

California Tahoe Conservancy  
Agenda Item 2  
June 15, 2017

**BOARD MEETING MINUTES  
MARCH 16, 2017**

**March 16, 2017 (9:30 a.m.) Board Meeting**

The minutes are prepared from the same-day audio recording and transcription by Foothill Transcription Company certified on April 19, 2017.

**Agenda Item 1. Roll Call**

Vice Chair Hooper called the meeting to order with a 9:30 a.m. roll call at the Fairway Community Center, Lakeview Room, 330 Fairway Drive, Tahoe City, California.

**Members present:**

John Hooper, Vice Chair, Public Member  
Hal Cole, City of South Lake Tahoe  
Todd Ferrara, California Natural Resources Agency  
Karen Finn, California Department of Finance  
Paula Frantz, El Dorado County  
Lynn Suter, Public Member

**Members absent:**

Larry Sevison, Chair, Placer County  
Jeff Marsolais, U.S. Department of Agriculture, Forest Service (ex officio)

**Others present:**

Danae Aitchison, Deputy Attorney General  
Patrick Wright, Executive Director  
Jane Freeman, Deputy Director

Mike Steeves, Staff Counsel

Ryan Davis, Staff Counsel

## **Agenda Item 2. Minutes**

Ms. Finn moved approval of the December 8, 2016 minutes (**Resolution 17-03-01**). The motion was seconded by Ms. Suter. The motion passed unanimously on a roll call vote. Mr. Cole abstained.

## **Agenda Item 3. Chair's Report**

Vice Chair Hooper had no report.

## **Agenda Item 4. Attorney General's Report**

Deputy Attorney General Danae Aitchison introduced herself and recognized Ms. Moe for her many years of service to the California Tahoe Conservancy (Conservancy). Ms. Aitchison said she is stepping in to the very large shoes of Ms. Moe who is enjoying retirement very much.

Ms. Aitchison highlighted one matter of business for the Board, staff, and public. She said there has been a recent interesting development in case law that is important to public agencies. Ms. Aitchison said the California Supreme Court issued an exciting, much anticipated decision in a case called *City of San Jose v. Superior Court*. Ms. Aitchison said the case involved a question where a member of the public had asked for private communications of a city councilmember conducting public business on a private device, meaning a private smart phone, where those communications had never intersected that government agency's server. The Supreme Court decided, under the Public Records Act, those communications that never actually touched a government server may in fact be obtainable public records. Ms. Aitchison said the Office of the Attorney General will be providing guidance coming forward. As a precaution, Ms. Aitchison said that just because a smart phone is private does not mean its communications might not be recoverable by the public under a Public Records Act request.

In response to a clarifying question from Ms. Finn regarding the application of the ruling to private devices, Ms. Aitchison said the ruling applies to a private device, even if it does not intersect with, say, a .gov server.

## **Agenda Item 5. Executive Director's Report**

Executive Director Patrick Wright highlighted the Johnson Meadow potential acquisition and recognized Ms. Kim Boyd, District Manager of the Tahoe Resource Conservation District (TRCD). Mr. Wright also acknowledged Ms. Aimee Rutledge of Conservancy staff, who along with Ms. Boyd are working with the California Department of Fish and Wildlife on the acquisition. Mr. Wright said the acquisition involved resolution of issues such as encroachments and appraisals, among other things, but that he is pleased that the acquisition looks to be on track and hopeful it can be completed by the end of the year.

Mr. Wright also noted the work being done in the Lake Tahoe Basin (Basin) among the agencies as a result of the passage of the Lake Tahoe Restoration Act. Mr. Wright acknowledged Mr. Steve Teshara for his role in the legislation. Mr. Wright said, as part of the legislation, the agencies in the Basin are required to submit a priority list of projects. Mr. Wright said that while the list may not be a huge leap from before, it is a more formalized process. With regard to federal funding, Mr. Wright said the congressional members are cautiously optimistic that Lake Tahoe may receive funding.

Mr. Wright said the Lake Tahoe West Restoration Partnership (Lake Tahoe West) is a major advance for the Basin in transitioning from smaller, single-purpose projects to large-scale, multi-agency, multi-purpose projects, and that will raise interesting planning, permitting, and coordination issues. On a related initiative, Mr. Wright said he, along with his counterpart Jim Branham at the Sierra Nevada Conservancy, are working on an even larger large landscape project known as the Tahoe Sierra Forest Resilience Initiative that covers basically the entire Sierra foothills between U.S. Highway 50 and Interstate 80 north to the Tahoe National Forest. Mr. Wright said staff is trying to use that as a region to focus resources and efforts on a variety of resource issues. Mr. Wright said staff intends to brief the Board on that work as well as Lake Tahoe West at a future meeting.

Finally, Mr. Wright said staff has been addressing the issues surrounding local government representation on the Board and invited Mr. Ferrara to comment on the legislation moving forward, as introduced by Assemblyman Bigelow.

Mr. Ferrara said Assembly Bill 1191 was introduced by Assembly Member Bigelow. Mr. Ferrara said the California Natural Resources Agency (CNRA) continues to work with the author to incorporate a few modifications that were identified during the drafting process. Mr. Ferrara said the legislation contains an urgency clause and that the CNRA is not anticipating any sort of opposition, and might be able to secure early implementation, or at least as early as possible, so that the locally elected members can rejoin the Board.

On behalf of El Dorado County, Ms. Frantz thanked Mr. Ferrara and the CNRA for all of their work and stated that El Dorado County is also working with Assemblyman Bigelow and his office. Ms. Frantz said the current version of the legislation looks much better than the original version.

#### **Agenda Item 6. Public Comment on Non-Agenda Items**

There was no public comment.

#### **Agenda Item 7. Discussion Items**

##### **a. Placer County Area Plan Update:**

Ms. Penny Stewart, Conservancy Resources and Public Access Program Manager, introduced Crystal Jacobsen, Placer County Principal Planner. Ms. Jacobsen provided an update on the Placer County Tahoe Basin Area Plan.

Mr. Ferrara asked about the proximity or relationship of the Kings Beach State Recreation Area to the County's Kings Beach Center Design Concept. Ms. Jacobsen said the Kings Beach Center is located north of Highway 28, primarily on County-owned land and the County envisions a small pocket park, a civic component, some retail, and lodging.

After Ms. Jacobsen's presentation, Vice Chair Hooper asked for Board comment and there was none. He then called for public comment, which was received.

Ms. Ellie Waller, Tahoe Vista resident and also a member of the North Tahoe West Plan Area Team, asked for the opportunity to make a public presentation on a grant related to the Highway 267 and Highway 28 restoration project.

Mr. Wright said a purpose of the presentation is to let the Board know staff spends a lot of time working with the local jurisdictions trying to manage acquisitions and how they help fulfill community goals, including the asset lands on the South Shore. Mr. Wright said this includes the land bank, coverage, tourist accommodation units, and commercial floor area. Mr. Wright said staff is increasingly moving from a first-come, first-served approach with Conservancy assets to partnering with local jurisdictions, so that Conservancy assets are funding-based and commodities can be used to help implement the goals of area plans. Mr. Wright said the next round of funding, if there is one, and future rounds of funding that the Conservancy may have, in addition to its land, may help the local jurisdictions reach their goal. Mr. Wright said it was quite a milestone to get the plan adopted, as it was on the South Shore, and the plan is going to be key to the Conservancy's future priorities in the Basin.

**b. Lake Tahoe License Plate Program:**

Chris Mertens, Associate Environmental Planner, introduced Maja Thaler, Principal and Creative Director, SDBX Studio. Ms. Thaler provided an update on the Lake Tahoe License Plate Program sales and marketing.

Ms. Finn asked a question regarding the lift ticket element of the Plates for Powder campaign. Ms. Thaler said that each of the 11 resorts participating provide 100 lift tickets per year, which could generate up to 550 new plate sales on the basis of two free lift tickets per plate sale. Ms. Thaler said that the campaign generated 308 plate sales in 2015 and 257 in 2016.

Following Ms. Thaler's presentation, Mr. Mertens provided an update on the status of plate sales in the context of other specialized license plate programs and introduced a new Conservancy license plate campaign referred to as "Plates for Projects."

Mr. Mertens said staff is considering a summertime campaign from Memorial Day through Labor Day involving partnerships with local organizations on environmental projects and promotion of the Lake Tahoe License Plate.

Following completion of the presentation, Vice Chair Hooper asked for Board comment, which was received.

Ms. Finn asked a question about the proposed campaign approach, and specifically whether it had received review from Conservancy legal staff. Mr.

Mertens said Conservancy staff has been working closely with the legal division. On the specific approach for the campaign, Mr. Mertens said staff intends to contact one or two organizations, gauge their interest, run the campaign, determine if it works, and if successful, issue a request for proposals where other groups could apply. Mr. Mertens said the Conservancy would evaluate the proposals as grant applications to preserve the integrity of the Conservancy's grant-making process.

Ms. Finn suggested staff could do something competitively, rather than the Conservancy reaching out to specific partners, and request proposals that would promote a specific purpose. Mr. Wright said the staff has spent months with the legal and finance staff to conform the approach to the State system. Mr. Wright said staff intends to try a limited approach this summer and if it works, staff will expand it, recognizing the challenge of combining marketing and project approvals while remaining true to the State process.

Vice Chair Hooper asked about the possibility of targeting people with hybrid vehicles who may be predisposed toward caring about the environment by working with the dealers of those types of vehicles in the vicinity of Placerville, Auburn, and Sacramento. Mr. Wright said the Coastal Commission attempted a similar plate program previously.

Ms. Thaler said the objective is to make it easier for people to purchase the Lake Tahoe plate when they buy a new vehicle. Ms. Thaler said they contacted a number of dealers in the area, including the Auto Mall in Sacramento. Ms. Thaler said, after speaking to the dealers, the best that they can do is display and mention the Lake Tahoe license plate. Dealers cannot actually register a vehicle for someone with a specialty license plate directly from the dealership. Rather, purchasing a specialty plate requires going to the Department of Motor Vehicles (DMV) or going online. Ms. Thaler said attempts have been made to work with the DMV on a process where the plate can be offered directly to buyers at the dealership, but that approach has been unsuccessful so far.

Ms. Finn asked whether the source of the DMV restrictions are either State law or regulation. Ms. Thaler said she is uncertain, but that her contact with DMV is the environmental license plate program staff. Mr. Wright confirmed that the DMV process for issuing the Lake Tahoe License Plate is a huge constraint, which is impacting the campaign.

