



REGIONAL PLANNING GOVERNING BOARD

MEMBERS
Bonnie Weber, Chair
Mike Carrigan, Vice-Chair
David Aiazzi
Dwight Dortch
Jim Galloway
Toni Harsh
Pierre Hascheff
Geno Martini
Ron Schmitt
Jim Shaw
Dave Ziegler, Director

MINUTES

REGIONAL PLANNING GOVERNING BOARD

Regular Meeting

Thursday, May 13, 2004

The Regional Planning Governing Board (RPGB) met in regular session in the Washoe County Commission Chambers, 1001 E. Ninth Street, Reno, Nevada, and conducted the following business:

The meeting was called to order by Chair Bonnie Weber at 2:08 p.m.

1. ROLL CALL

The clerk called the roll, and Regional Planning Governing Board Members in attendance were: Bonnie Weber, Mike Carrigan, Dave Aiazzi, Dwight Dortch, Toni Harsh, Geno Martini, and Jim Shaw. Members absent were: Jim Galloway, Pierre Hascheff, and Ron Schmitt.

Also present were: Dave Ziegler, TMRPA Director; Norman Azevedo, Legal Counsel; Rosanna Coombes, TMRPA; and Mary Kuechler, TMRPA.

2. APPROVAL OF AGENDA

MEMBER AIAZZI MADE A MOTION TO APPROVE THE MAY 13, 2004, AGENDA, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

3. APPROVAL OF MINUTES, APRIL 8, 2004, REGULAR MEETING

MEMBER AIAZZI MADE A MOTION TO APPROVE THE APRIL 8, 2004, MINUTES, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

4. SALUTE TO THE FLAG

Member Carrigan led the salute to the flag and the Pledge of Allegiance.

5. PUBLIC COMMENT

REGIONAL PLANNING GOVERNING BOARD MINUTES

MAY 13, 2004

PAGE 2

None

6. BUSINESS OF THE DAY

- A. Discussion and possible adoption of proposed amendments to the RPGB Regulations on Procedure for: conformance reviews of master plans, facilities plans, and other similar plans; changes to adopted Regional Plan maps and text that do not constitute Regional Plan amendments; and other miscellaneous amendments.

Dave Ziegler, Director of Regional Planning, reported that there is not consensus among the planning directors and the staffs from the local entities on the proposed amendments. Mr. Ziegler stated that Regional Planning staff needs more time to work with the local governments to address their concerns. Mr. Ziegler recommended to the RPC last night that no recommendation be made on this item.

MEMBER HARSH MADE A MOTION TO CONTINUE THIS ITEM, SECONDED BY MEMBER AIAZZI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

7. ADMINISTRATIVE ITEMS

- A. Consideration and possible acceptance of FY 03-04 third quarter budget report and work program progress report.

Mary Kuechler, Administrative Services Manager, stated that the FY 03-04 third quarter budget is on target. There are sufficient funds for the roll-over for FY 04-05.

MEMBER AIAZZI MADE A MOTION TO ACCEPT THE FY 03-04 THIRD QUARTER REPORT, SECONDED BY MEMBER HARSH. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

- B. Consideration and possible adoption of amendments to the Truckee Meadows Regional Planning Agency Personnel Policy Manual to add provisions related to hiring of temporary employees and to revise method for calculating mileage reimbursement.

Ms. Kuechler stated that the changes adding temporary and part-time employee positions without benefits are clearly marked in the personnel manual included in the meeting packet. Regional Planning staff modeled the changes on the City of Sparks resolution and plan.

Member Aiazzi stated that November 13, 2004, is listed in the staff report as the date that the RPGB adopted technical changes. Ms. Kuechler responded that the year should be 2003.

MEMBER AIAZZI MADE A MOTION TO APPROVE THE AMENDMENTS TO THE TRUCKEE MEADOWS REGIONAL PLANNING AGENCY PERSONNEL POLICY MANUAL, WITH CORRECTIONS AS NOTED, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

- C. Consideration and possible approval of job description for policy analyst (temporary).

