



# 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, April 8, 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 Jim Galloway at 2:10 p.m.

#### 1. ROLL CALL

The clerk called the roll, and Regional Planning Governing Board Members in attendance were: Jim Galloway, David Humke for Bonnie Weber, Dave Aiazzi, Dwight Dortch, Geno Martini, Ron Schmitt and Jim Shaw. Toni Harsh arrived at 2:13 p.m. Pierre Hascheff arrived at 2:17 p.m. Members absent were: Bonnie Weber and Mike Carrigan.

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

#### 2. APPROVAL OF AGENDA

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

#### 3. APPROVAL OF MINUTES, FEBRUARY 12, 2004

MEMBER AIAZZI MADE A MOTION TO APPROVE THE FEBRUARY 12, 2004, MINUTES, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED WITH SIX (6) IN FAVOR AND ONE (1) ABSTENTION BY MEMBER HUMKE.

[Member Harsh arrived at 2:13 p.m.]

#### 4. SALUTE TO THE FLAG

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

## **5. PUBLIC COMMENT**

Dan Herman expressed concern about the development that is happening in the City of Sparks. Mr. Herman attended a Sparks planning meeting two weeks ago where the planning commission and developers took the density that was allotted for part of the development in the Wingfield Springs area and doubled it.

Chair Galloway stated that the RPGB can not act on public comment items since they are not agendaized.

## **6. BUSINESS OF THE DAY**

- A. PUBLIC HEARING - Consideration and possible adoption of Regional Plan amendment to incorporate by reference the Regional Utility Corridor Report, August 1999 as amended February 2004, pursuant to Regional Plan Policy 3.2.3.

Dave Ziegler, Director of Regional Planning, stated that the Regional Planning Commission (RPC) resolution on this item has not yet been signed. Mr. Ziegler testified that this RPC resolution was approved on March 10, 2004, and signed copies will be provided to the RPGB members.

[Member Hascheff arrived at 2:17 p.m.]

Mr. Ziegler reviewed the reasons for updating and reformatting the Regional Utility Corridor Report (RUCR) listed on page 18 of the meeting packet. Mr. Ziegler stated that every effort was made to stay true to the substantive content of the RUCR.

Mr. Ziegler reviewed the proposed Regional Plan amendment on page 18 of the meeting packet that would add the RUCR to the 2002 Regional Plan.

Mr. Ziegler stated that when the RPC sent this up to the RPGB for adoption, they did change one policy under the heading of "avoidance of certain areas" in Policy F.2. This policy contains some language that refers to suburban or rural communities designated in the Truckee Meadows Regional Plan (TMRP). The TMRP no longer contains any designated suburban or rural communities. The RPC determined that although the language was obsolete, the communities still exist. The RPC decided to leave the language in the policy and add the year 1996 in front of Truckee Meadows Regional Plan.

Member Harsh asked for more information regarding the "mitigation or relocation required" section. Mr. Ziegler responded that the basic outline of the RUCR is that it says that certain areas should be avoided. When avoidance is not possible or practical, then the mitigation requirements would be used. There are a couple of elements to mitigation requirements. The utility corridors have to be separated from certain land uses and the design of the utility has to incorporate certain features in order to mitigate the impacts to an acceptable level. The basic concept is that when avoidance is not possible then mitigation must be required.

Member Harsh asked if these mitigation requirements have been standing. Mr. Ziegler responded that this report was not implemented until after the Alturas line was constructed.

Chair Galloway stated that although this was not a policy at the time of the Alturas line, there were millions of dollars put up by Sierra Pacific Power Company (SPPC) to do off-site mitigation.

Member Hascheff asked if the adoption of this amendment would make it easier or tougher to try to find an alternative for the Tracy to Silver Lake power line being planned for the Spanish Springs area. Mr. Ziegler responded that the main impact of the adoption of this amendment would be that using a new corridor alignment would require an amendment to the RUCR which would have to come to the RPGB for approval.

Member Hascheff asked if SPPC agrees with Mr. Ziegler. Member Hascheff also stated that he may have a conflict if voting in favor of this amendment would make it more difficult for the power line to be put across his client's property. Bill Bennett, Land Use Consultant for SPPC, responded that it would make it more difficult for the Tracy to Silver Lake line.

Member Hascheff asked if Mr. Bennett agrees that if they were going to establish that route, they would have to come back before the RPGB and get a plan amendment to establish a new corridor. Mr. Bennett responded that he does agree.