Ms. Finn said that the process appears to be a nuisance and agreed to look into the application process further in light of her new DMV assignment at the Department of Finance.

Following completion of the Board comments, Vice Chair Hooper asked for public comment, which was received.

Mr. Pete Fink, a Board Member of the Tahoe Area Mountain Bike Association (TAMBA) said his organization is looking for grant opportunities to supplement declining U.S. Forest Service (USFS) funding for building and maintaining trails.

Mr. James Phillips, a resident of Georgetown, California, commented on the item. He suggested tying the plate sales to Jeep vehicles and the Rubicon Trail. In response, Mr. Wright said staff has not specifically targeted Jeep, but there are other events at Lake Tahoe where the license plate could be marketed. Mr. Wright said the problem is that to purchase a plate at an event, the applicant must have his or her Vehicle Identification Number, which most people do not have access to when they are attending a special event. Mr. Wright confirmed that there are a number of barriers that staff is trying to overcome and that staff is doing its best to be creative.

## **Agenda Item 8. Project and Program Authorizations**

### **a. Proposition 1 Round 2 Grants Program Solicitation:**

The Board considered authorizing: 1) the City of South Lake Tahoe (City) request for Conservancy review of Bijou Park Creek Ecosystem and Watershed Restoration Project (Project); and 2) implementation of Round 2 of the Conservancy's Proposition 1 Grants Program, including the solicitation for grant applications for up to \$3.6 million in available funding.

Ms. Stewart presented the item, and began by clarifying that the Board would consider two options: 1) the staff recommendation to initiate Round 2 of the Proposition 1 Grants Program; and 2) a request from Mr. Cole to postpone Round 2 and reconsider the Project.

During Ms. Stewart's presentation, there were questions from Board members. In response to a question from Mr. Ferrara about the number of currently executed Proposition 1 grant agreements for previously authorized projects, Ms. Stewart said all previously authorized projects have executed grant agreements.

Mr. Ferrara asked about the land capability classifications for the Conservancy land included in the Project. Ms. Stewart said the Conservancy land, currently under land capability analysis by Tahoe Regional Planning Agency (TRPA), is already designated as stream environment zone (SEZ). Ms. Stewart said it may not be highly functioning SEZ, but it does have a land capability of 1b. She said the lands were acquired as environmentally sensitive lands and soil tests at the time showed them to be SEZ. Ms. Stewart said the City has included those properties as part of their project area and proposed to enhance the existing SEZ to be more functioning.

Vice Chair Hooper clarified that the Board will be accommodating the City's request to make a presentation on the item and then open up the item for further discussion.

Mr. Ferrara asked when the City provided the estimate of two acres of restoration credit in supplemental information. Ms. Stewart said the City submitted the supplemental information to the Conservancy in November 2015.

With regard to information provided on March 1, 2016, Ms. Stewart said the City initially submitted an acquisition grant for \$5.5 million or fair market value. When the Conservancy received the appraisal in November 2015, at about \$4.67 million, the Conservancy decreased the Project amount based on the appraisal.

Ms. Stewart said, based on the supplemental information provided in November 2015, the City estimated that two acres or more of SEZ would be restored. Ms. Stewart said the City identified many of the other benefits in their application that would be part of this project. Specifically, Ms. Stewart noted that one of the reasons the external review team ranked this project highly was they thought it would be a transformative project under the new Regional Plan.

Ms. Stewart said that, based on the information she received on March 1, 2017, the City is reducing their request to \$3 million after acknowledging that there is less money available. Ms. Stewart said the City also indicated .9 acres of SEZ will be created, .2 acres of SEZ will be enhanced on Conservancy land, and that 500 linear feet of the old Bijou Park Creek will be day-lighted as part of this Project. The information from the City also indicated that the Project is not anticipated to be part of the TRPA Pilot Program.



Ms. Stewart further explained that staff believes there are some substantial differences in the project in terms of the two acres of SEZ to be restored to a functional state of SEZ. Ms. Stewart said the project is now about 1.1 acres of SEZ, about 55 percent, which feels like a substantial difference. Ms. Stewart also noted some recent developments, specifically the Board approval in September 2016, of a planning grant for the Lower Bijou Park Creek.

Ms. Stewart said the reason for the planning grant is to help the City obtain a better design on the proposed Project area to answer restoration questions better. Ms. Stewart said the City has obtained a grant from the State Water Board to plan a much larger watershed effort. Ms. Stewart said, when staff awarded the planning grant, it informed the Board of the State Water Board grant and thought that the Conservancy planning grant for the lower part would be a complement to the larger watershed effort.

Ms. Stewart said the City is indicating that there might be some other opportunities to explore, and while it may not want the planning grant for where it was originally approved, they may want the funding to assist with planning of the larger watershed effort or to consider some acquisitions. Ms. Stewart said City staff and Conservancy staff have met and will continue to have dialogue on the planning effort.

In response to a question from Mr. Ferrara regarding the source of funding for the planning grant, Ms. Stewart said it was from Proposition 50.

Following the completion of Ms. Stewart's presentation, Vice Chair Hooper asked the City to give its presentation.

Mr. Cole thanked staff and the Board for giving the City the opportunity to discuss the Knights Inn purchase and the Project, which have been in the works for many years. Mr. Cole provided a brief history of the Project and the process from the City's perspective. Mr. Cole said that he, as the City's mayor at the time and member of the Acquisition Committee, was closely involved.

Mr. Cole said Mr. Wright approached the City early on about the opportunity to acquire the motel property within the U.S. Highway 50 corridor and that Mr. Wright, along with Placer County, was looking at a number of sites including the Howard Johnson site, but specifically SEZ. Mr. Cole said the City strongly opposed acquisition of the Howard Johnson site for two reasons: 1) it was an economic driver, and 2) although classified as SEZ, the property was surrounded

by development, so if demolished and restored, no water or stream would go through that area. Mr. Cole said that a good portion of the Proposition 1 funding would have been used to buy a motel, create a park, and most of the funding would be gone.

Mr. Cole said a similar situation occurred with regard to the A&A Motel. Mr. Cole said Mr. Wright eventually approached the City on the Knights Inn property. As a lifelong resident, Mr. Cole said he is well aware of a culvert going under the Knights Inn carrying untreated water into Lake Tahoe. Mr. Cole said the Ski Run Marina is receiving thousands of pounds of sediment every year because the City has not day-lighted the pipe or treated the water.

Mr. Cole said that because the owner of the Knights Inn wanted substantially more than fair market value, there were constraints on the acquisition. Mr. Cole said when the City was informed that Proposition 1 funding could not be used for the acquisition, about two weeks before the March 16, 2016 Board meeting, it did its best to change the City's application from acquisition to a water quality project.

Mr. Cole said the City's presentation will show how important this watershed is and how time is of the essence. Mr. Cole said the acquisition is going to go through no matter what. Mr. Cole said there is a developer who will construct what is now a Whole Foods with a parking lot, but he is only going to mitigate the runoff of that property. Mr. Cole said what the City wants to do is use some of the property to day-light an SEZ. Mr. Cole said, although it is costly, the City intends to put an open culvert bridge where the SEZ is. The public can walk across the two connecting parcels at Ski Run Boulevard, share parking, and the public can have an opportunity with the Conservancy and California bond money to say here is bond money at work and an active SEZ. Secondly, Mr. Cole said there is a bigger project and bigger problem in the area than the Knights Inn. Mr. Cole said there are 80 upland acres in the vicinity of Blackwood Avenue that flood. Mr. Cole said the City intends to mitigate that flooding at the base of the watershed, which is integral to the whole project. Mr. Cole said that if the City has an opportunity to do this right, the rest of the 80 acres are going to be easier to address. Mr. Cole urged the Board to keep an open mind. Mr. Cole said it is critical that the Board take a step back, look at the big picture and what this Project is, before making a decision. Mr. Cole asked the Board to give the City 30 more days. Mr. Cole said the Project was conditionally awarded or recommended in March 2016.

In response to a question about the Board's March 2016 action, Mr. Cole said the City is operating on the understanding that although environmental review was not complete, the Project was recommended for consideration and the money was held.

Ms. Nancy Kerry, City Manager for the City, thanked the Board and staff for allowing the City to make a presentation. Ms. Kerry said the City has been meeting with Mr. Wright and staff for a number of weeks now that the Project has an opportunity to be revived. Ms. Kerry introduced Mr. Jason Burke, Storm Water Coordinator, Ms. Hillary Roverud, Deputy Director of Development Services, Mr. Kevin Fabino, Director of Development Services, and Mr. Ray Jarvis, Director of Public Works.

Ms. Kerry said the Project is very important to the City. Ms. Kerry said the City does not disagree with anything that Ms. Stewart shared with the Board. Ms. Kerry said the City is requesting to continue with the application process. Ms. Kerry said the City declined the Conservancy's planning grant because at that time, some people thought the Project was "dead."

Ms. Kerry said she thought there might be a chance to revive the Project and not let it die because it was too important. Ms. Kerry said the owner of the Knights Inn, declined to sell at one point, which exemplifies why development is difficult. Ms. Kerry said she thought accepting the planning grant would have been unethical because the Project was dead.

Ms. Kerry said, as noted by Ms. Stewart, the City now has a bigger project. Ms. Kerry said the fact that the Project stalled gave the City the opportunity to take a bigger look. Ms. Kerry said the City knows the watershed is important, but sometimes one starts down a different process and realizes there is a bigger opportunity.

Ms. Kerry reviewed the Project goals and benefits. She said it seems to come down to whether the Project is substantially different than what the City originally applied for. Ms. Kerry said the City applied on one level, and then the application was changed after coordination with the Conservancy and the City and then through supplemental information, which is not unusual in a grant. Ms. Kerry said an applicant will apply for one thing, and different things come out of the process. Even presentations months later about what was achieved can be a little bit different, which is not unusual. Consequently, Ms. Kerry said the question for the Board is whether the Project today is substantially different than

before, and the City does not think it is. Ms. Kerry summarized the status of the Project. She said City Council recently approved and signed a purchase agreement with the property owner.

Mr. Burke provided a brief history of the Project area. Mr. Burke said there has been a lot of development encroachment on the Bijou Park Creek 850-acre watershed. Mr. Burke also addressed some of the discrepancies or the discussion of the two acres versus the 1.1 acres in terms of the dimensions. Mr. Burke said, at the acquisition phase of the Project, the City identified a two-acre area as the potential area with 1.1 acres as the wet footprint of the actual SEZ. This is intended to be a conservative representation of the Project to reflect the ground and vegetation that would be the wettest of the Project, although the City hopes to achieve SEZ goals in the broader two-acre area.