Mr. Ziegler stated that a job description for this position has been drafted. Mr. Ziegler reviewed the areas in which this position will collaborate with Truckee Meadows Regional Planning Agency (TMRPA) personnel.

MEMBER AIAZZI MADE A MOTION TO APPROVE THE JOB DESCRIPTION FOR A TEMPORARY POLICY ANALYST, SECONDED BY MEMBER HARSH. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

D. Consideration and possible approval of hiring of a planning analyst.

Mr. Ziegler stated that the planning analyst position is ready to be re-filled. Mr. Ziegler stated that he would like to proceed with an outstanding candidate who has indicated that they are very interested.

Member Harsh asked how long the planning analyst position had previously been filled. Mr. Ziegler responded that the position was filled for approximately four months.

Member Harsh expressed concern regarding training and re-training for this position. Member Harsh asked if the candidate for this position is well-trained. Mr. Ziegler responded that the new candidate seems very highly motivated to work with the TMRPA and is a very good match.

MEMBER HARSH MADE A MOTION TO APPROVE THE HIRING OF A PLANNING ANALYST, SECONDED BY MEMBER AIAZZI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

E. Discussion and possible authorization to the Chair to exercise the option on office space lease agreement.

Ms. Kuechler stated that the office space lease agreement expires March 7, 2005. Regional Planning staff would like to utilize the three-year renewal option for the office space.

MEMBER SHAW MADE A MOTION TO AUTHORIZE THE CHAIR OF THE RPGGB TO SIGN THE LETTER EXERCISING THE RENEWAL OPTION IN THE OFFICE SPACE LEASE AGREEMENT, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED UNANIMOUSLY WITH SEVEN (7) MEMBERS PRESENT.

8. REPORTS

A. Members' and Director's reports

None

B. Legal counsel's report:

- 1) Status report and possible direction to staff on Washoe County and SVGID appeal to District Court in dispute resolution case DR03-001-RPGB, regarding cooperative planning criteria;

Norm Azevedo, Legal Counsel, stated that he is waiting the reply brief from Washoe County and SVGID. Once that final reply brief is filed, Mr. Azevedo anticipates that a hearing will be set by Judge Hardesty.

- 2) Status report and possible direction to staff on District Court orders and appearances regarding the Regional Plan settlement agreement (October 17, 2002) and related issues;

Mr. Azevedo stated that Judge Hardesty has posed two questions to this board. First, Judge Hardesty has asked if this board would be interested in participating in a mediated settlement on the Verdi water matter. Second, Judge Hardesty has asked if this board would like the mediated settlement to be limited to water issues in the Verdi area only. Mr. Azevedo interpreted that Judge Hardesty is saying that if this board goes to the mediated settlement, it will have control over its own destiny. If Judge Hardesty renders a decision, he will determine this board's destiny on behalf of the RPGB. The decision to be made tonight is if the RPGB would rather have Judge Hardesty render the decision and live with the outcome or participate in the mediated settlement. Mr. Azevedo reported that the RPC did take action last night to participate in the mediated settlement without limiting it exclusively to the Verdi area.

Member Dortch asked if the mediation is binding. Mr. Azevedo responded that it is binding.

Member Dortch stated for clarification that the outcome is final and does not go back to the judge. Mr. Azevedo responded that if it does not result in any type of conclusion, the judge will probably render a decision on the underlying case.

Rosanna Coombes, Long-Range and Community Relations Planner, stated that the judge asked Truckee Meadows Water Authority (TMWA) if they would also be bound by the outcome. Legal Counsel for TMWA advised that they would be bound by the outcome.

Member Aiazzi asked if the judge would act as the mediator. Ms. Coombes responded that the judge would act as the mediator.

Member Aiazzi asked what issues, other than the Verdi matter, could be included in the mediated settlement. Ms. Coombes responded that during the testimony that was taken at the hearing, it came out that there were also issues that related to wholesale agreements between TMWA and the County in Spanish Springs and also TMWA and Sun Valley GID in the Sun Valley area. Ms. Coombes stated that the first step is for the parties to determine if they wish to participate in mediation. If the parties do wish to participate in mediation, they will attend a status conference on June 2, 2004, to participate in scoping the issues.