Chair Galloway asked if Regional Planning's legal counsel concurs with SPPC and Mr. Ziegler that if the EIS process shows that a new corridor is preferred, they would have to have approval of Regional Planning. Norm Azevedo, Legal Counsel, responded that he does concur with SPPC and Mr. Ziegler.

Member Shaw asked for confirmation that Pyramid Lake Highway was mentioned by Mr. Ziegler as an area to avoid. Mr. Ziegler responded that is correct.

Member Shaw asked if that would also be the fact even if there is an existing power line that runs up and down the Pyramid Lake Highway. Mr. Ziegler responded that the first option would be to use an existing corridor. The second choice would be to establish a new corridor. It does not rule out the possibility of a new corridor.

Mr. Ziegler stated that when the RPGB considers Regional Plan amendments, there are certain things under the Regional Plan and the Settlement Agreement that are required to be considered. Those are discussed on pages 19, 20 and 21 of the meeting packet. Mr. Ziegler stated that Regional Planning staff and the RPC feel that the RUCR, as updated and reformatted, promotes and does not conflict with the Regional Plan and that the anticipated effects should be consistent with the applicable natural resource laws. SPPC did submit comments and suggested amendments to the RPC. A subcommittee of the RPC was formed to consider the SPPC proposed amendments and to come back later if the subcommittee wants to propose additional amendments to the RUCR. Members of the subcommittee are Terry Herman, Kendall Mattina and Mark Sullivan.

[The public hearing was opened.]

Dan Herman stated that the RUCR is an excellent document. There have been citizens working on this document for the past five or six years. With the Tracy to Silver Lake line coming this needs to be adopted by reference now so they have something to work with and some guidance.

[The public hearing was closed.]

Member Hascheff stated that he will not be voting on this item due to a conflict of interest.

MEMBER AIAZZI MADE A MOTION TO ADOPT RPGB RESOLUTION 04-03, WHICH INCORPORATES THE REQUIRED FINDINGS, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED WITH EIGHT (8) IN FAVOR AND ONE (1) ABSTENTION BY MEMBER HASCHEFF.

- B. Consideration and possible approval of settlement agreement regarding parcels referred to as "Beckworth/McMullen parcels," pursuant to settlement agreement in Regional Plan-related litigation.

Mr. Azevedo recommended that the RPGB endorse this settlement agreement. Mr. Azevedo reviewed relevant points for consideration.

MEMBER HUMKE MADE A MOTION TO APPROVE THE BECKWORTH/MCMULLEN SETTLEMENT AGREEMENT, SECONDED BY MEMBER HASCHEFF. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- C. Discussion and possible direction to staff on proposed revisions to Memorandum of Legislative Cooperation, 2002-2003.

Patricia Rogers, Community Outreach Assistant, stated that Regional Planning staff has been having conversations with the parties to the Memorandum of Legislative Cooperation (MOU). Based on the feedback from those conversations, Regional Planning staff recommends that the RPGB consider including the draft language on page 96 of the meeting packet to the MOU.

Member Galloway asked if this is the start of a process that will then go to the staff's of the various entities for any further revisions. Ms. Rogers responded that is correct. Regional Planning staff would like to include the proposed language, send it out to the various parties, gather their feedback and bring it back to the RPGB.

Member Galloway asked if Regional Planning staff would then be asking for approval with additional language about the process. Ms. Rogers responded that is correct.

Member Aiazzi referred to the portion of the MOU that states that employees and lobbyists representing the parties will meet and confer. Member Aiazzi asked if those meetings have actually taken place. Ms. Rogers responded that during the last legislative meeting, Regional Planning staff did meet with the parties to the MOU as things came up.

Mr. Ziegler stated that during the 2003 session, informal staff level meetings did occur.

Member Aiazzi asked if they were regularly scheduled meetings and if any notes were taken. Mr. Ziegler responded that the meetings were not that regular during the 2003 session.

MEMBER AIAZZI MADE A MOTION TO DIRECT STAFF TO WORK WITH THE LOCAL GOVERNMENTS AND AFFECTED ENTITIES TO PRESENT THE DRAFT MEMORANDUM TO THEIR LEGISLATIVE REPRESENTATIVES FOR FEEDBACK AND COMMENT, TO PLACE A DRAFT MOU ON A FUTURE AGENDA FOR ACTION, AND TO INCLUDE THE SUGGESTED LANGUAGE CHANGE, SECONDED BY MEMBER HASCHEFF. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

## 7. ADMINISTRATIVE ITEMS

- A. Status report on action of Board of Washoe County Commissioners regarding outstanding receivable for legislative consulting services in FY 02-03.

