

California Tahoe Conservancy
Agenda Item 2
March 16, 2017

**BOARD MEETING MINUTES
DECEMBER 8, 2016**

December 8, 2016 (9:30 a.m.) Board Meeting

Agenda Item 1. Roll Call

Chair Sevison called the meeting to order with a 9:30 a.m. roll call at the Inn by the Lake, 3300 Lake Tahoe Boulevard, South Lake Tahoe, California. Those in attendance were:

Members present:

Larry Sevison, Chair, Placer County
John Hooper, Vice Chair, Public Member
Tom Davis, City of South Lake Tahoe
Todd Ferrara, California Natural Resources Agency
Karen Finn, California Department of Finance
Jeff Marsolais, USDA, Forest Service (ex officio)
Lynn Suter, Public Member

Members absent:

Sue Novasel, El Dorado County

Others present:

Marian Moe, Deputy Attorney General
Patrick Wright, Executive Director
Jane Freeman, Deputy Director
Ryan Davis, Staff Counsel

Agenda Item 2. Minutes

Ms. Suter moved approval of the September 15, 2016, minutes (**Resolution 16-12-01**). The motion was seconded by Mr. Ferrara. The motion passed unanimously by a roll call vote.

Agenda Item 3. Chair's Report

Chair Sevison acknowledged Sue Rae Irelan for her work on behalf of the Conservancy's public access and recreation program and on behalf of the entire Board offered congratulations for her career in State service. Chair Sevison also reported on the Board Meeting schedule for 2017, which was provided to the Board.

Agenda Item 4. Attorney General's Report

Deputy Attorney General Marian Moe provided an overview of the Bagley-Keene Open Meeting Act (Bagley-Keene) and specifically the situations or types of discussions among Board members constituting a meeting.

In response to a question from Board Member Davis on a member of the public's right to contact a Board member and discuss an issue, Ms. Moe said such communication is allowed as long as that public constituent is not attempting to achieve a consensus or repeat information that that constituent gleaned.

Ms. Moe said for example if a member of the public informs a member of the Board about a conversation with another Board member, it would be appropriate to inform the individual that such communication violates Bagley-Keene.

In response to a question from Board Member Davis, Ms. Moe said the public has the right to discuss the same subject with every Board member.

In response to a question from Ms. Finn on the differentiation between Bagley-Keene, which governs State entities, and the Brown Act, which governs local agencies, Ms. Moe said in general the acts are very similar, although there are some differences.

With respect to the requirements that are the same in both acts, Ms. Moe said Courts have applied the interpretation of one act to the other unless there's a clear statutory difference.

In response to a question from Board Member Davis on the minimum number required for a quorum of the Conservancy Board, Ms. Moe said it would be four.

In response to a question from Board Member Davis related to communications between two or three members of the Board, Ms. Moe said there's a very serious risk with that because although one-on-one conversations are appropriate, once one of the members communicates with a third member the discussion becomes a potential serial meeting. Accordingly, Ms. Moe said the advice her office provides officially over the years is to discourage talking to more than one board member about a subject matter that's within the jurisdiction of the agency.

In response to a question from Board Member Davis about the risk of one member communicating a one-on-one discussion to another member, Ms. Moe advised the Board to avoid that risk by reducing the opportunities for that conversation to take place and therefore to reduce the risk of it being repeated.

In response to a question from Chair Sevison about his direct communication with an individual member of the public on the topic of scheduling an item for a Board decision or discussion, Ms. Moe said that conversation is not a substantive discussion about the subject matter under the Conservancy's jurisdiction, rather it involves scheduling issues and timing.

Agenda Item 5. Executive Director's Report

Executive Director Patrick Wright and staff provided a key projects update power point presentation, which highlighted Conservancy 2016 accomplishments.

In response to a question from Mr. Marsolais about the Conservancy's land management issues and the nature of its citizen reports, Shawn Butler of Conservancy staff specifically noted management issues such as encroachments, hazard trees, defensible space, and disagreements among adjoining neighbors over appropriate land management are the most common citizen reports received.

In response to a question from Chair Sevison about the relationship between weather patterns and forest health and specifically insects, Mr. Marsolais said scientists have made a connection and that measurable precipitation is part of the success in controlling infestations.

Mr. Ferrara asked about fire risk, fuels treatment, and forest health.