Member Aiazzi asked if the judge could force mediation on parties who do not want to be involved in mediation. Mr. Azevedo responded that he does not anticipate that Judge Hardesty would force mediation. Judge Hardesty will render a decision if the parties do not participate in mediation.

Chair Weber clarified that the decision to be made is between mediation and the judge rendering the decision. Mr. Azevedo verified that is correct.

Chair Weber asked Ms. Shipman to comment on this issue.

Madelyn Shipman, Washoe County, stated that this is not an action as to whether TMWA or County will provide water services. It is an action to enforce the Verdi Settlement Agreement. The issue before the court last week was the allegation that the county was in bad faith by deciding not to adjust its service area boundary to allow TMWA to serve all of Verdi. Ms. Shipman stated that this is not an issue where the court really has the authority to change service territory to enforce the settlement agreement. At the end of the hearing, the judge said that there are some underlying issues. Ms.

Shipman stated that the judge is asking that the parties submit to an undefined, larger discussion that could possibly go beyond the issue of water. When TMWA counsel asked the judge whether she could speak to her board about what the scope of the submission to jurisdiction was, the judge said we will talk about that after you are submitted to jurisdiction. Ms. Shipman stated that the parties do not know what they are submitting to if they submit to that broader jurisdiction. There is no purpose to be served in mediating on a broad basis. The issue was between TMWA, property owners, and the county. Ms. Shipman stated that the judge should rule.

Member Shaw asked Mr. Azevedo if he has a recommendation for the RPGB as to what would be the better course of action. Mr. Azevedo recommended that the RPGB participate in mediation and take the opportunity to control their own destiny that is being offered by the judge. Mr. Azevedo also recommended addressing the Verdi matter and other water issues as they are relevant for consideration by the TMRPA.

Member Aiazzi asked if the RPGB can go into mediation on just the Verdi matter. Mr. Azevedo responded yes. Member Aiazzi expressed concern regarding going to mediation.

Member Carrigan asked if there is an appeal process to the mediation. Mr. Azevedo responded that the mediation settlement would be binding.

Member Carrigan stated that if there is a possibility of the mediation settlement being appealed, he would not want to participate. Member Carrigan also stated that the scope of the mediation should be kept to just the Verdi area.

Chair Weber stated that in the Verdi area, there are so many other properties that are going to be affected by the outcome, one way or the other. Chair Weber expressed concern regarding the time that mediation may require since attorneys have already spent five days on this issue. If the judge is allowed to make the decision, it may save some time.

Member Aiazzi stated that the judge decides anyway since he is the mediator. The mediation will allow the elected officials one more chance to come to some agreement.

Chair Weber restated her concern regarding the amount of time that mediation may require.

Member Aiazzi stated that the attorneys know the law and what the policy-makers have told them. The attorneys are not in a position to change policies. The RPGB does have the ability to change policies.

Member Harsh referred to the mediation the RPGB was involved in last Fall and asked for an explanation for why the RPGB is considering mediation since the issue is still going to go to the judge anyway. Member Dortch responded that it is because this is binding mediation. The judge is the mediator. The previous mediation was an appeal process to the RPGB before it went to the judge and it was not binding.

Ms. Shipman stated that the judge never used the word mediation. Ms. Shipman stated that she is not sure what the judge thought we wanted to be brought back to him. The judge did recall that when the Board of County Commissioners authorized him to continue in his jurisdiction over the Regional Plan, the statements were very clear that they did not want to be expanding without definition of his jurisdiction over all issues. It was to be limited to the Regional Plan. The issue that was before the

court does not directly involve the City of Reno, the City of Sparks, or the TMRPA. It was an issue of whether the County Commission's decision not to adjust its service area boundary under an agreement with the county and TMWA was in bad faith. There is no role for the TMRPA in that dispute. There is not a role for mediation since it was not mentioned by the court.