Mr. Burke also discussed the terminology of SEZ restoration in the context of the Conservancy parcels. Mr. Burke said the five existing Conservancy parcels are currently designated as SEZ 1b. Mr. Burke said Bijou Creek flows in a 24 inch metal culvert pipe four feet underground in certain locations. Mr. Burke described the City's proposal to create more functioning SEZ. Mr. Burke reiterated that the discrepancy between the amount of SEZ restoration depends on the definition of SEZ and how far the City can get the vegetation to grow. Mr. Burke described and discussed areas of Bijou Creek flow and the benefits of removing the impervious coverage and restoring Bijou Creek.

Mr. Burke said since the original Project application, the City received approximately \$500,000 from the State Water Board to do a watershed-wide planning effort, considered Phase II. Mr. Burke noted the encroachment on the flood plain and chronic flooding in the area. Mr. Burke said there is great work that can be done in the upper 850-acre watershed. Mr. Burke said the area contains about 80 acres of suitable public land.

Ms. Suter asked about the upper watershed. Mr. Burke said the Project is the Knights Inn Phase I site, but the City is working on Phase II, which is the planning and design effort for the entire watershed. Mr. Burke said the Knights Inn site is at the bottom of the watershed and represents the last potential filter in the treatment chain that we could design and build in this area to try and remove nutrients and sediment before it goes out to the lake via Ski Run Marina, where there are a variety of aquatic invasive species issues.

Mr. Burke reiterated that the Project in its current format and cost will remove approximately 8,000 pounds of fine sediment and associated nitrogen and phosphorus, potentially infiltrate groundwater, and will provide one acre of potentially functioning and enhanced wet footprint. Mr. Burke said the City hopes to achieve more.

Ms. Roverud commented on the Project in terms of the opportunity to leverage funding for maximum benefits. Ms. Roverud said the Project represents a rare opportunity to be able to purchase an older hotel within the City that is right along U.S. Highway 50. She said the Project presents an opportunity to remove the hotel as it exists and repurpose the land as well as the tourist accommodation units associated with it. The Project will have greater social, economic, and environmental benefit. Ms. Roverud said the Project is an example of implementation of the goals that are contained within the TRPA Regional Plan, the City's General Plan, the Tourist Core Area Plan, and the Conservancy's Tahoe Livable Communities Program.

Ms. Roverud said the goals are focused on revitalizing town centers, creating areas that are pedestrian-friendly, and concentrating development, so that lots of amenities are in one concentrated location that is accessible via pedestrian, bicycle, and vehicle transit. Ms. Roverud said the Project site is important due to its location. She said the site is within the City and TRPA-designated town center. It has substantial residential neighborhoods to the south of the site and also a significant bed-base of tourist accommodation across the highway at Ski Run Marina. By providing the commercial amenities that are proposed as part of the private partnership, those amenities can provide daily activities for residents and tourists and reactivate the Ski Run area as a destination that people can access via transit and enjoy by walking. These benefits have been integral to the City's Proposition 1 application from the start when the Project was a site-acquisition application, and it represents an opportunity for a multi-agency partnership to achieve a transformative project that provides the maximum benefits envisioned by the opportunity to purchase this property.

Ms. Kerry commented further on the Project. She said the City adopted a resolution establishing the Project in three phases. Ms. Kerry said the City cannot give up on this watershed and intends to take a bigger look at how the City can focus its efforts.

Ms. Kerry noted the 40,000 pounds of sediment this watershed delivers into Lake Tahoe every year. Ms. Kerry said the larger project, if the Conservancy partners

with the City, will be able to achieve significant environmental gains, reducing 20 percent of the watershed's sediment loading into Lake Tahoe. Ms. Kerry said the focus is on a comprehensive watershed restoration, and the City believes that a better use of the Conservancy planning grant would be to look upstream.

On the question of whether the Project is substantially different, Ms. Kerry said the issue comes down to how one defines an SEZ. Ms. Kerry commented on the specific SEZ restoration elements of the Project in terms of dry and wet conditions. Ms. Kerry said, through the City's analysis, the SEZ is going to be closer to 1.1 acres, but that point loses focus of the bigger picture. Ms. Kerry said the Project is not substantially different; it is the same project with a refinement on how much will be wet and how much of the creek will be day-lighted through the channel. She said in years like now, it would all be wet. Comparatively, Ms. Kerry said the City originally requested \$5.5 million and now \$3 million, so the change in dollars is similar to the change in acres. She said all other aspects of the City's application remain unchanged. The Project is the same, but without the Conservancy's partnership, the City will not have the environmental gains.

Ms. Kerry said the watershed has been identified in the Lake Tahoe Environmental Improvement Program as a high-priority project for TRPA. Ms. Kerry said there are few opportunities to restore this watershed, which is very overdeveloped. Ms. Kerry said the City inspected the watershed from the air during recent storm events of 2017, and was surprised by the development in the upper watershed and the opportunities to have greater restoration.

Ms. Kerry said if one studied the upper watershed and put in projects to improve the upper watershed, when runoff flows down to the Project site and goes back into a pipe, there are not going to be the same benefits. Ms. Kerry said the Project helps the entire upper watershed; it is the last point before Lake Tahoe and will reduce 20 percent of the sediment coming into Lake Tahoe. Ms. Kerry said the difference is not a substantial change, but a difference in opinion. Ms. Kerry closed her comments with a reference to the importance of partners working together.

Following the City presentation, Vice Chair Hooper asked for comments from the Board and offered an opportunity to staff to add any points of clarification.

Ms. Suter asked about the level of contamination in the untreated water entering the pipe at the Knights Inn. Mr. Cole said the water is storm runoff and contamination which originates from pavement and soil from un-vegetated areas

upstream. Mr. Cole said sediment contains nitrogen, phosphorus, and runoff from City streets, which is sometimes sand and oil.

In response to a question from Ms. Suter on the City's infiltration method and whether it will be substantial, Mr. Cole said this type of treatment method is something the City has used for years. Mr. Cole said treatment methods include sophisticated water treatment systems with vaults, which work well but require maintenance. Mr. Cole said that when the water flow is slowed and allowed to infiltrate, rather than run off into Lake Tahoe, that is an acceptable and a preferable method of treatment, similar to the treatment along the Upper Truckee River. In response to a question from Ms. Suter regarding the extent of the SEZ, Mr. Cole said one has to build a buffer when creating SEZs.

Mr. Wright noted that the Conservancy asked how much is SEZ versus how much is buffer in November 2015. Mr. Wright said the City was asked to indicate in supplements the quantity in each category, either functional or buffer, which is a key consideration for the Conservancy.

In response to a question from Mr. Cole regarding SEZ functionality, Ms. Stewart said SEZ is defined by TRPA code. She said there are a number of parameters to determine whether something meets SEZ criteria, according to TRPA code, including groundwater depth, soil types, and vegetation.

Ms. Stewart said the Basin often struggles to define functionality and quality of SEZ. She said as part of the threshold update, TRPA and its partners are looking to better define SEZs. Ms. Stewart said one of the reasons she spent time talking about the Proposition 1 process was to create an understanding that the Conservancy received 32 applications and requested supplemental information to allow the external team to evaluate the projects, make comparisons, and undertake scoring. Ms. Stewart said the only thing the external team had in writing from the City was how much SEZ would be restored, which was an estimated two acres. The external team interpreted that to mean two acres of actual SEZ, not open space buffers that might exist beyond that SEZ. Ms. Stewart said she agrees with Mr. Cole that buffers are needed to create a functioning SEZ, just like you need them for wetlands. Ms. Stewart said she agrees with the City staff that the matter gets down to interpretations.

Ms. Suter said that the Project is basically a wonderful redevelopment project, and based on the statements from staff, what is being provided is basically half of the expected SEZ restoration. Ms. Stewart clarified that what staff expected

was two acres. She said the Conservancy is getting 1.1 acres. Ms. Suter said there is no doubt it is a great project, but it is a redevelopment project.

Ms. Kerry said the funding is about half of what was previously requested. Ms. Kerry said it was not clear what was being asked of the City for SEZ restoration. Ms. Kerry said she, Ms. Stewart, and their respective staff have discussed the extent of SEZ. Ms. Kerry said City staff was estimating the area and was in early design. Ms. Kerry said without the Conservancy funding there will be a redevelopment project; with Conservancy funding it is an environmental redevelopment project. Ms. Kerry said developers will do the bare minimum, and government is the only one that will step in and fund the environmental gains that we all want. The City is acquiring the parcel and performing the demolition. She said it is quite a challenge to put all the funding pieces together.

Mr. Ferrara commented on the Project. Mr. Ferrara said it is an exciting redevelopment project. Mr. Ferrara congratulated everyone associated with the City for their tenacity in completing the acquisition. Mr. Ferrara said he has questions concerning the Project phasing and specifically whether Phase 1 could be part of a later phase involving the upper watershed, resulting in a more comprehensive strategy.

Ms. Kerry agreed in concept with Mr. Ferrara's comment. Ms. Kerry said the City should study the entire watershed, start at the top, and implement things as they travel towards the Lake. Ms. Kerry said sometimes you have to start at the Lake and work upstream, due to site availability. Ms. Kerry said the owner of the Knights Inn started looking for other buyers for potential commercial development on the site, which prompted the City to acquire the end catchment of the watershed and build a good environmental project and not just develop the site. Then as the City moves upstream, it will have solved at least the end point, while working up the watershed.

Ms. Kerry said the City's goal is to evaluate the planning grant with the Conservancy and look for opportunities to add improvements to the SEZ restoration. Phase II will look at the best thing the City can do to implement watershed enhancements to further reduce the sediment and nutrients that will connect with the end point. Ms. Kerry said Phase III is implementation and is probably five years out. She said the City does not want to wait five years to start implementing solutions.



Mr. Cole also responded to Mr. Ferrara's question. Mr. Cole said if the City postponed the Project to wait on another grant, the main difference would be in the catchment design at the bottom of the watershed. Mr. Cole said the opportunity is for SEZ restoration, a bridge instead of a driveway with a pipe underneath it, and signage and interpretive information about the Project at Whole Foods. Mr. Cole said the City would lose those opportunities if it did not do this Project now and waited until the redevelopment of the Knights Inn was complete. He said the City would not be able to take the SEZ into the developer's property, and would not be able to design it the same way.