Mr. Ziegler stated that at its meeting of March 23, 2004, the Board of Washoe County Commissioners considered a staff report and directed its staff to bring forth an agenda item to augment the account of the Truckee Meadows Regional Planning Agency (TMRPA) with contingency funds, to pay lobbying expenses of \$22,500. This action would resolve the matter of the outstanding receivable from FY 02-03.

Mr. Ziegler reported that the purpose stated in the Washoe County staff report is to allow the TMRPA to pursue its planning business without further divisiveness over this matter. The Board of Washoe County Commissioners does still believe that a paid lobbyist is not necessary for the TMRPA's function. The Board of Washoe County Commissioners urges the RPGB to consider certain ground rules regarding the communication of positions on legislation to the legislature.

Mr. Ziegler stated that it would be appropriate to consider ground rules for communicating with the legislature at a later date.

- B. Consideration and possible action to adopt FY 04-05 budget recommendation to local governing bodies and receive draft FY 04-05 work program.

Mr. Ziegler stated that the proposed budget for FY 04-05 reflects all positions filled, the addition of a half-time temporary position, and unavoidable cost increases. This budget is unbalanced. It uses savings from the last two fiscal years to keep the member government contributions in FY 04-05 below the current year's contributions. The member government contributions will likely need to go up for the next fiscal year because the savings will have been spent down.

Mr. Ziegler reviewed tentatively planned outputs for the work program and stated that Regional Planning staff is still working on the planned outputs.

Member Galloway stated that the requested action includes receipt of the work program and asked if that means without comment or if Regional Planning staff would like the RPGB to approve the work program. Mr. Ziegler responded that the work program is not ready for the RPGB's final approval.

Member Galloway stated that the RPGB members may contact the TMRPA with comments on the work program before it is brought back to the RPGB.

MEMBER AIAZZI MADE A MOTION TO APPROVE THE BUDGET AS DESCRIBED IN THE STAFF REPORT, SECONDED BY MEMBER SHAW. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

Chair Galloway acknowledged receipt of the draft work program.

Mr. Ziegler stated that the budget recommendation will be transmitted to the member governments.

- C. Consideration and possible acceptance of annual financial audit for FY 02-03 prepared by Kafoury, Armstrong and Co.

Mary Kuechler, Administrative Services Manager, reported that the TMRPA had a good audit report and there were no findings.

MEMBER AIAZZI MADE A MOTION TO ACCEPT THE AUDIT REPORT FOR FY 02-03, SECONDED BY MEMBER MARTINI. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

## **8. REPORTS**

### A. Members' and Director's reports

None

### B. Legal counsel's report - status report and possible direction to staff on:

- 1) Washoe County and SVGID appeal to District Court in dispute resolution case DR03-001-RPGB, regarding cooperative planning criteria.

Mr. Azevedo distributed copies of a draft responsive brief document put together to defend the RPGB decision on the cooperative planning matter. Mr. Azevedo reviewed a portion of the document with a side-by-side comparison of the Regional Plan policy, the consensus criteria, and the Washoe County cooperative planning criteria. Mr. Azevedo stated that he plans to file a final brief on or before April 19, 2004.

- 2) Consideration of court orders and appearances before the District Court regarding the Regional Plan settlement agreement (October 17, 2002) and related issues.
- 3) Petition filed by Washoe County for judicial review of the certification of Reno's annexation program as conforming with the Regional Plan.

Mr. Azevedo stated that there is nothing new to report with the exception that Judge Hardesty did take jurisdiction over the litigation related to the City of Reno's annexation program.

Chair Galloway stated that Washoe County has requested a meeting with Reno to discuss what can be done in the interim.

- 4) Section 11(a) of settlement agreement in Regional Plan-related litigation (October 17, 2002) regarding conversion of areas designated in the Regional Plan as joint planning areas to cooperative planning areas.

Mr. Azevedo stated that there is a reporting obligation under the settlement agreement that the parties are required to report back to the court after a certain period of time whether they are desirous of converting joint planning areas into cooperative planning area. Mr. Azevedo reported that Washoe County has indicated that they are not desirous of it and the City of Reno has indicated that they are desirous of it. Mr. Azevedo anticipates preparing a draft status report back to the court. The City of Reno did indicate the opportunity to sit down and talk about it with all of the parties.