Mr. Azevedo referred to notes taken by Ms. Coombes during the hearing regarding Judge Hardesty's statement that it is apparent that community-wide issues need to be fixed. There is unique opportunity for the parties to set their own destiny versus the judge setting an order. Judge Hardesty specifically asked if the board wants to participate in a settlement conference. The Settlement conference may be as narrow as this case or may be broader to include community-wide issues.

Member Martini stated that he is in favor of mediation if it is binding. Member Martini asked who determines if it will be binding. Mr. Azevedo responded that Ms. Coombes' notes state that Judge Hardesty asked if the RPGB would agree to be bound by the decision.

Member Martini stated that the mediation should be kept to just the Verdi area.

Member Shaw stated that it is understandable that the various entities would get involved in regional water issues, but the Verdi issue is between Verdi and the county. Member Shaw questioned what role the RPGB would have in the discussion if mediation is approved on this issue.

Chair Weber stated that this is a county issue. The judge should not be involved with mediation on this issue because of the settlement agreement.

Member Dortch stated that the judge is saying that this is an opportunity to get together and solve this problem or he will solve it. Mr. Azevedo responded that when a judge gives a suggestion like this, he would always recommend taking it.

Mr. Azevedo stated that during the course of testimony, a variety of issues arose that are regional-type issues. Mr. Azevedo stated that he anticipates that the judge will delineate what regional's role will be in the settlement conference. During testimony, there was a discussion that the water agreement between TMWA and SVGID had lapsed. Ms. Coombes' reaction from watching the judge was that he found that to be a little disconcerting.

Member Carrigan stated that two years ago the RPGB made a decision and because of circumstances beyond our control, it was dumped into the lap of one elected official. Member Carrigan stated that he would like to see that come back to the RPGB. There would be no down side to mediation.

Member Aiazzi asked what the difference is between a settlement conference and mediation. Mr. Azevedo responded that a settlement conference generally contemplates the settlement of dispute. Mediation is a mediated settlement.

Member Aiazzi stated that if the RPGB does not agree to mediation, the players in this law suit are Washoe County, the City of Reno, TMWA, and the property owners. If regional is involved, that gives Sparks council members a way in to talk about this issues.

Member Harsh asked for confirmation from Mr. Azevedo that what the judge is saying is that we might be looking at only the Verdi issue now but we will be looking at other things later on. Mr. Azevedo responded that the judge asked two questions. Does the RPGB want to participate in a settlement

conference and how broad do you want that settlement conference? According to the judge's statement, it is apparent that there are community-wide issues that need to be fixed. The judge is telling the RPGB as elected representatives of this region that this is an opportunity to fix those issues.

Member Harsh asked if looking at a more global picture would in any manner slow down the situation in Verdi. Mr. Azevedo responded that it could potentially slow it down.

Chair Weber stated that the judge does not have any part in deciding where water should go in the service boundary.

Mr. Azevedo stated that the county has agreed that the judge does have jurisdiction over this Verdi issue. The opportunity the RPGB is being faced with is a good one. The RPGB members are the policy makers for this region. Attorney's merely provide advise and recommendations. The RPGB may be given an opportunity here to make policy decisions that will impact the entire region.

Member Shaw asked if Mr. Azevedo said that the contract between the county and Verdi, in reference to service area for water, had lapsed. Mr. Azevedo responded that the testimony brought forth was that TMWA, as being the water provider in SVGID, had a water purveyor contract that had lapsed and had not been renewed. There was a discussion over the termination clause in that contract and the judge expressed some concern about that.

Member Shaw stated that he does not have a problem with participating in mediation if it deals with regional water issues. Member Shaw stated that he can not support mediation on anything limited to the Verdi area.

Member Aiazzi stated that one of the underlying parts of this case is whether or not the water issue is part of the settlement in that Verdi area. The judge is going to make that ruling. Member Aiazzi asked if the RPGB wants to just let the judge make that ruling or try to sit down and solve this problem without the judge deciding. This might not be a regional issue at this moment but the judge has said it may have regional ramifications. If we can come to agreement here, we can come to agreements in other areas in the county. This one issue might not be regional but in the future it will have regional ramifications.

