referring to. We are walking through from the top, the Bi-state Recommendation that was attached to Director Drozdoff and Secretary Laird's letter. So you can find these provisions in that attachment to the letter or you can find it in Issue Sheet Number 1 on Attachment A.

Mr. Shute said a couple of points. One is on the amount of the local fee, it is my understanding that the intention was that TRPA fee could be $1000 and the local fee could be $1000 and no more, so I don't know if the concern is that is too high, so be it. That was part of the compromise, but if the concern was that the local government fee could go much higher, that was not the intent. The intent is that it is limited by the $1000 cap. I am going to take a shot on the floor area question, the question about the 25,000 square feet what it means. I think that Brandy is correct and the intention was for a new building.

Ms. Marchetta said that is correct, it is new square footage.

Mr. Marshall said I think it depends on how you measure that. There could be different measurements of coverage, of CFA of different elements, but essentially it is not the parcel size, I think that was the key question.

Public Comments & Questions

Ann Nichols, North Tahoe Preservation Alliance said on the 14th and 15th it would

be great and it doesn't look like you have handled it here, but if we could talk about the ability of local jurisdictions to supersede the Regional Plan which is a problem. It says that in the documents. Not that you have discussed it here but on the 14th and 15th for unsolved issues.

Mr. Marshall said I think Anne that we will get to that, there are some issues to get to that on ratios and some land coverage transfers.

Mr. Shute said there are provisions in the agreement that limit those opportunities.

Peter Maurer, El Dorado County Planning Services said the discussion on the delegation brought up an issue that I wasn't cognizant of but with the delegation to a local agency, is the local agency also responsible for the TRPA environmental review process, which is different than the CEQA process for California where there is no similar process in the State of Nevada. I am not sure how that is to be addresses and I don't think that most local jurisdictions have the level of training to do that kind of review process similar but significantly different enough that there could pose challenges to the integrity of the review process if not done correctly.

Mr. Marshall said I guess the short answer is yes.

Mr. Shute said I think that CEQA is generally more encompassing than the EIs requirements in the Compact, so if you are complying with CEQA the odds are you are pretty close to complying with the Compact.

Issue Sheet #2 - Commodities

Ms. Marchetta said she will take up a series of issue related to commodities. More information on the topics that I am speaking on is in Issue Sheet Number 2. So the excerpt from the Bi-state letter is Attachment A to Issue Sheet 2 or you can use the letter itself. What should the Regional caps on growth and development be? In a growth constrained system, should there be any additional allowances on commodities and if so how much? That was the set of issues that we were grappling with. The main concerns raised and the root question was how much was too much. Some said we already have too much and we don't need any more of some or all of the different types of commodities. Others said that the claimed thirst to develop in the Basin isn't real because we don't need as much as we have, we have an excess supply of some types of commodities and we simply don't need more just for the sake of growth and development. What was pointed out was what we have on the ground today is in many instances no longer useful and the development styles and patterns no longer serve today's needs and market desires. Commodities should exist to support

redevelopment in the right places and in the right character. The two states and the group dealt with each type of commodity. How much and under what terms would we recharge that commodity.

First, one general overarching issue was the concept of automatic recharge. There was a provision in the draft goals and policies, and it was a general provision, allowing the Governing Board to recharge new commodity whenever more was needed. Some thought it encouraged unnecessary growth for its own sake and didn't serve any incentive purpose. So to address that concern the states agreed to remove that automatic recharge by the Governing Board. The Board can amend the Regional Plan any time so it was in many respects superfluous. So we took this off the table.

The second set of issues relates to the listing in the Bi-state agreement and it goes commodity by commodity – Residential Allocations:

A residential allocation is a preexisting development right that we can't extinguish unless we buy it and retire it or condemn it. There are today 4,091 unused remaining residential allocations. The two states and the group agreed to meter out 2600 of those remaining 4,091 or about 130 per year. And that approximates the number of parcels with a residential allocation that are buildable. The rest we believe are sensitive or unbuildable for some reason.

The third issue – Residential Bonus Units:

Why do we create a bonus unit? Well we create a bonus unit to encourage a policy preference and here it was to encourage redevelopment where and when we want it. We use bonus units as an incentive to change an existing pattern of development. The proposal was 600 residential bonus units and the two states and the group agreed to allow 600 residential bonus units, but to be used only in designated centers. There are 7 designated centers. These commodities provisions that I am going through right now represent Alternative 3.

The next issue – CFA (Commercial Floor Area):

There was a very strong split of opinion on whether additional region-wide CFA is needed as an incentive to redevelop. Some local governments support recharging additional CFA to create desired community character and as necessary for economic development and other interests strongly opposed any additional CFA because today there is existing CFA unused -- 387,000 square feet in the existing Regional Plan. The compromise: the two states and the group agreed to allow 200,000 square feet of CFA, but that would be bonus CFA, used only as an incentive and only after the existing 387,000 square feet of left over CFA from the existing is used and exhausted.

The next issue – TAU (Tourist Accommodation Units): There are several TAU sub-issues.

The basic issue was TAU recharge. There are essentially three types of TAUs. There are existing tourist units, and in the Basin there are about 11,000+ of those. Region-wide 11,000 TAUs. Next, there are remaining but unused or unallocated TAUs left over from the 1987 Regional Plan. Finally, there is the concept of a bonus TAU. The concerns and points of view on this issue were that some believe we have many more TAUs Region-wide and in some locations many more than we need or want and we should find a way to buy those up and retire them, the old outdated motel stock. Other interests believe some areas have an under supply of TAUs and the stock should be redistributed, and still others believe that we should create new bonus TAUs. The two states and the group agreed no new bonus TAUs would be recharged as new commodities, so you see a zero in that column. But there are today 254 unused, unallocated bonus TAUs in the existing plan.

Mr. Marshall said these are incentive based TAUs.

Related TAU issues – TAU transfer policy:

This issue first bubbled up in my memory in a project context in about 2006 and it has been intractable ever sense. We have held working groups on this before this Bi-state process ever got together and now we have a proposal finally to resolve the issue from the Bi-state discussions. Under today's rules, a small motel style unit, say 300 square feet, can be removed from one site and rebuilt as a much larger residential style unit on a different receiving site. What were the concerns raised? They included, as a policy matter, we shouldn't be allowed to build what is essentially a single family home and call it a tourist unit. There was a concern about the size and style of the unit at a receiving site and the two states and the group dealt with this concern by adding a set of restrictions and requirements that make that transferred unit once it is built on the receiving site walk and talk and quack less like a single family dwelling and more like a TAU. The two states and group agreed that for resort-type tourist developments that are professionally managed, the transferred unit is limited to a mix of 1200-1800 square feet per unit, as long as at least three amenities are included in that development project. Those amenities indicate that the facility is a TAU facility and not a quasi-single family dwelling. The second part of that agreement is for smaller style TAU projects, a bed-and-breakfast style, or a smaller motel because not every TAU project in the Basin is a big resort and there is a need for provisions for the small guy. The transferred unit in that type of project is limited to 850 square feet and has rules that limit the length of stay to 28 days per year, up to but no longer than 28 days a year, otherwise it starts to take on the character of a single family dwelling.

Onsite conversion of TAUs to an ERU (Existing Residential Unit) so you are taking a tourist unit and converting it to a residential unit:

There was included in the Bi-state agreement a unique pilot program provision for onsite conversion of TAUs to a residential unit. Some noted that there is a need in the Basin when redeveloping for much more flexibility to convert from one commodity to another. The group was unwilling to agree to complete fungiblity of commodity conversions. But today it was recognized there are a lot of dilapidated motels in the Basin that are being used essentially as de facto sub-standard housing for low wage workers. The two states and the group agreed to allow a pilot scale conversion program that would give greater flexibility to convert existing TAUs to a residential unit. But this is only for on-site conversions, so the unit must exist today so you can feel it, touch it, it exists today. The terms were each TAU existing can be used for a maximum of 1250 square feet of residential floor area on the same parcel and the pilot program is limited to conversion of existing development on the same site so you couldn't apply a transferred unit to another site for a residential purpose.

Ms. Aldean asked on the same site even if the units are in an environmentally sensitive area?

Ms. Marchetta said for now yes.

The next issue – site specific transfer ratios:

Now we are on the Bi-state agreement Page 5 and we are talking about alternative transfer ratios. The draft plan had allowed approval of a bonus transfer ratio, so someone could come in and propose higher transfer ratio, higher than the transfer ratio table that was proposed for all other projects if that proposal was made through an Area Plan and reviewed and approved by TRPA as conforming to the Regional Plan. The concerns and interests that were raised: some interests believed this was way too open-ended and it would allow for abuse and there were other interests that said there are some sites in the Basin that are unique and very high priority and something more or different might be needed to encourage the removal of existing development off of that site and restoration of the SEZ where that development was removed. The two states and the group agreed to remove from the draft plan the open-ended general reference allowing bonus transfer ratios to be proposed in Area Plans, but the concept was recast. It was recast in a more targeted way. It now covers only Meeks and Motel 6 here on the South Shore and on the North Shore it could apply to the site at the Tahoe City Golf Course. All of those involve sensitive and important SEZ areas where we are trying to encourage some restoration and protection.

The last issue related to transfer ratios concerns the future review of the efficacy of the proposed ratios that are in the draft plan. So in discussing transfer ratios – and these were a long hard set of discussions -- there were concerns expressed and we have heard this in public comment as well that the proposed new ratios in the draft plan are untested for their effectiveness. But today under the Regional Plan, the transfer ratio is 1:1 virtually all the time. The Regional Plan Update proposes to increase those transfer ratios sometimes and when you aggregate them together the new ratio could be as high as 6:1 for transfer from a very distant and sensitive site. It could be that higher ratios or even lower ratios are needed as incentives for transfers of existing development off of sensitive lands, so we are going to need some time to test the efficiency and effectiveness. The two states and the group agreed to add an item to the TRPA to-do list which would have us look at analyzing and reviewing the efficacy of the proposed transfer ratios as proposed in this Regional Plan Update.

Committee Comments & Questions

Mr. Sevison asked that under C, the definition of Meeks Lumber Yard and the Motel 6 site put the Tahoe City golf course in with it. This assumes that the golf course in its entirety needs to be turned into an SEZ. Well that isn't the case and they have already begun preparing and spending money to try to sort that out as to what is right. So it concerns me that this particular item would be forced into total restoration of the site when in fact it was always intended that there would be a portion of that site that is high capability and only the SEZ portion of it would be directed to relocate. That is a concern that I have to maybe separate out the Tahoe City Golf Course and give it a slightly different designation then putting it in with Meeks Lumber which has always been what we have been working on for years to try to locate in its entirety out of the SEZ because it is totally in the SEZ.

Ms. Marchetta said thank you. It came to our attention after the discussion.

Mr. Shute said this request was made by the Tahoe City Utility District up there. There is no intention on the part of anybody on the committee to over include; it was intended to respond to a request so I think it can be interpreted only to refer to the sensitive part of the property.

Mr. Sevison said okay thank you.

Public Comments & Questions

Ann Nichols, North Tahoe Preservation Alliance said on the automatic recharge, it doesn't say what it is going to be based on. Is it going to be an environmental analysis or not? It just says they may consider additional allocations, so just

thought that would be good to have it tied to something either than just a subjective need. Then on the TAU Transfer Policy B, so is that going to be units that are rented for a period no longer than 29 days, it doesn't say. Time is a time limit for the small unit, so are they going to be used just as houses, these TAUs that are bigger, that was a concern. Then I guess the density issue with TAUs, the increase will be handled at a later date and not with this, the increase from 15 to 40 units per acre, so that could be on the to-do list of a later date. The last thing is that I hope that everybody can read that Pruitt study before we do the site specific transfer ratios that we attached to our comments for the EIS. There are four things you have to do to have an effective program and the one that is being proposed doesn't have those.

Ms. Aldean said I believe the TAUs described in Sub-paragraph B have to have at least 3 of the amenities that are listed in Sub-paragraph A, which to me means they are hotels. So no there is not a time limit for occupancy on a hotel that I am aware of unless it is by Ordinance. I know that at in some cities and counties they do limit stays, because beyond a certain length of time you can't collect room tax.

Ann Nichols said so there is no limit on B but there is a limit on for the number of days on C.

Ms. Aldean said right and I think it is because there are some opportunities and I know that what is driving this is the morphing of small motel units into large condominium projects. And there are a few on the West Shore that people are not happy with. On the other hand, in jurisdictions where you are not likely to have the ability to build hotels, you still need the ability to accommodate your guests in units that are comparable to what you would find in other first class resort areas. I think the issue is that this happens in a lot of jurisdictions, where units become converted into extended stay units because they are smaller and are not part of a hotel and where there is rapid turnover and so the objective I am assuming was to keep the local jurisdictions whole with respect to the collection of room tax but also make sure that these things are small enough so that they don't overwhelm a local community.

