

TAHOE REGIONAL PLANNING AGENCY
REGIONAL PLAN UPDATE COMMITTEE

The Chateau
Incline Village, NV

November 14, 2012

Regular Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Shute called the meeting to order on November 14 at 1:08 p.m.

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

II. PUBLIC INTEREST COMMENTS

Laurel Ames said she would like to make a brief comment which is really what we are working our way into here and that is getting ready for the giant RPU package which includes (she believes) up to 10 documents, maybe she is exaggerating but it is a large number and it is quite an unwieldy package. It is very difficult to read and try and find all the pieces because the pieces are not clear – there is no sequence, there is no pattern, there is no good way to follow this and that is very discouraging to those of us in the public who put in so many years. With that said we have worked very hard to figure this all out and we have some major concerns and we will present them tomorrow morning addressing specific problems in the plan.

III. APPROVAL OF AGENDA

Mr. Shute said the next item of business is to approve the agenda for today's meeting which fundamentally consists of the staff packets of November 7 and November 14 which we are going to start off with some staff corrections that have been pointed out through this process. He said we are glad to have the APC members here to participate, and any time please make any comments or ask questions, likewise any Governing Board members who are here but technically not members of the committee.

Mr. Stockham said the first agenda item is to work through the three technical corrections that have arisen from the process. These are included in the staff summary addendum that was distributed this morning and are summarized on Page 1 and listed specifically on Attachment A. That attachment is on the screen for audience to look at as we go through them. He understands that this morning there has been some agreement among the stakeholders on an adjustment to a

third of those items. Mr. Stockham provided a brief summary.

The first one was initially identified by Bob Larson at Lahontan dealing with area wide BMPs and effectively a proposal to make the approval requirements match up with the Bi-State recommendations so that before there are registered catchments, TRPA standards would apply; once there are registered TMDL catchments, those applicable standards would apply. This language has been reviewed by Lahontan, by Nevada Department of Environmental Protection and TRPA and we are all comfortable with it and it accurately reflects the Bi-State agreement. The second one was a typographical error that was found by Board member, Ms. Bresnick initially dealing with transfer of TAU units, and essentially it was missing a “not to exceed.” and instead said “could exceed.” So that is a cleanup to directly reflect the Bi-State recommendation. The third and final one deals with resort recreational allowances. The Bi-State recommendation included limited allowances for sub-division in the resort recreation area. Other provisions of the Code limits sub-division of the urban area, which excludes resort recreation, in order to maintain consistency some additional language is proposed to clarify the sub-division is in fact allowed in resort recreation areas, but subject to the limits of the Bi-State recommendation. This is the item that additional language was worked out this morning and he understands all the stakeholders are comfortable with the expanded version of this language which has some repetition to limitations elsewhere in Code, where it basically repeats some of the other limitations of the Bi-State recommendation. So there is no confusion of those limitations or no interpretation that the planning Code would be broader.

Mr. Shute said we are working off of Attachment A, November 14 staff report. Mr. Shute asked if there are any committee questions or comments on the three items on Exhibit A.

Committee, Board & Commission Comments & Questions

Mr. Smith said on Attachment A, Item 1 the text that is unlined, accurately captures our concern and so he is fine with it as proposed.

Mr. Marshall clarified that the language for Number 3 is not the language on Attachment A, but as shown on the screen, just to make sure that is clear.

Public Comment

Laurel Ames said she would just like to repeat her comments from earlier this morning about Attachment A, Number 1 and the fact that this does not protect water quality. This is a lot of language about process and not implementation of actual, real facilities.

Lew Feldman said we are in agreement with the three recommendations, however there seems to be a word missing that he spoke with Mr. Marshall about. The fourth line from the bottom, Number 3, with respect to the subdivision item, where it reads “subdivisions shall be limited to air condominium.” Between air and condominium the word “space” should be inserted.

Ellie Waller said she would like to reiterate that she still believes stronger language on maintenance and monitoring needs to be added to the area plans, as well as some other Code language, which she turned in a larger package to Marja this morning and will also be sending an electronic version. There are still some huge issues with how maintenance and monitoring are actually going to be enforced and take place and is it going to be the requirement of the local jurisdictions through the area plans to be the enforcer, now that TRPA is handing over the responsibilities through those area plans.

Committee, Board & Commission Comments & Questions

Ms. Bresnick wanted to express some clarification on the size of the units in Number 2 and she does not know whether it is staff or the consultant who will be correcting this, it is not simply to add the word “not”, this was a paraphrase in the staff write up. Just to be aware that this is not simply to say, taking a may exceed and adding may not exceed because of the wording of the provision is no more than 20 percent of a projects floor area may contain units that exceed 1800 square feet with kitchen. So it is not just simply adding the word “may not” exceed. So whomever will be fixing this will realize that the fix is not necessarily what is represented in Number 2, here. So it is either going back to the language of the Bi-State which said units not to exceed 1800 square feet or whatever the language that is being revised differently so that it is clear that the units don’t exceed 1800 square feet.

Mr. Shute asked staff, isn’t this supposed to be the actual Code language.

Mr. Stockham said in this instance this Code language is exactly the same as the language of the Bi-State recommendation. The only difference is in the lead in where instead of listing the specific amenities; those are listed in a separate subsection. The intent was to match it exactly and he is not seeing the difference here.

Ms. Bresnick asked if you are talking about what she had raised. It is not just a matter of adding “not” in front of the word exceed. The way the provision is drafted is to go back to the Bi-State language which said 20 percent of the projects floor area may contain units not to exceed 1800 square feet with kitchens. That was the Bi-State language and that got translated into 20 percent of a projects floor area may contain units that exceed 1800 square feet.

Mr. Stockham said correct, it replaces the word “that” and adds “not to” which would match up with the Bi-State.

Ms. Bresnick said yes that is correct.

Mr. Shute said that is what the underscored language says in the Attachment so we are good on that.

Mr. Upton said “percent” is missing after the 20.

Mr. Stockham said that is correct.

Mr. Shute said we can take these three up unless any committee member wants to take them out. As the three items 1-3 with the language on the screen regarding the resort recreation, and asked for a motion to approve that language for addition to the Code and the Regional Plan.

Ms. Aldean moved approval.
Motion carried unanimously.

Mr. Shute said the next item has to do with the points that Ms. Bresnick and Mr. Sher raised in a submittal which is included in the packet from November 7 and November 14. He has discussed this with them and for now we will take them up as a group. They are not related subjects necessarily, but because he wanted to give them a chance to present their recommendations to us we have agreed that they would take 15 minutes or so to present their points and we can ask questions as we go along.

Mr. Sher said thank you Mr. Chairman and said he would lead off with a brief presentation on the first 5 of the 7 items that were in our joint submittal and which are covered in the staff’s November 7 summary and memorandum.

The first of those that he presents to you is the appointee of the Senate Rules Committee of California and it relates to budget language that was adopted in the current year budget and started in the budget subcommittee that has jurisdiction over TRPA’s budget and therefore part of the budget bill that was passed. As the memo points out, calls for establishing a four year measurable benchmark for implementation and programmatic provisions that is the first part of it. The time to do that in the budget language which was January 1, 2013 which is fast approaching and as the staff memorandum points out that TRPA and the various other parties have already begun the work to address what is called for.

The second part of the recommendation was to develop comprehensive monitoring evaluation and reporting plan and what we have suggested ought to be

done is that these actions should be reflected in the RPU. It is important and seems to me that this is important. Frankly, the way he reads them is that as an indication that they think this RPU Plan is not sufficiently Threshold achievements and maintaining oriented. Some of the witnesses this morning pointed out the RPU does call for intensifying development in community centers and the budget subcommittee indicated by this action that they think the RPU ought to become more Threshold achievement oriented and that is what is called for here and it is important and the kind of conditions that might be applied in the budget for TRPA and therefore those ought to be reflected in the RPU. The staff comments say that this is a request from California and has not been endorsed by Nevada or other stakeholders but he stated it is not really a request but a budget condition that was imposed by the Budget Subcommittee that has jurisdiction over TRPA's budget.

The second comment in our proposal relates to air pollution and calls for the installation and operation of properly operated air quality monitoring network and probation on new construction until that happens that will increase air pollution sources until the network is in place. The staff report says this is a new issue but our understanding that the Sierra Club, Tahoe Basin Sierra Club had some submitted general comments to this affect and this proposal simply flushes out those proposals. It is fair to say that currently there is no continuously operated air quality monitoring network maintained by TRPA incidental to achieving the Air Quality Threshold. The staff report suggests that there is some need to clarify exactly what the probation on new construction and so forth means and suggested that it would be appropriate to include as a goal and policy; the establishment of such a network as we proposed and if these terms have to be clarified, that they should be added to the to-do list that has been prepared for other actions that need to be taken by TRPA following adoption of the RPU. We heard a lot of testimony this morning from concerned fire chiefs and fire agencies about prescribed burning and there is nothing in this proposal that relates to prescribed burning. It relates to new construction that would generate more air pollution in advance of establishing this network which would permit the monitoring and control of the air pollution.

The third point is a point that one witness Laurel addressed this morning is that the gap that exists in the current RPU between an approval of an area wide BMP and the time when such an area wide BMP is actually implemented and becomes operational which as she indicated in her testimony that those proposals would be expensive and there would be a long period of time before they could actually implemented. During that time there are going to be projects that are going to be proposed in those areas and that those projects should not go forward without having parcel-specific BMPs that they would have to comply with. Just a few minutes ago Laurel Ames circulated a document where she suggested language that could be added to the current language that would make that point specific. He suggested that language or as it is fine-tuned by the technical committee be

added to that point in the RPU.