Mr. Marsolais said resilient forests are forests that have a higher degree of chance to withstand insect and disease outbreaks and that forest density plays a role.

Following the presentation, Vice Chair Hooper commented on his opportunity to accompany staff on a tour of the Upper Truckee River, Reach 5 project. Vice Chair Hooper asked about minor storm-related problems at Reach 5 and the situation going forward into the winter. Mr. Marsolais said the project is stabilized.

Ms. Finn asked about similar weather related impacts to the Conservancy's Upper Truckee River project. Mr. Wright said construction of the project has not started but that assessments of climate change will be part of the design process.

Agenda Item 6. Public Comment on Non-Agenda Items

Steve Teshara of Tahoe Sustainable Community Advocates commented on the Congressional status of the amendments to the Water Resources Development Act (WRDA), which reauthorize the Lake Tahoe Restoration Act (Restoration Act). Mr. Teshara said the current Senate version of the Restoration Act is now in the House with only one minor amendment from Congressman McClintock and is expected to be voted on today. It will then go to the Senate but may not move as quickly given other pressing legislative items prior to the Congressional recess.

Norma Santiago, on behalf of the Sierra State Parks Foundation (Foundation), said the Foundation held its annual meeting on November 30, 2016, to celebrate accomplishments, establish the action plan for the upcoming year, and to evaluate progress with regard to the strategic plan. She said the Foundation returned nearly half a million dollars for State Parks projects around the Lake Tahoe Basin and Donner, in the form of providing direct services to the public, funding educational staff positions, and the completion of multiple deferred

maintenance priorities. She said the Foundation intends to reach out to the Tahoe Conservancy in the future on implementation of projects. She also said the Foundation supports the Conservancy's Johnson Meadow acquisition.

Agenda Item 7. Consent Item

a. Tahoe City Compensatory Mitigation Wetlands Conservation Easement:

The Board reviewed and considered the consent item involving possible authorization approving the conveyance of a wetlands conservation easement from Placer County to the Tahoe City Public Utility District (TCPUD) and to the North Tahoe Fire Protection District (NTFPD) on a portion of Placer County Assessor's Parcel Number 094-190-026 and authorizing staff to execute all necessary documents including the filing of a notice of categorical exemption.

Chair Sevison asked for public comment on the consent item and seeing none Chair Sevison called for Board action on Item 7. Mr. Ferrara moved approval of **Resolution 16-12-02**. Vice Chair Hooper seconded the motion. The motion passed unanimously by a roll call vote.

Agenda Item 8. Project and Program Authorizations

a. Environmentally Sensitive Land Acquisition:

The Board reviewed and considered possible authorization to expend up to \$30,000 and take all other actions necessary to acquire fee or less than fee interest in Placer County Assessor's Parcel Number 090-104-043.

Aimee Rutledge, Associate Environmental Planner, presented the item.

Following the completion of the presentation, Chair Sevison invited Board comment and public comment which was received as follows:

In response to a question from Mr. Ferrara regarding the status of Proposition 84 funding, Mr. Wright said staff has been able to extend the life of these funds by supplementing with other sources, such as federal grant funds.

In response to a question from Ms. Suter regarding what seemed like a disproportionately large sum of \$5,000 allocated for land acquisition closing costs given the \$25,000 acquisition cost, Ms. Rutledge noted that closing costs don't

really vary depending on the size/cost of the parcel. She also said the closing cost sum includes staff time as well as the private title and escrow fees.

Following completion of the Board questions, Ms. Santiago commented on the project. She asked whether the Conservancy would consider partnering with the Sierra State Parks Foundation on similar acquisitions. Both Mr. Wright and Ms. Rutledge agreed with the idea to work with the Foundation on a future acquisition.

Upon completion of the public and Board comment Chair Sevison called for Board action on the Item 8.a. Vice Chair Hooper moved approval of **Resolution 16-12-03**. Ms. Suter seconded the motion.

The motion passed unanimously among those participating by a roll call vote. Chair Sevison abstained on the basis of his real property interest in the vicinity of the acquisition.

b. California Lake Tahoe Basin Regional Hazardous Fuels Reduction and Wildfire Prevention:

The Board reviewed and considered possible authorization for: 1) the acceptance of a grant from the Bureau of Land Management for up to \$6,814,500 for California Lake Tahoe Basin Regional Hazardous Fuels Reduction and Wildfire Prevention; 2) expenditure of up to \$1,969,500 for project planning, monitoring and assessment, and related direct and indirect costs; and 3) the execution of agreements, including grants, as necessary.