Ann Nichols said the question is then are these residents then or what is the difference between a residence then than these units if there is not time limitation because on TAUs it was always 29 days or less.

Ms. Aldean said I think the assumption is that if you have to comply with these amenities, that these are the amenities that you find in a hotel, not a single family home.

Ann Nichols said Stillwater Cove for example which is a condominium complex

has 7 of these amenities and it is not a TAU, it is a condo complex so I think we are getting into the realm of is this a TAU or residential unit and fractional timeshare are included so I think it a bit of a problem.

Ellie Waller, Friends of Tahoe Vista said ultimately the Governing Board can have another discussion about how many of each of these commodities and at any given time these numbers can change. I know you are going to make a recommendation as a body but again we shouldn't be precluded to telling the rest of the public these numbers can change. I asked at the last RPU Committee meeting where we discussed the residential bonus number of 600, what analysis was done to determine 600 was the right number, not 1200 nor 400. Was there a market study? Also the CTC has a remark in one of the issue packages and I don't have that right at hand that says they may have a few residential allocations that they want added. I think that should be added to the to-do list because it was not brought before this body or in the EIS. There is a list of 3 or 4 items that I think should go to the to-do list and I will bring that up at another time. On the TAUs, the mention of the one at Homewood, the Villas at Harborside are going through a rezoning process through Placer County. The hearings have been postponed a couple times, but they are going to transfer those to residential homes if it gets through their process, so there are still some issues of conversion. The same thing with the TAU to an ERU was not discussed in the Regional Plan Committee meetings and was not discussed in the EIS and should go to the to-do list.

Mr. Shute said that just because it has come up a couple of times already about recharging commodities at some future time, the draft Regional Plan actually had language that I think was more mandatory. The Governing Board shall maintain a supply of commodities and some people thought that would mean they are mandated to always have a pile of goods. By taking that out, it leaves it to the Compact that this is an ongoing body with legislative power and at any time that the Board decides it wanted to add or recharge commodities, it can. But there is a process if that would have an environmental impact, we would have to go through environmental review. If it is inconsistent with the Regional Plan, there would have to be a Regional Plan amendment. So really what it does, it takes that up as a future issue subject to the ongoing power of the agency to address that subject.

Alex Leff, Friends of the West Shore said build out has to be based on a scientific study and from my understanding build out in the Basin has not been determined scientifically. I think that before any additional commodities are added to the RPU or this Bi-state recommendation, you first have to determine where is build out and how close we are to build out. TRPA has publically stated that we are near build out, so I think that has to be determined before any new commodities are allowed.

Mr. Sevison said I am a little baffled now because the EIS that we have processed spoke to a larger number and now we are lower that number to something less, don't we have some free board for the Board in the future to go up to the environmental threshold of the environmental document.

Ms. Marchetta said the short answer is where I started the discussion. There was a range of alternatives in the EIS and where the Bi-state agreement essentially landed was on the proposals in Alternative 3, which will set caps for those commodities for as long as the Regional Plan stays in place.

Mr. Sevison said when we exceed that plateau, then we would need to reevaluate it environmentally.

Ms. Marchetta said that is correct.

Cindy Gustafson, General Manager North Tahoe Public Utility District said thanks to all the participants on the RPU Committee as well as the Bi-state Committee and we feel there was a lot of good progress made there. I wanted to clarify what seems to be a little bit of a misunderstanding. Several months ago about April, the Tahoe City Public Utility District along with Placer County, North Lake Tahoe Resort Association and the Tahoe Truckee Airport District did acquire the Tahoe City Golf Course. During our diligence we had numerous meetings with TRPA staff and county staff looking at the multiple needs that the golf course could and that property could provide to the community through this Regional Plan Update process and through good planning for our community. Those are not just related to restoration as there is some developable land and there are some very good functioning stream zones there now. In fact, most of it is. So I think there is a little bit of a misunderstanding and we didn't understand this definition until the sheet came out. We read it and we are here today to day we want to work with you and I think working together with staff and your committee we can resolve those issue and misunderstandings. The definition that we read on restoration plan areas doesn't seem to define this particular piece of property. There may be certain areas that it does and we certainly see great environmental potential, but we also see great transportation solution for part of our community as well as a potential of a recreation site and other recreation amenities.

Steve Buelna, Placer County said he had a couple questions related to commercial floor area on Page 3. I wasn't quite sure if the 200 square foot of commercial floor area was designated sorely for special projects or if that was part of the general pool. A question related to exhaustion of the 383 square feet of available commercial floor area and how that would be determined if one jurisdiction exhausted all of their available commercial floor area, would that hold the other jurisdictions up until they have also used up their allotment of

commercial floor area. We could certainly see an issue with that.

Jennifer Merchant, Placer County Executive Office said a couple comments related to your commodities discussion. Number one on tourist accommodation units, there is some concern in the Regional Plan that the very specific types of services that need to be provided at these resorts where tourist accommodations would be transferred seems quite prescriptive. When we can't meet those standards because there are smaller projects then the result is to have smaller room sizes and frankly Placer County doesn't see large result style development being the norm in our jurisdiction. We may meet some of these standards and I don't know if 3 is the right number, I guess you could call a copy machine a business center and if that flexibility would to be afforded perhaps it would be okay, but frankly smaller projects with smaller room sizes actually create more potential for density. I know that seems counter intuitive and I have tried to explain this a hundred times and it never seems to stick but it may or may not be consistent with the community character that you would ascribe to a smaller project. I think when we become so prescriptive in nature here, rather than allowing a project proponent to come forward and simply propose a project and let it go through a project, whether it is a 200 square foot room or a 1200 square foot room that they fit in there. I would really appreciate pulling that one smaller project designation requirement out of there doesn't seem to make a whole lot of sense for a variety of reasons. Also that would result in a more costly project and I don't think that this is where we are trying to go here. On the smaller the room size, the more TAUs you need and that means the more TAUs we need to go buy from an outside jurisdiction because we don't have the capacity that you may find in some. I would like to talk about the transfer ratio discussion specifically related to the Tahoe City Golf Course and Joanne I was trying to listen intently to your discussion there but would like a little bit more clarification on the goal of that inclusion. Was that to restore that property specifically, do I understand that correctly?

Ms. Marchetta said yes it is to incentivize the removal of development and restore the site.

Jennifer Merchant said that I am not sure that Cindy was specific with the amount, but there was a $4.5 million dollars in local money that went into the purchase of that property and several months of review from all participants including the Tahoe City Golf Course, Placer County, Tahoe Truckee Airport District and the airport district has put in a half a million dollars so that we could include a heli pad next to the fire station there for public health and safety purposes. So if we are going to obliterating all development off that site that has about 10% at least developable land, that would be a concern. While I appreciate Clem's suggestion that if it is not all SEZ, then we can just interpret that frankly I would prefer to wait for an interpretation and I would prefer that

this be corrected now, so that it is very clear what the goal and purpose of including this in. If it is restoration of SEZ that is certainly part of the purpose that property was purchased to commit to recreation, restoration and also development on potential developable land including, meeting public health and safety needs. I would suggest that your committee ask staff to go back and work with the partners and owners of that property to come up with a reasonable designation that would meet the intent to restore any lands that may be disturbed and to get credit for that restoration put also to maintain the develop ability of the portions of the property that are not SEZ. Including that parcel and the local plan that had been requested for many years so be it, I think that would probably satisfy many of the needs and restoration and also allowing it to be a receiving site to meet some community needs. Thank you very much for taking that under consideration.

Susan Gearhart, Homewood resident said I think a lot of what is going on right now is there was a town center vision put together by Tahoe City PUD in which the main street district and the marina district and the golf links district in which there is like a 4-5 story hotel along it and hotels and condos and things like that along the Truckee river. It actually galvanized a great deal of the community that didn't know that this was what was going to be in the future which probably helped us a great deal. It is a big massive plan was put together by Design Workshop and the resort association is behind it and Tahoe City PUD sponsored it. I don't believe Placer County supported it or at least sponsored it. So this is what has ignited a lot of this reaction, so the whole picture is much larger and is the vision of the new town center of Tahoe City.

Derrick Aarron, Incline Village asked a question in regards to the 600 residential bonus units on Page 3, I believe that those have been intended in the past for affordable housing. I just want to know if that is the intended purpose moving forward or can they be used for any residential use.

Mr. Stockham said presently there is a number of programs that bonus units can be used for, primarily affordable housing. The draft plan establishes an additional use for the bonus units which are the incentive for the transfer ratios. So transfers into centers are eligible for bonus units under the draft plan and presumably under this Bi-state recommendation as well.

Derrick Aarron said so both affordable and transfers then. Thank you.

Steve Teshara, Sustainable Community Advocates said I just have to say for the record that the comments of Ms. Gearhart about the Tahoe City plan are completely inaccurate. Thank you.

Mr. Marshall said in the RPU Alternative 3 an unassigned portion of allocations

were to be used for incentives, so it was anticipated that some portion of the 200,000 would be linked to incentives, 200,000 additional CFA but it was unspecified for later discussion and decision-making. There was no specific direction by the Bi-state group that all 200,000 should be, so it is kind of left to what the draft plan said, but it didn't specify a specific amount.

Committee Comments & Questions:

Ms. Aldean said along those lines John, I think the question was and I think it was a valid question is that let's say Placer County has a 1/3 of the existing available CFA and they use all of it, they can't access the additional 200,000 until the rest of the pool is exhausted, that was the question.

Mr. Marshall said that was not specifically addressed by the committee.

Ms. Aldean said okay so that is something that is fair game for the RPU Update Committee and the Governing Board.

Mr. Marshall said yes that is one of those and I think the intent was that the existing CFA be exhausted before we go into the next 200,000. So what I think it is worthwhile doing is looking at the 375 or the existing amount of CFA and seeing how it is distributed and if per chance, if somebody runs out and there is existing CFA someplace, can that be utilized. I think the intent was to use that CFA first before going to the 200 but Steve's point raises a very valid point, is how does that work in practice and we didn't get down to that level of detail.

Ms. Aldean said okay so we can take that up as another issue.

Mr. Shute said well it was simply not discussed and I think that for now, we just have to leave it that way and have to consider whether when we come back to take up issues that weren't considered whether that is fair game or not. It is a little touchy because some people on that committee probably thought they were thinking about it all being exhausted but on the other hand I recognize the point. Probably it should be agenized for the next round.

Ms. Aldean said so I guess you wouldn't deem it a violation of the spirit of the agreement if we took this up to provide better definition or a clear understanding of how we are going to deal with one jurisdiction exhausting its supply before the total amount is exhausted. That may be involved transferring CFA across jurisdictional line; it may involve a number of things.

Mr. Robinson said and taking it up at one point, at what point, Mr. Chair.

Mr. Shute said that as I understand it, on the 14th and 15th issues will be taken up

that were new or unrelated to the agreement. Now this was related, but wasn't discussed, so it falls into a grey category.

Mr. Marshall said the only other thing I would respond to in the comments, I think Ellie made a comment about CTC's comment on residential allocations and those should be added in at some point. Ellie I think you misunderstood that a little bit. All that CTC was saying is that in our count of existing units, we didn't necessarily count and they wanted to make sure that their units that they had in their bank were counted within the total amount of existing units and yes that will be done. It is not part of any new additional residential units that are allocated under the 2600 in the RPU and the draft numbers that the Bi-state forwarded.

Mr. Sevison said on this CTC, I think it was anticipate that as we move forward through time, CTC would be one of the partners that would go in and buy motels in certain areas. Put them out of stream zones and whatever and then those units would then become available to the public to buy from CTC based on some cost basis. I think that is an ongoing program that we have discussed at CTC and want to be out in the open about it.

