

STATUS OF PROJECTS AND PARTNERSHIPS WITH THE CITY OF SOUTH LAKE TAHOE

In 2016, the Conservancy awarded funding for several watershed restoration and forest health projects under its Proposition 1 Grant Program. As described in more detail in the September 2016 Board Book, however, the Conservancy Board did not award funding for the Bijou Park Creek project submitted by the City of South Lake Tahoe. Instead, the Board authorized a planning grant to assist the City in moving forward with a watershed improvement project in the Bijou Park Creek neighborhood and surrounding areas.

In subsequent meetings and communications, City executive staff have expressed their displeasure at the Conservancy's decision by threatening litigation, declining to accept the planning grant, and most concerning, declaring their intent to no longer maintain or enter into any new contractual relationships with the Conservancy, including those related to the Greenway project. Towards that end, the City Attorney has specifically requested a list of all Conservancy and City contractual arrangements.

Given the potential impacts of these actions on past, current, and planned projects, and the long and productive partnership between the Conservancy and the City, Conservancy staff has prepared a detailed summary in response to the City's request, and wish to seek further guidance from the Board on an appropriate response and ongoing communications with City staff, City Council members, and the South Shore community.

Since 1985, the Conservancy has awarded over \$50 million in grant funding to the City, while also permitting the construction of City-owned infrastructure on Conservancy parcels. These grant funds have provided significant public access, recreational, and environmental benefits to the South Shore community. Although the list of Conservancy and City partnership efforts is extensive and complicated, the following categories of actions may be affected by the City's statements.

Site Improvement Grants

Conservancy staff has determined that there are currently 18 site improvement grants that received over \$35 million in Conservancy grant funding (Attachment 1). These grants usually require the City to operate and maintain the constructed improvements

for a period of 20 years after completion of construction. For example, El Dorado Beach at Lakeview Commons Project, one of the most successful public access projects by the City, was entirely funded by the Conservancy using almost \$7.5 million of grant funding.

The Conservancy has also invested more than \$20 million in erosion control projects to assist the City in meeting its lake clarity obligations and in its continued receipt of building allocations for private residential development. For example, the Rocky Point Erosion Control Project Phases 1-4 and the Ski Run Project were constructed in coordination with City redevelopment efforts, and have transformed those areas.

If the City wishes to end these contractual relationships, Conservancy staff would need to research the details of each project to understand how the operation, maintenance, and other obligations associated with State grant funding would be fulfilled. In some instances the operation and maintenance of the improvements is associated with regulatory permits or basic services, such as road and drainage infrastructure, that the City provides its residents. It should be noted that the City continues to maintain most of the improvements that are past the 20-year obligation of older site improvement grants.

Acquisition Grants

Since 1985, the Conservancy has awarded 21 acquisition grants to the City (Attachment 2) to acquire more than 125 interests in real property, including fee title and easements. These grants were awarded with several long-term requirements. In addition to ensuring that any improvements constructed on the property acquired with grant funds are operated and maintained for 20 years, the use of the property must stay consistent with the purpose of the grant and the funding source (e.g., bond act) if applicable, and no other use, sale, or disposition of the property that is inconsistent with the purposes of the grant agreement is permitted, unless authorized by the Conservancy's Board. It should be noted that acquisition grants often complement site improvement grants, such as the Rocky Point and Glorene and Eighth Erosion Control Projects, to provide property interests necessary to construct the improvements.

If the City no longer fulfills its obligations under the acquisition grant agreements, then the Conservancy will need to research each property interest to determine any action that must be taken. Action could include the Conservancy exercising deed restrictions and assuming ownership of acquired properties.

License Agreements

Attachment 3 contains a list of 85 Conservancy parcels impacted by active license agreements with the City. Over the years, the Conservancy has worked diligently with all of its partners to allow the use of Conservancy property for improvements associated with Environmental Improvement Program projects or other activities through license agreements or easements. Erosion control project activities are typically permitted under a license agreement. Consistent with the Special Use Guidelines, license agreements can have varying terms depending on the improvement or activity. License agreements that involve the construction of improvements require the City to commit to 20 years of operation and maintenance of the improvements consistent with site improvement grants. Conservancy staff will need to evaluate each parcel included in an active license agreement to determine steps that may need to be taken if the City seeks to terminate these agreements.

Encroachments

Several City-owned improvements and activities are located on Conservancy property without appropriate agreements. The Conservancy has been working with City staff to resolve these encroachments, in some instances for several years.

For example, two City-owned airport noise monitoring stations are located in the Upper Truckee Marsh (UTM) (Attachment 4). These stations existed when the Conservancy acquired the UTM from the Barton family; however, the Conservancy has no record of an easement or agreement for the stations with the Barton family. The Conservancy initiated conversations regarding these stations with the City several years ago after receiving complaints regarding their visual impact and general upkeep from adjacent neighbors. Conservancy staff recently met with the new City Airport Manager to discuss the situation and develop a strategy to resolve the issue. One of the monitors is no longer operational and may be removed in the summer of 2017.