The fourth item relates to coverage and it notes that there will be increases allowed to the 70 percent coverage where 30 percent of the parcel and this comment suggests it should be required to provide natural infiltration. Obviously that is a big percentage coverage and the part that is reserved for non-coverage should not be covered with highways or roads or bicycle paths or any other kind of coverage but should be capable of infiltration of the run off from the 70 percent coverage that is allowed. That is the intention of this comment. The staff notes in its discussions that linear public facilities, highways, streets and roads and so forth that are exceptions could go into that 30 percent. Ideally, the 30 percent should be below the 70 percent so that the runoff from the 70 percent coverage could be filtered through the 30 percent that is supposed to be reserved in open space.

The fifth point in our presentation really was something that was called to our attention by Ellie Waller in her submittal pointing out the discrepancies between Compact language that is used now in the RPU and suggested that those should be consistent so as not to produce any kind of confusion. The staff comments point out that some of that language was in the 1987 Regional Plan and that is even more reason why they should be conformed as it has been there a long time and is capable of causing of confusion if that language becomes an issue.

Ms. Bresnick said she appreciated the committee coming together again and the work that staff did in preparation for this meeting on some of these comments and proposals.

The next item has to do with the appeals process and she said she is probably beating a dead horse, she does not feel the way this provision is written really is a good provision, but knows that it grew out of the Bi-State and there was compromise. Lew Feldman explained it to me at the last meeting that it was intended that the two prerequisites for the appeal were part of the definition of frivolous, but to me they are just prerequisites but in any event it did come out of the Bi-State and don't believe it is a well written provision in terms of an appeal and defining and standing and exhaustion of remedies as part of a finding of frivolous. She doesn't know if there is a reason why someone wanted to have a finding of frivolous, the way the appeals process is set out and doesn't believe that is a finding that has to be made. You either have standing or you don't and you have exhausted the administrative remedies or you haven't. Staff would do an analysis and would come up with a recommendation as to where the appeal may have merit or where they feel that the project is in conformance with the Goals and Policies of the Regional Plan and that would then come to the Board for review. So the concept of frivolous doesn't really belong in here. In any event, staff is giving a description and thinks that some of the goals listed for this appeal process really don't have a place in a document such as this. Goals do state what is the purpose of this particular goal for goal, but most of those are positive. There are things that

we are trying to achieve through these goals, whereas while some of the issues that people have with litigation in the Basin certainly may have validity and does not believe those expressions belong in a goal for an appeals process. Again that came through the Bi-State Commission.

The last item has to do with language such as “should” and “shall” and we gave an example that brewed out of comments that were made by the Tahoe Area Sierra Club particularly relating to air quality and that there is not much more she can add to that other than in many instances in this plan the word “should” (not all) should be changed to “shall.” “Where feasible” is part of my next discussion, she is not saying that phraseology should be removed, but where you have a qualification such as where feasible; it should be “shall do this where feasible” as opposed to “should do this where feasible.” That is just one example. These documents are massive and she did not go through every single place where should and shall need to be changed. She did do some of it in the comparison table that and made some comments which was rather laborious and that staff didn’t particularly respond to which she didn’t expect them to. A lot of those were really more comments than actual proposals.

Mr. Shute thanked Mr. Sher and Ms. Bresnick and said we will discuss these as a group and we may want to separate them for purposes of straw voting. We’ll have to see how that goes.

Number 1 California Budget

Committee, Board & Commission Comments & Questions

Ms. Fortier said with all due respect to Mr. Sher and Ms. Bresnick, we went through a long agonizing and very tedious process both as the Governing Board, the RPU Committee and the Bi-State Consultation Group and this whole process was a open to the public including Board members. It was a process that we had one Board member, Ms. Bresnick that was supposed to be part of the RPU Committee and now in my estimation at the eleventh hour we are bringing back some significant changes and she is not sure why. It was her understanding that the Governing Board agreed, she was not sure if it was unanimously agreed that we would support the Bi-State Agreement and we would move forward. For if we are not, and if you recall from the last Governing Board meeting there were a couple of things she called for. One was, what are the economic measurements that we need to be judged by four years from now and there are some that she thinks we need to look as Ms. Merchant mentioned today. Are these ratios that are taking items from sensitive areas and putting them into town centers really going to work? What are the commodities transfer? How many of these area plans are going to be adopted? How fast are they going to be adopted? This whole process has gone through step by step by step and it has been a very public process. She

asked why are we doing this now.

Ms. Aldean said she can appreciate Ms. Fortier's frustration but she does not mind giving deference to members of the Governing Board. But if we could take these one by one, she asked if that is what you want to do. She raised some of her comments from a previous meeting regarding the imbedding of language out of the California budget into the Regional Plan. She feels that this is inappropriate, the legislature changes, people get elected and other do not get reelected. The priorities may change over time and we don't want to have to do go back into the Regional Plan and amend it in order to amend this budget language. Also from her perspective as a member of the Nevada delegation, it has implications to Nevada as well. With all due respect, she is not prepared to support recommendation Number 1.

Mr. Sher said to respond briefly to the concern that this is an eleventh hour attempt to change something that went through a careful process that we were all involved in. He has been involved in this process for over four years on the Governing Board and two years particularly on the attempt to finalize the RPU. At the beginning of that period when Harmon was the staff member who was leading the effort on this, we had conversations about what the process would be. It was recognized that we were going to go through the environmental study and have the draft and final plan and that there would be opportunities for all Board members to make suggestions for changes. Even represented that there were five alternatives in the plan and that there would be opportunities at the end of the process to pick things out of one of the alternatives to put into the preferred alternatives. It hasn't worked out that way as Alternative 3 became the driving alternative at the basis of the process and decision was made to prepare the Code amendments that would implement Alternative 3, but not any of the other alternatives and that is the process that went through. It seems unfair to suggest that these are things being sprung at the eleventh hour when in any kind of a governmental process where you have a governing body, there ought to be an opportunity that when the final documents are rolled an opportunity to be heard when there are changes and to have them discussed. If there are votes to approve it and not simply to reject them out of hand, because they are being offered at the eleventh hour.

Ms. Merchant asked what would be the normal number of days that TRPA would have a final environment document available to review and comment. Are there a prescribed number of days, 30 or 60?

Ms. Marchetta said it is 60 days. We have met all of our minimum requirements for having environmental documents available for review.

Ms. Merchant said just for the final as the final was distributed.

Ms. Marchetta said there is no requirement for a review period on a final document, but we are working from the decision of the Board some months ago agreeing that we would have two governing meetings to bring forward the final decision. So we have met that target.

Ms. Merchant said she was just pointing out that there would be an expectation that people would have comments on the final document and she may not agree with Ms. Bresnick's or Mr. Sher's comments, but they certainly have a right to make the comments just as the public or APC does. She is certain she will be making a comment. Her comment on the first one is that she agrees with Shelley's input about it being a one year budget cycle and by including in a 20 year document a one year budget cycle requirements seems a little bit short sighted to her. That is something from a technical review that she would be concerned about tying it to that. She understands the difference between the states and the interest by the states and why that would be a concern. Her other comment on that is that there is a supposition that TRPA Regional Plan Update as its proposed, does not attempt to attain Thresholds and she feels that while we may disagree sometimes on the way that it happens, she believes that has certainly been the intent all along. She said that just on the face of it, it seems that there is a difference of opinion on whether the document does or does not attempt to or will result in attainment of Thresholds.

Mr. Upton said he supports the comments that both Ms. Merchant and Ms. Aldean have made on the subject already. It seems that the things that are in the budget item are really implementation issues not 20 year plan issues and there are certainly going to be implementation processes to deal with those very issues. He does not believe it belongs in the 20 year plan,

Mr. Teshara said that he has made the observation that a great part of this process has been to reengage the two states in their partnership. That has been a great outcome of the Regional Plan Update over the last year or so and he feels incorporating the requirements of a State Senate, not even a State Legislative but a State Senate committee, one house of the two house legislature would do harm to the partnership that has been redeveloped between California and Nevada. He agrees with Ms. Aldean, Mr. Upton, and Ms. Merchant that it wouldn't be appropriate to incorporate this language into the Regional Plan Update.

Mr. Robinson said he associates himself and agrees with the last five people on the inclusion of the language and he added that from those of us on the Nevada side, we had some requests to be inclusive of some Nevada legislation in the plan itself and found that would be not constructive and so answered that way. He is mindful of legislative language as somebody that spent a couple years in government in the past and don't feel it is anything that we stiff arm or forget. He believes that there is a way to comply and we will comply without inclusion in the plan.

Public Comment

Norma Santiago, El Dorado County said she would also like to support the comments that have been made by members of the two Boards and the committee with regards to the language being incorporated in the RPU. She feels we need to be very, very careful about making a document too complex to work with. That is one thing and the second item is that we have to make sure we don't duplicate processes. If she understands correctly, the TRPA has to go before the Senate Budget Committee annually. She wants to ensure that process is already in place to look at the budget requirements and be able to address certain budget items. She said that needs to be made clear.