Resort Recreation:

Ms. Marchetta said this is the first among a series of issues that really relate collectively to community character. And again at the 60,000 foot level, among the interests that we discussed in this category of community character is, what do you want the Basin to be and to become. This was one of those original questions that I posed to the Governing Board when we rolled out the draft plan in April, but there are a number of distinct and related issues embedded here. This new resort recreation destination is the first in that series of issues. The draft plan proposed some new allowances for both sub-division and for additional uses in districts presently zoned recreation. Those new allowances and the new sub-division allowance was subject to approval in an Area Plan that would be brought forward and reviewed by TRPA. In the original drafting, we did apply it to all recreation districts in the Basin. So it can fairly be read to apply very broadly. There are 37 recreation zoned districts region-wide. So when we surveyed them, of those 37 all but 5 are publically owned. They are State Parks or the like, they are public recreation sites. The remaining 5 are privately owned recreation districts and they include properties like the Heavenly Ski Area and now under the proposal of the draft plan, this privately owned Edgewood Mountain parcel that is within the high density tourist district across from Highway 50 from the Edgewood Golf Course. So the provision when it was drafted, honestly I'll say this, it was never intended to apply to every recreation site in the Basin. This issue may have singularly raised the most ire, it generated perhaps the highest degree of pure passion and in part it was because it wasn't

very well drafted. So, some were very highly concerned that the change was too broad and would expand the urban boundary and frankly harm the recreational opportunities in the basin, as well as the ecological values that are often encompassed within public parks and public recreation sites. So those interests wanted the provision eliminated in its entirety. Others said there are some properties in the Basin where added uses and allowances could be appropriate, where we should put visitors in proximity to already developed recreation sites like a ski area, so that we can reduce daily drive-in, drive-out and reduce vehicle trips and put lodging and amenities in proximity to already developed areas. So the two states and the group debated this and here is the agreement. Clearly, the agreement was the designated properties eligible for this specialized recreation district should be quite limited. The expanded uses in recreation districts should be restricted to these areas that are private lands in or very near to already highly developed areas and the agreement was to designate two properties under a new category called Resort Recreation. So the Edgewood Mountain parcel in the high density tourist district would have this new designation and the Heavenly South Base next to the Regional Center here on South Shore would also be designated with this new category called Resort Recreation. Now this rezoning or re-designation would be subject to conditions involving land use allowances and some other requirements. So allowable uses could only be authorized on those re-designated parcels through an approved Area Plan. The new subdivision allowance that was proposed originally in the draft plan could apply to these two newly designated sites, but only for structures and not for new subdivision of land. So you can subdivide your air rights into condominiums but you cannot subdivide and create new subdivision of land. The new designation would only be eligible for transfers of existing development, so you couldn't take a residential development right and transfer it in or apply it in this Resort Recreation designation. You always have to transfer in existing commodities. Practically speaking when we proposed this through the draft plan, Van Sickle Bi-State Park was rezoned recreation. Anything today that is either proposed as recreation or currently designated as a recreation district was pulled out of this Resort Recreation designation. And it was replaced with this much narrower provision which better reflects the original intent.

Mr. Sevison said this whole package appears to be targeted toward residential type uses in ski areas. What about other kinds of uses, are they accepted? I guess the questions is I know of several areas North Star, Alpine Meadows, Granlibakken and others that may want to put snack bars or restaurants or whatever within this recreation area, not to entice new people to live there but just as part of the skiing experience to have dining facilities. How does this deal with that.

Ms. Marchetta said these new provisions do not apply to something like Alpine or North Star. There were two designated areas only, but there are a range of

uses that are eligible, but again it would have to come in through approval of either an Area Plan or some kind of master plan, but possibly allowed uses could include transfers of existing residential units, as well as CFA, TAUs and related accessory uses within the Resort Recreation designation.

Mr. Stockham said today accessory commercial uses are allowed in recreation districts, so that wouldn't change for the snack bars or restaurants associated with ski areas.

Public Comments & Questions

Darcie Goodman Collins, League to Save Lake Tahoe said a point of clarification perhaps between the issue paper and summary of recommendation in the agreement packet out of the Bi-state consultation meetings. It is my recollection that we didn't specifically come out with a recommendation one way or the other to support the re-designation of Van Sickle Park as recreation. I think and you can clarify this if this is correct, but I think in the summary what might be reflected is that the Van Sickle Park does not receive the new Resort Recreation.

Ann Nichols, North Tahoe Preservation Alliance said so maybe you should add under 4 retirement of existing development on the subject parcel or make it a little more clear. 3 just says development is transferred in from outside the designated area. Just to make sure that it is supposed to be existing development. So just clear that wording up somehow. Do you think it is clear?

Mr. Shute said that was what it meant.

Ann Nichols said there has been so much talk about these parcels that Heavenly owns and on the various alternatives one is Van Sickle, one is Edgewood Companies. Couldn't we designate which parcels on the Heavenly California Base parcels, because I think there were two different base parcels different alternative were talking about different uses. Is it the 22 acres at the top of Ski Run Boulevard and how many acres are we talking about on the Edgewood parcel, just to define a little bit so it would be clear for us. I am confused with this last sentence. It says "All areas currently designed recreation existing in the Regional Plan would remain unchanged." What happens with the areas designated recreation in Alternative 3, the parcels designated recreation in Alternative 3 – they just go away.

Mr. Shute said it just means that all those that are designated recreation in the existing plan, plus probably Van Sickle remain as recreation subject to the same uses that are allowed in the 1987 Plan.

Ellie Waller, Tahoe Vista resident asked for clarification that within an approved

Area Plan does mean the local jurisdiction is doing the environmental analysis and it is not a paper change.

Jennifer Quashnick, South Lake Tahoe resident said a couple things I want to point out on this is first the Bi-State agreement oral Alternative 3 would both approve substantial development basically of ski villages in the Basin. The Bi-state agreement narrows that done but either way there is no adequate environmental analysis of the impacts this in the EIS. So if you proceed with stuff based on the Regional Plan right now, no one has analyzed this. If you go with the Area Plans we heard from the local earlier, they are questioning are they looking at TRPA's Thresholds or are you. I heard the answer was; they will be. So, I question who is evaluating the environmental impact to the Thresholds and when? Also what are the environmental benefits of these changes and do we want a Basin lined with ski villages and finally there has been a lot of reference to the Heavenly Village and the success of the Gondola. I just remind you that this was a net decrease in units.

Committee Comments & Questions

Mr. Shute said the last question that has come up about the environmental review was focus by one of the commenters, Ellie on the Edgewood parcel, but it seems to be more general and still confusion about that. I think it would be better if you would clarify it.

Mr. Marshall said the Edgewood parcel was examined in the EIS and the general EIS addresses the potential for recreation or additional uses in recreation areas and proposed mitigations specifically for that which mirror the 1-4 on the Bi-state. There will be additional project level analysis, if anybody proposed to do something in the resort recreation district, both at the area plan level and then at the project level. So there are potentially two more levels of environmental review. It will also be addressed on the programmatic level in the programmatic FEIS for the RPU change.

Mr. Shute said what about when the Area Plan comes forward.

Mr. Marshall said when the Area Plan comes forward that again will be approved by TRPA, first by the local government which may be subject to CEQA so they would have to do a CEQA document and then by TRPA. TRPA will then have to either incorporate by reference or do an additional or supplemental environmental document when it considers approval of the Area Plan, just like it would do for any amendment to the Regional Plan.

Mr. Sevison said but that is only if you find them inconsistent, it that the case.

Mr. Marshall said no we have to do environmental documentation for any Regional Plan amendment. An Area Plan essentially functions as a Regional Plan amendment, so it would be subject to Article 7 and you would have to walk through and do an analysis of what the Area Plan proposed to do. It would almost certainly tier off of the programmatic document, but if there are issues that were not specifically addressed in the programmatic document or there are specific parcel changes that we would anticipate or incentives for specific parcels proposed in that then they would have to analyze that, but there is no pre-determination on what level of documentation that will be.

Ms. Aldean said budgeting. If a local jurisdiction is preparing an environmental document and TRPA is preparing an environmental document and perhaps best case scenario the local environmental document is substantially adequate and so as you say John it will be tiering off of that, there may not be a significant financial impact. But if every one of the area plans has to be independently analyzed by TRPA for environmental compliance, is that what you are saying and if so how do we deal with the fiscal impact of that.

Mr. Marshall said to answer your first question, yes but it is no different than what we do today for joint projects or joint amendments. Particularly in California or with a Federal agency, often times you see the EIR/EIS/EIS, a joint document that can function for everybody's separate approval. I am not saying you definitely need an EIS for an area plan, but you can go through the same exercise of scoping and looking at the action recognizing you will have local government approval and TRPA consideration and you can plan accordingly your environmental documentation. So for example, Nevada jurisdictions don't have to comply with CEQA or Article 7 when they undertake their approval of an area plan. When it comes to TRPA though, we would have to do that, to comply with Article7.

Ms. Aldean said the onus would be on the Agency.

Mr. Marshall said correct.

Mr. Shute asked if someone could give us the sizes of Edgewood and the California Heavenly base parcels.

Lew Feldman said the Edgewood Mountain parcel is about 250 acres and the California base consists of two parcels, one of which was identified earlier and approximately 22 acres which is in the City of South Lake Tahoe at the top of Ski Run and adjacent to that is the existing parking area which is roughly about 30 acres.

<u>High Density Tourist District Maximum Height Issue</u>

Mr. Shute said this is on Page 5 of the Bi-state consultation attachment. Some people have pointed out to me that there is confusion between the issue papers and the Bi-state attachment. If you really want to stay close to the conversation, the Bi-state attachment is better because we are working directly off that language. The issue statements were intended to flush out and give different positions and explanations, but they are harder to correlate, so to stay with us I think it is easier if you just use the attachment. So now we are at the bottom of Page 5.

Ms. Marchetta said the draft plan had proposed a maximum height in the high density tourist district of 197 feet. The high density tourist district is limited to 4 parcels that are right here on the South Shore in the casino core. They are the existing casino towers. The concerns on this issue: some felt this would result in a wall of new high rise buildings and that you would literally fill the balance of the land area with 197 foot tall buildings. Others said that in order to make redevelopment and repurposing of the existing casino structures financially possible they needed to be able to use that grandfathered height. So those were the competing interests and the two states and the group agreed that today the existing height on those 4 parcels, that is the maximum, is 197 feet. And today there are 5 existing tall buildings on those 4 parcels and the group agreed to limit the new height allowance to a potential redevelopment of the 5 existing tall buildings.

Mr. Shute said as it was originally drafted there theoretically could have been any number of towers on those parcels and that was one of the major considerations that led to this.

Committee Comments & Questions

None

Public Comments & Questions

Ann Nichols, North Tahoe Preservation Alliance said so does this mean that where there are parking lots now, is there is one building with an 85 foot height structure on it and has a casino and it has a couple acres of paving, if they rebuild and it is connected can go up to 197 feet. In community character we can discuss this later but it looks like you can modify the high density tourist district the area, so that is a concern.

Ellie Waller, Tahoe Vista resident said there is current Code for non-conformance. You can tear down 85 feet and you can put up 85 feet so Code will reflect specific to these 5 existing buildings. They will be called out in Code so there is no wiggle

room for somebody else to say the non-conforming Code can be violated.

Laurel Ames, Tahoe Area Sierra Club said it would be helpful to understand how the Compact language limiting the size, volume etc. of the gambling properties applies to that 85 foot building.

Staff Response to Public Comments

Mr. Marshall said as to Laurel's question regarding the gaming provisions of the Compact, they apply to all the casino floor area, so there would be no expansion that wouldn't otherwise be permitted by the Compact and the Compact doesn't permit any expansion of gaming floor area. So this does not alter the Compact's provision regarding structures housing gaming.

Mr. Shute said nor could it, right.

Mr. Marshall said that is correct.

Mr. Shute said and what about the Code.

Mr. Marshall said this would be in the Goals and Policies so this would basically be a specific exemption, or actually it wouldn't be an exemption these buildings would no longer be non-conforming if they met the criteria on Page 5 of the Bi-state, so if you are outside of these or you didn't meet the criteria set out on Page 5, then you would remain non-conforming.

Mr. Shute said and the 85 foot building could go to 197.

Mr. Marshall said yes since it is 85 or higher and we also have additional scenic protections, but that is assuming that they can meet all the scenic mitigations and guidelines.

Community Character

Mr. Shute said the Community Character is on Page 6 of the Bi-state attachment.

Ms. Marchetta said this is a combination of character and design and this is where the two states and the group considered proposals related to additional height and density allowances. So the high level questions were where and under what criteria additional height and density should most appropriately be located. There is a combo of issues here. Height, density and scenic quality actually enter into these design guidelines. Some were highly concerned that any additional density or height in any of the designated centers -- the town centers, the regional center or the high density tourist district -- would be overly

impactful and could potentially be applied far too broadly to extend outside of designated centers and would be used to destroy the local character of the communities here in Tahoe. So the main concern here and I am going to characterize it as the fear of “provision creep.” Provision Creep means that height and density would be extended to inappropriate locations. There was even a long discussion of the potential for risk of creating an unwanted uniform monolith of building height, so an entire corridor miles long would be 6 stories high and you would essentially create a tunnel-effect all the way down Highway 50 end to end through our planning districts. Others said we need some additional height and density to make capacity for transfers and to incent redevelopment, to make that more financially feasible and also to give communities critical mass for those transfers in from outlying more remote sites or critical mass for transit and services to reduce our VMT. They noted there are already many areas that have special height overly districts and height allowances in the Code today are relative common, so this would tie these together through the area planning process. The two states and the group tried now to accommodate these multiple interests and we dealt with again a variety of issues.