Mr. Ferrara questioned the specific timing of each phase, and whether the Board can move forward to Round 2, where the City could compete under that process. Ms. Kerry said Phase I is the acquisition and redevelopment. She said it is a two-year process before that is completed, but the City is currently in engineering design. She said California Environmental Quality Act (CEQA) compliance begins next week with the assumption that this will be built. If this doesn't get built, obviously that will change the process. If we have to redesign it in a different way, that design could get hung up. Ms. Kerry said she believes the developer would not allow that to happen. Concurrently, Ms. Kerry said the City is starting Phase II. She said we have already received the grants, so we are starting those now on the upper watershed.

Mr. Burke also responded to Mr. Ferrara's question. Mr. Burke said, with regard to Phase II, the benefit is that 80 acres of public land could potentially provide opportunities for treatment. But given the time needed to meet CEQA requirements, applying for the implementation funds this fall is not feasible.

In response to the question of whether the City could reapply in Round 2 with the exact project the City submitted in Round 1, Ms. Kerry said it would not make sense to the City. Ms. Kerry said the City spent about a quarter-million on environmental review. Ms. Kerry said the City was previously looking at \$4.6 million, but by redesigning the Project and focusing on the key components, it believes \$3 million will work. Ms. Kerry said the City will have to provide additional funding to make sure it completes the Project. Ms. Kerry said the City is already at the end point. Ms. Kerry said if the City did not have to stall the Project, the City would have finished CEQA review because it was about to be released in July 2016. Ms. Kerry said if the July schedule had been followed, the City would have been ready for the Board action in September or December when the other delayed Proposition 1 grants were awarded. Ms. Kerry said sometimes timing allows you to look at something different. Ms. Kerry said the

Knights Inn owner was ready to sell, sold it, and was in escrow. Ms. Kerry said now the City has the opportunity to tie into upper watershed goals, and it is going to be a better Project in the long run.

In response to Mr. Ferrara's question about the 1.1 acres of SEZ, of which approximately half would be built on Conservancy land, Ms. Kerry said these parcels are not functioning SEZ and some of the funding is going to support the Conservancy's efforts to make the SEZ more functional and enhance it on the entire site. Ms. Kerry stressed the importance of addressing problems in the entire watershed. Ms. Kerry said the City is trying to look at that bigger vision.

Mr. Ferrara asked about the water quality, watershed, and ecosystem benefits, and specifically about the Project's removal of 8,000 pounds of fine sediment at a 20 percent reduction. Ms. Kerry said 40,000 pounds of sediment originates from the watershed and runs into the Lake every year, which is a 20 percent reduction from the Project.

Ms. Frantz commented on the Project. Ms. Frantz said the Project looks amazing. Ms. Frantz asked about: how the Board considers a project in Round 1, conceptually approved and then changed, and the concept of option one versus option two. Ms. Frantz questioned whether the 32 projects the external review committee analyzed should be reconsidered. Ms. Frantz asked if there is a way to get the external review committee back together. Ms. Frantz asked whether the seven or eight that were approved were all an "A" and whether the other projects were substantially deficient or an "F."

Ms. Stewart said in March 2016, the Board awarded seven grants and approved seven different resolutions, one for each project. Ms. Stewart said the reason for that approach was because some of them had CEQA documents associated with them that the Board needed to consider and concur with, and others did not. Accordingly, staff thought that the cleanest approach was to take each project individually. Ms. Stewart said the staff recommendation indicated that in addition to the recommendations to award funding to seven projects, staff identified three projects, one of which is the Project, that the external team and Conservancy staff ranked highly. However, the projects were not ready for Board review or approval because CEQA document review was not completed. Ms. Stewart said staff indicated in the staff recommendation that it will prepare recommendations on Board approval of these projects once environmental review is completed and all supplemental information is received.

In response to a question from Ms. Frantz, Ms. Stewart confirmed that the Board did not take action on the Project and two other projects in March 2016, which included the Meyers SEZ and Griff Creek. These projects were awarded in September and December 2016, following completion of CEQA.

Summarizing, Ms. Frantz said there were ten that the external review team thought were best; seven got initial approval because they were far enough along. The other two that were put off or on hold have been approved, so the City's is the only one of the ten finalists remaining.

Ms. Frantz asked about other so called semi-finalists. She asked whether they were far down the line in a logical clump or close to the recommended awards. Ms. Stewart said the external team recommended more than what the Conservancy actually had funding for and had suggestions for the next in line. Ms. Stewart said there is a logical clump of highly competitive projects, but she did not recall how many projects are in that group.

Ms. Frantz said it seems like there is an Option 3, which is not to make the City completely re-compete in a total new round. Because the City has changed the Project and there is debate about how substantial the change in SEZ is, the Board may want to consider a Round 1B, where applicants who competed and met some minimum level of standards return for Round 1B. Ms. Frantz said there may be a project that would also provide one acre of SEZ restoration, which was not considered as good relative to the City, because the City was evaluated for providing two acres. In essence, Ms. Frantz said she is asking if there are other projects that should be considered.

Ms. Kerry said the City was told that its next step is to submit CEQA documents, but was not given a timeline. In terms of process, Ms. Kerry said that is what the City is requesting. Ms. Kerry said there is no harm in delaying, releasing a second round, but asked that the City be allowed to complete what it was asked to do, which is to release its CEQA documents. Ms. Kerry reiterated that the City is asking to be allowed to complete the process, just as the others who were awarded a few months ago. Ms. Kerry said if the consideration is process, then allow the City time to finish what it was asked to do, allow the staff to make a recommendation, and then return to the Board for award at a later time.

Mr. Cole asked whether there are conditions in the March Board action that required the City to finish CEQA and get more details. Mr. Cole said it is a year later, but the City is releasing its CEQA document and providing more details.

Mr. Cole asked whether there is a possible interpretation that the City is just late but not excluded.

Ms. Stewart agreed that staff did not set timelines. Ms. Stewart said that from the supplemental information received, staff is seeing a difference from what we believe the review team evaluated in December and January a year ago. Ms. Stewart said the supplemental information, in the eyes of staff, has changed the Project.

Ms. Frantz referenced the staff recommendation where Conservancy staff said it agreed to consider the City's request and consider two options: moving forward with a new solicitation and asking the City to resubmit the application or postponing Round 2 and considering the City project under Round 1. Ms. Frantz quoted the staff recommendation: "Based on guidance from the AG and CNRA as explained below, they recommend the first option."

Ms. Frantz said she did not see why the staff think that Option 1 is better. Ms. Frantz said she understands it is a fairness issue because the application has changed but asked if there anything else to support re-opening Round 2.

Mr. Wright said, as discussed previously, the problem is this is the first time staff has done a competitive grants program. Mr. Wright said a competitive grants program locks the Conservancy into things that are nontraditional for the Conservancy. Mr. Wright said, under the Conservancy's history with Proposition 84, Proposition 50, and Proposition 12, staff works with applicants from day one until the end, and the scopes change again and again, because of public comment. Mr. Wright said in a public, competitive process, the Conservancy is required to go by what is in that original application. It does not give staff the flexibility to change the projects. Mr. Wright said the competitive process has unfortunately boxed staff in. To the City's credit, Mr. Wright said, they are trying to make this work, and yet they are hemmed in like staff is with State processes.

Mr. Wright said if this were submitted to the State Water Board or Wildlife Conservation Board there would not be any of these conversations. Mr. Wright said there is a panel review with points and that is it. Mr. Wright said that is not the Conservancy's tradition. He said it has been a real struggle trying to make a project like this work. Mr. Wright said obviously all the other applicants that were not awarded funding would love the chance to come back to staff for another opportunity. Mr. Wright said staff is struggling with how to marry traditional partnerships with the rigor of a competitive process.

Mr. Cole said the City's position is the Project is not substantially different. Mr. Cole said the only thing added is that the City is showing two acres of restoration area. Mr. Cole said the City never assumed that the whole thing was going to be a wet area, because that means there is area beyond that must have buffers. Mr. Cole said the SEZ project area size is about the same. Mr. Cole said he did not think that was a substantial change and that the City has about two acres of project area for the SEZ; it is only the location that has changed. With respect to the direction from the Office of the Attorney General, Mr. Cole said he understands it to prohibit a reconsideration if the Project has a substantial change. Mr. Cole said the City and staff disagree on whether there is a substantial change. Mr. Cole said the basic question is whether we can reconsider it now or not.

Ms. Finn commented. Ms. Finn said that Proposition 1 is a fundamentally different program and that the Conservancy, the Wildlife Conservation Board, and the State Water Board are all using competitive grant solicitations. Ms. Finn said Proposition 1 is a competitive bond that the Legislature submitted to the voters. In reference to the comments made by Ms. Frantz, Ms. Finn said she is concerned about the relationship of the City with other competitors who would want re-evaluation. Ms. Finn said she commends the City and is very impressed with what is happening. But in terms of the process, Ms. Finn said she is not comfortable with it.

In response, Ms. Kerry said the City was never told it was out of this grant round. Ms. Kerry said the City is only continuing the process. She said the City did think the Project stalled, but she made it clear she was not giving up. Ms. Kerry said the City never thought it was out of the grant round, or it would not be here. She said the City wants to complete the CEQA process and see what happens after that.

In response to a question from Ms. Finn regarding the City's CEQA process and timing, Ms. Kerry said the CEQA document is just coming out now. It was going to come out last summer, but because we were not sure we were going to have the Project, we held back. Now we are ready.

Ms. Suter commented. Ms. Suter asked about any potential risk to the Conservancy about the process and fairness to the applicants

Ms. Aitchison responded to Ms. Suter's question. Ms. Aitchison said, for clarification, that as a Deputy Attorney General, she is not the Attorney General in his official capacity. Ms. Aitchison said she is the Board's counsel working with the Conservancy's own in-house counsel and here to provide the Board advice. Ms. Aitchison said it is important to re-emphasize in this context that, as Mr. Wright said, Proposition 1 marked a difference in the statutory language than was in the previous language for grants for two decades.

Ms. Aitchison said there is language providing an immense amount of discretion for agencies to make grants through bond proceeds based on the purposes of that particular fund. Ms. Aitchison said, in the case of Proposition 1, Chapter 6 specifically identifies a competitive grant requirement. The issue here should not focus on how great the project is, but the procedural aspect of whether the Board is comfortable that the current evolution of the Project is sufficiently similar to what the proposal was.

Ms. Aitchison said the legal issue with competitive grants, which arises with other conservancies and State agencies that award grants, is that a competitive process provides any member of the public an equal opportunity to understand there is an opportunity, what the rules of that opportunity are, how to apply successfully, and that their application is scored on the merits.