Ms. Marchetta said thank you and yes, we are already actively working on responding to this information. The question that is before the committee and also will be put before the Board, is do you want to make this language a part of the Regional Plan. That is a different question than are we working on this language and are we taking it seriously, yes we are. She wanted to clarify that the language doesn't actually ask us to present performance benchmarks by December 31. We have been actively working with the committee staff in the legislature in California; and what we are obligated to produce by December 31 is a scope, schedule and budget for what it will take to deliver the obligations that are set forth in this California budget language. To some degree you are being asked to put the cart before the horse because we will deliver a scope, schedule and budget that identify work elements. Some of this language implicates the participation of other entities, specifically the Tahoe Science Consortium. The Tahoe Science Consortium has obligations under this language that are unfunded, so we are working on budget scope and budget amounts on what it will take to actually accomplish this budget language. At some point, it is important not only for this committee but for the Board to allow us to make a short presentation to you about what the scope of our monitoring obligations already are and how we are proposing to respond all of the different monitoring elements that we are looking to at this point, proposing to respond to this language. She said to Mr. Shute, at some point it is important to put this into the record because she believes that there is a lot of misunderstanding about what we are obligated to do in terms of monitoring and what the scope of that is. She said it would inform the conversation as we move through more of these monitoring conversations.

Mr. Shute said you certainly can agree that and believes it will have to be next year.

Mr. Shute moved to incorporate the California budget language into the Regional Plan.

Motion failed unanimously.

Number 2 - Air Quality

Committee, Board & Commission Comments & Questions

Ms. Aldean said wanted to reiterate what she has said at previous meetings. She believes the presumption is that when a project is approved its impacts are going to be less than significant. Otherwise TRPA staff will not recommend approval to the Governing Board. She is concerned that she does not want to see the institution of another moratorium and said that this is in fact a defacto moratorium on further construction and there is no qualifying language in here. She asked if this would apply to single family homes on construction of a new deck as opposed to a construction of a larger project that may have more implementation with respect to air quality. She does not feel that there is sufficient specificity in this and is concerned that it is going to place an important part of the Regional Plan at risk and that is the presumption that through environmental redevelopment we can actually improve air quality and some of the other Thresholds that we are monitoring. She does not support this recommendation.

Ms. Fortier said she would echo that this is a defacto moratorium and something that slows down the entire Regional Plan process.

Ms. McDermid said she recalls that the Air Quality Threshold is in attainment in some areas and it seems that we have made progress in that area and don't see that this particular item seems to be needed at this point and would concur with Ms. Fortier and Ms. Aldean that if it does anything that puts TRPA in a position of restricting anything such as a deck or anything else, she does not believe that is the intent behind the Regional Plan. The other important item is that the monitoring and measuring that we do give us the data that we really need. Just to measure and monitor for the sake of measuring and monitoring but doesn't produce the information and the data that we need to make inroads into not just this Threshold, but all Thresholds is really not good use of money, time or energy. We need to look at what are the goals and then what are the correct measurements and what is the monitoring process that will give us the information that we need.

Mr. Buelna said his comments would be in two parts; he questioned the nexus between air quality and construction and concerns about possible moratorium. There are a number of air quality sources or impacts that could impact air quality so he questions the linkage between the two. Secondly, if this would in fact result in a moratorium he asked whether or not that impact would have been measured in environmental impact statement.

Mr. Upton said in addition to supporting the comments and questions raised, another point is the Executive Director already said as relates to the California budget item, a picture of the existing monitoring system is being worked up that

essentially responds to all the set of questions that this particular proposal seems to put forth. In his view with the great risk of supporting a moratorium and everything else it suggested, he believes the issues in it is already being addressed in another manner.

Ms. Roverud said to add to the comments that have already been made it is important that we have a discussion about air quality monitoring and what needs to be done to improve that science, but to hold private investment hostage until that is figured out how it can be funded and what it exactly needs to be done doesn't seem to be appropriate given the direction of the Regional Plan Update. We have heard comments from the business community and potential private investors that sound like people are eager to make investment in our communities that would include environmental improvements as well as economic improvements. The way she reads this message is that we are not interested in that private investment at this time and feels that it would be a poor message for the Governing Board to send.

Ms. Krause said as a planner, the way she looks at these environmental improvements that are being put on to the ground that are considered construction too. She asked if we are saying you can't do anything if we do this. So she has a hard time saying all construction, as you are picking out one industry but it actually affects everything we do here and everything that this plan is proposing to improve.

Mr. Teshara said thank you Mr. Chairman and as the Tahoe Transportation District building on the other comments, he is concerned that this might impact construction of transit and transportation projects. We just completed a new transit center in Tahoe City, a round-a-bout in Incline Village, a new bike trail that was referenced in early testimony down in the South Shore, would it impact Caltrans water quality retrofits. Somebody would argue that the Highway 50 project has some elements of new construction trails, sidewalks etc. so as the TTD representative he urged the committee to reject this.

Ms. McMahon said she agrees with all the comments made today.

Public Comment

Susan Gearhart said as a homeowner in Homewood she agrees with this proposal. One of the things that is a priority is that you do no harm. In our air quality field yes the TRPA has approved significant and cumulative projects for bad air and for air quality purposes because we are not monitoring and we haven't been monitoring air quality in California, Lake Tahoe for quite a time and says that this is absolutely imperative. She feels that you don't do new construction until you have the opportunity to monitor what impacts are happening now because it has been

since 2009 since it has been monitored in California. This is really a source of constantly hearing let's move this project, this Regional Plan forward but let's not monitor. This is very important that we do monitor air pollution. It is the health of the people that reside within this region. We know that in the Bay Area and other places of California. We have restrictions that the Nevada and California haven't worked so closely together on this tightness. But it can't be abandoned, it has to be monitored, it has to be planned, reported and technically evaluated that is why you have the peer review. This is absolutely atrocious that you wouldn't consider this do no harm to the health of people that live in this region or the health of Lake Tahoe when that is expressly documented that you should. Why would you want to be involved in a Regional Planning Agency and not care about the health of the people who live here, do no harm first.

Pat Davison, Contractor's Association Truckee Tahoe wanted to thank staff for the comprehensive analysis; she said they did a great job. She is not going to reiterate the points that she made at last month's meeting but wanted to focus on one item which is the use of a prohibition as a decision making tool or action item. Normally that is done as a tool of last resort and when there is an emergency. She feels that staff correctly pointed out that the legal challenge question could be raised as to what the justification is for a broad prohibition as well as a narrow prohibition. But would throw out to you, if there is indeed an emergency regarding air quality that you probably already have probably have tools to take action and you would not need a prohibition written into the Regional Plan Update. So again thank you to staff and very appreciative of the comments heard today from APC members, as well as Governing Board members.

Jennifer Quashnick, Tahoe Area Sierra Club, said if a tree falls in the forest and no one is there to hear it does it make a sound. We have all heard this question that is what is going on with air quality because we are not monitoring. We can't say that the air is healthy. She would like to remind you that the Compact requires you to protect public health and achieve and maintain the environmental Thresholds. The beginning of this proposal starts out to protect public health and protect environmental Thresholds that are achieved and maintained, that is the purpose of TRPA. So the fact that we are debating about whether it is worth protecting public health is frankly a bit confusing. Again, the other thing she noted is they have provided extensive comments related to the lack of monitoring, but the history of monitoring as well. A lot of this information has already been figured out. TRPA even published document 2000 that set out a plan and there is a lot of information out there and it just hasn't been done for years and years. Also as our comments noted, the evidence supporting the idea that air quality is so much better and will continue to do that in the Threshold report is simply not there. There is not a lot of confidence in the data event the peer reviewers pointed that out. The other item she wanted to follow-up on is one of the comments about whether decks would increase pollution. Reading this language here it says this is regarding activities

that will increase air pollution sources and she thinks somebody putting in a little deck probably isn't generating huge amount of omissions. Finally, the justification for doing this is that the Compact requires that the Regional Plan achieves and maintains the Thresholds. You have to make those findings when you do projects, so the idea of knowing permitting things that are going to impair the Thresholds further goes against what the compact requires you to do. She said monitoring air pollution should be a no brainer, it is our public health.

Alex Leff, Friends of the West Shore said he echoes the comments of the Tahoe Area Sierra Club and Jennifer Quashnick.

Committee, Board & Commission Comments & Questions

Ms. Aldean said the way this is worded; the implication is just by virtue of having the monitoring system in place that this somehow is going to equate in a reduction in pollution. Monitoring does not reduce or prevent pollution. She understands and feels that the rationale behind this is to use this as a hammer to move the installation or the creation of this network forward. Not that there isn't the will to do this, she believes that everybody would agree that monitoring is essential even for those of us who support the idea of environmental redevelopment. We want to make sure that what we are proposing is going to be beneficial in the long term and the only way of doing that is to monitor. It is a question of money and Ms. Marchetta gave some rather alarming statistics. Monitoring in itself is not going to prevent pollution, but it will provide us with a database to use going forward but there just isn't that nexus there.

Ms. Marchetta said we have heard many, many, comments on how we are doing no monitoring. To clarify the record, she will provide some detail on air quality monitoring. We have six air quality sights operational throughout the Tahoe Basin for a Basin-wide population of about 50,000. Other locations like Washoe County has seven sights, Sacramento has eleven and they have a population of 1 ½ to 2 million people. So proportionately, we have far more air quality monitoring going on in this Basin, it is simply not true that we are not monitoring. We have six air quality sights operational. Those sights don't monitor for the same thing, but we are monitoring for all air quality components. For those six sights, the annual operation and maintenance costs today is \$165,000. We have been actively working toward upgrading our air quality monitoring.