On the first issue we talked about a provision that would have added height and density allowances into all Community Plans. So in the drafting, I think we added in the language about Community Plans because we were thinking about what happens if we don’t have an Area Plan in effect. But that broad language appeared then to apply added height and density allowances to all existing Community Plans and there are 22 of them right now. So the two states agreed that additional height and density allowance would only be available for the 7 designated community centers and it would not apply to all Community Plans generally.

The second issue was additional height and density outside of the boundaries of designated town centers, regional centers and the high density tourist district. Again this was one of those open ended exceptions that allowed an applicant to make a proposal for additional height outside of a designated center and this became a lightning rod for that fear about provision creep. Well if you can allow it in some instances, you can allow it in all instances. The agreement of the two states and the group was to eliminate that possibility.

The third issue we dealt with was the criteria for allowing additional height and density in an Area Plan. We essentially supplemented and tightened up to a degree the design criteria for regional centers and town centers and that is Code Section 13.5.d.(1).

We went on and dealt with an additional issue related to community character. There was a significant concern about the ability to expand center boundaries.

Were there any limits or criteria and was there anything that would help to define when you could expand the boundary of an approved designated community center that was eligible for these additional allowances. Some feared that the open ended possibility of being able to propose the expansion of boundaries -- again the issue of provision creep -- and there would be unfettered negative effects of continual expansion. Others said look there are appropriate circumstances where some adjustment of a town center or regional center boundary could be proposed and there should be some criteria provided. The two states and the group agreed that clarifying criteria would be added to the Code in Section 13.5.3(d) and in order to annex property into the boundaries of a town center or regional center, that property had to be tied to or planned around encouraging commercial or public service uses or public transit.

Committee Comments & Questions

Ms. Reedy said while we are in that section and what I am looking at is Page 6 under Community Character down at the bottom where the changes to the boundary lines are. In implementing this, are we taking away anyone's property rights that they have now, i.e. is there a parcel out there that they can do something to now that they can't do something to with this in place.

Mr. Hester said these criteria for changing the boundaries are for changing it prospectively and we agreed to keep the boundaries the same as they are in the draft Regional Plan. That is as close as I can get to answering your question; but in the draft land use map we didn't hear form anybody that they were losing anything.

Ms. Reedy said nor would you because 99% of the people out there probably don't know this is even going on.

Ms. Marchetta said I am just told that we didn't change any zoning in drawing the boundaries of town centers.

Ms. Reedy said so in general someone owns a piece of property right now, they think they can put something on they can still put that same something on with this in place. Suddenly not being three sides of one piece of property, and I can image that some properties has more than three sides, we are not taking away someone's property potential.

Mr. Hester said right these are criteria to expand the boundaries from what is already there.

Ms. Marchetta said but in the draft plan, as far as I know, we have not drawn boundaries to change anyone's existing zoning designations.

Mr. Marshall said that I would add in general what the Regional Plan Update does is to expand people's development opportunities in exchange for environmental, hopefully some environmental gain and so what the criteria on Page 6 what it might do is circumscribe those new opportunities, but it doesn't turn back the clock on exiting opportunities under the Regional Plan.

Ms. Reedy said so we have scaled back potential opportunities compared to the draft, but we haven't taken away anything for anyone who owns property right now.

Mr. Marshall said in general yes, but I think on Page 7 there is some adjustments for height that do have the affect where there were some height restrictions that allow people to go up a couple stories or a story outside of a Community Plan or Area Plan that no longer and they still have a two story height limit, but they can't go up higher than they can do now under the Regional Plan.

Ms. Reedy said but that was all still in the draft and nothing that was finalized.

Mr. Marshall said no. Right now you can go outside a Community Plan and there is the potential to get additional height outside of a Community Plan for particular uses and the Bi-state proposal scales that back. On Page 6 all this is doing is basically addressing the criteria for planning within the Area Plan and then the criteria for adding territory or adjusting territory to the town centers and community centers.

Ms. Reedy said so we will now hear about this height change.

Mr. Marshall said that was part of the community character.

Ms. Aldean said I am looking at the original provision and I was the person who asked that affordable housing be included for that additional height. I know that with affordable housing project, especially for seniors and if the objective is to reduce the footprint, you have to go up. That what we have determined and that is what drives this whole process of focusing development in these small town areas, there may be pieces of property around the Basin that are outside of a Community Plan which would be ideal for affordable housing. But without the economies of scale that additional height provide we are not going to see any more affordable housing in this Basin for some time to come and I would like to know the reason for eliminating affordable housing as a recipient of additional height if it is required in order to get these projects built up and operating.

Mr. Marshall said in general I think the intent of the group was to limit the new additional height opportunities to just within the community centers. So we have increased the height limitations within community centers.

Ms. Aldean said so the additional however under Item B.1 it says outside of town centers building height shall be limited to two stories, 32 feet so if that doesn't create the economies of scale necessary to build an affordable housing project unless it is dealt with elsewhere in the Code where there is additional height available to make these projects pencil, we've got a problem.

Mr. Marshall said I would agree with that but I think that was an issue that we can find a way to address on the affordable housing component. Shelly it is a function of how we combine the Area Plan; this is more of a structural issue because we wrote the Area Plan height limitation within the general height limitation as kind of design criteria. And there was this exception language for ski towers and all that kind of stuff which I think generally everyone is still supportive of. But what it did when combined in there, it looked like you could go even higher than the additional height within the town centers for these particular uses. So now I think our task is to come back around and make certain we didn't have any unintended consequences from the way that this was structured. So, that would be something that I would recommend that you take up on the 14th and 15th.

Ms. Aldean said so if I am understanding you correctly John, even though there is a provision here that says outside of town centers building height cannot exceed 32 feet, under the portion of the Code that deals with affordable housing development there may be an opportunity to increase the height in order to gain the efficiencies to get these projects on the ground.

Mr. Marshall said I think it would be worthy of discussion.

Ms. Reedy said on Page 7 under C it says community plans outside of town centers shall not be eligible for additional height and density. How does an affordable housing language potential change "shall not be eligible for additional height and density."

Mr. Marshall said I think we are addressing two related but a little distinct issues. The overarching concern was that because of how we drafted the Code the increase density and height that were allowed in community centers also potentially applied to Community Plans under our traditional definition of Community Plans, which there are 22 plans. So the first thing that was addressed was okay we want to circumscribe those additional heights that were really meant for town centers and the regional centers to apply to those, now broadly all the height and density bonus, etc. and the increases in those are not applied to all community plans. Not necessarily related to that but as a function of where we combined the design and height criteria for all three – high density tourist, the regional center and the town centers was in the same provision that we included height generally. So in order to avoid the language that had the

potential for allowing further height increases within those high density, tourist, the regional center and town centers, we had to delete the language that allowed the additional height for the additional affordable housing and TAUs. But I think that Shelly's point is there are instances in which you want to come back around and say okay outside of the town centers etc. is there the desire to have some additional height for affordable housing projects. I am not saying that this is what the recommendation should be but just that issue and the way that the Code is drafted was inextricably linked to the height allowances in the community centers that went up. And so in order to take out the language that allowed the potential for additional height, the notice of affordable housing outside of those areas got cut.

Ms. Reedy said so in the Bi-state agreement is there room for that discussion. This is kind of all or nothing but the way I am reading this we can't have affordable housing unless it is in the town center, which I suspect would be more expensive.

Mr. Marshall said I would correct that to say you can't have additional height for affordable housing. All we are talking about right now is additional height. It not a zoning question where affordable housing goes. It is whether you can have additional height above two stories for affordable outside of town centers.

Ms. Aldean said I am looking at the original but there are so many change and at the top of CD2.1 is that the RPU Committee unanimously supported modifications on February 1, 2012 and did those modifications include the addition of this language and if it did how did this end up as a discussion point by the Bi-state Consultation Group. My assumption was that the Bi-state Consultation group was only reviewing those issues that were not unanimous and this appears to be unanimous, so I am confused.

Mr. Marshall said I think I height limits were not unanimous. What happens in that height limits there is additional height allowed where before we had more strict height limits. So we said you can have additional height for special instances like ski towers, etc. and affordable housing and TAUs. We went in and modified that provision to add in that provision the new height limits for the high density, regional center, etc. and we didn't add language that said for the additional height allowance you can't exceed what we just gave you for those centers. So the effect was that there was a provision that potentially applied to go even higher than what we had for the regional centers and town centers. So the agreement was to not allow that to happen. As a consequence of that, it limited affordable housing to two stories outside of town centers. That was the one place that additional height was granted for affordable housing outside of Community Centers, etc.

Ms. Aldean said I suspect that this might have been an unintended consequence so hopefully we can revisit it next week.

Mr. Shute said what I will say and I hate to do this but affordable housing was not called out specifically in that discussion. The discussion had to do with height and there was a major concern about height spreading everywhere. I don't want to get into some kind of a deal that we reconvene the consultation process, that isn't going to happen. But I think it might be possible to say that was not something that people necessarily intended and it doesn't mean that they would or wouldn't support it but it wasn't expressly discussed. Maybe we could put it on the agenda and if some of the stakeholders have a heart attack, we will have to decide whether we can even talk about it.

Ms. Aldean said with the concurrence of the rest of the committee, I think it is worth further discussion.

Public Comments & Questions

Norma Santiago, El Dorado County Board of Supervisors said I want to talk a little bit about this whole thing about the transition from and I think there are some semantics that have been exchanged back and worth and there needs to be some clarity in language, because I heard community centers, town centers and community plans. So I want to talk about some of those issues. We have had some discussion before as far as the clarity as we move from Community Plans to Area Plans and making sure there is clear ways that a jurisdiction does elect to take on the responsibility what are those processes. From what I understand now, within an Area Plan there is a town center, so when you start talking about expanding the boundaries, are you talking about expanding the boundaries of the town center just as you would expand the boundaries of a Community Plan.

Mr. Marshall said if that is an analogy yes.

Norma Santiago said then the other thing is on Page 6 of the consultation under community character, it says there is Item B "area plans shall encourage the protection of the views of Lake Tahoe." Paragraph D says "site and building designs within centers shall promote pedestrian activities, provide enhanced design features along public roadways, enhanced design features to be considered including increased setbacks, stepped heights, increased building articulation and/or higher quality building materials along public roadways." It seems to me if what we are looking at is the Scenic Threshold that we are trying to achieve, as we go through a process of checking to see if the Area Plan with its town center is in conformance, what that height is has to protect the view shed, so to talk specifically that it should be 2, 3 stories or whatever. And I'm with Clem, I don't believe we are going to have skyscrapers everywhere because

everybody wants to protect those view sheds, but what I am saying that if you start talking about in terms of numbers of stories, talk about it in terms of meeting the Scenic Threshold because you already have in her that the Area Plan shall encourage the protection of the views of Lake Tahoe. Does that make any sense? Because we know that in order to create these pedestrian, bikeable communities, we are going to have to go up and we are going to have to talk about densities and we are going to have to talk about mixed use. But here is a height that when if I am in Meyers and I want to enjoy and look at the mountains, obviously I am not going to have a big story building there, but I need to get to a point and maybe it is a 3 story building that I can still enjoy the view sheds and still create the density to create a walkable community. I want you to be careful about limiting it numbers of stories and look at what you are trying to achieve that Scenic Threshold.

Brandy McMahon, Douglas County for Eva Krause, Washoe County asked me to address on Page 6, A it says "when Area Plans propose modifications to the boundaries to a town center, regional center, high density tourist district the modifications shall comply with the following: A) boundaries of centers shall be drawn to include only properties that have been developed and any undeveloped parcels that are included in centers shall have at least three sides adjacent to develop parcels and so Eva is saying what does this mean if undeveloped parcels bordered by the existing town center on 1.5 sides and the other 3.5 sides are developed residential, could it be incorporated into the town center and she said TRPA has told Incline citizens that Washoe County could create a new Area Plan for Diamond Peak Recreation Center to make it a year round facility with more activities. Since most of the Diamond Peak property is undeveloped and surrounded by US Forest Service land would this clause prevent the creation of a new Area Plan? She is recommending that at this time it not be incorporated into the plan.

Ms. Marchetta said I think the answer to the questions is Diamond Peak is a recreation district and it is not in a center so this provision doesn't apply.