Ms. Aitchison said the key criteria that we use is "providing a level playing field" to all applicants, without favoring one applicant over another. Ms. Aitchison said that is the key consideration here. Where there is a concern of an unlevel playing field or one applicant being favored over another, and this does come up in other State agency grant programs, it raises two concerns. Ms. Aitchison said there is always the opportunity and risk that a disappointed applicant will challenge a decision to engage in an action that they perceive as favoring one applicant over another, and our office has represented another small State agency who faced that type of situation. Ms. Aitchison said a second issue is whether an audit will judge the facts sufficiently to show an impartial and fair process.

Ms. Aitchison said for current purposes, as the Board weighs the facts, there is a difference of opinion on what substantial change means. Ms. Aitchison said the question is whether this is the same project, or if it has changed in a way that disadvantages one applicant over another.

Upon completion of Ms. Aitchison's comment, Vice Chair Hooper called for public comment.

Mr. Ed Moser, a resident of South Lake Tahoe, commented. Mr. Moser said the project is a good redevelopment project. Mr. Moser said both the City and the County of El Dorado should be responsible for the cost of correcting the drainage. He said, based on his personal inspection of the drainage, he believes increasing the size of the pipe may solve the problems. Mr. Moser said water was not moving through the pipe in April 2016 and questioned whether the Project was designed to carry a 100-year storm or 30-year storm event. Mr. Moser said he did not believe the settling pond area is capable of handling a 30-year storm. He said he thinks at least 50 percent of this Project area should be an SEZ and in settling ponds and catch basins to treat the entire 850 acres of the watershed. Mr. Moser said the City has the two lots on the corner already, which they could use to solve the problems. Mr. Moser said he questioned the accuracy of the modeling used to determine the 40,000 pounds of sediment attributed to the watershed.

Ms. Ellie Waller, Tahoe Vista Resident, commented on the previously awarded Proposition 1 grant for the Griff Creek Corridor and Public Access Project. Ms. Waller said she was a citizen member on the Tahoe Basin Area Plan. Ms. Waller thanked the presenters, Ms. Stewart, and Ms. Aitchison.

Ms. Waller acknowledged that the grant for the Griff Creek Corridor Restoration and Public Access Project has already been awarded, but said she wanted to bring forward some information the Board may not be aware of. Ms. Waller said the tenants on the property have not been in the loop. Ms. Waller asked that staff work with Placer County to find a suitable location for the tenants. Ms. Waller said she will be appearing before the Placer County Board of Supervisors on Tuesday on the same matter.

Ms. Laurel Ames, South Lake Tahoe resident, commented. Ms. Ames said the decision will be perceived as favoritism. On the subject of SEZ definition, Ms. Ames said historically the entire area was flooded every spring. Ms. Ames said a two-acre SEZ is small, particularly in the context of TRPA threshold standards. Ms. Ames said SEZ thresholds are not an undefined concept. Ms. Ames said the threshold standard includes a restoration target of more than a 1,000 acres. Ms. Ames said that at the rate of one or two acres at a time, it is going to take a long time to reach the target. Ms. Ames said the City thinks it will claim all of the Truckee Marsh as restored SEZ, and then they will not have to do very much, but

that is unacceptable. Ms. Ames said every last piece of SEZ needs to be restored. Ms. Ames said when an SEZ is lost it is not lost forever; you can always go back and restore an SEZ because it indicates a high water table. Ms. Ames said the City knows perfectly well what a functioning SEZ is because the City built two of them right along the highway for the redevelopment project, which removed several thousand motel units. Ms. Ames said she did not believe it is hard to define an SEZ; in the end, you always come out with an effectively functioning SEZ, defined by native vegetation, water, and that is it. Ms. Ames said you know one when you see one. The land is not paved and it is not barren, which may qualify as 1b land because it gets wet often, but to have a functioning SEZ, you have to go backwards into overdeveloped areas and redesign.

For example, Ms. Ames noted the former Colony Inn, which was removed from an area that was wet with ephemeral streams and winter streams. She said the original restoration took the motel off the top, graded it flat, planted grass seed, installed sprinklers, and called it restored. Ms. Ames said the site was not restored with that treatment and it had to be redone.

Ms. Ames said the proposed project seems to be basically the same as it was, only it will be better designed and built, supposedly, but contains a significant amount of pavement. Ms. Ames said there is a significant stretch of U.S. Highway 50 that, for once, will have something removed right off the highway, and Ms. Ames questioned whether there is going to be any SEZ restoration to break up the view of just a wall of buildings.

Ms. Ames said this is not the Board's problem; it is the community's problem, and that will fit into the perception of favoritism. With regard to the Placer County Tahoe Lodge project, Ms. Ames said that SEZ is being built and paid for by the developer. Ms. Ames disagreed with the statement that developers are not going to pay. Ms. Ames said the community apparently refuses to pay for any kind of environmental protection and wants the State and federal government to pay for everything. However, in Placer County, the developer is going to pay for the SEZ restoration.

Ms. Ames said the Conservancy is the last agency with money that will be able to restore SEZs. She emphasized it is very important that the Board look at whether this project is going to restore enough SEZ. Ms. Ames said the Board should not back off on the numbers. Ms. Ames said there is a favoritism problem and she strongly recommends that the Board adopt a plan that restores what the initial number of acres was going to be.



Ms. Cindy David, a tenant on the property to be acquired as part of Placer County's Proposition 1 funded Griff Creek Corridor and Public Access Project, commented. Ms. David said she was not contacted about the project or the relocation process. Ms. David said her business has been operating at the proposed acquisition for 18 to 21 years. Ms. David said she has two landlords because her business operates on both parcels proposed for County acquisition and each parcel has a separate owner. Ms. David said one landlord seems to know a little bit more than the other because she is willing to sell. Ms. David said the second landlord does not want to sell. In response to a question regarding contact from Placer County, Ms. David said there has been some contact but no answers.

Mr. Wright said Placer County has a different view. Mr. Wright said he did not want to speak for Placer County, but because this is a grant from the Conservancy and a situation that staff takes seriously, staff can contact Placer County and provide a detailed summary of what level of communication and notice was required. Obviously, the Conservancy has notice requirements and wants to make sure those are adhered to. Mr. Wright said Placer County, as a recipient, has its own obligations. He confirmed staff is obligated to the tenant to make sure that the process is followed appropriately.

Ms. David said she was told that there were notices on the property but said she was on site every day and did not see any notices.

In response to Ms. David's question about how the relocation funding was determined, Ms. Stewart said the question of relocation funding was discussed during the December 2016 Board meeting where Placer County was present. Ms. Stewart said letters were sent to the landowners by the Conservancy advising them of the action and that staff received no response. Ms. Stewart said relocation follows a set protocol.

In response to a question regarding the timing of the grant award and contract, Ms. Stewart said the award was approved by the Board in December 2016, and the grant agreement was not signed by the parties until January 2017. Ms. Stewart said she believes that Placer County's request for proposals for relocation services went out in January and the consultant was retained in February. Ms. Stewart said it is staff's understanding that the consultant was retained by Placer County in February 2017.

Mr. Steve Teshara, with Sustainable Community Advocates, commented. Mr. Teshara said he has been following the City and Conservancy grant process and the City's participation in it, and the City was never told they were not in Round 1. Mr. Teshara said, in his opinion, Round 1 is still open.

Mr. Teshara said, due to the circumstances of this particular grant, the process has continued and the City has developed additional information. Actions have been taken by the City Council this week to purchase the property. From the standpoint of a process, this is the Tahoe conundrum. Mr. Teshara said we get so tangled up in our process we cannot see the big picture, even though we talk a lot about it. Mr. Teshara said the big picture is that, the project is substantially better now for a variety of reasons, and he does not think the City should be penalized.

Mr. Teshara said the relevant picture is the incredible flooding behind the hotel and the opportunity that the City is taking is an action-oriented approach to look at the bigger Bijou Park Creek Watershed.

Mr. Teshara said the Project is transformational in the community. It is a highly visible part of South Lake Tahoe. This Project addresses the ills that people see—too many motels, old motels, and strip motels along U.S. Highway 50.

Mr. Teshara said all of us have probably taken the tour at Ski Run Marina, and we see the gunk that is in there. This project will address that. It creates opportunities for more watershed restoration in the future because, as the City Manager described, we are dealing at the bottom of the watershed and in the area right next to Lake Tahoe, which will be the foundation for improvements up the watershed.

Mr. Teshara urged the Board to think about the big picture. Mr. Teshara said the process issues are real, but there is a way to deal with those process issues as we have historically at Lake Tahoe. If there are fairness issues and we need to ensure a level playing field, we can make findings. We can make findings that the Board can rely upon in making a decision to keep the City in Round 1, keep Round 1 alive, and focus staff on working with the City to get to those findings and that potential outcome once you look at the CEQA document.

Mr. Teshara said, based on the process described by Ms. Stewart, if the Board releases Round 2, there will be a tremendous amount of staff work involved to engage the external review team on potential projects. Mr. Teshara said perhaps

that is not the best way to use staff time. Maybe the best way to use staff time is to focus on the one remaining project that is still at play from Round 1 and come to a decision about it. Mr. Teshara reiterated that findings are a good way to approach these definitional issues, because we have plenty at Tahoe, and the SEZ definition is not clear. Yet, this Board is being asked to make a decision.

Mr. Teshara said he thinks the Board can make the right decision. Mr. Teshara recommended that the Board continue the Round 1 process, and work with the City to see if there is a project that can be approved by the Board for the money requested, see what the outcome is, and then take further actions.

Mr. Teshara said this is a fantastic project; it is way better than it was. He said it is not the fault of the City. It is because time has passed. It was great to be at the Council meeting where the owner of the Knights Inn was not only selling his business, but selling his home where his family has lived for many years. The owner made a tremendous sacrifice to make a better community and a better environment.

Vice Chair Hooper thanked Mr. Teshara and asked for further public comment and seeing none, brought the item back to the Board.

Vice Chair Hooper said while he understands that this may or not be a better project, he does not believe the Board is addressing the merits of that issue. Vice Chair Hooper said the Project certainly looks exciting, but the fact is that we are under severe constraints due to the competitive process under Proposition 1. Vice Chair Hooper said the Project is full of new ideas and many of them look great, but he cannot evaluate them. Vice Chair Hooper said, more importantly, the external review team had a chance to look at them.