The City's Bijou Park improvements (Attachment 5) include two encroachments on Conservancy land, including a 0.37 acre encroachment by the Bijou Bike Park and an approximately four acre encroachment for the Bijou Disc Golf Course. These encroachments are expected to be resolved when the City, the College, and the Conservancy proceed with the proposed land transfer for the Greenway Bike Trail Project, since the City's encroachments are on the Conservancy property that would be transferred to the City.

Lastly, the City removes snow from its Tata Lane offices onto the adjacent Conservancy property. The license agreement allowing this activity expired in 2014, but the City has yet to submit a renewal application.

Other Cooperative Arrangements

In 2011, the California Department of Fish and Wildlife (CDFW) informed the City that it would need to obtain a California Endangered Species (CESA) Incidental Take Permit for the Bijou Area Erosion Control Project, Phase 1, which required removal of Tahoe Yellow Cress, a California endangered plant species. The Conservancy worked closely with City and CDFW staff to fulfill several requirements needed to secure the CSEA permit. The Conservancy allowed a mitigation plot to be constructed on property secured by a Conservancy conservation easement, and the Conservancy committed to long-term monitoring of this mitigation plot into perpetuity. This commitment provided critical assistance to the City in obtaining regulatory approvals. It also relieved the City from a long-term monitoring burden that required technical expertise and either an endowment or other financial commitment to ensure compliance. The Conservancy would need to evaluate actions to be taken with CDFW if the City wished to end this partnership.

The Conservancy secured grant funding for the Airport Fuels Project in the City through the Southern Nevada Public Land Management Act Rounds 13 and 14. The Airport Fuels Project is currently being implemented on City land by Lake Valley Fire Protection District (LVFPD) through a Memorandum of Understanding between LVFPD and the City. The Conservancy's role as the grantee for the funding requires the Conservancy to insure that the project is performed in accordance with the grant requirements prior to paying LVFPD, which requires Conservancy staff to enter City property to inspect LVFPD's work. Conservancy staff would need to determine if there are any ramifications to LVFPD and/or the Conservancy's oversight role if the City were to change this agreement at this point in the project.

In addition to these two efforts, City and Conservancy staff continue to work together to resolve flooding and related property issues raised by the public. Examples include the Woodbine/Blackwood flooding, Cold Creek/Trout Creek beaver dams, Ruby/David drainage, and Glenwood/Becka flooding.

Future Projects

In addition to the issues regarding existing agreements, the Conservancy is also concerned about how future projects would be impacted if the City is unwilling to partner on future projects. The City recently held a public meeting and is seeking public

comment on an exciting multi-benefit undertaking, the Tahoe Valley Greenbelt Project. The City is proposing to locate many of the key elements of the Greenbelt Project on Conservancy property or City property acquired through Conservancy acquisition grants. Conservancy staff has attended several Greenbelt Project meetings and provided City staff with comments on the conceptual plans.

As described above, the Board authorized, but the City declined to accept, a planning grant for the City's Lower Bijou Park Creek Project in September 2016. Conservancy staff continues to support the project and the watershed approach analyses for the larger area using Conservancy and State Water Resources Control Board funding.

Another City project that could be impacted is the Ruby Way-Overlook Court Drainage and Erosion Control Project, which is also being considered for a planning grant by the State Water Resources Control Board. Conservancy staff understand that the City would like to use Conservancy parcels for proposed improvements associated with the project.

In addition to City projects and efforts, several Conservancy-led projects require the support and cooperation of City staff. In addition to the Greenway project, the Conservancy is planning to move forward, in partnership with the Tahoe Fund, on the Lakeview Lookout Project. Conservancy staff presented conceptual plans for this project to the Board in September 2015, and will be seeking Board authorization for additional planning studies in March. Because both the City and County own land in the footprint of the project, a partnership will be essential to move the project forward.

Finally, the Conservancy owns several "asset lands" within the boundaries of the Tahoe Valley Area Plan. Conservancy staff has planned to work closely with the City to ensure that the sale of these parcels help achieve the goals of the Area Plan and the Tahoe Valley Greenbelt Project.

In summary, dozens of City and Conservancy projects would be adversely affected by the City's request for information that would allow it to sever its contractual relationships with the Conservancy. Therefore, Conservancy staff are hopeful that the City will withdraw its request, but if not, will be prepared to brief the Board in more detail on potential options and recommendations at the March meeting.

List of Attachments:

Attachment 1 – Site Improvement Grant List

Attachment 2 – Acquisition Grant List

Attachment 3 – Active License Agreement List

Attachment 4 – Airport Noise Monitoring Stations Map
Attachment 5 – Bijou Park Encroachments Map

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