We commissioned an independent study from DRI for suggestions on improvement. DRI recommended that we could put in a fully comprehensive air quality monitoring system in this Basin with five sights. We would have to take the six sights, reconfigure them, move some of them, consolidate some of the monitoring equipment and we could operate those five sights at equal or less cost than we do today. We would need \$100,000 of capital infusion to build out the

system and some new monitoring equipment. That is the incremental cost of putting in a fully comprehensive and slightly different monitoring system. Today we are monitoring everything we need to monitor and we are in attainment for our Air Quality Thresholds. We have had \$2.5 million dollars over the last ten years in Air Quality research, so not only are we monitoring we have a very clear idea of source. We know what the sources of our air quality problems are today and this Regional Plan Update addresses those sources.

**Mr. Sevison moved approval of item Number 2.
Motion fails unanimously.**

Number 3 – Area-wide BMPs

Committee, Board & Commission Comments & Questions

Ms. Aldean said she supports this. As she has said in a previous meeting, this recommendation is appropriate. We certainly don't want to lose what we've gained in terms of compliance and she believes that 34 percent have complied with BMP requirements and we need to continue to have these parcel by parcel BMPs installed until we have an area-wide program as a substitute. Not only a program established, but one that is operational and complete. She recommends that we endorse this recommendation.

Ms. Fortier said don't we already have parcel by parcel BMP and is this anything new?

Mr. Stockham said the discussion at the last meeting was staff's interpretation that this issue was covered by the broader approval requirements, but we agree there is no harm in adding specificity. Maybe for the committee's assistance, we can put together an initial draft that basically puts it into Code language. The basic concept is to clarify that once an area-wide BMP program plan is approved, that development before the area-wide facilities are built, development would either have to install parcel level BMPs or they would have to install equally or more effective components of the area-wide program in order to develop. So putting in parcel BMPs is one option, but it may be more effective for larger developments to build a portion of the area-wide facility necessary to mitigate their impacts or may be some others and in most plans of this nature there would be reimbursement provisions or things of that nature.

Mr. Stockham said for the record area-wide BMP plans shall require that BMPs be installed concurrent with development activities." Prior to construction of area-wide treatment facilities development projects shall either install parcel level BMPs or construct area-wide improvements that provide equal or greater water quality benefits than parcel level BMPs.

Ms. Fortier said if we have an area plan, for examples at the Y, as she understands the area plan is essentially you have a blue print for how you going to develop that. She asked if that means it needs to be developed at the same time in order to comply with the area-wide or because you have the plan and this is an approved area plan with the area-wide BMPs included that once that is approved by TRPA, that it is unnecessary to do the parcel by parcel, otherwise aren't we doing both?

Mr. Stockham said each area-wide BMP plan would specify those details. The intent is not duplication but to assure that the area-wide programs are as good as or better than the current parcel level requirements, and there would be no gap where nothing is required. So duplication would be required. The specific mechanism may be an area-wide facility would be phased where it is initially small and then it grows over time. There is a number of different configurations that could work depending on the site specific circumstances. But the suit of approval requirements, which this would be an added approval requirement in aggregate, would require that the area-wide facilities be at least as good as the current parcel level BMP requirements.

Ms. Fortier said as you know science has proven that there are a number of places that BMPs have found to be unnecessary and certain places do not have a direct connection to the Lake. Again, she understands that the BMP issues are very sensitive but she wonders if we have any science that supports that we need a BMP for every single parcel. She believes we have looked at in a very different way.

Mr. Stockham said great point and that is really the subject of the earlier Code correction that Lahontan initially proposed and was endorsed earlier. He feels it is fair to say that parcel level BMPs are less sophisticated than TMDL strategies. But TMDL Load Reduction Plans are not yet in place, so in the interim before we have those more sophisticated load reduction plans, the BMP requirements are what we have. The 20 year one hour storm and the language that was approved this morning, allows area-wide BMP programs to comply with applicable TMDL requirements once there are registered catchments which would effectively supersede TRPA requirements and presumably be more effective and cost effective as well.

Public Comments

Laurel Ames, Tahoe Area Sierra Club, said thank you very much.

Norma Santiago, El Dorado County said she heard during the course of the discussion that there were some things relative to area-wide water quality treatments and funding mechanisms that was presented by Laurel and that Mr. Sher had said that he would like to see incorporated as part of the RPU and she stated earlier, one thing we want to do is avoid duplicative processes and so the

things that are in this memo that was given to us today, are things that the local jurisdictions are now required to do in compliance with the TMDL and in compliance with us to keep our permits. She wanted to keep that in the record that we already have a process in place with the local jurisdictions working directly with Lahontan.

**Ms. Aldean moved approval of Number 3.
Motion passes unanimously.**

Number 4 – Infiltration

Committee, Board & Commission Comments & Questions

Ms. Fortier said in theory it is a great idea, but in actuality it is probably not one that can be managed and she goes back again to the whole process of the area plan. The intent of the area plan is to look at coverage as a total area and be able to work within those means of that coverage level. The fact of the matter is that often times, and particularly in South Lake Tahoe, that is going to be a reduction of coverage just to begin with and so she does not know if it is always possible to create a natural infiltration system or if there is a collection kind of a mechanism that works better, but she believes that always being held to a infiltration system may be tying the hands of area plans.

Ms. Merchant said in member Sher's explanation of this item, when he mentioned or discussed the term natural infiltration, he used the term open space and so to her this recommendation brings up more questions than answers. Given engineering and technology abilities, if you had 70 percent coverage on a property, you could potentially provide better infiltration with an engineered system than you could with 30 percent natural infiltration and 70 percent coverage. If the intent of this recommendation is to provide open space, she wished it would just say that and we could the merits or not of that. But if it is just infiltration, there may be better ways to do that and is wondering whether this 30 percent would accommodate landscaping, bike trails that may or may not be impervious. It sounds like it wouldn't and to her it brings ups more questions than it answers, she is concerned about it as written.

Mr. Sher said the intention is not to create open space; it is to create filtration for the 70 percent coverage. Certainly, he wouldn't suggest you could have 100 percent coverage if there was a system to handle all of the runoff. So no it is not open space, it is to provide when you are going to go as high as 70 percent coverage, you ought to be 30 percent and landscaping would certainly be alright as part of the 30 percent, but no hard coverage.

Mr. Teshara said a lot of discussion went into the coverage package that we currently have in the Regional Plan. A lot of organizations, agencies, special

districts to bike trails as an example, there was a lot of work to get bike trails to be less expensive and the staff reports notes that this could have an impact on the proposals that are in the plan right now that was significantly those who build bike trails and some of these other facilities. So he is not comfortable at this stage in the game of asking the committee to do anything other than to reject this proposal.

Mr. Beyer said he is not sure that the 70 percent, 30 percent ratio is workable on particular topographical areas of land in the Basin where there may be no natural filtration in that type of capacity; maybe you could try to get 40 percent, 60 percent. It has to be more of a case by case basis on certain areas and as Mr. Teshara has pointed out, if we are trying to encourage one type of use of land for bike trails, etc. and trying to make that as a value add in terms of the overall improvement, we may be deterring that with this type of particular percentage ratio.

Ms. Roverud said she concurred with the previous two commenters. It seems that the purpose of the area plan process was to try to get away from the once size fits all method that was used in the current Regional Plan and to allow for different areas throughout the Basin to address these issues as it is appropriate in those locations. Due to topography, community character, desires of the particular community, she has a feeling each of these area plans are going to look very different and believes that there is plenty of backstop already in the Regional Plan Update language that is proposed to ensure that there is not going to be an inappropriate use of this flexibility that is being provided, especially with the coverage. There is a probably some fear in that the area plan process is going to allow for paving of the entire Basin and she does not see that happening and doesn't see local governments acting inappropriately with regard to coverage. But she thinks that there needs to remain the flexibility for each local jurisdiction in its area plan planning to determine where it is appropriate where to put bike paths or other amenities that are needed in an area plan area that might address some of the other Thresholds that are also goals of the TRPA. So by adding additional constraints it kind of pulls us back from that attempt to get away from the parcel by parcel one size fits all approach and wouldn't support the proposal.

Mr. Smith, Lahontan Water Board, said first he wants to point out that the 70 percent, 30 percent although it sounds good is actually a physical impossibility for every parcel everywhere in the Basin, it just can't happen; you can't make that happen physically. Secondly, it is not needed. The Lahontan Water Board spent the last year and half painstakingly working with the local jurisdictions. It started off as a world war 3 and then we ended up and coming together and collaborating on an NPDS Stormwater permit that everybody could work with and this is something that Hilary just talked about and we are following up on this permit. We are working with them. This is not needed as each jurisdiction has load reduction requirements very rigorous that ramp up every year, actually every five years and

each jurisdiction is going to work painstakingly on their own projects to ensure that they maximize the infiltration wherever they can, so this is really just redundant and is not needed at all.