Brandy McMahon said I had similar concerns Robin, Shelly and Norma with number C , the proposed footnote says "Community Plans outside of town centers, where we are getting rid of Community Plans and replacing them with Area Plans, correct, so that was confusing to me and I think that in certain instances we may want to allow for additional height such as affordable housing and I think we all agree that we are going to look at housing following the adoption of the Regional Plan and that might require additional amendments to the Regional Plan and the Code of Ordinances.

Ellie Waller, Friends of Tahoe Vista said generally I thought we wanted affordable housing very close to our town centers and how far outside a town

center becomes the issue and I think that what you have done is try to capture the walkable, bikeable whole affordable thing. You work where you live or pretty close to it. Then to supplement Norma's concerns, the mitigation measure 3.9-1b, the height and visual mass of any redeveloped existing high rise structure projecting above the forest canopy shall not increase the visual prominent over the baseline conditions as viewed and evaluated from key scenic view points including but not limited to views from Van Sickle scenic roadway, scenic shore units and public recreation areas. This should cover what we are looking for; the visual prominence issue in this mitigation is what should help protect those view sheds. Code compliments this in 13.5.3-2(b) building height limit shall be established to ensure building do not project above the forest canopy ridge lines or otherwise detract from the view shed. It think we have that covered and I just want to make sure we haven't talked level of service, is it part of the community character or is it separate.

Ms. Marchetta said it is part of it.

Susan Gearhart said if we are presenting in Placer County having the West Shore Basin Plans being worked actively, if the county wants to say go down to the Truckee River further and in large this would be a town center, are they allowed to and I am reading that they are not but I am hearing something different from the county. Are town centers not allowed to increase their boundaries?

Jennifer Merchant, Placer County Executive Office said I just wanted to second or third the discussion on affordable housing outside of town centers and we certainly areas that have been designated and zoned us allowing affordable housing outside of town centers right now and in order to get those projects completed they often times need to be higher than two stories. I have a question regarding letter A about the boundaries for a town center, could somebody please define for me the term developed. I am wondering if that includes highways and roads, would that be considered a developed parcel, so if you are on a highway and that is one of your 4 sides it that developed. How is that considered?

Mr. Marshall said I think that would meet the definition of developed but I am not sure we have it in our Code.

Jennifer Merchant said but it is not necessarily a parcel, I guess it is a highway developed parcel. I understand that it is not a dirt road or dirt with no road in the middle of it.

Mr. Marshall said the intent here was to mean by developed it meant not vacant.

Ms. Merchant said it has had some sort of man modification maybe?

Mr. Hester said we did not get into that detail and the intent was not to skip over vacant land, but to develop contiguously as you move out.

Jennifer Merchant said so if something is contiguous perhaps it can be considered as long as it was contiguous on three or more sides.

Mr. Hester said we didn't get to that level of detail.

Jennifer Merchant said that might be something for further clarification.

Staff Response to Public Comments & Questions

Mr. Hester said on level of service, essentially all that is recommended in the Bi-state recommendation is the adding of the phrase that starts, the second from the bottom line "at a level that is proportional to project generated traffic in relation to overall traffic conditions on affected roadways" that language was added so that to ensure that whatever is done is proportional to the impact.

Mr. Shute said in response to Susan's questions about how a town center boundary could be modified, take a look at A & B on the bottom of Page 6, this is what we have been talking about. Properties that have been developed three sides have to be adjacent to developed parcels. Properties included in a center shall be less than a quarter of a mile from existing commercial and public services. So there are criteria for expansion.

Ms. Reedy said the Bi-state agreement has talked about the height and has limited it. While it is nice to hear we should be looking at the Scenic Threshold, and we have to look at more stories in certain areas to make that work the Bi-state agreement which we are supposed to take in whole, we can't do that if we take it in whole. I want clarity there. But without an amendment to the Regional Plan, if we take this as a whole they have measured height a certain way and that is the way it is.

Mr. Marshall said first the RPU, the draft that you forwarded, had height limits in it for various different provisions. The two points of contention that the Bi-state agreement addressed were the 197 for the high density and I think we covered that. This other issue that arose because of the way we did the height districts and in combination with the design standards and that had the potential of going even higher than what the original RPU Committee did, that is the change on Page 7 but aside from that and the notion that the addition height and densities should be limited to town centers and the regional center and the high density, not all Community Plans that those are the three changes that were

done to height.

Ms. Reedy said so we lose the flexibility in certain circumstances to go over certain height.

Mr. Marshall said yes.

Ms. Reedy said we are talking about it that there are choices here but there really isn't.

Ms. Marchetta said there may have been an unintended consequence on the effect on affordable housing and so as Clem pointed out it may be fair to say that this issue just simply wasn't addressed. But that is a very narrow issue and we would if we decide to take it up on the 14th and 15th then we will have some discussion on this offline as we are putting this agenda together. It would just simply be defined as outside the bounds of the agreement. Yes the agreement limits where you can allow for additional height and it is limited to town centers, regional centers and the special provision for the high density tourist district.

Ms. Reedy said again I am just saying it because Norma came up talking about the Scenic Threshold and caps on that and various people talked about it and the fact is, it is what it is in the agreement.

Mr. Robinson said the answer is yes.

The meeting reconvened on August 3, 2012

Land Coverage Transfers

Ms. Marchetta said there is a series of issues starting on page 7 and continuing onto page 8. Additional information is in Issue Sheet #5. Overall in the land coverage category the primary interests and concerns at stake as we moved through these bi-state discussions were about maintaining both the integrity and the effectiveness of the land coverage control system that was put in place in the 1987 Plan. Allowing more movement and transfers of coverage was felt by some to be environmentally impactful in unwanted places. Particularly, there was a great deal of discussion about unwanted consequences close to the lake, that we would risk changing the desired character if we moved too much coverage, particularly moving wholesale large amounts of coverage from the south shore to the north shore. There was concern that transfers would benefit the sending site but be detrimental at the receiving site, especially transfers close to the lake. Others noted that the existing rules already have provisions for encouraging coverage reduction on sensitive lands (many of those sensitive lands are close to

the lake) and that proposed new policies like area-wide coverage management, have requirements under the draft plan to show a better result on coverage management, even though it would not be at the parcel scale, and in that respect coverage management should be looked at as consistent with TMDL strategies that are giving local governments some flexibility to manage water quality and coverage strategies on an area-wide basis.

Those are the two sides of that discussion and despite very strong differences of opinion on this – this generated a lot of strong passion, especially on coverage transfers – there were some areas where we agreed that modifying the coverage policies would be beneficial; however, there is one area where we just simply could not reach agreement. The most highly contentious issue was coverage transfers across Hydrologic Resource Area boundaries (HRA boundaries). There is a new CTC study that recommends eliminating those boundaries. Water Agency staff have offered that those boundaries may be inconsistent and an impediment to implementing TMDL strategies. Nevertheless, there was no agreement that could be reached by the group and so the group agreed to take this issue off the table and add it to the long-term to do list to be dealt with after the Regional Plan Update is adopted and based upon a much more focused consideration of new information on this issue.

The area in which there was agreement starts with excess mitigation fees. There was a proposal in the draft plan to be able to move not coverage across HRA boundaries, but fees. Excess coverage mitigation fees right now, under the existing plan, cannot be used outside of the HRA zone where it is collected. The unintended effect of this is that sometimes there is just no available project within that HRA and fees have been accumulating unused because we cannot find a suitable project within that HRA boundary. The group agreed on this issue to allow excess coverage mitigation fees that are collected within one HRA to be transferred across, or used outside of, that HRA boundary so they can be used on the most beneficial regional project. Without doing this there would be millions of dollars in collected fees that cannot be used. John Marshall will discuss the off-site land coverage mitigation issue.

Mr. Marshall said that this issue has to do with when property is over-covered and there is a requirement in the Code to reduce coverage by a certain formula which provides a square footage number. The excess coverage, over the allowable coverage, can be mitigated in three different ways – pay a fee, and the use of those fees can now cross HRA boundaries; coverage on-site can be retired; or coverage can be purchased elsewhere. All of these have limitations; they have to be done within the HRA boundaries. The majority of people pay the fee, but if the choice is to not pay the fee and to do the project off-site, it is okay to look outside the HRA boundary if you are restoring lands that are more sensitive than the project area. There are three options – to mitigate, and two

of those three can be done across HRA boundaries, or mitigation on site.

Ms. Marchetta said there is another set of issues related to new land coverage allowances. These additional allowances have been proposed to achieve certain specific policy purposes. There are allowances or exemptions for decks, for sheds, for pervious coverage, for bike trails, and there is a proposal in Alternative 4 for ADA coverage exemptions. All are encompassed within this small sub-group of issues. The group agreed to support the coverage allowances and exemptions across the board; there were no changes or restrictions. Decks, sheds, pervious coverage, bike paths and the ADA exemption came forward as recommended in support.

Next is area-wide coverage management plans. This concept was supported, but some have very strong reservations about moving away from the parcel-based coverage management system where we manage coverage on a parcel by parcel basis. In response to the concerns about locating coverage too close to the lake, the group agreed to place a restriction on the use of area-wide coverage benefits within a 300 foot zone that we generally define as the shoreland. The shoreland is not always 300 feet and the agreement says that this is a 300 foot strip from high water and the benefits of area-wide coverage management plans cannot accrue to the area within that 300 feet of high water. The group's agreement is that within that 300 foot zone, existing rules under today's Regional Plan would continue to apply and those lands would not be eligible to be included within an area-wide coverage management plan.

Mr. Marshall said there is a slight twist to what Ms. Marchetta said. The 300 foot zones can be included to calculate coverage in all parcels in the area-wide coverage plan, but the benefit of that area-wide coverage plan is that coverage can be moved, or aggregated, on a larger scale than just parcel-wide. The concern was that the group did not want that coverage aggregated within the 300 foot zone. Those parcels can be included within area wide coverage plans, but cannot aggregate the coverage above the existing coverage amount or above what could be put today in that 300 foot zone. In other words, that 300 foot strip can be used as part of the parcels for a total area-wide coverage plan, but the coverage limitations are what exist today for those parcels. The coverage plan can still count that coverage if there is a desire to move it to other areas outside of the 300 foot zone within the area-wide coverage plan.

Ms. Marchetta said that concludes her presentation on coverage management.

<u>Board Comments & Questions</u>

Ms. Aldean said that the CTC brought up the issue of retroactivity with respect to the use of excess coverage mitigation fees outside HRA zones. She asked if the

Committee considered that recommendation or if the Committee is free to consider that independently of the consultation group.

Ms. Marchetta said that she does not believe that the bi-state group dealt at that level of detail. She does not think they considered that issue.

Ms. Aldean asked if it is an additional issue.

Ms. Marchetta said yes.

Mr. Marshall said that the presumption is that the way it was presented is that there is an account now and that is what is meant by retroactive. There is money now that they need to spend. The purpose of this amendment is to allow them to spend that money outside the HRA. He does not think the purpose of the amendment is to be only forward collecting fees. The presumption is that they want the accounts they have now to be used in a more efficient manner to mitigate coverage.

Ms. Aldean suggested that there be an affirmative statement to that effect.

Mr. Shute said he does not believe that it will be controversial, that it is the intention.

Mr. Sevison asked that if the local jurisdictions disagree on how that money is to be used, is there an appeal process? They may have thought they had pledged that money for a particular use somewhere and then TRPA said that it needs to go elsewhere because that is the biggest need. He can see where there can be disagreement.

Mr. Marshall said he thinks two different things are being discussed. These monies go into an account and then CTC and Nevada State Lands manage those accounts under the rules that they are operating under, which is they have to expend those funds within the HRA. So it is not so much of a county pass-through of the excess coverage mitigation fees.

Mr. Shute said he believes that Mr. Sevision is thinking of the air quality fees.

Ms. Fortier said she wants to clarify that in the shoreland discussion by the Committee, it was initially discussed in terms of what was defined as “shorezone land”?

Mr. Marshall said that under the current rules there is a definition called “shoreland” and we were trying to come up with something that might be used as some sort of defined zone where the benefits could not accrue under area-

wide coverage plans. The problem with using “shoreland” is that we were using it interchangeably with 300 feet in the Bi-State discussions and oftentimes it is not, it is substantially less. To be consistent with the group’s understanding of what we were talking about, they drafted it with “300 feet” rather than using the technical term “shoreland”.