Milan Yeates, Associate Environmental Planner, presented the item.

Following the completion of the presentation, Chair Sevison invited Board comment and public comment.

In response to a question from Vice Chair Hooper regarding the percentage of Conservancy ownership within the total of 3,000 acres proposed for treatment, Mr. Yeates said the percentage of Conservancy ownership is approximately 30 percent.

In response to a question from Ms. Finn regarding the recommended authorization of only a portion of the total grant award and how that relates to the remainder of the project, Mr. Yeates said the current authorization funds pre-

project planning activities including prioritization and development of a monitoring plan for specific focus areas identified in the grant.

Mr. Marsolais also asked about the relationship between the current authorization for approximately \$2 million and the remainder of the grant and whether sufficient funding remained to complete the fuels treatment target. Mr. Yeates said the balance of approximately \$4 million is strictly budgeted for implementation.

Upon completion of the Board comment and with no public comment presented, Chair Sevison called for Board action on the Item 8.b. Ms. Finn moved approval of **Resolution 16-12-04**. Board Member Davis seconded the motion.

The motion passed unanimously by a roll call vote.

c. Tahoe City Public Utility District Easement:

The Board reviewed and considered possible authorization for the conveyance of an easement to TCPUD on Placer County Assessor's Parcel Number 094-031-004, to facilitate TCPUD's Bunker Water Tank Replacement Project and continued operation and maintenance of TCPUD's Bunker Well Facility.

Aimee Rutledge, Associate Environmental Planner, presented the item.

Following completion of the staff presentation, Chair Sevison invited Board comment and public comment.

In response to a question from Vice Chair Hooper about the shift in the transaction from what had historically been a 25-year license to a permanent easement, Ms. Rutledge said the easement was requested by TCPUD and was in line with TCPUD's long-term plans for the facility. Specifically, Ms. Rutledge noted the easement will support a facility currently serving almost 3000 connections in Tahoe City. She said this most likely won't change in the future, and it's an administrative burden on both organizations to renew these temporary, even though they are long-term license agreements. Accordingly, Ms. Rutledge said the project justified the staff's recommendation to convey a permanent easement.

Upon completion of the Board comments and with no public comment presented, Chair Sevison called for Board action on Item 8.c. Mr. Ferrara moved approval of **Resolution 16-12-05**. Ms. Suter seconded the motion. The motion passed unanimously by a roll call vote.

d. Griff Creek Corridor and Public Access Project:

The Board reviewed and considered possible authorization of a Proposition 1 acquisition grant of up to \$1,200,000 to Placer County (County) for the Griff Creek Corridor and Public Access Project involving Placer County Assessor's Parcel Numbers 117-180-059 and 117-180-062.

Scott Cecchi, Associate Environmental Planner, presented the item.

In response to a question from Chair Sevison regarding the potential impact of the project on a roadway used by NTFPD, Mr. Cecchi said the roadway is not something that was considered or discussed in the current environmental review. He said the environmental review covered the two parcels proposed for acquisition as well as the proposed demolition work and the site stabilization.

Vice Chair Hooper commented on the nature of the business currently located on the project site and the potential for soil contamination, which may be present as a result. He noted the lack of a line item in the project for soil remediation.

Mr. Cecchi acknowledged the potential for soil contamination. He said the extent of the remediation is unknown and is included within the contingency line item of the project budget. Mr. Cecchi added the County takes responsibility for risk over and above the grant.

Vice Chair Hooper concluded by asking about the amount of the project budget line item for tenant relocation. Mr. Cecchi noted that the amount was in line with other Conservancy acquisitions of occupied buildings such as the Alta Mira acquisition.

Mr. Ferrara asked for clarification regarding the status of the automotive shop business located on the site and specifically whether the business is operated by the landowner or a tenant.

Mr. Cecchi replied that the automotive shop is operated by a tenant.

In response to Mr. Ferrara's question about the term of the tenancy and its impact on relocation timing, Mr. Cecchi said the entire project is to be completed by December 2018. Mr. Cecchi said the County would begin the relocation process in early 2017 and the tenants could be relocated by the fall of 2017. Mr. Cecchi said the actual building demolition would occur in 2018.