Vice Chair Hooper said that is the dilemma we are faced with. He said there is a relatively easy way forward, which is to move ahead with Round 2 and encourage the City to apply. The City is in an exciting position, already being able to move ahead with the acquisition of the developed property. The Conservancy's timeline looks like it would be useful from the City's point of view to go further than the redevelopment project. Vice Chair Hooper said he believes, there is an easy way, which is to move forward with Round 2. There is also a convoluted way, where there is a tremendous amount of angels dancing on the heads of pins, regardless of the merits, that you have to bend over backwards to justify. Mr. Hooper said that does not make sense.

Mr. Cole said he disagrees on a number of issues. In response to the comments from Ms. Ames, Mr. Cole said while he has lived in Tahoe for about 60 years, he will defer to Ms. Ames as a true pioneer. Mr. Cole said process may not be always be the same, but by referring to the size of the SEZ as small, Mr. Cole said as you get to more expensive, developed areas, it is much harder to get the substantial square footage and acreage, than you can upland in the rural areas. Mr. Cole said we have to restore as much as possible. He said if this goes through, we will be restoring more than if we did not pass this because at this point in time, we have some site control over the Knights Inn. Mr. Cole said this would allow the City to encroach more on the Knights Inn parcel to get more SEZ. Mr. Cole said if the City does not do this, that opportunity will be gone forever. Mr. Cole said the City built two SEZ restoration projects or holding ponds that Ms. Ames referred to. Mr. Cole said the City received credit for the whole area where the basins were constructed, not just the bottom of the basins. Mr. Cole said the City is asking, per its original map, for two acres of SEZ in the project area. Mr. Cole said the channelization and the side slopes will vary the amount at the bottom, but the City should get credit for the whole area dedicated to an SEZ, including revegetation. Mr. Cole said this is not angels on the head of a pin. This is substantially the same project, and requested the Conservancy's review team to review in 30 days if this is substantially the same.

Mr. Cole said rather than opening a round, giving up forever the idea of putting an SEZ on this commercial project and dealing with it in an isolation, he did not think 30 days would affect the possible proponents. The City has a Project and the City is arguing and presenting evidence that this is substantially the same Project.

Mr. Cole said the Board is looking at the project peripherally with 15-20 minutes of presentation. He said the CEQA document will be in circulation. He said 30 days is all the City is asking to make sure that staff agrees this is not substantially different. Mr. Cole said that closing the door now closes the door forever. Mr. Cole respectfully asked for 30 days, the City's CEQA will be out, and the Board can look at the Project then.

In response to Mr. Ferrara's question as to why the opportunity for the Project may be precluded, Mr. Cole said the City currently has control of the land and is in the design stage with the developer. Mr. Cole said the developer is not going to construct an open-culvert bridge to connect the two properties. Mr. Cole said the developer is not interested in the SEZ entering his property. Mr. Cole said that the City will be selling the land to the developer and does not have funding

to construct the SEZ or the ability to place that requirement on the developer. Mr. Cole said the developer will only install Best Management Practices (BMPs) for the project, not treat runoff from the watershed.

Ms. Frantz said she viewed the process and the fairness cutting both ways. Because the Board had not provided the City deadlines for completion of CEQA review and the project was at the top of the 32 proposals, it does not seem fair to put them back as a brand new applicant at this point in Round 2.

Ms. Frantz said she also sees that whether substantial or not, there have been changes that staff saw, which could have changed the ranking.

Ms. Frantz suggested that if the Project is allowed to move forward—to continue it for 30 days and have the external review team look at it—then her suggestion that the external review team look at what the City has submitted and compare it to the next four or five applications that were considered under Round 1 to determine if the Project is still number ten, with the changes.

Ms. Frantz said it seems like the Project has some aspects of it that are better, but there is less SEZ. Ms. Frantz suggested comparing the Project, for environmental purposes only, to the next ones down. Ms. Frantz said that if the Board gives that direction, then she would support giving the 30 days for staff to look at the City's CEQA document, have the external review committee look at what the City added in, and compare it to the others. Ms. Frantz said that is a way the Board could balance the process.

At the request of Vice Chair Hooper, Ms. Frantz agreed to offer her suggestion as a motion for discussion.

Ms. Stewart questioned whether this is asking the City to come forth with some new information. She said she believes that the other four to five down also have the right, if the Board were to go forward with this re-look, to bring forth new information, and she would anticipate that this would require more than a 30-day extension. Ms. Stewart said she would like clear direction from the Board as to what the comparison is, and the expectation if it makes this motion.

Mr. Cole said that he would prefer the external review committee to first look at whether the Project is substantially different. If that is the case, then proceed to Round 2. Mr. Cole said he would like experts to determine if the City's

delineation of a project area and SEZ restoration is similar to, if not the same, to the two acres the City is identifying as an SEZ project area.

Mr. Cole said what the City never delineated before is how much would be channelized and revegetated. Mr. Cole said the City's argument is that it is the same acreage; it is just the definition and what staff thought was going to be constructed. Mr. Cole said it is semantics, and he said that TRPA, when looking at SEZ restoration projects, gave the whole property credit for SEZ restoration. Mr. Cole said that is essentially what the City is doing here. City engineers will determine the area dedicated to do it and how much will be dedicated to the bottom and sides. Mr. Cole said he would prefer that the 30 days allow the external team to look at whether it is substantially different. Mr. Cole referred to the advice from Ms. Aitchison and a similar concern from Mr. Ferrara. Mr. Cole said it is also the City's position that it should not be bumped out if it is just clarifying and not amending what it did in March 2016.

Following Mr. Cole's comments, Ms. Frantz said she is willing to withdraw her suggestion if Mr. Cole and the City want to have an up or down vote on whether or not it is continued. Ms. Frantz said she thought, looking at the issues of process, that if the Board were to continue the process, that the Round 1 applicants that were close should have the same consideration. If it was determined that there was any reduction in the amount of environmental benefit, while there might be a lot of benefits, environmental and stream bed benefits from what the City has changed.

Mr. Cole said he agreed with Ms. Frantz. Mr. Cole added that usually a motion generates discussion, not action. Mr. Cole offered to make a motion for discussion, which could be voted up or down. Mr. Cole said it is up to the Vice Chair's discretion.

Mr. Hooper asked, for clarity, for a restatement of the motion.

Mr. Cole asked whether the Board wanted further discussion or discussion once the motion is made.

Mr. Ferrara said he is interested in the discussion, but was unsure whether further discussion requires a motion. Mr. Ferrara said he wanted to understand whether time is of the essence, and at the same time, how this additional 30 days will prohibit the Board from going out tomorrow with Round 2. Mr. Ferrara said it sounds like staff is ready to put out Round 2 and that extends the deadline for

Round 2 much further than what might be beneficial to the City under a competitive process. Mr. Ferrara said the City's original proposal had twice as much SEZ restoration than what the current one has, which is a substantial difference that was not considered when the Project was originally ranked.

Mr. Cole said the City's position is that two acres was submitted as the SEZ restoration area, but acknowledged the amount of SEZ is not something the Board is qualified to determine.

Mr. Ferrara said he understands Mr. Cole's position. Mr. Ferrara said if the external review team is allowed to look at that, he believes they would view it as substantially different or at least competitively important. Therefore, the Board cannot complete Round 2 by September and has pushed the timeline further, potentially to the end of the year. Mr. Ferrara said he believes that is an important consideration. Mr. Ferrara said his preference is that the City continue to complete the CEQA process and apply under Round 2.

Mr. Cole said the Board has been talking about fairness for a long time, and in fairness to the City, as the engineers made clear, the City always proposed two acres. Mr. Cole said the City could design the Project so there is more wetland at the bottom, but the efficacy would not be there. He said the City is trying to design an efficient SEZ, an SEZ on steroids.

Mr. Cole said he hoped the City's presentation raises some questions with the Board on what other projects the Conservancy wants partner on. Mr. Cole asked if there have been other projects in the past few years that the Conservancy partnered on and that have this much impact on a watershed of 80 acres with 12,000 pounds of sediment. Mr. Cole said he has been involved since the 1990s with the City redevelopment project. He said he has not seen a project that he felt had, for the small amount of money comparative to the \$200 million spent at Stateline, to capture this much sediment and trigger an 80-acre watershed improvement. Mr. Cole said this is significant and the 30 days, what the Board is giving up and what it is getting, to him is a no-brainer. Mr. Cole urged the Board to be fair to the City, fair to all of the people that are worried about our watersheds, and see if the City's application could be considered substantially the same as it was in March 2016. If in 30 days, the Board says it is not okay, then the City will give up that portion, and hopefully we will come back with something else, but this is too important to brush off.

Mr. Cole apologized for being passionate, but said he has lived in Tahoe his entire life, and grew up on Ski Run Boulevard. Mr. Cole said he has seen that area flood since he was young, and wants to do everything he can to mitigate that flooding, and if by doing this the City forgoes the portion of the SEZ that is underneath the new tenant's property, that is a shame.

Upon completion of Mr. Cole's comments, Vice Chair Hooper thanked Mr. Cole and asked for further Board comments or a motion.

Mr. Cole made a motion requesting the Board to postpone opening up the second round for a 30-day period or as close to it as possible, depending on their scheduling. This would allow the City to circulate the CEQA document, let staff ask for any additional information they want, or just use the information we gave. Then, staff can see if they feel this is substantially the same and could be awarded under Round 1, which Mr. Cole believes the Board is working under.

Ms. Frantz seconded Mr. Cole's motion.

In response to a question on whether the City would complete CEQA without a grant award, Ms. Kerry and Mr. Cole said the CEQA document is already out for review. Ms. Kerry said the City is requesting to continue with the CEQA process, which might be longer than 30 days with a public comment period.

Vice Chair Hooper asked for further questions or comments from the Board, and seeing none asked for a second to the motion. Ms. Frantz seconded the motion.

Mr. Cole repeated his motion that the Board postpone opening Round 2 of grant requests for a minimum of 30 days, or until the Board feels that they have had enough time to review the CEQA document, and make a recommendation on whether this project is substantially the same as the one submitted in March 2016.

Ms. Stewart asked whether the City is requesting that the external review team review the City's application. Mr. Cole said the experts that staff brings together should look at the supplemental information and tell the Board, in fairness and to conform with the Proposition 1 guidelines, if this is sufficiently similar to what the City proposed.

Mr. Cole said the City has spent over a year, and believes it had a conditional reservation of the money, pending CEQA review and more details. He said the



CEQA document has been released and more details have come in. Mr. Cole apologized for the length of time, but said there was never a deadline.

Vice Chair Hooper invited further discussion on the motion.

Ms. Suter said she sympathizes tremendously, but if the City is making a motion for a minimum of 30 days and staff has to get the original team back together to evaluate the new material, it does not make that much of a difference.