Member Dortch asked if any of the other entities involved have agreed to mediation on this. Mr. Azevedo responded that he has not heard a decision from the other entities yet.

Member Dortch asked if this would go away if one of the entities decides not to participate. Mr. Azevedo stated that he anticipates that would be the case.

MEMBER AIAZZI MADE A MOTION TO RESPOND TO JUDGE HARDESTY THAT THE RPGB WOULD BE INTERESTED IN A BINDING SETTLEMENT CONFERENCE OR MEDIATION ONLY ON THE VERDI WATER ISSUES AND HAVING IT DONE IN A TIMELY MANNER, SECONDED BY MEMBER DORTCH.

Member Dortch stated that he does not have a problem if the judge wants to mediate the larger issues.

Chair Weber stated that she will support the motion because Mr. Azevedo said something about representing all property owners. Chair Weber stated that it is all property owners that we are talking about.

THE MOTION CARRIED WITH SIX (6) IN FAVOR AND ONE (1) OPPOSITION BY MEMBER SHAW.

[Member Harsh left at 2:58 p.m.]

- 3) Status report and possible direction to staff on Washoe County's petition for judicial review of the certification of Reno's annexation program as conforming with the Regional Plan;

Mr. Azevedo stated that he will be filing the record on appeal in this litigation next week.

- 4) Status report and possible direction to staff on Section 11(a) of Regional Plan settlement agreement regarding conversion of areas designated in the Regional Plan as joint planning areas to cooperative planning areas; and

Mr. Azevedo stated that he has filed a document with the district court indicating the responses from the City of Reno and Washoe County. The settlement agreement does contemplate that the areas could be converted from a joint planning area to a cooperative planning area if all the parties agree. There is no agreement among the parties. Mr. Azevedo stated that he does not know if the judge will set a hearing or just render a decision.

- 5) Report on legal opinion regarding review process for Summit Sierra Phase I.

Mr. Azevedo stated that this project is referred to as a regional mall. The issue before this agency was whether the permit or the process contemplated at the local level was subject to a project of regional significance review. Three opinions were rendered without consensus on this by Washoe County, the City of Reno, and Mr. Azevedo. Mr. Azevedo stated that this type of project should be subject to a review as a project of regional significance. Factual circumstances were present in this case that stopped us from going forward. The property owners and developers argued that they had relied on an informal opinion that was rendered several years ago which indicated that there was no project of regional significance review required. In addition, the timing was extremely sensitive from a financing perspective. Mr. Azevedo reported that his recommendation to Mr. Ziegler and the chairs of the RPC and the RPGB was that this item was not subject to discretionary review as a project of regional significance.

- C. Report on meetings of interim legislative committees, legislative MOU, and conceptual legislation for 2005 session.

Ms. Coombes stated that Regional Planning staff is continuing to monitor meetings of interim legislative committees. There has been nothing of significance to report at this stage.

9. REQUESTS FOR FUTURE AGENDA ITEMS

- A. Consideration of, and possible action on, calendar of agenda items

Mr. Ziegler stated that the 12-month projection of agenda items for the RPC and the RPGB has been updated. Mr. Ziegler reviewed tentative agenda items for the June and July RPGB meetings.

- B. Members' and director's requests for agenda items

None

10. WRITTEN CORRESPONDENCE

Mr. Ziegler stated that the RPGB took an action at the April meeting with oral representation that RPC Resolution 04-03 had been passed. A copy of RPC Resolution 04-03 is included in written correspondence on page 181 of the meeting packet.

11. ADJOURNMENT

MEMBER AIAZZI MADE A MOTION TO ADJOURN AT 3:08 P.M., SECONDED BY MEMBER DORTCH. THE MOTION CARRIED UNANIMOUSLY WITH SIX (6) MEMBERS PRESENT.

Respectfully submitted by Christine Birmingham.

David S. Ziegler, Director
Truckee Meadows Regional Planning Agency

Bonnie Weber, Chair
Regional Planning Governing Board

APPROVED BY THE REGIONAL PLANNING GOVERNING BOARD IN SESSION ON
_____, 2004