In response to a question from Board Member Davis regarding the history of the site, past operation as a gas station and potential for soil contamination, Mr. Cecchi and Chair Sevison both confirmed that the site contained a gas station at one time.

Mr. Sevison added that a gas station plume went southeast onto other property. Mr. Sevison said there was concern that contamination may also originate from the gas station that's on the other side of the street which is still active.

Mr. Sevison said it will be a real plus to get that contaminant out of there because while it's probably dissipated and probably very marginal now, it'll still be good to remove it from the watershed.

Board Member Davis asked about the presence of fuel tanks on the property and specifically about funding for removal. Mr. Sevison said based on his recollection the fuel tanks remain on the site. Mr. Cecchi said tank removal would be the responsibility of the County. In response to a question from Board Member Davis specifically regarding the costs, Mr. Cecchi said the County is responsible.

Mr. Peter Kraatz, on behalf of County Public Works and Facilities was asked to speak to the Board. Mr. Kraatz said the County was aware of the potential for hazardous substances on the site and the potential associated risks that the acquisition may pose.

Mr. Kraatz also said the County is aware that underground tanks had been removed from the property approximately 20 years ago along with hazardous material remediation activity. He acknowledged that if the County runs in to greater than expected contamination of the site, the County would need to figure out where the extra funding would come from to remediate the site.

In conclusion, Mr. Kraatz acknowledged staff and thanked the Conservancy for its support of many County projects including the Kings Beach Commercial Core.

Steve Teshara of Tahoe Sustainable Community Advocates commented on the

project on behalf of Chief Michael Schwartz and NTFPD. Mr. Teshara thanked the Board and noted the NTFPD's historic use of the access road for ingress and egress. On behalf of the NTFPD, Mr. Teshara thanked Placer County for its cooperation on the project.

Chairman Sevison also commented on the role of the NTFPD as it relates to the project and the potential for a relocation of a nearby public library building.

Upon completion of the public and Board comments, Chair Sevison called for Board action on item 8.d. Ms. Suter moved approval of **Resolution 16-12-05**. Vice Chair Hooper seconded the motion.

The motion passed unanimously by a roll call vote.

Agenda Item 9. Discussion Items

a. Tahoe Fund Grant Update:

Jen Greenberg, Environmental Planner, introduced Tahoe Fund CEO Amy Berry and Devin Middlebrook, Tahoe Regional Planning Agency, Sustainability Program Coordinator. Ms. Berry provided an update on the Conservancy's grant to the Tahoe Fund for the Visitor Information and Environmental Interpretation Planning Project.

Following completion of the presentation, Chair Sevison asked for Board and public comment on the update which was received.

Vice Chair Hooper expressed his support for the project. In response to Vice Chair Hooper's question about the list of stakeholders and specifically the absence of the League to Save Lake Tahoe (League), Ms. Berry agreed the League is a stakeholder and should be on the list.

Vice Chair Hooper also commented on the significant history of Lake Tahoe and asked about incorporating history into the project. Ms. Berry said stakeholders such as the Maritime Museum and Historical Society are important to the project as well as tribal organizations.

Mr. Wright noted that a planning grant of less than \$100,000 from the Conservancy can be leveraged to accomplish much more with the support of others such as the Tahoe Regional Planning Agency.

b. Conservancy Executive Director Performance Review Process:

Jane Freeman, Deputy Director, presented the item.

Following completion of Ms. Freeman's presentation, Chair Sevison asked for Board comment which was received.

In response to a question from Chair Sevison regarding whether she had any comments, Ms. Moe said the staff consulted with her and the process is compliant with all applicable statutes that apply.

In response to a question from Board Member Tom Davis regarding timing and the potential for conducting the review during the regularly scheduled March 2017 meeting, Ms. Freeman said the timing accommodates Chair Sevison, who will not be attending the March 2017 meeting.

Mr. Ferrara asked whether the proposed schedule accommodates a future annual cycle if recommended by the Board. Ms. Freeman said that is up to the Board, but an annual review is a good standard practice, in her opinion.

Mr. Ferrara noted his experience with a similar annual Executive Director check-in or review process based on his position as a member of the Sierra Nevada Conservancy Board. He said that Ms. Finn is also a member of that Board.