Chair Galloway stated that there are letters in the meeting packet related to this topic. Mr. Azevedo responded that is correct. Chair Galloway stated that this is an emerging issue that the RPGB has not heard before. Mr. Azevedo responded that is correct.

- 5) Proposed mediation agreement in RPGB v. County of Washoe et al., Supreme Court case No. 37947, District Court case No. CV 01-00211, also known as the Bushey/Busi matter.

Mr. Azevedo recommended that the RPGB execute a settlement agreement that was mediated by Judge Hardesty. This settlement agreement contemplates resolution of the underlying dispute with respect to the Bushey/Busi parcels. It also contemplates maintaining the litigation currently pending before the Nevada Supreme Court. Mr. Azevedo stated that he requested input from the City of Reno and their City Attorney's Office as to the rationale behind that provision. The City of Reno indicated they felt that the underlying legal principle substantiates moving forward in the Nevada Supreme Court. Mr. Azevedo expressed concern regarding the continuing cost of maintaining litigation when the underlying dispute has been removed from the dispute. Mr. Azevedo also stated that to the extent we can resolve the litigation; it is in the best interest of this agency to do so.

Chair Galloway stated that this is agendaized under reports and is not an action item. Member Aiuzzi stated that there is no asterisk by this item on the agenda so it is an action item.

Mr. Azevedo stated that he would like the approval of the RPGB to accept the settlement agreement with some direction to either maintain litigation in the Supreme Court and to proceed forward and litigate it, or to work with the parties to somehow address their concerns on prospective application under the underlying principle to resolve that litigation.

Member Aiuzzi referred to a statement in the staff report regarding Article III of the agreement which states that the City of Reno and Washoe County are requesting that the parties' claims in Nevada Supreme Court be maintained. Mr. Azevedo stated that he has spoken with both attorney's and Washoe County indicated that was an acceptable term. Washoe County has also said they would be willing to dismiss the litigation.

Member Aiuzzi asked if Reno wants to take it to the Supreme Court, what would happen if we do not involve ourselves. Mr. Azevedo responded that would be one option. Mr. Azevedo stated that he does not know how the court would react to that on this litigation.

Mr. Azevedo stated that he would like to have further discussion with the parties to see if the issue can be resolved before going back to the Supreme Court.

Chair Galloway asked if it would still be possible to agree to drop the litigation if this settlement agreement is approved. Mr. Azevedo responded that he would like to try to persuade the City of Reno and Washoe County to an alternate means to address the issue.

Chair Galloway clarified that Mr. Azevedo is looking for a motion to approve the settlement agreement and also approve alternate resolution of the litigation. Mr. Azevedo responded that is correct.

**MEMBER HASCHEFF MADE A MOTION TO APPROVE THE SETTLEMENT AGREEMENT THAT REMOVES THE PARCEL FROM THE LITIGATION AND TO DIRECT MR. AZEVEDO**

TO MEET WITH THE CITY OF RENO AND WASHOE COUNTY TO SEE IF THE NEVADA SUPREME COURT CASE CAN BE DISMISSED, SECONDED BY MEMBER AIAZZI. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

[Member Harsh left at 3:10 p.m.]

- C. Legislative report on meetings of interim legislative committees and conceptual legislation for 2005 session.

Mr. Ziegler stated that Regional Planning staff has been monitoring the interim committees and the discussions among the local governments and affected entities regarding conceptual legislation for the next session.

## **9. REQUESTS FOR FUTURE AGENDA ITEMS**

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

Mr. Ziegler stated that the twelve month calendar has been updated.

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

None

## **10. WRITTEN CORRESPONDENCE**

None

## **11. ADJOURNMENT**

MEMBER AIAZZI MADE A MOTION TO ADJOURN AT 3:13 P.M., SECONDED BY MEMBER HASCHEFF. THE MOTION CARRIED UNANIMOUSLY WITH EIGHT (8) MEMBERS PRESENT.

Respectfully submitted by Christine Birmingham

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David S. Ziegler, Director  
Truckee Meadows Regional Planning Agency

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Bonnie Weber, Chair  
Regional Planning Governing Board

**APPROVED BY THE REGIONAL PLANNING GOVERNING BOARD IN SESSION ON**  
**\_\_\_\_\_, 2004**