Mr. Cole said 30 days makes a difference because within 30 days the City will know if it has a project.

In response to Ms. Suter's question as to the City's position, if the evaluation is that the Project is substantially different, Mr. Cole said then the Board has lost 30 days. But out of fairness to the City, this really comes down to whether it is substantially different based on information the staff gave us and information received from the City. Mr. Cole said if the City's presentation gave the Board pause about whether this is substantially different or not, then he requests 30 days for staff to give the Board a formal recommendation. If the Board, based on what it has heard today, considers it substantially different, Mr. Cole said he understands but his position is that it is not substantially different.

Ms. Suter said she agrees with Ms. Stewart that the difference between the two acres is substantial.

Mr. Cole said when the Project was submitted previously it referred to a "project area" and the City did not indicate how much was going to be at the bottom of the ditch for the wetland. He said the City indicated two acres of project area for SEZ restoration. Mr. Cole said what the City is indicating now is two acres of project area for restoration, with the nuances of what is SEZ. Mr. Cole said the first application probably would have been very similar as far as what area was below grade and was wetland, and the rest was all ancillary to the SEZ. Mr. Cole said it would have been exactly the same; it is just the definition of the SEZ.

Mr. Ferrara said that is where he returns to the element of "substantially different." Mr. Ferrara said it is significant. Mr. Ferrara acknowledged the City has two acres of project area, consistently described as project area. Mr. Ferrara said the City has 1.1 acres of SEZ and half of it is on Conservancy land.

Mr. Cole said the SEZ has always been on Conservancy land. Mr. Cole said the Conservancy was going to partner with the City to get the benefits. Mr. Cole said the source of the acreage, whether acquired by the City from a private party, whether it is an SEZ, or whether it is owned by the City, is the partnership the City is requesting.

Mr. Ferrara agreed that he would love to see that partnership, but he wants to make sure it is part of a competitive, legitimate process because it is different enough that he cannot say it is the same project in good faith.

Mr. Cole apologized for the confusion regarding the property. He said he has been on boards that change staff recommendations and respects that, but in this case he is trying to be as objective as possible. Mr. Cole said the City has made every effort it can to keep that alive, and is looking at the Project that was approved in 2016, except now the Board was given the information. Mr. Cole requested a roll call.

Vice Chair Hooper asked for one point of clarification. Vice Chair Hooper said, as he understands the original motion, Mr. Cole set a 30-day limit. Vice Chair Hooper said the amended or clarified motion was a minimum of 30 days.

Mr. Cole agreed with Vice Chair Hooper. Mr. Cole said his motion was a minimum of 30 days up until the Conservancy felt it had enough information to return and tell the Board if they believe it is substantially different or not.

Vice Chair Hooper said the motion appeared to be open-ended in a way.

Mr. Cole said it is up to the staff to determine how much time they need. Mr. Cole said he will amend the motion for whatever time if he has support. Mr. Cole said if all he needed to do was amend the motion for timing, that would be fine, but just from reading tea leaves, he did not know if the Board would get that far.

Vice Chair Hooper asked whether Mr. Cole was ready for the question.

Mr. Cole asked for clarification as to whether the clerk has the current pending motion available to read back so everyone is 100 percent clear.

Staff Counsel Ryan Davis said, speaking for the Board Clerk, staff is not taking notes on the motion at this time, but if the Board would like staff to develop a motion, we can read it back to you and it will likely be similar to Item 8.a., which

authorizes staff to take 30 days to consider whether the project is substantially similar to what was originally submitted.

Mr. Cole said that is the staff's second option and he will defer to that.

Vice Chair Hooper said the Board has a motion and, if Ms. Frantz is willing, a second. Vice Chair Hooper said the clarified motion is a set limit of 30 days for re-examination of the project.

In response to a question from Mr. Ferrara about the staff recommendation on the Project being substantially different, Mr. Davis said that is the staff recommendation, and what the Board would allow an additional 30 days to reconsider.

**Upon completion of public and Board comment, Vice Chair Hooper called for Board action on Mr. Cole's motion for approval of a resolution to set a limit of 30 days for re-examination of the Project. Ms. Frantz seconded the motion. The motion did not pass on the following roll call vote:**

Clerk: John Hooper?

Mr. Hooper: No.

Clerk: Hal Cole?

Mr. Cole: Yes.

Clerk: Todd Ferrara?

Mr. Ferrara: No.

Clerk: Karen Finn?

Ms. Finn: No.

Clerk: Paula Frantz?

Ms. Frantz: Yes.

Clerk: Lynn Suter?

Ms. Suter: No.

Vice Chair Hooper said the motion fails on a 4-2 count. Vice Chair Hooper asked the Board for an alternative motion.

**Ms. Frantz moved for approval of Resolution 17-03-02 as amended to "strongly encourage the City to reapply for Proposition 1 funding in Round 2." Mr. Ferrara seconded the motion. The motion passed unanimously on a roll call vote.**

Mr. Cole thanked the Board for its consideration. He said he has been with this Project for four years in his role with TRPA and the City. Mr. Cole said he is not giving up on treating this watershed, including an interpretive bridge and the SEZ restoration as part of the Whole Foods development project.

Vice Chair Hooper concurred.

## LUNCH

A staff hosted lunch, open to members of the Board and staff, which was held on-site.

### **b. South Tahoe Greenway Shared Use Trail Project Memorandum of Understanding:**

The Board reviewed and considered authorization to enter into a Memorandum of Understanding (MOU) with the City and Lake Tahoe Community College (LTCC) District to assign operation, maintenance, and land management responsibilities, and to define roles for future project implementation of the South Tahoe Greenway Shared Use Trail.

Mr. Mertens presented the item.

Upon completion of Mr. Merten's presentation, Vice Chair Hooper asked for Board and public comment.

Mr. Fink commented on the item on behalf of the Joint Powers Authority (JPA) Bicycle Advisory Committee, which makes recommendations to the JPA Board. Mr. Fink confirmed that the JPA voted to approve funding for trail maintenance. Mr. Fink said there will always be funding available at a minimum of \$5,000 a mile for this section.

Mr. Fink said, as a founding member of the Lake Tahoe Bike Coalition and a member of City Parks and Recreation Commission, the project represents the backbone of a trail system for the City. Mr. Fink said, based on a survey, bike trails are favored in the community. Mr. Fink said the City and the County of El Dorado, in conjunction with Douglas County, have implemented a Parks, Trails, and Recreation Master Plan to help accommodate non-motorized transportation and provide safe routes for people to walk, particularly during the winter. Mr. Fink said he believes that automobiles are the leading cause of degradation to lake clarity by creating fine sediment that is pounded and pulverized by cars and

washes into Lake Tahoe. Mr. Fink thanked the Conservancy, County, and City for winter snow removal on bike paths. With respect to the portion of the Greenway trail located on El Dorado County land, Mr. Fink said the County indicated it could take on that section because they have other Class I trails in the area that they maintain. Finally, Mr. Fink stressed the importance of meeting the requirements of the California Department of Transportation funding.

Mr. Cole asked whether the MOU addresses the contributions of the College and the City and if it addresses the allocations of coverage. Mr. Mertens said the MOU describes the land transfer and how coverage will be addressed, so it is a part of what the Board is being asked to approve.

Mr. Mertens added that City staff believes this is a fair resolution but that it is up to the City Council and the LTCC Board of Trustees to make the final decision.

**Following completion of public and Board comments, Vice Chair Hooper called for Board action on Item 8.b. Mr. Ferrara moved for approval of Resolution 17-03-03. Ms. Suter seconded the motion. The motion passed unanimously on a roll call vote.**

**c. Aquatic Invasive Plant Control Pilot Project:**

The Board reviewed and considered authorization of up to \$260,128 for a grant to the TRCD for the Aquatic Invasive Plant Control Pilot Project.

Whitney Brennan, Senior Environmental Scientist, presented the item.

In response to a question from Ms. Finn regarding the size of the treatment area, Ms. Brennan said the estimate is 0.22 acres, depending on the pre-project survey and the extent of the invasive plants at the site.

In response to a similar question from Vice Chair Hooper, Ms. Brennan said the project involves two treatments throughout the season for approximately five minutes. She said the treatment durations will be different for the second treatment and monitored to determine effectiveness.

Upon completion of the presentation, Vice Chair Hooper called for Board and public comment.

In response to a question from Ms. Suter regarding the project cost in relation to the total treatment area, Ms. Brennan said cost-effectiveness is part of the evaluation and as UV technology develops and becomes more cost-effective, the price can drop.

Ms. Kim Boyd, with the TRCD, said the project is a pilot project based on technology tested in a lab. Ms. Boyd said part of the project involves field-testing equipment to see how it works, which is part of the reason for the high cost. Ms. Boyd said that if this method is proven successful in the Lake Tahoe field setting, then there are a variety of different ways to make the treatment available for plant control.

Mr. Cole questioned the use of herbicides as an alternative to the invasive species specifically within the Tahoe Keys area. Ms. Boyd said the treatment will be considered, but the purpose of the proposed project is to demonstrate that there are other methods.

In response to a question from Ms. Finn regarding the development of new technology, Ms. Boyd said the Senate Bill 630 (SB630) group agreed it did not want to fund the technology, but sought to fund the field testing. Ms. Boyd said the goal is that testing will demonstrate the technology has an effect on a known infestation in Lake Tahoe.

Ms. Finn asked about the benefit to the State from helping to fund this pilot project. Ms. Boyd said the new technology could be used by other agencies in the Basin as an alternative to, or in conjunction with, the currently used bottom-barriers.

Ms. Finn asked about the use of State funds on technology testing. Mr. Davis said the grant agreement includes provisions requiring the grantee to obtain rights to data from proprietary technology or any other data generated through the project, so the Conservancy would have access to the monitoring information and the generated data.

In response to a question from Mr. Ferrara, Ms. Boyd said TRCD will collect information with funds provided through the Tahoe Fund's innovative project. She said the Tahoe Fund provided TRCD with \$5,000, which helped gather baseline information that went into the categorical exemption for this project because it is a pilot project. Recently, the Tahoe Fund also awarded an additional \$5,000 for more monitoring. TRCD originally proposed this project for funding to

a regionally applied U.S. Environmental Protection Agency research program, but it did not get selected, so the SB-630 group supported it.