Board Member Davis said the review time frame is worthy of discussion, but supported annual review in terms of its importance to the Director, staff, and the Board.

Ms. Suter asked further about the parallels to the Sierra Nevada Conservancy practice and specifically the complexity of the process.

In response to Ms. Suter's question, Mr. Ferrara said based on his experience on a number of different State boards, such as the Sacramento San Joaquin Delta Conservancy (Delta Conservancy), there are variations in the process, with some performing a stakeholder review component. He said the staff's recommended evaluation form seemed concise and the evaluation questions and metrics are essentially the same as other Conservancies forms.

Ms. Freeman said staff reviewed rating forms from the Delta Conservancy and the Sierra Nevada Conservancy in developing the evaluation or rating form.

Ms. Suter noted that she thinks it's very hard for the Board to evaluate agency operations and staff management and asked if that is included in other Conservancy evaluations. Ms. Freeman said in the Delta Conservancy it was but she did not know whether it was part of the Sierra Nevada Conservancy evaluation. Mr. Ferrara noted that he believes it is and that the Delta Conservancy solicited employee input to get at this.

Ms. Suter reiterated her concern over the complexity of the process.

Board Member Davis commented further on the timing of the process and the importance of a yearly review. He said regular reviews provide fairness to both the employee and the organization and that annual reviews are good policy.

Board Member Davis noted his experience as a member of City Council, which performs annual reviews of both the City Manager and the City Attorney. He also stressed the importance of the review to individual new Board members and the opportunity for them to participate in the process. In conclusion, Board Member Davis said the annual review will be good for Mr. Wright, the staff, and the Board.

Chair Sevison agreed with building in an annual review process. In response to Chair Sevison's question on next steps, Ms. Freeman said staff is requesting input from the Board on the process. Ms. Freeman specifically noted Ms. Suter's concern over the complexity of the evaluation rating form. Ms. Freeman said that other Board members themselves may potentially want to work on improving the form and process.

Ms. Moe advised the Board that it is appropriate for the Board to provide feedback or suggestions to Ms. Freeman on an individual Board Member basis and that Ms. Freeman may consider incorporating some of those into a revised plan. Ms. Moe referred to the discussion item as an outline to make sure the Board is aware of the process that is happening internally and to give the Board an opportunity to weigh in.

Mr. Wright commented on the process. Mr. Wright said there are matters of administration at the Conservancy that are not appropriate for a public session, such as hiring and promotions, internal budgets, and reorganization issues. Mr.

Wright said the Executive Director should provide the Board with a full scale overview prior to the evaluation. Mr. Wright said it would not be appropriate to evaluate either the Executive Director or the organization without that. Mr. Wright said he needs advice from the Board on internal administrative items in the context of the annual review. Mr. Wright said the Board needs to be aware of the importance of not just the projects and the grants but how the Conservancy evolves internally as an organization. Mr. Wright said he is committed to trying to help make this happen.

Ms. Suter said, based on her past experience, the quarterly reports are concise and very easy to read in preparation for a Board meeting and might alleviate the need for explanation of not only pending projects but projects you're thinking about. Ms. Suter questioned whether personnel discussions can occur outside of closed sessions.

Ms. Freeman said staff is proposing a future personnel closed session to provide the Board the opportunity to discuss the evaluation. Ms. Freeman said staff considered including an Executive Director self-appraisal with the rating form to provide the opportunity for Mr. Wright to describe the internal information he noted as well as accomplishments. Ms. Freeman also anticipates including background on the Conservancy Strategic Plan and other information, such as the Executive Director's duty statement, to help inform the Board evaluation.

Ms. Suter commented on the importance of reporting. She said she appreciated the annual reports personally and for their value during her discussions with members of the California Legislature.

Chair Sevison asked for direction from the Board on whether to include employee-input in the process.

Ms. Finn said, based on her experience with Mr. Ferrara on the Board of the Delta Conservancy, employee input is very helpful because, as noted by Ms. Suter, a board ordinarily does not see the day to day issues in the office and it is valuable to obtain feedback from staff. Ms. Finn said such input was valuable to the Delta Conservancy Board as it moved into the performance appraisal for the Executive Officer.