Public Comments & Questions

Alex Leff, Friends of the West Shore, said that on the excess coverage mitigation fees it appears that a better solution might be to just increase the fees so CTC and Nevada State Lands can then use those fees in the same HRA and possibly on the same property to have the greatest environmental benefit. We understand the difficult position that CTC and Nevada State Lands are in. They are limited as to where they can use those fees more, because of costs rather than the opportunity to purchase land. On the area-wide coverage management plans, he attended the Tahoe Science Consortium presentation during the last Governing Board meeting. From their presentation they recommended sort of area-wide coverage management plan, but more because of enforcement issues with the parcel by parcel BMP issues, enforcing BMPs parcel by parcel. It seems to be more of an enforcement issue, where the area-wide coverage management plan is more environmentally beneficial. Thank you.

Laurel Ames, Tahoe Area Sierra Club said the reason for excess mitigation fees is because the people who have the excess coverage do not want to do on-site treatment, which is what they could do to offset their excess coverage, or they could remove their excess coverage. It might not fit what they want to do exactly, but it would be more effective for water quality. I understand that other people in the room have other concerns than water quality, but on a water quality basis, removing the excess coverage is the very best bang for the buck. The other reason they like excess coverage mitigation fees is that it removes them from any responsibility for doing restoration – they just hand the money over to a bank – and they do the excess coverage removal. The problem is that the excess coverage mitigation fees are not high enough to cover the bank from doing the removal unless they can find cheaper places to do it, which is why they want to go across the zones. The alternative that was proposed in the conservation community plan was to remove excess coverage mitigation fees and deal with the problem. This is just waving magic wands and hoping that sometime down the line cheap mitigation fees, cheap property will start doing something. But, it is not an effective water quality restoration program. The transfer across HRA zones is much the same problem. It is only being done for financial reasons; it is not because they cannot find the land to restore. There is land to restore, it is just not convenient or obviously available or nobody wants to pay for it. If this is a water quality issue, which it is, because we have 225 studies that show that hard coverage is the direct contributor of nutrients and

sediment to the lake. That is a water quality problem. Connectivity is critical in all of this. If coverage directly connected to a lake or a stream is going to be excused (gutters, pipes, etc.) then not much is being done because the excess mitigation fees are going to be spent someplace where it is a lot cheaper and there is likely to be a lot less connectivity. The area-wide coverage management plans are more of the same problem – adding coverage, aggregating coverage as Mr. Marshall said, increases the problem. It increases the velocity, it increases the volume, it increases the amount of stormwater that takes the increased amount of sediment and nutrients that eventually, whether through streams or through ditches or pipes, gets to the lake. If you are interested in water quality you would not adopt an area-wide coverage management plan unless there are an enormous number of side boards that would include connectivity; which would include careful field monitoring and adjustments if the monitoring showed how bad the runoff was; it would include limits; it would include timing; it would include a lot of things that just aggregating land coverage does not do. If this is for water quality then you will want to do a lot more than just have a comprehensive area-wide coverage management plan – you will want to add side boards, add criteria and add results. This is a performance problem, not a financial problem. Lastly, land coverage allowances – certainly you can allow as much coverage anywhere that you want, and you are doing that – means more nutrients and more sediments delivered to the lake. You can rely on treatment plants, and someday they will be built, and someday they will work, but for today, if you allow ongoing coverage with no treatment, which is what there is now, some BMPs, some pretty poorly behaving BMPs, then you are just adding nutrients and sediment to the lake. Thank you.

Pat Davison, Contractor's Association of Truckee Tahoe, wants to comment on two parts of this section of the recommendations. First, we were very excited when we heard about the paradigm change – the shift towards incentive-based redevelopment and environmental restoration, and in that there were two sections that actually became part of the recommendation discussion that we had strong support for. One was the thought that there could be area-wide coverage for BMP protection. To refresh memories, at the Governing Board meeting last week there was a chart showing parcels in compliance and parcels not in compliance, and it is pretty staggering the number of parcels that are not incompliance for BMPs. My question is, and Mr. Marshall, I apologize but I did not quite understand your description of what the area-wide management changes were as they apply to individual parcel BMP retrofits if that would still be allowed within the 300 foot, so I request clarification on that. I think it would be a great loss if that tool was taken out of the toolbox for TRPA. The other comment is that we are also excited with the draft plan's change towards making consistent the land coverage that would be allowed on redeveloped parcels versus new development. It would have made all those lands at 70% coverage within community centers, if I understand correctly. You are tying your

own hands by taking that tool out of the toolbox. Thank you.

Ellie Waller, Tahoe Vista resident said that some of the excess coverage mitigation program was brought forward by the CTC. Is their program is short on coverage and that is what this is trying to fix? Has TRPA approved more projects than there is excess coverage available? We should be looking at the total picture. Some of the suggestions about charging more than $8.50 for the land itself might need to be revisited by the CTC. Coverage truly is the enemy of clear water. The Basin needs reduced coverage, not moving it around. The transfer program does not reduce the total coverage. It needs to have clear environmental gains from the sending parcels. With the area-wide BMPs, the owner still can elect not to participate in an area-wide plan, so it still becomes an enforcement issue.

Susan Gearhart, Homewood said she thinks the area-wide coverage management plan is an excellent idea. She requests that homework be done going to California Natural Resource Water website, in which they are now removing coverage, removing conveyance pipes, they are now taking their channeled creeks and doing the soil permeability that is necessary. She understands fees are an agency's practice, but there is a much better way to improve water quality. The State of California is enforcing that and they are finding very positive results what it does to improve the water quality. Five thousand beaches were closed in the state of California just due to the amount of contamination that was running down from the creeks to the beaches. That is a tremendous income that is lost from the beach. But, from Lake Tahoe we have the pristine water that we need to protect. Looking at the conveyance pipes that dump directly into the lake, looking at how to manage area-wide coverage in order to use swales, use soil permeability, use infiltration ponds and use more advanced technology that the state of California is now supporting, we can dove-tail into that and make this much larger of a management plan. Thank you.

Jennifer Merchant, Placer County Executive Office, has a clarifying question for Mr. Marshall – the discussion about shoreland compared to the 300 foot. Is shoreland the specific zone that we are attempting to treat but it is different in different areas so we just called it 300 feet?

Mr. Marshall said the concept was to find a buffer between the lake and the added aggregation that might occur under an area-wide coverage plan. 300 feet was offered as a device we have used in the shoreland scenic ordinances as an appropriate buffer. There we define "shoreland" but it turns out that the shoreland does not always equate to 300 feet. It can often be less than 300 feet. To meet the group's intent, which was to provide a consistent, measurable buffer of 300 feet, we used the term "300 feet" rather than "shoreland."

Jennifer Merchant, Placer County Executive Office said that we are often giving away opportunities, taking tools out of the toolbox, as Ms. Davison said, that are important things to fix water quality degradation in our communities. She would like to point out that in Placer County's opinion; this proposal does not seem consistent with the Regional Plan's stated goals of incentivizing pedestrian transit-oriented development. Those are two air quality and water quality goals of this plan. Placer County is so concerned because every single one of the communities from the El Dorado County line to the Nevada state line on the north shore will be severely impacted with this proposal. Tahoma, Homewood, Sunnyside, Tahoe City, Carnelian Bay, Tahoe Vista, Kings Beach all have a majority of their commercial core areas within this 300 foot zone. She provided a map of Tahoe City. She indicates that the blue line represents the 300 foot mark and provides an idea of how much of the already developed commercial property is in this zone. If we are ever to redevelop, to incentivize redevelopment to improve water quality and all the other things we are talking about at Lake Tahoe, we are going to need to remove coverage, to aggregate coverage to be given the flexibility to get projects completed. Right now, in Tahoe City on Hwy 28, the north side of the highway is piped in with part of an area-wide plan related to the Tahoe City Community Plan and the improvements done in Tahoe City, all piped in and treated in an area on the west side of town and goes into the Truckee River, which by the way does not go into Lake Tahoe. The south side of the road, which is mostly effected by this, is not treated right now and does go right into the lake. Show where, if there can be an area-wide plan, but none of the benefits of aggregation, where we can ever make any kind of improvement. This is just Tahoe City – I am talking about every community in Placer County. That is why we are so very concerned about this. We absolutely want to be able to have the communities and property owners do the right thing, but if you have taken away the incentive, we are very concerned it is never going to happen. It is not going to help the lake and it will not help economic development in our communities – they are inextricably tied to each other. If we do have an area plan, we can do the things that Laurel is talking about. We need to have side boards; we need to have drainage areas that are treated – you don't just aggregate and then leave the rest of it untreated. Of course, the areas from where it was aggregated would be exactly where the treatment would be done. There would be monitoring, there would be side boards, and really that is the purpose of doing a plan. Without an incentive, we are not going to have those plans. You have all received a letter from the North Lake Tahoe Resort Association. I'm Placer County's representative on that Board. We have a contract with them to provide tourism development services and marketing services. They are extremely concerned about this as a key representative of the business community and I do want to drive home the point that we believe this is discriminatory and action against opportunity in Placer County specifically. We think the decision, while we understand the purpose of it, because there is no science related to it and it was just a number pulled out of thin air, is arbitrary

and capricious. Thank you.

Lew Feldman said he is trying to bring some real-world perspective to the conversation of today. In his experience, the predominant opportunities we have seen redeveloped have been parcels that were built prior to TRPA's regulatory imprint, which means that they are hugely over covered by today's standards and even by proposed standards. For the most part, they are at 90-95% coverage or greater. What we have seen by aggregating parcels, and Heavenly Village is a good example, we reduced coverage there by 250,000 sf. As we take the built environment and redevelop it, we invariably do two things – we substantially reduce existing coverage and we install best management practices, at least to state-of-the-art for that time. You get not only an on-site water quality benefit, but you also get an overall land coverage reduction opportunity and benefit. This tempest in the teapot on the area-wide coverage management plan is troubling. One of the things that has not been observed is that it is optional. You do not have to have an area-wide coverage plan. If you read the provision, it says that you can opt in. The reason that is important is that many of the properties impacted by the potential to aggregate coverage have so much more coverage than they can use in a redevelopment scenario, they probably would not want to opt in because they can use their existing coverage and even reduce that existing coverage, but as they do so they would install BMPs, still get a coverage reduction, be operating under the existing plan and achieving the benefits the existing plan has delivered. In some instances it may be conceivable that an area-wide plan could be adopted. Some property owners may like it, some may not. This is Tahoe. To adopt an area-wide coverage plan is going to be a monumental undertaking and I would be surprised to see very many of them actually implemented.

Jennifer Quashnick, South Lake Tahoe resident said she was very involved in looking at the document and working on the conservation community comments. Wanted to speak regarding the future review of coverage transfers that are in the bi-state agreement. There are 65 watersheds in over 50 intervening zones and any review of coverage transfers across boundaries must be more than a review – it must be a thorough scientific study of the environmental impacts to both the sending and receiving areas, especially the local and regional impacts on thresholds. For example, as noted in the conservation community comments, the State-of-the-Lake Report shows the local variations of near shore conditions along the shore line. They are quite diverse. The sediment and nutrients from south shore may impact the near shore more, or less, than the same pollutants going into the lake in the north shore. We do not know this yet, so any transfer of development needs to be based on benefiting the thresholds. This requires environmental study, not just an undefined review, and also the 300-foot limit has not been studied to determine whether it is environmentally appropriate for all the thresholds. To

echo earlier comments, there is no science behind the 300 foot limit. Until the impacts have been adequately studied, it simply must not be allowed. We need to understand what is going on with the environmental impacts, how it is going to affect the thresholds and how it is going to impact the different areas in the south shore, west shore, north shore, and east shore. There is a great map in the State-of-the-Lake Report that shows the differences in the shorelines, and those are included in the Sierra Club comments submitted on July 25th.

Committee Comments & Questions

None

TMDL:

Ms. Marchetta said that it was just last week that TRPA presented an overview on water quality regulation and management within the Basin and we took a walk back and looked at our history over the last 40 years – where did we start, what major moves have been made and where we are today. The main point from that presentation is that from where we started in regulating water quality in Tahoe, the TMDL, which we have all heard of and talked so much about, has really shifted that paradigm in regulating, managing and implementing water quality in Tahoe over what we assumed 30 years ago. When we first started regulating in Tahoe, it was based on Clean Water Act policy. [We did not have specific water quality science then related to Tahoe. Based on the Clean Water Act, we said that every drop of water on every parcel needed to be treated to a uniform infiltration standard which became the twenty-year one-hour storm event. That was assumed to be needed to protect the lake. But, there was not scientific study then to tie that infiltration standard to any particular gain in the water clarity threshold. Now we have the benefit of new and better science. We have invested heavily over ten years, $10 million, and the TMDL now tells us that that system that we designed 25 years ago that was based upon 43,000 parcel-based storm water treatment subsystems can potentially be improved and with that improvement we can now tie implementation progress to threshold outcomes, which we could never do before. So, this is a major leap, a major shift. The two states, on the California side, the California Water Board, and NDP on the Nevada side, have taken the lead in developing and administering that TMDL. With that work we can now scientifically tie water quality gains to catchment scale load reductions of key pollutants -- fine sediment, phosphorus, nitrogen. This is a regulatory, administrative and implementation advance and paradigm shift. The TMDL looks not so much any longer at a uniform and prescriptive standard but a performance standard with flexibility in how it gets implemented. It is regulated by the states through state-issued permits and MOAs and is implemented primarily through local jurisdiction plans called "Pollution Load Reduction Plans" or "Sediment Load Reduction Plans" that are

required by the permit or MOU under the states' requirements. So, notably, one of the reasons in the draft plan that we are giving the flexibility for development of area plans and local delegation is to allow local governments to coordinate their catchment scale storm water management plans with local land use plans that would include area-wide coverage management and reduction and area-wide storm water treatment strategies and approaches.