**Following completion of public and Board comments, Vice Chair Hooper called for Board action on Item 8.c. Mr. Cole moved for approval of Resolution 17-03-04. Ms. Suter seconded the motion. The motion passed unanimously on a roll call vote.**

## **Agenda Item 9. Easement Authorizations**

### **a. Summit Road Driveway Easement:**

The Board reviewed and considered authorization for the conveyance of an easement through Conservancy-owned land (Placer County Assessor's Parcel Number [APN] 092-072-009) providing driveway access to adjoining privately-owned land (Placer County APN 092-072-012).

Kelsey Lemming, Land Management Program Environmental Planner, presented the item.

Following completion of the staff presentation, Vice Chair Hooper asked for Board comments.

In response to questions from Ms. Finn and Mr. Ferrara about why the Conservancy is not being paid for the easement, Mr. Lemming said the landowner is asserting a prescriptive right based on continual use previous to the Conservancy's ownership.

Ms. Finn questioned the ownership of the land when the Conservancy acquired it in 1988 and whether there was agreement on prescriptive rights at that time. Mr. Lemming said the seller did not provide permission to cross the land at that time, which could indicate they may have been unaware of the use.

Vice Chair Hooper said the long-standing use appears to fit the definition of a prescriptive right.

Mr. Davis said the definition of prescriptive right requires continued use over five years. Mr. Davis said the use can be shown by tacking or adding onto someone else's period of use and it appeared to staff that the use began in 1973 and has continued, uninterrupted.

Mr. Wright said that in 1988, when the Board acquired this parcel, staff could have better evaluated and addressed the situation. Staff is now trying to make the best of the situation.

Mr. Hooper noted the Conservancy's acquisition criteria, which requires the Board to take land management conditions and price into consideration.

In response to a question from Mr. Ferrara about whether the landowner has access to Summit Road from another location, Mr. Lemming said the residence includes an existing driveway entirely on private land for access to Summit Road. Mr. Lemming said the short, steep driveway does not access the second-level, front door of the home.

In response to a question from Mr. Ferrara about the possibility of obtaining access through the other private parcel, Mr. Lemming said the landowner is in negotiations with the landowner to the south for a possible purchase of the property.

Mr. Ferrara asked about nominal water quality benefits from the BMPs required for the grant of easement. Mr. Lemming said the current condition is bare dirt with no pavement, so water runs down the slope and transmits loose sediment onto Summit Road without any BMPs, catch basins, or French drains. Consequently, TRPA has identified the existing condition on multiple occasions for erosion control and water quality issues.

In response to a question from Mr. Ferrara regarding BMP costs for the new driveway, Mr. Lemming said they would not be inconsequential.

**Upon completion of the Board and public comments, Vice Chair Hooper called for Board action on Item 9.a. Ms. Suter moved for approval of Resolution 17-03-05. Ms. Finn seconded the motion. The motion passed unanimously on a roll call vote.**

**b. Paige Meadows Road Easements:**

The Board reviewed and considered authorizing the conveyance of road easements to the Tahoe City Public Utility District, USFS, Granlibakken/Parson's Properties, and American Tower for a portion of the existing Paige Meadows



Road through Conservancy-owned land (Placer County APN 083-110-017, 083-120-020, and 094-200-020).

Mr. Lemming presented the item.

Following completion of the staff presentation, Vice Chair Hooper called for Board and public comment.

Vice Chair Hooper questioned the ability of American Tower to lease space on the tower to another party, which could then entail greater traffic and a sublease. Mr. Davis said subleased or franchised rights could be a part of the negotiations with American Tower. Mr. Davis also said sublicenses would be addressed explicitly in the easement.

In response to a question from Ms. Finn regarding the possibility of State use of the transmitter, Mr. Davis said that could also be part of the negotiations on the easements, which staff initially proposed to be exclusive. Mr. Lemming added that the tower is proposed for location on privately-owned land.

Mr. James Phillips, with American Tower, provided public comment on the item. In response to a question from Mr. Ferrara about consideration for the grant of easement to American Tower, Mr. Lemming confirmed, consistent with the staff report, that staff would receive fair market value for the easement.

In response to a question from Mr. Cole regarding access to the road, Mr. Lemming confirmed that it is controlled with a USFS gate.

**Upon completion of the Board and public comments, Vice Chair Hooper called for Board action on Item 9.b. Mr. Ferrara moved for approval of Resolution 17-03-06. Ms. Suter seconded the motion. The motion passed unanimously on a roll call vote.**

**c. Fairway Drive Easements:**

The Board reviewed and considered authorizing four offers of dedication to Placer County for highway, unmaintained highway, multi-purpose, and snow storage easements for a portion of the existing Fairway Drive through Placer County APN 094-180-059, providing possible access to adjoining privately-owned land (Placer County APN 094-180-002 and 094-180-003).

Amy Cecchettini, Public Land Management Specialist III, presented the item.

Following completion of the staff presentation, Vice Chair Hooper asked for Board comments.

Ms. Frantz asked about the configuration of the easement to the two private properties and why it runs the full length of the property instead of running horizontally to Fairway Drive. The configuration allows the owners to use the entire length of the frontage rather than the specifically identified location. Ms. Cecchettini said that due to slope and location elements, the concept provides the private landowners flexibility.

Ms. Frantz said, as currently configured, the easement provides the owners with the ability to select a location, which may conflict with the environmentally sensitive nature of the landscape.

Mr. Kevin Prior, Conservancy Administrative Officer, said he and Ms. Cecchettini have been working with Placer County and the private landowners. The process going forward will have each private landowner work directly with Placer County on the specific alignment following completion of the offers of dedication, which is the reason for the easement configuration.

Ms. Finn posed a question on the alignment. Ms. Prior said staff's intent is to provide access from Fairway Drive across the highway easement and onto the unmaintained highway easement. The two parcel owners will work with Placer County on the layout of the driveways based on TRPA rules.

Vice Chair Hooper said the concern may be that once the finite routes of the access road are defined and built, then the private landowners may relinquish the portion they do not need.

Mr. Prior said Placer County would retain the portion that the private landowners do not use, but said Placer County does not have a need for the additional right-of-way.

In response, Vice Chair Hooper suggested a two-step process to allow the private driveways to be further defined and Ms. Frantz agreed.

Ms. Cecchettini said staff is working with a surveyor and Placer County on the easement designs at their request. Ms. Frantz said she understands Placer County's need for the alignment on the three easements for the right-of-way and

snow storage, but questioned the need for the full extent of the easements for the private driveways.

Vice-Chair Hooper said the resolution could be amended to limit the extent of the easement to what is needed.

Ms. Frantz said the highway, multi-purpose, and snow storage easements are fine, but the unmaintained highway easement should minimize the impact to the Conservancy's land, while allowing driveway access to the public road, which also minimizes the impact to the Conservancy property.

In response to a question from Ms. Finn on the value of the easement to the private landowners, Ms. Cecchettini said staff is not recommending to improve the value, but to provide a designated access.

Ms. Finn said the designated access will improve the value of the private land and said there may be alternative access. In response, Ms. Cecchettini said the alternative access is a USFS gated road.

Vice Chair Hooper called for public comment, which was received.

Robert Bonnino, one of the owners of the private inholding parcels, commented. Mr. Bonnino gave a history of his family ownership and said the purpose of the subdivision was to develop a residential home. On the subject of the easement, in terms of TRPA permitting and Individual Parcel Identification System (IPES), Mr. Bonnino said TRPA performed an IPES evaluation last year and identified SEZ in the area. He said the idea was to find the best access and it will be a limited road.

Upon completion of the public and Board comment, Vice Chair Hooper asked for a motion from the Board.

Ms. Frantz motioned for adoption of Resolution 17-03-07, amended to authorize three offers of dedication to Placer County for the highway, multi-purpose, and snow storage easements, as identified on the map. The resolution would also authorize an offer of dedication to Placer County for the unmaintained highway driveway access easement, which would minimize the impact to the SEZ and other Conservancy land.

Ms. Frantz said the intent of the amended resolution is to authorize staff to negotiate, with the understanding that it will not be an easement across the whole parcel. Instead, once one or two 25-acre swaths are identified, ideally with one toward the middle of the parcel, they can be split off.

**Upon completion of Board and public comments, Vice Chair Hooper called for Board action on Item 9.c. Ms. Frantz moved for approval of Resolution 17-03-07 amended as follows:**

The California Tahoe Conservancy hereby authorizes: 1) three offers of dedication to Placer County for highway, multipurpose, and snow storage; and 2) one offer of dedication to Placer County for an unmaintained highway easement. Those portions of this unmaintained highway easement through the Conservancy's Placer County Assessor's Parcel Number 094-180-059 which are not needed for driveway access, shall remain with the Conservancy to minimize impacts to SEZ and other Conservancy land. The Board authorizes staff to take all other steps consistent with the accompanying staff recommendation.

Ms. Finn seconded the motion. The motion passed unanimously on a roll call vote.

#### **Agenda Item 10. Public Comment**

Vice Chair Hooper called for public comment, which was received.

Mr. Moser commented on the Lake Tahoe License Plate. In reference to his comments at a previous meeting, Mr. Moser said partnerships with Silicon Valley and vehicle oriented business, such as Tesla, may be a way to improve license plate sales.

#### **Agenda Item 11. Board Member Comment**

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

On behalf of the entire Board, Ms. Suter thanked staff and, specifically Ms. Stewart, for the work on the Proposition 1 Round 2 grant solicitation.

Mr. Ferrara agreed and said he hoped the City will consider reapplying through the competitive process in Round 2. Mr. Ferrara said the decision, in his mind, was made without any bias to the City's project and in recognition of the need for a fair and equitable process for all applicants.

In response to a question from Vice Chair Hooper regarding the June 2017 meeting, Ms. Freeman said staff had not made a decision on a two-day meeting. Ms. Freeman said there will be a closed session in June for the Executive Director's performance evaluation.

Ms. Freeman said staff will be staying on the schedule shared with the Board at the December meeting. Staff will also add an employee survey that will go out in April and be shared with the Board for consideration as part of its Executive Director's performance evaluation.

Ms. Freeman confirmed that June 15, 2017 is the date for the next Board meeting.

#### **Agenda Item 12. Adjourn**

Vice Chair Hooper adjourned the meeting at approximately 3:45 p.m.

California Tahoe Conservancy  
Resolution 17-06-01(b)  
Adopted: June 15, 2017

**APPROVAL OF MINUTES**

I hereby certify that the foregoing is a true and correct copy of the minutes of the March 16, 2017, meeting of the California Tahoe Conservancy adopted on June 15, 2017.

IN WITNESS THEREOF, I have hereunto set my hand this 15th day of June, 2017.

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Patrick Wright  
Executive Director