Public Comments

None

**Mr. Sevison moved approval of Number 4.
Motion fails unanimously.**

Number 5 – Compact Language

Committee, Board & Commission Comments & Questions

Mr. Sevison said somehow it seems that there is a preamble that goes along with everything we do, whether it is Ordinances, Plans or whatever it is and every one of those preambles all refer to being consistent with the Thresholds and somehow to have to reiterate that in every sentence and every paragraph seems like an unnecessary duplication. Because it then tells you that maybe that specific item is supposed to have particularly more influence than other things that are being read in the next page and does not believe that was intended. He feels everything in the whole plan process was intended to be consistent with the Thresholds. He thinks that doing it in a preamble basis makes a little easier reading and a lot less confusing to the general public and for me too.

Public Comments

None

Committee, Board & Commission Comments & Questions

Ms. Aldean said it is one thing if we are paraphrasing a language out of the Compact and it is another thing if we are quoting language out of the Compact. So to the extent that we have inadequate quotes in the Regional Plan, she certainly would be amenable to correcting those inadequacies. But agrees with Mr. Sevison, we require a bit of flexibility with respect to how we paraphrase the Compact as long as. She remembers this debate during previous RPU Committee meetings where we were working on and how long did it takes us to come up with a preamble. But feels at the end of the day, everyone was reasonably satisfied with that, so her recommendation would be that where we quote the Compact we do it verbatim, however in the rest of the document as long as it is consistent with the intent that we not have to necessarily repeat what is precisely written in the Compact.

Mr. Stockham said maybe he can help with some details. Starting on page 8 of the November 7 staff summary, the specific changes that were proposed are shown in track change format. There are three areas and want to clarify for the record, all three of them are from the 1987 Plan and we was not drafted by the update committee, there were unchanged sections of the plan. The first one is an incorrect quote. It is missing the word population from a quote which is at the bottom of Page 8. The next two are paraphrases that suggested wording changes for how those terms are paraphrased were suggested and it is on Page 112 of your packet, and in the large GB packet it is Page 8 out of 17 of the staff summary.

Ms. Aldean asked Mr. Stockham if he is saying that these are the only changes that staff is recommending be brought forward.

Mr. Stockham said these were the ones through email communications with the proponents that were identified as sections of concern, these three.

Ms. Aldean asked if staff has any concerns with making these changes.

Mr. Stockham said no.

Public Comments

Laurel Ames said it is very important to be consistent and one paraphrase by one author then gets paraphrased by another author and pretty soon you really have lost the intent. If the rule is to say what the Compact says in the Compact language, you don't run that risk. We see that things change and change and change as different people deal with them, so this instance it is very important to just respect the Compact language, just state it the way it is.

Committee, Board & Commission Comments & Questions

Mr. Sher said speaking as a venerable law professor, one of the first lessons that the law students learn that is where you find a change in language, a different word, and courts will want to find a reason for that change. So paraphrasing is not a good idea when you are intending to utilize certain rule and you change the word.

Ms. Aldean moved approval of Number 5.

Ayes: Ms. Aldean, Ms. Reedy, Mr. Shute

Nays: Ms. Fortier, Mr. Sevison, Mr. Robinson

Motion fails.

Number 6 - Appeals Process

Committee, Board & Commission Comments & Questions

Ms. Aldean said she was under the impression when these recommendations were brought forward, the recommendations were not to be amended and that was what was agreed to between the states of California and Nevada and she suggested that we respect them.

Mr. Shute said that Mr. Robinson and others that were part of that process will recall that this was one of the most difficult contested issues of the whole process and people argued literally over wording and punctuation and so he is really loathe to opening up that subject. He believes as time goes on and there is some ambiguity about the staff's role, that can be handled administratively or by some Board action. It would be difficult to dig into this now and potentially break open the Bi-State agreement, which we all agreed we would not do.

Ms. Merchant said she wanted to follow-up as this was an item of discussion in the prequel to the final EIS and your committee had directed your counsel to meet with the counsels' of the local jurisdictions to discuss the appeal process. That did occur and there certainly was some concerns brought forward by the local jurisdictions on how this process would be managed, whether the language was correct or not correct. She thinks dutifully your counsel responded that there were going to be no changes because there was a decision made by the Bi-State Consultation Committee and she can't say that she agrees with that from a technical perspective because she has discussed in detail with our counsel. She feels that other jurisdiction counsels were concerned, however, how do we pick and choose now from the Bi-State Consultation decision. This isn't something she would be opposed to changing because there are certainly some concerns. Perhaps as we go through the processes and an appeal process we note and take opportunities to make improvements where things are just not working well. Unfortunately, we are going to have to go through those processes because a lot of those decisions were made without the benefit with having those counsels involved and we are where we are and there isn't a lot of opportunity for change. Mr. Marshall said he would like to clarify that the Bi-State group made recommendations to this Board. It is in the Board's discretion whether to accept or not accept those recommendations. He wants to make that clear that no final decision has been made on any of this language. It still remains in the discretion of the committee and the Board.

Mr. Shute said he appreciated the caveat for the record but we have all said and recognized that it is a package.

Mr. Marshall said maybe political considerations but your discretion remains unbound.

Mr. Shute said noted.

Public Comment

None

**Mr. Sevison moved approval of Number 6.
Motion fails unanimously.**

Number 7 – Mandatory Policies and Language

Ms. Aldean said she appreciated the suggestions and words do have meaning and she suspects that thought went into selecting the language that appears in the Regional Plan Update and some of the changes might have or likely to have fiscal implementation. Her recommendation would be to not support this change.

Ms. Fortier said as you all know we went through the Regional Plan word, by word, by word, painstakingly suffering over so many words, so she agrees with Ms. Aldean on this as we have done this and word-smithing this at this point is going to create some real consternation.

Mr. Upton said he supports the comments already made and changing those little bits of language amount to starting over and it should not be considered.

Mr. Lefevre, U. S. Forest Service said he wanted to remind folks that the language was the part that really concerned the Basin Fire Chiefs and the Forest Service with respect to prescribed burning and air quality. The words that were originally worked out, he believes some two years ago with the Basin Fire Chiefs in some of the initial parts of this, so this language has been here for quite some time. He believes that they would support not changing the language.

Mr. Sher said he wanted to add support to this one because after all these are goals, that is all these are. It doesn't mean we are going to achieve them. Words encourage and promote are weasel words, it doesn't look like you are serious about them. There is enough criticism of this document that you are not serious about achieving the Thresholds that you don't want to you know feed that doubt out there. Why not put a goal in that you want to attain and maintain air quality and that you want to reduce or limit source of pollutants and you want to reduce emissions from motor vehicles. It seems to him that in the part of the document that is goals, those are eminently supportable goals.

Ms. Merchant said this was discussed in many bits of the Goals and Policies and Code language and for the most part the language that was used was very intentional decisions and recommendations made to say promote versus shall versus encourage. From Placer Counties' perspective, we thought the goals were

written much too prescriptively as if they were Code. That was one of our comments is that a goal doesn't say you shall do this. A goal says we want to achieve this and then the Code says you shall or you will or whatever the language is, so she does not disagree that there is kind of a mess when it comes to words between the Goals & Policies and the Code. But if you were going to go back and change everything you may change intentions and outcomes and that is where she get a leery about does the group as a whole want to and would guess that the folks that recommended this would like to have that change for those specific reasons, but it really kind of going back to the starting place with every bit of language in here. She wouldn't recommend that.

Ms. Huggins said there was a reason that the Basin Chiefs were there this morning, they were speaking out specifically against this and on these proposed changes as a whole. But she encouraged the Board/Committee to reject this item. Also understand, she wants to echo Ms. Merchant that Item AQ-1.6 change of language actually changes the whole intent from an in lieu practice promotion reducing prescribed fire to just reducing prescribed fire and there is a difference. So therefore she definitely supports rejecting entirely.

Public Comments

Jennifer Quashnick said we support language that actually reduces pollution and achieves and maintains the Thresholds. In this case, basically if you mean it shall is better. So if the intentions are to reduce air pollution to protect public health, then this again seems and why are we arguing over this where we are reducing pollution. She also wanted to note that with regards to the policy just mentioned, the recommendation relates to reducing the impacts of prescribed burning, it does not eliminate prescribed burning and the Sierra Club is not certainly proposing that we eliminate prescribed burning.

Committee, Board & Commission Comments & Questions

Ms. Bresnick said she and Mr. Sher did work with the Tahoe Area Sierra Club on this and the intent was not to reduce or prohibit prescribed burning. It was and Mr. Sher has already expressed it in terms of what we were trying to accomplish here. But she just wanted to echo that was not the intent and we certainly wouldn't want to impact all of the efforts that are necessary for forest fuels reduction. She wanted to make that clear.

Mr. Sevison said so often as you are looking at Goals & Policies and different items, you come to a point where you should try to accomplish something if you can, but it is realized a head of time that it is not totally possible on all occasions. So you set it as a goal and you say should rather than must. He does not feel you can avoid it and it is part of the package and there are places where it is appropriate and other

places where shall is more appropriate.

**Ms. Aldean moved approval Number 7.
Motion fails unanimously.**

Mr. Shute said he believes there is another set of requests that are included in November 14 and asked Mr. Stockham if that was correct,

Mr. Stockham said yes the next item are 14 recommendations that were received last Wednesday from Board Member Bresnick. These are outlined in the staff summary addendum that was distributed this morning. The staff summary works through each of those recommendations and then the letter itself is Attachment B to that staff summary addendum.