I gave you that background to help you understand what the bi-state agreement is trying to get at. Because this was one of the issues with the greatest contention, you need to understand that the paradigm shift is embedded in the recommendation that came out of the bi-state group. Some in the discussion wanted TRPA to provide the TMDL enforcement hammer through the Regional Plan Update to assure that local governments would comply with the TMDL. That was one side. Others felt very strongly that the TMDL is authorized and should be administered by the states without regulatory or administrative duplication or inconsistency by TRPA. So, TRPA's role should be to support the TMDL implementation through the use of targeted land use incentives that would give local governments tools to meet their TMDL regulatory targets and they felt there should be no hard hammer that would withdraw local jurisdiction land use permitting delegation as an automatic tie to local governments' compliance status with those state TMDL standards. The thinking being there was already a separate and independent regulatory process to assure that local governments would comply with the TMDL. That was the Lake Tahoe Clarity Crediting Program, which is administered by the states, and they felt that was the proper system that was designed to track permittee compliance with the TMDL. So, overlaying TRPA as a secondary and duplicative, and potentially conflicting regulator, of TMDL created uncertainty and subjected those TMDL permittees, i.e., the local governments, to conflicting technical regulatory standards.

The group agreed that TRPA will use the local government plans that are required by the TMDL to evaluate conformity of area plans when TRPA approves that local plan. The state agencies, on the other hand, will be the ones that will measure progress and compliance and they will use the Lake Tahoe Clarity Crediting Program to assess and measure progress and compliance. So, the states will then report that crediting information and that compliance status to TRPA. Those progress reports and compliance status are for TRPA to consider in our Regional Plan reviews and in our Area Plan Recertifications every four years. TRPA may consider and make adjustments, in the way of adaptive management, to its Regional Plan in response to the information provided by the two states. There is no automatic or punitive hammer under the Regional Plan. The bottom line is that all the agencies, including TRPA, should use this established assessment criteria for what constitutes adequate progress under the TMDL. Again, that is the Lake Tahoe Clarity Crediting Program that was created jointly

by the two states and TRPA would not then substitute its own standards for what constituted required progress on that TMLD load reduction.

Committee Comments & Questions

Mr. Robinson said he believes that is a fair recollection of how we came to our agreement, but thinks key to it is that people in the discussion used the term "linkage" and it was a fine line between having a linkage and maintaining the independence of the state regulatory bodies, which many in the room felt was really important. I think that is what this does – it provides a linkage to TRPA, it gives them all the information and reporting that the states come up with, but maintains the state regulatory authorities.

Public Comments & Questions

Norma Santiago, El Dorado County said that just for a point of clarification, and she likes what Steve was talking about in terms of linkages, but Joanne mentioned in her comments something about the standards being set by the state. How does that relate to our thresholds and threshold standards when it comes to water quality? Where is the linkage between TMDL and our threshold standards as far as the Regional Plan Update?

Ms. Marchetta said the states, through your local jurisdictions permit, has set load reduction targets for you. The TMDL science, the model, then allows us to tie those load reductions to progress on attaining our water quality thresholds. If you consistently meet targets over 15 years, we can, with some legitimacy now say, we can improve lake clarity by ten feet. That is the Clarity Challenge – ten feet in 15 years.

Norma Santiago, El Dorado County asked, for clarity sake, are the pollutant load reduction targets that the individual jurisdictions meet going to be used to inform progress as far as how we are moving towards threshold attainment on water quality?

Ms. Marchetta said yes.

Ellie Waller, Tahoe Vista resident said that under the TMDL regulations and the adaptive management system that says "notification of all breaches or violations of MOUs" – how does TRPA monitor the breaches to ensure they are being notified? She believes that the catchment data for recertification every four years is not enough – there should be interim measures because the annual reviews will happen on the permitting. Four years is too long to assume a catchment basin is a viable alternative. Thank you.

Laurel Ames, Tahoe Area Sierra Club said the TMDL is part science, part engineering. When you move from the science to the engineering something, of course, gets lost, which is the clarity, not of the lake, but of the crediting program, because that is not scientific, that is engineers. The crediting program is a model run through computers. The way to tell if it is working is to use another model. There is no field verification that anything is happening. This is like trying to protect streams from cows and your only tool is a fence and then say "we put in 1500 feet of fence so we have protected the stream" but no one goes back to see if the fence is there, if the cows have broken through, if the fence is in the right place, if the cows are going around it, etc. This is the problem with using a model to model a model. You do not have any real performance standards based on field monitoring, like grabbing water and taking it to a lab and measuring it, which will really tell what is happening. We look at our in-stream monitoring with the program that is cut way back – the streams are getting worse, not better. That is the same water that will be running through these catchments. Are they getting better? You will not know. You will know that the model tells you that they should be getting better, therefore they are. But, you will not know that they are. Back to the same issue, if you are going to protect water quality, you are going to have to do a better job than just being notified about the catchment data from the TMDL, because you are just looking at computer outputs. You don't know what is running into the lake. One of the things they are doing in the Bay Area with pipes, which is part of the state-wide storm water management plan, is to close off the connectivity with the pipes into their water resources, both the bay and the streams. That is not covered in the TMDL. The TMDL is part of the connectivity, but after you leave the last catchment, which is modeled to be performing correctly, the water runs into the lake through a pipe or a ditch or over land, which is better. Although this is intended to be good language that was going to tie TMDL progress to water quality to the plan itself, it is not much of a tie. It is a paper tie only. It saves the states from thinking about being responsible for the planning and it saves the planners from being responsible for how well the TMDL works, but it will not tell what is happening to the run-off to the lake.

Committee Comments & Questions

Ms. Aldean responded to Ms. Ames' comments saying that the last provision under TMDL says, "TRPA will use catchment data and all reporting". Can you expand on what all reporting includes? Additional, in the field, on site, analysis.

Ms. Marchetta said there is field monitoring and there is field verification. We have successfully located the first $1.5 million for this field monitoring and she is looking forward to working with the states and the environmental community on finding the next increment of funding for monitoring. It will certainly include all of that information as well as the reporting that is done to the two states under

the permits.

Unknown Man's voice asked if as part of the monitoring, are they not only monitoring flows and amounts of flows, but the constituency of the flows? Will that be part of the information that we will receive?

Mr. Hester said that his understanding is that the first round of the monitoring is going to be looking at three things – region-wide, or Basin-wide standards, catchment outfalls to verify the models that are used to measure, and monitoring some of the technology to see how well certain things work, like for example infiltration basins and vaults. It is going to look at all of those different technologies and monitor for that as well. To add to Joanne's comment about funding after the $1.5 million, the measurement and monitoring requirements for each of the permitees or MOA jurisdictions is also part of that. How that is done is set out in the MOAs and the NPDES permits, so there is ongoing measurement and monitoring built into the TMDL system.

Air Quality:

Ms. Marchetta said that this section is relatively simple. The group essentially agreed to recommend staying with the draft plan's proposals as advanced through the Regional Plan Committee in March. On the 8-Hour Ozone Standard, there was a proposal to adopt the California 8-Hour Ozone Standard as an additional TRPA threshold. Although there had been some disagreement over whether we should adopt that standard, the bi-state group did not further contest this issue and agreed with the proposal not to adopt that standard. Notably, the California Standard does apply under other provisions of the Compact.

On Disbursement of Air Quality Mitigation Fees. Under the existing Regional Plan, Air Quality Mitigation Fees have to be used within the political jurisdiction where they are collected. This has not been an issue for us because over the last decade we have had a free-flow of money from SNPLMA to apply toward regional air quality projects that would benefit the Basin on a regional scale. Now, with that SNPLMA money sunsetting, there was a proposal to restrict the use of those mitigation fees that are collected by local jurisdictions, and essentially split those fees in some proportion so that some portion could be used on the highest priority projects of regional benefit and the other portion of those fees would stay within the jurisdiction to be used on projects locally within the jurisdiction that would also benefit air quality. So, the group agreed to recommend and support this split allocation of fees – some being locally used and some going toward regional air quality projects of high priority. The proportion is yet to be determined.

On the next issue, which is essentially a prohibition on biomass facilities, the existing Regional Plan includes an exemption from our air quality emissions requirements for biomass facilities where there is a demonstrated net reduction in emissions from pile burning. That is an existing rule in TRPA's Code today. The draft plan would remove that exemption from our air pollution emissions limits and suspend any acceptance of applications for biomass facilities, unless or until further research demonstrated the safety and environmental compatibility of those facilities for the Tahoe region. The bi-state group agreed to stay with that recommendation in the draft plan.

Committee Comments & Questions

Mr. Sevison said he would encourage that we add that any biomass considerations had to meet our standards for air quality and environment, because right now it is simply says it is a prohibition. I think we had agreed that there should not be one unless it can be proven that it meets all the standards that are necessary, whether air quality and ozone and other things.

Ms. Aldean said that we have kind of used "suspension" and "prohibition" interchangeably, yet there is a significant difference. It is kind of a temporary prohibition, more of a suspension until the science catches up with the environmental requirements. I think it is important to make that distinction.

Mr. Shute added that the bi-state recommendations do not alter what came out of this committee, so the language that is in the Committee minutes is what governs.

Public Comments & Questions

Ellie Waller, Tahoe Vista resident said she believes that the air quality mitigation fees should stay with the local jurisdiction. Enough mitigation fees go outside the local jurisdictions and do not have any local nexus. Thank you.

Jennifer Quashnick, Tahoe Area Sierra Club said she spent a lot of time on the air quality analysis and was up here at the end of June talking about what was not analyzed in the EIS. The EIS has assumed that cars are responsible for most of the air pollution and has applied this as a one-size-fits-all to all sources. This is simply not the case. Cars may be a primary contributor to some pollutants, but not to others. The construction emissions were not analyzed. Calling them temporary is about as ridiculous as calling the noise impacts of construction temporary. It is there, and if you have a respiratory illness and you are next to a construction project, you may be off to the hospital because of the emissions. This idea on paper that temporary emissions or slightly mitigated emissions are okay is just not supported by the science. Air quality analysis was also not

looked at. Other sources, including motorized recreation. I have looked at the TRPA's own evaluation of watercraft data from 2009 and 2010 and the estimated emissions there were far higher than what the California state emissions are that were used in the document. It shows that there needs to be a more thorough analysis of all the air quality sources before we make any decisions. Another thing that was a constant repeat in the document was the idea of "per capita". The document recognizes that the alternatives are going to increase VMT, which will increase tail pipe emissions. But, again, because we have modeled that two-thirds of the cars on the California side are going to be better in 20 years, apparently we are going to breathe better in 20 years and so for the first 19 years we can all go to the hospital or wear respiratory masks. This is simply not supported. Instead the document uses the idea of per capita, which comes from the greenhouse gas emissions analysis, to say that per person emissions are going to be reduced. Yet, overall we are going to have a net increase in the Basin. I think neither of these are supported, but the thresholds require that the thresholds be met. They are not based on per capita, they are based on overall air quality. The idea of adopting just the state standards for each side – years ago the Governing Board was going to have an alternative to look at adopting the most restrictive, the most protective air quality standards for the entire Basin – and now this idea is gone. Not even analyzed in any of the alternatives. I do not understand, as someone who has asthma, how it can be okay to protect one side of the Basin better than the other side. We have not figured out how to get magical fans to blow the air masses to keep them on separate sides of the states. Until and unless that happens we really need to be looking at applying the same air quality standards to the entire Basin. In terms of the mitigation fees, again the one-size-fits-all approach is not going to work. We need to be looking at these things differently. CO emissions in one part of the Basin, carbon monoxide, are going to have a localized impact, whereas particulate matter emissions may blow across the lake or impact another community and the mitigation program does not distinguish between those differences. Thank you.

