

March 29, 2010 – Meeting of Nevada's Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System.

Opening Comments:

Mr. Chairman and members of the Nevada's Legislative Committee for the Review and Oversight of the TRPA and the Marlette Water System, my name is Wayne Ford. I have lived and worked at Lake Tahoe, Incline Village for over 30 years. I have been a teacher in Washoe County. I have had a wood cut sign business for some 10 years. For the past 16 years, I have been a Nevada Licensed Residential Designer. I have done mostly single-family projects. In a few cases, I have worked with an associate, Gordon Northan of Zephyr Architects on commercial projects. These included office buildings and BMP projects, medical buildings and BMP projects, restaurant projects and BMP projects. All these projects have had to be processed through TRPA. In the case of single-family projects, they have included pier projects and expansions and lakefront homes, under TRPA's new scenic rules. Some of these projects have taken over two years to get TRPA permits.

I attended the workshop at TRPA last Thursday, March 25, 2010. I regret I was not able to stay for the full meeting. The workshop held before members of the Governing Board of TRPA was done to take testimony for the business owners at Lake Tahoe on the impact the agency has on the economy. This impact is through the TRPA process and their regulations under their "Code of Ordinances".

While I was there, 4 representatives spoke from the business community:

1. Lakeside Inn
2. Edgewood
3. Harrah's
4. Heavenly

I had to leave before the Heavenly presentation was finished. The conclusion for all three of the large businesses was:

1. Costs were excessive to submit and complete a project under TRPA at this time.
2. The length of time to process a project was unreasonable through TRPA.
3. The process through TRPA was so uncertain for this outcome it was not a process that most business owners would undertake.

All of these reasons have the result of halting redevelopment in the Lake Tahoe area. This will result in a negative impact for the economy of the Lake Tahoe area. What was indicated was that there could be a win-win outcome by these owners doing new projects that brought in "green" concepts, where energy was saved, impacts were greatly reduced from their properties on Lake Tahoe would ever happen due to the TRPA current process.

**EXHIBIT N - TAHOE**  
Document consists of 5 pages.  
Entire exhibit provided.  
Meeting Date: 03-29-10

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In a smaller way, with the two examples I have brought to you today, Dr. Cherry's Incline Dental/KBS Limited and D.A. Griscom's ownership of a small 4-plex/apartments, the same outcome is given, as was stated on March 26<sup>th</sup> at the TRPA workshop.

Photos 1-3 put up:  
Packet One: Incline Dental/KBS Limited

In 1993, Dr. Cherry wanted to expand his existing dental office to be able to provide more dental care to the North Shore and Lake Tahoe area. He also lives here (for over 30 years) and has donated his time to many causes for which I will let him outline after I have finished.

In the TRPA process, he had the following take place:

1. He was threatened with the loss of the emergency commercial area he was given if he did not agree with the interpretation of the TRPA rules.
2. He had approximately 900 square feet of grandfathered coverage taken from him only to be told he could buy it back if he needed it in the future. This was needed and cost him approximately \$20,000.
3. He has been required to add to an approved BMP plan that ended up costing him another \$10,000. There was no code change and/or environmental evidence that determined the need for the added BMP. It was just a staff person's opinion that it was needed.
4. He has been threatened with a fine of \$15,000 because he did the right thing, in spite of TRPA's misplaced priorities. Even though he did the work under a permit that will not expire until May of 2010, he ended up paying a fine of \$2,500. If he did not pay the fine, then he would have to go to Federal Court. He could not have afforded that process.

To date he has had to put out for added parking of only 8 spaces and BMP upgrades to his parcel ~ \$78,000.

Packet Two: Put up picture 4-plex/apartments

In 2008, D.A. Griscom at 817 Oriole Way, Incline Village, Nevada, wanted to change his parking area so the renters would be safer in their use of it. The slope was wrong and snow and ice did not drain from it, so cars were not able to exit and people were slipping on the ice. He had to do verification for coverage and land-capability before he could do the project. That was when all the problems with TRPA started.

1. He has been threatened with the loss of 25% of the needed parking for the apartments. He, as Dr. Cherry, was told that if he wanted it back he could buy it. That could cost some \$10,000 - \$15,000.
2. He was forced into an appeal process through TRPA that has cost him thousands of dollars.
3. It has been over a year (filed October 28, 2008) and he has not received one letter confirming a complete application for the appeal, a date the appeal will be heard – nothing.
4. By contacting our Washoe County Commissioner, John Breternitz, we were finally able to have one meeting with a TRPA attorney, only to be told that we needed to compromise on our position – that the assessors record was not “dependable” even though TRPA has no other record of this 1962 apartment project.
5. We, after another month has gone by after taking new plans to what we feel under the code is only a reasonable compromise to his “grandfathered” coverage, have not heard back from anyone at TRPA.

I have given you copies of the documents that backup my two examples of the way TRPA does business at Lake Tahoe. Many property owners have had their property development rights reduced or taken away from them by the TRPA process and/or the people in the TRPA organization. In the past, it made good sense for property owners to fight for those rights. Today, when the current property values have been reduced by the economy, many people cannot afford to fight and just accept the TRPA findings.

Solutions:

1. TRPA needs to change its review practice to subjecting pipeline projects to the ever-changing code. If a project is determined to be a complete application as of a certain date, then the only code that can be applied to that project is the code at that time. It is not right for someone to have their project denied because during the review process, a new code is adopted that changes the conditions under which an application was made and therefore, you have to start all over.
2. TRPA needs to stop staff from adding to the code or changing it by new interpretations taking place. It is important to only require an applicant to meet what is written in the code. If the code is going to be changed, then it needs to go to the Governing Board. I have examples of this taking place.
3. TRPA needs to stop treating people who want to do what is best for the environment as criminals by the threat of large fines. An enforcement officer of TRPA told me that this was the only way to get peoples attention.
4. TRPA needs to realize that the people who live and work here are partners with them, not adversaries.

There are many good people who work at TRPA. I have had the pleasure to work with many of them. I do not take lightly my words about being critical of the agency and how it does business. I do not want to paint with a large brush and say that ALL people who work at TRPA are the problem. Many of the staff try very hard to make sure the best advice is given and people are helped in the process of doing a project or meeting TRPA's policies and goals. Yet, in the last few years, it has been the policy for TRPA to charge more fees. If you differ in an issue, then you are told to get an "administrative determination" for \$424, or file an appeal for another \$809, and then you have no specific timeline for the issue to be heard.

The way of doing business will be a no-win for TRPA and the people who live and work at Lake Tahoe. Certainly, the water clarity and scenic environmental goals will suffer and in many cases, will never be met.

I will end with a question: Why has TRPA not attempted to secure money for helping the property owners at Lake Tahoe by getting stimulus money from the Federal Government? This money would go to offset the BMP costs just like the grant money is currently doing for defensible space cost through that program. It also would grant jobs for our local economy. In one case alone, I have a client/homeowner who is facing some \$30,000 to do their BMP's. Dr. Cherry has spent over \$60,000. Many building owners have spent over \$100,000 on their property. This money should be retroactive to all those people who have had to upfront, carry these costs and in the future help those who are being told they have to do these projects or be in violation of the TRPA.

I am asking this body to investigate the way TRPA is doing business at Lake Tahoe. Do this for the people who live and work at Lake Tahoe. We have to agree that for the future

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of what our children have and in the beauty of this area, it is not going to be kept by the current treatment of those who live here. We need to be treated as partners by TRPA.

If TRPA will not change the way it is doing business with those who live and work here, then stop its funding until change is made. This may be the only way those in charge will listen.

Sincerely,

Wayne Ford