Ms. Bresnick said many of these are noted in my preface to what she submitted last week to the staff and are comments and weren't necessarily intended to be proposals. She said not that you can't go through each one and she is sure there will be the same type of comments that we have had on the other proposals that Mr. Sher and she submitted jointly which were more in a proposal setting, although they weren't all completely flushed out. But most of these were intended to be comments that she had wanted to make during the last two months board meetings depending upon when the information came out, but deferred from it because one meeting near noon there wasn't really the desire of the Board to set for an hour or more for her to go through comments. She told staff that she would provide them in writing and also with respect to the comparison table which is what a lot of this comes out of. She would like to respond to some of the points that staff went through on these 17 items and gave their perspective of reasons why they are not appropriate, already covered or they wouldn't work. She appreciated that and some of what she was trying to get at wasn't interpreted entirely correct. If she could correct some misrepresentations about what she was saying. She staff has done a thorough job of listing issues from their perspective that might also be embraced by the committee or others about these. A lot of these are comments that she wanted in the record and the reason why she did it in writing was because she wasn't able to do it orally at the last two Governing Board meetings. It is important to committee members to have things on the record and response to these, she appreciated that but she has no interest in wasting time in going through every one of these things and debating them. They certainly represent some of her thoughts and concerns about items in the plan, but not really in a proposal form that you have specifics that you could evaluate and reject.

Mr. Shute said Ms. Bresnick should explain as much as she wanted and if there is any that she wants to put in the form of a proposal for committee consideration, she should do that as well.

Ms. Bresnick said she appreciated that.

Mr. Robinson said a point of clarification is that he certainly had no objections hearing what Ms. Bresnick had to say. He asked as we go along will we decide which of the 17 will be voted upon.

Mr. Shute said he was suggesting to Ms. Bresnick that if she has any of the 17 that she would like to make as a proposal, that she point that out and then we would take that up.

Ms. Bresnick said correct, there may be some that she asks to be considered as a proposal, but again most of these were intended to be comments. She does not want to waste people's time going through 17 items that there is not enough specifics to try and figure out as a proposal and that is her point in not wanting to waste time in terms of trying to attach specifics to these that were not included because they were not necessarily intended to be proposals to be debated upon at this committee meeting.

Mr. Shute said he has the feeling and feels that some of the other committee members do to that you felt that these were important enough to take the time to write them up and think about them. So he would ask Ms. Bresnick to think about which are the most important and discuss them or bring them forward unless you just want to let it ride with what you submitted in writing.

Ms. Bresnick said she would make her clarifications and then there may be one or two of these that she would propose. The other thing she did, which she knows staff has reviewed or is reviewing, is an annotation on some actual Code language and Goals & Policies and again, those were more in the comment arena. She did not flush them out necessarily as proposals.

Ms. Aldean asked Ms. Bresnick if she had received responses form staff.

Ms. Bresnick said yes.

Ms. Aldean asked if that is what you are referring to.

Ms. Bresnick said the fact that staff took the time to respond within a week, she appreciated that. You are right in that these issues are of importance to her but again in terms of taking people's time to debate them just to outline the fact that there are not enough specifics or we have already gone through a lot of time debating this before or this was something the Bi-State agreed to.

Ms. Bresnick said for clarification purposes, Number 4 which has to do with buying coverage from a land bank. It is not that she is proposing to discontinue the

purchase of coverage from land banks. This has to do with the issue of potential coverage and coverage being purchased from a land bank where no land would actually be restored because the sending parcel was generally already in open space. This has to do with an issue that may not be for this Board to debate, but might have some validity doing forward in terms of something to put on the to-do list and has to do with the issue of potential coverage. And the purchase of potential coverage by the land bank California Tahoe Conservancy (CTC) and the sale of potential coverage and thinks that is really the issue and what she was trying to get at. Not to necessarily discontinue the purchase of coverage from land banks.

Ms. Bresnick said with respect to soft coverage and recognizing that soft coverage can also degrade water quality, her issue was not just point blank allowing transfers of soft coverage she feels that it needs to be considered further and the definition of soft coverage needs to be considered further in terms of allowing that not only do you get soft coverage removed, but there are incentives and commodities that go along with the transfer of soft coverage. This is an area that needs to be investigated further before we start allowing transfers of soft coverage. Not that it couldn't be included; she feels that it needs to be further investigated in terms of what we consider soft coverage. It has to do with some issues that arose in recent projects in terms of for example; there was a project in Tahoe Vista where there were a lot of issues around soft coverage and what was soft coverage. There was some issues during the Homewood project as it was going through its process about soft coverage. Those issues that were raised during those processes should be looked at seriously in terms of looking at what we do with soft coverage.

Ms. Bresnick said with respect to number 16 that has to do with the use of fertilizers, her recommendation was to replace them overtime and not an all-out prohibition, but at a certain point in time it would be. With respect to noise impacts, it is not just noise impacts that are generally not mitigated through voluntary compliance, although all of this did arise in the context of noise impacts. But generally voluntary compliance generally is not a sufficient mitigation measure, especially if there is not monitoring to see if your voluntary compliance is achieving what you are trying to achieve and having some contingencies if that those standards are not achieved.

Ms. Bresnick said on other item to point out in terms of should and shall and she knows this has already been debated and rejected. In some instances in the plan, these are pointed out specifically in the annotations that she did on the comparison chart, there is should and well where feasible. To be where feasible is the qualifying and at least in those instances where we are considering other constraints or matters that might affect an outright requirement to do something, we already have where feasible, why not say we shall do this and we already are qualifying it by where feasible. Certain specific instances of those are highlighted in

the annotations that she has the comparison table that staff put together which was very much appreciated.

Ms. Bresnick said that is the clarifications that she wanted to make on some of the staff comments on my comments and if she is going to put out any proposals, this is one that she has talked about before and she does not know the feeling of most of the Board members on it. She will put it out there again, which is the financial assurances for site remediation. She understands that there are performance bonds and those kinds of things that are required by local jurisdictions for projects, but those generally cover completion of infrastructure and other required elements. This is where you have a project that gets under way and for some reason it can't be completed and the site needs to be remediated. If we are going to be approving projects, where we are putting our faith in the types of concepts that are being embraced by this Board she feels that we need some financial assurance that if a project proceeds and it is not completed that we are able to remediate a site. The specifics of that in terms of some of the issues that staff raised about projects being purchased or elements being purchased, she believes that there could be a certain period of time before this provision would kick in and then there would probably or could be instances where that time period could be extended. It is an additional requirement to other assurances that developers have to do. She said there are people in the audience that don't know her or her background; she worked for the development community for many, years and am not unfamiliar with issues that affect the development community. She feels that this is an important component if we have a project. For example, the Villa at Harborside and Homewood is now underway on a different project, but there were foundations that sat there for a number of years and this is one where somebody came in and is doing something with it. But in that situation where TRPA had no means, she does not believe in removing foundations but that is the kind of situations she is referring to where you have foundations that are sitting and after a certain period of time we need to be able to remediate the site and get rid of incomplete project elements. That is something that has been important to her for a while and monitoring is also important and she knows that there were monitoring components that were added to Sierra Colina and Boulder Bay and Homewood and those types of monitoring requirements that this Board imposed on those projects should set an example for what should be required for projects going forward.

Mr. Shute said the financial assurances is an item he is going to take as a request to add that kind of language either in the Regional Plan or Code. He asked staff to explain how the system works now. He also asked how come we have holes in the ground.

Mr. Stockham said generally well financial assurances vary with each project. Something as small as a house or a home addition, generally does not have

significant financial assurances. So if half a garage is built and then the landowner goes bankrupt, the garage would have to be pulled out. Typically the assurances focuses on environmental issues such as water quality improvements going in, landscaping and re-vegetation, those types of things do not require removal of a foundation, if there is a big construction bankruptcy or something of that nature. As Board Member Bresnick mentioned, there have been many cases of special conditions of approval that have gone along with specific projects that require additional supplemental monitoring. Fundamentally it is a financial issue. The more posting of financial security, the more a property owner has to put up money, so yes there is a greater assurance that the development can be removed if there is a bankruptcy or something similar. But it would also likely have the effect of slowing the rate of redevelopment and making some projects less affordable for some property owners. That is an ongoing balance.

Ms. Aldean said her concern is that in some of these instances there is a lender and is not sure that the lender necessarily wants those improvements to be removed because that is considered an improvement to their collateral. So we are going to find ourselves in a situation where we are battling with the lenders over or not whether the sites needs to be restored. It needs to be secured, and would agree with that but whether or not you want to diminish the value of the property potentially by demanding that those footings be removed when they could possibly be reused by a subsequent developer, she said it is not fair. She feels that this would be hotly disputed by the lenders.

Mr. Stockham said and that is largely how the current system works. The focus is on making sure necessary improvements are put in. If you grade a sight, put in the water quality improvements but it doesn't go to the point if you go bankrupt, we would remove items.

Ms. McDermid said it would make it extremely difficult to possibly to get a lender to approve a loan on a site that had that kind of financial assurance on it only because it presents the problem that Ms. Aldean brought up. The other thing is in the new normal, the requirements by lenders are much stricter and higher cost than they have been. The applicant has to put up more equity which in a way ensures that the project will be completed. The other thing local jurisdictions are doing is the permitting, so the question is, are you going to require that for a single family dwelling? It is not the usual practice, so she feels that there are other things in place that will possibly guarantee more than any kind of financial assurance will.