Norma Santiago, El Dorado County Board of Supervisors asked about the drive thru pharmacies – should they be project based and not something that belongs in a document that relates to air quality standards and thresholds. It seems to be more of a specific project and how that project is approved or evaluated. It should not be something specific in a regional plan update.

Staff Response to Comments & Questions

Ms. Marchetta said that region-wide drive up windows was a contentious policy change. Rather than considering a region-wide change to allow drive up windows, the group agreed to look at a possible policy change by first reviewing a pilot program within the City of South Lake Tahoe. It is not correct to say it is a

project proposal. It is looking at a Basin-wide policy change but starting slow and small. I believe that was the sentiment of the bi-state group when it was discussed.

Mr. Robinson noted it was specifically called a "pilot program".

BMPs at Point-of-Sale:

Ms. Marchetta said that if you want to get polarized sides of a debate together, let's talk about BMPs at point-of-sale. This is, and has been for a very long time, one of those completely intractable issues. Everyone went to their corners; there was not even a recommended alternative solution. In summary, no one could agree. It was suggested that a working group of the Governing Board should be convened, bring some other stakeholders to the table, and see if, after knocking heads on this issue, a different group could perhaps find a recommended solution to this problem. That solution will be looked for after this Regional Plan Update is adopted. It is not on the "to do" list, but it is a working group item for the future.

Committee Comments & Questions

Mr. Shute said regarding the pilot program that this package was a lot of give and take. There are parts that people do not like and part that people gave up to reach compromise with others. This is a particularly important proposal for the City of South Lake Tahoe and as part of the integrated compromises we all made, we agreed to the pilot program. Any pilot program will have to go through environmental review and comply with rules before adoption.

Public Comments & Questions

Laurel Ames, Tahoe Area Sierra Club, said the BMPs at Point-of-Sale is a very important issue, given the 38% compliance in the Basin. This is a water quality issue and if point-of-sale is the best enforcement – it is certainly the place to catch people, when money changes hands and the issue can be dealt with. She is hopeful the Committee works to review that. She would expand the Committee to also deal with the effectiveness of BMPs at the residential level. It is very important that people begin to understand what they are, how they work, what their life-span is, what maintenance is required and that there is a monitoring program for that. The Sierra Club would like to see a very robust BMP enforcement program and BMP installation program. Point-of-Sale is one piece of that. The performance issues are important and should be dealt with at the same time, in terms of efficiency. You could divide up BMPs and have seven different committees, but that seems like quite a waste. This is the kind of effort that you can involve more people and involve more stakeholders and will get a

much better water quality bang for the buck.

Ellie Waller, Tahoe Vista resident said she read most of the comments that came through by July 13th in the online packets, and you will get some push back from the Board of Realtors. I am not a realtor, I am just saying a lot of the comments, just like the wood stove replacement, I personally believe these things should happen. I've done my BMPs. I've done my defensible space. I expect that everyone else should have to comply. I know the local jurisdictions have plenty on their plates, as does the TRPA. To push enforcement, the only way to do it is to make it conditional. I have some concerns about the pilot program for pharmacy drive-ups. I would like to understand what future opportunities mean. Do we want to expand beyond pharmacies and what are we trying to bring to the Basin. We have spent years trying to keep this unique and have small businesses instead of corporations coming here.

Hayley Williamson, South Tahoe Association of Realtors said that there are several reasons for the pushback from realtors. If the desire is BMP compliance, point-of-sale is one of the least effective ways. Some homes in the Basin do not change hands for over 40 years. Some people do not use realtors to sell homes. Unlike wood stoves, one thing to keep in mind regarding point-of-sale is the winter and the snow. It is difficult to find a bank to hold money in escrow to do that. The realtors request that when the working group get formed, that realtors will have input on that committee.

Jennifer Quashnick, South Lake Tahoe resident said that she was the Air Quality Program Manager for TRPA from 2001-2005. The issue of the drive-up windows is not new. The reason it was originally adopted is because of a problem with carbon monoxide emissions and the inversions in the Basin that are strong in the winter and are also strong at night during the summer. When CO is coming from a tailpipe, it is not disbursing like it would in other geographic areas. It is also worse at higher elevations. The states adopted a lower CO standard. The ban on drive-up windows was adopted because of automobile idling and vehicle emissions. The EIS does not specify the reason for the original ban. It was found in the threshold report under "Other Pollutants". She also looked at recent data and it appears the Basin may have exceeded the CO standard in February, based on raw data provided by the NDEP. CO is not a problem that has gone away. She would like to see alternatives analyzed.

Committee Comments & Questions

Ms. Fortier thanked Jennifer for finding that reference showing exactly where TRPA said no drive-up windows. The issues is that there has been a ban on drive-up windows for a number of reasons, but it has not necessarily held up to the current science, which is there is an improved emission standard for cars

over 20 years ago. This is a service, not an intent to put a lot of elderly in line and gas them all. There are very snowy and dangerous winters here and it is difficult for the elderly to park, get out of their cars and walk into the pharmacy to get their prescriptions. A pilot program for drive-up windows has been requested because it is thought to be a service to the elderly. It would be nice to know the real ramifications. One consideration is to turn off vehicle engines while at the drive-up window. The reason for drive-up windows is the request from people not able to get out of their cars and negotiate the ice and snow to get their prescriptions.

Mr. Shute said that the Committee has gone through all of the recommendations from the bi-state consultation process and are at a point to consider a straw vote up or down on the entire package. Before voting at the Committee level or have Committee discussion, we will again allow public comment. There has been some criticism of the bi-state process that it was not transparent, so we want to open this up to further public comment. We have gone through the recommendation package and had some discussion. There was a lot of give and take – there are parts of it that various members of the Committee do not like, but there was an attempt to bridge a large gap. At the point where the plan emerged from the Regional Plan Update Committee it was supported by a majority of the Committee and a majority of the Governing Board, but there was a lack of support in the conservation community and in certain components of California state government. This process is an attempt to bridge those differences and allow this plan to be implemented with enough support to give it a chance. This may be a way to save TRPA as well. Those who participated were trying to bridge differences and move forward with a plan we can implement.

Public Comments & Questions

Ellie Waller, Tahoe Vista resident said she needs clarification on the straw vote. There are other topics in the issues package that is not part of the nine pages. She asked if that was being considered as part of the straw vote.

Mr. Shute said the Committee is considering only the nine pages of the bi-state consultation recommendations. Staff will develop an agenda for those items in the issues package at subsequent meetings.

Alex Leff, Friends of the West Shore said they appreciate the hard work that everyone has done on this to date and understand it has not been easy. Until the recommendations are in code language, FOWS cannot endorse the full recommendation at this time. Waiting to see what they look like in code and how the differences in language might be interpreted in the code drafting process.

Jennifer Merchant, Placer County Executive Office said she understands that these recommendations are put forth as an all-or-nothing, take-it or leave-it package. There was good community input – thoughtful comments, questions and requests for clarification, which will hopefully motivate the Committee to give direction on future outcomes to be discussed in later meetings. What has occurred over the past couple days are opportunities for a little more perfection.

Elizabeth Hale, West Shore said she urges this Committee to vote for whatever will make the area as pristine as possible.

Laurel Ames, Tahoe Area Sierra Club said they also appreciate the work that has gone into this process. She said the Sierra Club does not feel there is a good deal of participation in the process in that it was very rushed, not a good dissemination of information out of the Committee to the public. It was noted that many of the internal votes were 7-3, so it does not look like it was a very well-balanced committee. It weighs heavily on the Sierra Club that many of the passionate discussions did not have a good balance for the environmental side of the issue. The Sierra Club is no where near ready to take a position, in support or against, the draft plan.

Mr. Shute said regardless of the make up of the Committee and the balance of interests, the votes taken were all unanimous. The package is a unanimous recommendation from all participants.

Lew Feldman said his recollection was also that the votes were unanimous. It is well understood that everyone, including TRPA staff, that supports the process, wants to do the right thing for the lake, although coming at it from different perspectives. The compromises made left everyone equally unhappy, which usually means that people have struck a fair compromise. The expectation is that the Governing Board will adopt this. If the Committee approves it and the Governing Board approves it and it is adopted, it does not mean it will be set in stone and will not change. No one should conclude that what happens today or over the next couple of months is the end of the ride. This is a great opportunity for progress. Thank you to all who participated in this process.

Norma Santiago, El Dorado County Board of Supervisors said that compromise is always difficult. Suggested changing the conversation from "it's not perfect, but …" to "what are the great things that this compromise document will do" to get us closer to what we are trying to achieve in the Basin. We should be celebrating this compromise document. This document is a lot better than what we had. We are looking at how we balance economic, environmental and social issues in a complex region. She encouraged continued support of the document. She said there is some ordinance language already incorporated and invited the public to look at those documents and tie in the consultation document and

what has already been written in the ordinance that reflect the changes.

Staff Response to Public Comments & Questions

Ms. Marchetta wanted to clarify that no code has been written relative to these proposals.

Committee Comments & Questions

Mr. Robinson said he is giving his comments from the perspective of someone who was on the bi-state committee. Certainly this document is not immune from litigation, but he feels this document will hold up well to litigation. By endorsing the Plan we accept the state governors' assistance in the process. It is important to keep them involved so that they do not forget about TRPA and Lake Tahoe.

Ms. Reedy said that her definition of the art of compromise is that you cannot make everyone happy, but you can certainly make everyone mad. There are pieces of the document she does not like, but she recognizes that this is a straw vote. This has to go to the full Board. She recognizes the difficulty of the two governors getting together. She wanted to express her own frustration that in public comments people are saying that a city is killing them. She feels it is unnecessary. She said she gets frustrated of people trying to tell others how to live without being an example themselves. She suggested that people live what they talk about. A lot of the changes that are taking place are great and are a step forward. Technology is phenomenal and investment in the communities can do a lot, for those who live here, for those who visit here and for the environment.

Ms. Aldean said that she will be voting yes for this package, but her yes vote is predicated upon her understanding that height exceptions for affordable housing will be considered at some level. Having spent nearly 10 years on this issue, she does not want to lose focus of the environmental benefits of affordable housing in the Basin to those who commute from outside the Basin and add to the VMT.

Ms. Fortier agreed that the process has been difficult. She said that having been through the entire process from the beginning, that having the consultation group, which she was against at first, was actually very beneficial. It provided an opportunity for diverse groups to look at a problem with an outcome in mind. It was not just no for the sake of no, rather it was that there was a job with an outcome in mind. She completely supports the outcome, but she also apologized if there are areas where she overlooked something. Specifically she talked about the golf course in Placer County that needs to have a second look.

She is leery on the 300 foot if it does not allow a water quality project to go forward. She is supportive of the process and the agreements.

Mr. Sevison said his perspective is different from the others in that this is not the first time he has been through this process. As a result of the retreat of a year and a half ago we were able to get things moving again in this process. A lot of significant progress has been made. He thinks that what has been presented is an honorable product. There are some things that need tinkering, but he said he is going to vote yes with the caveat that a couple of items be revisited. We need to realize there is not money to do what we want to do now. We need to find ways to get environmental improvement, coverage reductions and everything that is important for water quality, but cannot do this if the tools are taken away. He asked for a re-definition of things done so as to not prejudice forward progress.

Mr. Shute said there are several subjects identified through these discussions that will need to be taken back to the bi-state group to see if there is a willingness to reopen discussions. He said he pledged to bring those to everyone's attention.

Ms. Fortier moved approval of the recommendations of the Bi-State Consultation Group.
By roll-call straw vote:
Ayes: Ms. Aldean, Ms. Fortier, Ms. Reedy, Mr. Sevison, Mr. Robinson, Mr. Shute
Nays: None
Abstain: None
Motion carried unanimously.

VI. PUBLIC COMMENT

Ellie Waller, Tahoe Vista resident asked that since there is a plan to revisit some issues, will the information be provided by the next meeting to advise the public as to how the process is being furthered.

Elizabeth Hale said she is concerned about the boat noise on the lake.

Nick Exline, Midkiff and Associates said he was asked to bring to the attention of the Committee the definition of having the Community Center having development on three sides. We feel that poses limited factors to potential serious environmental redevelopment opportunities from Homewood, Sierra Colina, Tahoe Beach Club, etc., that would not fall into that criteria the is going to help fund some of the environmental improvements that cannot be funded without the private sector. He hopes that this idea can be revisited.

Mr. Shute said that the Committee will work with Staff to define those issues and figure out a way to go back to the bi-state group to further discuss the matter.

Ms. Marchetta thanked the Committee for their help.

VII. ADJOURNMENT

Chair Mr. Shute adjourned the meeting at 11:34 a.m. on Friday, August 3, 2012.

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 at the TRPA Office, 128 Market Street, Stateline, Nevada.