Reflecting on his previous experience, Board Member Davis said the process should be yearly with input from the full Board, including a plan for improvements assigned to a two or three Board Members to monitor

relationships with staff, the City, and counties and to help the Executive Director. He said he supported seeking input from staff, but stressed the importance of both positive and negative input. He said a committee of the Board would be beneficial.

Ms. Moe advised the Board that a three member committee would be considered a State body.

Vice Chair Hooper commented on the item for the purpose of providing direction to Ms. Freeman. He said, in light of individual Board member travel schedules, staff's proposed schedule is reasonable. In response to the concerns raised by Ms. Suter, Mr. Hooper reiterated the importance of making the Executive Director's self-evaluation the first step. Mr. Hooper said the self-evaluation would bring to light matters involving the day-to-day administrative cycle. Reflecting on his experience with the Board's previous evaluation of the Executive Director, Mr. Hooper said the form, however complex, appears to be standard across similar Resources Agency departments, but that it could be fine-tuned. Vice Chair Hooper agreed with Chair Severson that the entire Board should be involved in the process.

Ms. Freeman confirmed that some of the questions in the evaluation form follow fairly closely the State's leadership competency areas for any State executive.

Ms. Suter said the Board should stay consistent with similar State organizations.

Ms. Finn asked for clarification on the staff feed-back element of the process. Ms. Moe suggested that Ms. Finn provide her opinion on the success of that element, based on Ms. Finn's experience with similar organizations.

Based on her recollection, Ms. Finn said the staff-feedback is obtained anonymously through a one page questionnaire.

In response a question from Board Member Davis regarding the timing of future reviews as either yearly or every two years, Chair Severson said it may be helpful to postpone that direction.

Ms. Moe said it might be helpful to have a discussion on future reviews after the Board completes the June 2017 review.

Ms. Finn agreed to the concept of further Board discussion on the timing of future evaluations.

In response to a question from Board Member Davis, Ms. Finn agreed to provide Ms. Freeman with an example of an employee questionnaire.

Based on the direction from the Board, Ms. Freeman said staff's roll will be collating the performance evaluation information for the Board. Ms. Freeman confirmed that staff will not edit the information and that there will be a process in place to protect anonymity.

In conclusion, Ms. Moe summarized the Board's direction to staff as follows: The schedule in the staff report is confirmed. Ms. Freeman will work with Ms. Finn and Mr. Ferrara on the documentation for the employee input process for the Executive Director evaluation and incorporate it as part of the schedule. Thirdly, there will be clear direction with a more frequent Executive Officer evaluation and the Board will be giving guidance on that as part of this review, probably in June, but that feedback or guidance could be provided earlier if the Board has additional information.

Agenda Item 10. Public Comment

Chair Sevison called for public comment which was received.

Mr. Steve Teshara of Tahoe Sustainable Community Advocates commented further on the WRDA. He said the vote on WRDA in the House of Representatives was 360 to 61.

Agenda Item 11. Board Member Comment

Following completion of the public comment, Chair Sevison called for comment from the Board.

Vice Chair Hooper expressed his appreciation for the Conservancy Annual Report.

Board Member Davis said that, with regard to the closed session agenda item, he would not be participating based on the potential relationship of the closed session to the City of South Lake Tahoe.

Following completion of the Board comment, Chair Sevison called for a five minute recess before going into closed session.

Agenda Item 12. Closed Session

Deputy Attorney General Marian Moe announced that the Board would be meeting in closed session to discuss potential litigation and to obtain advice from legal counsel pursuant to Government Code section 11126(e)(2)(B)(i) and that following the closed session the Board will return in open session prior to adjournment.

Board Member Tom Davis did not attend the closed session.

Following the completion of the closed session, the Board reconvened in open session and Deputy Attorney General Marian Moe announced that Conservancy staff briefed the Board and that no action was taken.

Agenda Item 13. Adjourn

Chair Sevison adjourned the meeting at 1:52 p.m.

California Tahoe Conservancy
Resolution 17-03-01
Adopted: March 16, 2017

APPROVAL OF MINUTES

I hereby certify that the foregoing is a true and correct copy of the minutes of the December 8, 2016, meeting of the California Tahoe Conservancy adopted on March 16, 2017.

IN WITNESS THEREOF, I have hereunto set my hand this 16th day of March, 2017.

Patrick Wright
Executive Director