Ms. Krause said that when we get into demolishing houses etc. in the County, it is a big issue and we don't have the authority to do it anyhow. When you say you are taking a financial assurance, she wants to know who is going to take it and who will be responsible for then processing it and then going back and actually doing the removal. The Counties don't want to get into this.

Mr. Shute said when Boulder Bay and Homewood came along he proposed conditions similar to what is being proposed now, because there have been enough examples around the Basin of projects that got underway, stopped where there are kind of environmental disasters as well as an esthetic disasters. What he is going to propose for consideration because it is complicated and who know where the cut off would be, who would pay for it and what conditions would kick in. Could it be coordinated with local security and he proposed that we put this subject on the to-do list. That would be a motion that he would make after we have had full comment.

Public Comments

Ellie Waller said what not is being addressed here is what is acceptable for how long something can sit. She does not know how you incorporate that into language. She had a neighbor that had a platform on the ground for 15 years. It is an eye sore and does not know what environmental damage it is doing. We don't need to talk about South Shore's hole in the ground, but how long is it acceptable to leave something sit. She does not know who is responsible and how that gets incorporated.

Laurel Ames said as a person from a family that has earned its income from surety bonds, you will find that there is not all that fear out there for any large projects, it is accepted. Actually it is required and there are a number of people still stunned that the underground contractors at the hole in the ground had to wait a long time to get paid, because they did not have a bond. It's not an easy thing and you certainly wouldn't require it for single family home and nobody ever has, she does not know why that is a fear. It is for large projects and for ones that create a lot of disturbance and can leave. In fact you probably know REQRA and that is for and I hope I have the right act for mining, because of course people want that to be remediated. The issue of remediation is not tearing down houses, as that is outrageous to even think of. It is for installed foundations that are only useable for a short period of time. If they are going to support a large building, once they start to deteriorate, they have to be removed for any building can go on top of them. So these are for large projects and for ones that cause real eye sores. These are for projects that have the potential a lot of environmental damage. Running away from all of that because of fear seems very odd to her. But that is alright you do what you want.

Committee, Board & Commission Comments & Questions

Mr. Beyer said Chairman you had a great observation about putting it into a check list and we did this earlier with Boulder Bay, Homewood and that was because the criteria of the developer was willing to make negotiated agreements with an assurance that we would want out of him or her. You need to have some type of

Threshold limitation if you are going to start put into some type of Code where then everybody is going to say okay if one reaches a certain Threshold of development of either size or cost, then that is an assurance cost that one would have to bare to do the development. If it is a known commodity going forward, he feels it is something that most developers would meet. If it is arbitrary and not really clear, then you will see a hindrance for people to walk away from wanting to do that.

Ms. Fortier said she understands exactly what is being said here and as the Mayor of the hole in the ground and the dark side as we have heard today. She wants to point out a couple of things and the first one is whether Counsel handled that well or not is entirely a local jurisdiction issue. However, she is not sure the millions of dollars that were put into infrastructure at that site that you are talking about ripping out, we just looked at that site and studied and x-rayed the infrastructure and it is intact. Obviously we are not particularly proud of the hole in the ground, but on the other hand we need to remember that we fell off an economic cliff and that hampered a number of projects. We are not any different than a number of other communities throughout the Country, so while she does not object to looking at it further she said as far as the hole in the ground is concerned, we are certainly not pleased with it but feels that TRPA's position here would have a bit of difference.

Public Comments

Law Feldman said TRPA's traditional mechanism to secure installation of Best Management Practices is to require a bond based on an engineer's estimate of the cost of the installation of those improvements that were 110 percent of the installation costs. Through the years have proven to be a fairly effective form of security for TRPA's interest on installation of BMPs. The hole in the ground is probably the poster child for this discussion and there is 70 million dollars of construction in that hole between utilities and concrete and rebar. To remove that would cost about 15 million dollars and has absolute confidence that there is a commercially available instrument that developer could acquire going into a project that would say if for some reason the bottom falls out of my economic world the surety is going to pay to restore the site. The surety would require in those instances fundamentally the cash equivalent, whatever that worse-case scenario restoration would be which in essence would mean almost all projects of consequence would be economically infeasible. There are performance bonds and there are completion bonds, but has never seen a restoration bond and if the great recession has taught us anything it has taught us the passing of risk is become even more expensive than it was before. So again, it is certainly a responsible suggestion to move this on to the ever expanding to-do list and hopes you are signing up for that duty. He does not want to go into that with a sense of false expectation.

Committee, Board & Commission Comments & Questions

Mr. Upton said to follow up on the comments of Mr. Feldman and the Mayor of the hole in the ground he happens to be a Council Member of the hole in the ground at the time it occurred. There is not one bit of public money in that project as it sits and it is the poster child for the point of discussion. There is not one bit of public money sitting in that project and what ultimately he believes is going to happen because that is what the situation is, is it will get finished. He is sorry it is going to take as long as it is, but to have the idea that there should be some security to restore it to nature as opposed to actually finishing the project in some good form which is what the City wants and needs. Again, going beyond the question of TRPA's security it is really a local government and local issue. The thing is involved in litigation and the City Council is involved in it and certainly TRPA doesn't want to get involved in litigation of a project like that, but if you want to put it on your to-do list for further discussion, go ahead and do that but fundamentally on what we are trying to accomplish is getting environmental redevelopment. If that were to get into the operating plan, it would be very counterproductive to try to move ahead with so many projects that wouldn't get caught in the kind of economic bind that one happens to be caught in.

Mr. Robinson said Mr. Beyer mentioned arbitrariness and it seems to him that the present policy doesn't specifically outline what those measures are and feels more comfortable in having those examined as suggested by Mr. Chair at a future time because arbitrariness could definitely be in there. Some of the measures that he voted on some of the larger projects where we added on conditions as we went through the project maybe at the very end, in some cases were indeed arbitrary, so this is something we need to look at.

Public Comments

Jennifer Quashnick said she wanted to remind everyone that the purpose of this is to prevent the environmental impacts of things like the hole in the ground. How many years has that foundation been sitting there, causing more runoff and other projects where the foundation sits so they are not getting completed? How many dollars is the public going to spend cleaning this up versus how much was put into it in the beginning. So again, she feels like that has been lost in some of the discussion as this is about the impacts of these projects, not necessarily just the status of the foundation or whether it is useful.

Committee, Board & Commission Comments & Questions

Ms. Aldean asked if the site that we are discussing is secured and is it doing an environmental harm.

Ms. Marchetta said generally when you excavate in a concentrated town center like that; the very first thing you are putting in is you're BMPs. Her guess would be that all of the BMPs are in at that site.

Ms. Aldean said it is a question of whether they are being maintained.

Public Comments

Lew Feldman said it is not a very pretty BMP, but it probably the most effective BMP we have. That hole in the ground has sand oil separators in the bottom infiltration, so all of the runoff that used to flow uncontrolled into Highway 50 and other places and is now captured and retained and treated, but again could be more esthetic.

Committee, Board & Commission Comments & Questions

Ms. Roverud said added that the site certainly has been a topic of discussion for our City Council and we have been given very clear direction to monitor that site to make sure that it does not pose any health and safety issues and does not become a nuisance, BMPs are continued and that it is structurally sound. Also, that there would be a continued ability to continue construction on that project without having to redo the infrastructure investment that is already there, so she would assume other local jurisdictions would approach it the same way. It is not a situation as Mayor Fortier mentioned that everyone is proud of so we are monitoring it continuously to make sure that none of the Threshold issues, health and safety building code or fire code issues come up that would warrant something to be done differently on that site.

Mr. Shute said this is complicated and important subject and it maybe that the BMP securities already secured by TRPA are sufficient. He agrees with the speaker that protecting the site for the environment for such an event is what is important and not restoring it to its natural condition just for the sake of doing that. He does not think that is the idea, but we couldn't begin to resolve it today or identify if it is a serious enough problem to need attention.

Mr. Shute moved that the subject be put on the preliminary list of priority projects (to do) list.

Motion carried unanimously.

Ms. Bresnick said the only other thing that she would raise is that restricts public comment on area plans to things that were raised at APC. Certainly not to diminish the importance of the APC and trying to have people present their issues at the APC so they get a full airing. She agrees with that but does not agree that this is the way to do it; to restrict an individual's ability to come to the Board and raise issues.

She assumes that it is oral and written comments that this is addressing, but in any event people should be allowed to raise the issues. She would encourage people to go to the APC and if it was known that it would get a full hearing at the APC. We already have limitations on the time that people can speak on subjects. She asked what if an individual intended to go to the APC and something came up at the last minute and they couldn't go speak about something that is an important item. She feels that there are many instances where there are restrictions on the public's ability to have input in this process. She knows that it is perceived about people lying in wait and coming in at the last minute. Mr. Sher and she were indirectly or directly accused of that in this process and maybe in the past that has been a strategy, but does not believe that it should be enough to say if you don't come to raise it at the APC; we are not going to hear it at the Board.

Mr. Shute said his observation is that this was part of the appeal discussion in the Bi-State Consultation group and the idea being sandbagged was brought out several times by a number of people; there was a trade-off made for the appeal process in return for having people have to make their points so there was not sandbagging and waiting to come to the Governing Board. So this subject walks squarely into the Bi-State agreement unfortunately.

Ms. Bresnick said never mind.

Ms. Aldean said she wanted to emphasize to Ms. Bresnick that she does not know if this is consistent with every jurisdiction, but knows this very closely mirrors the protocols that local governments typically use where you go to the planning commission and if you appeal a decision by the planning commission, it goes to the Board of Supervisors. But the only information that could be considered by the Board is information that was presented at the planning commission level and that is pretty standard practice. The intent is for everybody to exhaust their administrative remedies and don't think what we are proposing here or what the Bi-State agreed to is inconsistent with what is typically done.

Ms. Bresnick said she appreciates that this was done by the Bi-State and knows no one wants to reopen it. What she would say about a bit of a difference with TRPA is that generally it's the Board that makes the final decision and it is the APC that is making the recommendation. Whereas local jurisdictions and planning commissions do make final decisions and then you have an appeal to the Board of Supervisors. It doesn't change what everyone has said but is a distinction that in her mind is the process for having presented process for many years through local agencies. She is mindful that if this was part of the Bi-State, it is not going to be reopened here.

Mr. Shute asked Mr. Stockham if staff has any other agenda items.

Mr. Stockham said staff has received approximately one dozen different letters

with various forms of suggestions from organizations, individuals, businesses and the like. Those have been attached to both the staff summary and the addendum today, everything we have received as of close of business yesterday, you have received as well. We didn't do a detailed analysis of all of those recommendations, but if there is an appetite, this would kind of be a last call if there are any commission members saw in any of this material that you thought merited discussion.

Mr. Shute asked if any of those comments are ones that you feel are anything new and haven't heard before.

Mr. Stockman said there was a series of maybe legal positions outlined from some of the advocacy groups that included some new legal considerations, but not so much new policy issues and the others generally fell into the category of make the rule stricture or less strict or something along those lines.

Mr. Sevison said there are three issues. The best way to do this is to put it on the to-do list, a look ahead as we do the Regional Plan for Tahoe City for example. As we move down river, rather than have it as it has been, is to have encouragement for people to upgrade what is there and have some tools to work with to make it look better. We have gone 30-35 years and not a single thing has happened there and it only looks worse now than it did in the beginning. So he would like to build in some encouragement for those people to upgrade their properties and make it a nicer entrance to the Lake. Number 2, he would like to ask staff to do a study in the future, a study on the Tahoe City area to determine what areas are man-modified. It may be done under the new Regional Plan possible to, you won't get to build anymore but you might get credit/mitigation fees and so forth. It is not going to harm the environment but it will help encourage more development. If that is okay he would like to encourage staff to start working on that. There was also some discussion about transferring into some of the smaller areas outside.

Ms. Aldean said we had an off line discussion with Mr. Sevison and Mr. Stockham to talk about the problems that Tahoe City faces. In fact that it is an environmentally sensitive area and how are they going to be the recipient of increased coverage and some of the allocations that are available through the process. Her suggestion is that we not forgot the opportunity to allow additional CFA to be transferred in situations like that to be transferred out of town centers onto pieces of property even though they may be out of the town center meet certain criteria. They are high capability land, they are transit, they are adjacent to the highway and there is no reason in the world and maybe the transfer ratio would be less than if it was transferred into a town center. She made this point earlier in the conversation, she believes we are missing an opportunity to disperse traffic congestion or reduce traffic congestion. If you have a piece of property for example that is adjacent to a housing development, and it meet all the criteria,

isn't it better to have that piece of property developed for convenient shopping so you can minimize VMT so that people in that area have the ability to do their shopping and avoid the gridlock that is so frequently experienced in town centers like Tahoe City. If that needs to go on the to-do list than she feels it should be because we are missing some opportunities that could be environmentally beneficial. Also, a clarification on Page 76 of our packet, it says all allocations will be released in increments every four years. She asked if we are talking about taking the total number of allocations, 2600 divided by 20 and releasing the appropriate amount every year and are we now going to do this as releases are confined to every four years?

Mr. Stockham said there are basically three levels. There is a 20 year authorization, which are the big numbers in the Bi-State recommendation and there are mitigation measures basically breaking that into four year chunks to make sure that VMT and level of service standards under more near term projects would be met. But there would continue to be annual releases as well, but it would be those constraints for those annual releases would have to be established every four years. In the final draft plan that is out in the public, they are releases for 2013 and it also calls for some investigation of the performance system, but there would need to be some additional traffic studies done and modeling down after four years before those additional annual releases could occur for years 5-8.

Ms. Aldean said the issue concerning LOS doesn't apply. We are not doing it on a project by project basis then. In other words one of the caveats to releasing additional allocations to a jurisdiction is demonstrating an improvement in level of service on an area-wide basis as opposed to a project by project basis. She asked how that is integrated into the criteria used to determine the number of allocations that a jurisdiction gets.

Mr. Marshall said that four year allocation is not part of the distribution among local jurisdictions. It is simply a release every four years of 20 percent. Then there is the criteria in the Code puts forth how those five year chunks will be then distributed amongst the jurisdictions. The LOS and VMT are not associated with that distribution. It is making sure that additional commodities are not released if we are seeing an issue regarding VMT or LOS.

Mr. Severson made a separate request to have staff do the man-modified study.

Mr. Stockham said the three items, the Tahoe City downstream needing better tools and what would be characterized more of a neighborhood center type transfer provision. Those will probably require environmental analysis and would be most appropriate on the to-do list. The man-modified designations is a long standing code that has been in place, if the Board would like staff to begin work on man-modified investigation more holistically for certain areas without having to put it on the to-do list.

Ms. Aldean moved to put the following on the preliminary list of priority projects (to-do) list: To look at the feasibility of allowing transfers to neighborhood locations subject to environmental requirements.

Motion passes unanimously.

Mr. Shute said just out of curiosity it seems like man-modified has been on the books forever. He asked if anyone knew if there has been any action on that in the Tahoe City area.

Mr. Stockham said it is his understanding that there have been man-modified designations on certain properties in Tahoe City but it has never been done holistically for the entire area. It has been done on numerous properties around the Regional. He wanted to clarify that as he believes he heard the first item was more about downstream properties in Tahoe City, and asked if that covered under the motion that was just made.

Mr. Sevison said it should perhaps be under a separate motion for the clarification that we be allowed to create through the community plan process, he guesses for incentives to upgrade the downstream area between River Ranch and Tahoe City and encourage improvements, not only to runoff but to visual, scenic and safety.

Ms. Aldean asked if that be handled through Placer County.

Mr. Sevison said it will be handled through Placer County, but his request is that we have the tools or be allowed to have the tools to work with somehow, because up until now it has been something else and now we want to see the degrading discontinue and the upgrading start.

Motion passes unanimously.

Ms. Merchant asked for a point of clarification on man-modified, she believes the request was not limited to Tahoe City town center but was town centers in Placer County which would also include Kings Beach, because we have the same issue with the stream environmental zone, CFA and tourist accommodation units.

Mr. Sevison said can it be done generically, so it is on the books.

Mr. Stockham said there is a significant process involved in doing each of these, so it takes work so we would take direction from the Board on what is most important to do.

Mr. Sevison said we are asking for the Tahoe City study and will ask for the others later.

Ms. Bresnick said she wanted to put out there that there are two other issues that she didn't make as proposals, but if we are adding to the to-do list, the issue of potential coverage and soft coverage further investigation into those issues on the to-do list.

Mr. Stockham said he believes several coverage topics are already on the to-do list encompassing those items.

Mr. Marshall suggested that those can be added as they fit nicely within the CTC study. Working with CTC on coverage issues and the soft coverage issue really is more, if he understands it correctly it is ensuring that the identification of soft coverage is accurate and that can be put into that one as well.

Mr. Stockham said there are three coverage related items on the attachment 5 to-do list, currently the one from the Bi-State transfers across HRAs, a broader evaluation of the coverage management system, which would include soft coverage and the like and then a look at coverage and water quality mitigation fee programs.

IV. PUBLIC COMMENT

Ellie Waller asked for further clarification on APC participation in a weather event. She requested that Placer County possibly have a satellite office for the individuals that are also on the APC not to travel. Also, she works has to take time off; the Governing Board has done a good job of trying to locate them on both sides of the Lake. She is not trying to get out of this and in the event that there is a conflict is a written comment sent to the APC in a reasonable amount of time (you address what that reasonable amount of time is) she can make it happen. Is that an acceptable input to the APC and also for those people who weren't here this morning? She asked Ms. Marchetta to review how tomorrow is going to fall out.

Ms. Marchetta said tomorrow morning starting 9:30 a.m. we will reconvene as Governing Board and APC joint meeting and we will bring back these action items, summarize action sheets and bring them back to the full Board for action. We may be in the same situation tomorrow that we were today. It was hard for staff to know exactly how much time to plan, but we have a 1:00 p.m. time certain for public comment. She does not believe that it will take the Governing Board three hours to move through these actions that the committee took today, so there may be a significant recess in the middle of the morning and we will take up public comment at 1:00 p.m. time certain. At the end of the day, we will walk through for the Board and APC the actions that are anticipated next month.

Ms. Aldean said we have two committee meetings tomorrow, Legal and Operations starting at 8:30 a.m.

Ms. Marchetta said actually Legal Committee starts at 8:30 a.m. tomorrow morning and the Operations committee which is anticipated to be quite short will start at 9:00 a.m. Both of committee meetings will be at Harvey's on the South Shore.

V. ADJOURNMENT

Chair Mr. Shute adjourned the meeting at 3:44 p.m.

Respectfully submitted,

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

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.