

CARSON CITY BOARD OF SUPERVISORS

Minutes of the May 27, 2011 Meeting

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A meeting of the Carson City Board of Supervisors was scheduled for 10:30 a.m. on Friday, May 27, 2011 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Karen Abowd, Ward 1
Supervisor Shelly Aldean, Ward 2
Supervisor John McKenna, Ward 3

STAFF: Larry Werner, City Manager
Randal Munn, Chief Deputy District Attorney
Kathleen King, Deputy Clerk / Recording Secretary

NOTE: A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

1 - 3. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE (10:30:11) - Mayor Crowell called the meeting to order at 10:30 a.m. Roll was called; a quorum was present. Supervisor Walt was absent. Supervisor McKenna led the pledge of allegiance. Mayor Crowell read a thought of the day, by an unknown author, into the record.

4. ADOPTION OF AGENDA (10:31:42) - Mayor Crowell entertained modifications to the agenda; however, none were forthcoming.

5. PUBLIC COMMENTS AND DISCUSSION (10:31:53) - Mayor Crowell entertained public comment and, when none was forthcoming, thanked Maurice White for bringing to his attention difficulties associated with accessing agendas via the City's website. (10:33:15) Mr. White advised that "downloading those agendas works better now than it has ever worked." Mayor Crowell entertained additional public comment; however, none was forthcoming.

6. SUPERVISOR ALDEAN - DISCUSSION AND POSSIBLE ACTION TO SUPPORT, OPPOSE, OR RECOMMEND FURTHER CHANGES WITH RESPECT TO SB 271 OF THE 2011 LEGISLATIVE SESSION, AS AMENDED, A BILL WHICH PROVIDES FOR THE POSSIBLE WITHDRAWAL OF THE STATE OF NEVADA FROM THE TAHOE REGIONAL PLANNING COMPACT UNDER CERTAIN DEFINED CIRCUMSTANCES WHICH WOULD INCLUDE, AMONG OTHER THINGS, A FAILURE BY THE STATE OF CALIFORNIA AND THE UNITED STATES CONGRESS TO ADVANCE AMENDMENTS TO SPECIFIC PROVISIONS OF THE COMPACT AND A FAILURE BY THE TRPA GOVERNING BOARD TO MAKE PROGRESS TOWARD THE ADOPTION OF AN AMENDED REGIONAL PLAN (10:33:44) - Mayor Crowell introduced this item. Supervisor Aldean provided background information and reviewed the agenda materials. She distributed to the Board members and the Clerk additional amendments, which she had highlighted, and read into the record a portion of the Legislative Counsel's Digest. She responded to questions regarding the proposed amendments.

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Supervisor Abowd inquired as to “the positive or negative impact to construction ... going to an NTRPA as opposed to the TRPA as it exists for builders ... at the Lake.” She advised of “a real concern. They feel that the TRPA ... as difficult as it can be at times, does have a positive impact on building up at the Lake.” In reference to the original legislation, Supervisor Aldean referred to Section 19.5 and read a portion of the same into the record. She was uncertain as to what the Nevada-specific compact or regional plan will include, “but obviously one of the things that has stimulated this discussion is the fact that certain people in the Tahoe Basin feel that ... the rules that we operate / labor under are very complex.” She expressed the hope that if NTRPA “is ramped up, ... they will take those complexities out of ... the regional plan, make it more simplistic, make it more user-friendly.” She advised that she would advocate for the same, but was uncertain as to what a new regional plan, under NTRPA, would look like.

Supervisor McKenna suggested “put[ting] the planning back to the counties and form[ing] a regional cooperating agreement and let the counties manage their land and keep the state and others out of it.” Supervisor Aldean advised that the proposed legislation would have to be redrafted accordingly. She advised that the California members of the TRPA don’t think the legislation will pass. “It’s been attempted seven times before ... and they feel it’s a hollow threat.” She suggested if the formation of a different organizational structure might work more effectively, the legislation could be amended accordingly. She discussed the importance of “send[ing] a message to our colleagues in California that we are concerned about Nevada’s sovereignty. ... The [TRPA] executive directorship is frustrated by their inability to move forward with some of these more innovative programs like environmental redevelopment, ... leveraging private-sector capital to achieve environmental objectives on the ground.” Supervisor Aldean recommended moving forward with the proposed legislation. She expressed the opinion that if the amendments to the compact occur and TRPA remains in place, “we will continue working toward changing the agency so that it becomes more respectful of private property rights and becomes more receptive to new and innovative ideas and ways of doing business.” She emphasized the importance of “send[ing] a message to our colleagues in California that ... we are tired of business as usual. We want to ensure that the direction of the agency continues in a more positive vein.” She expressed strong support that “even though this legislation may not be perfect, ... the objective is sound and the intent is reasonable.”

Mayor Crowell agreed that “the message needs to be sent to California, and there are number of ways to do that.” He expressed concern over the potential for unintended consequences relative to Lake Tahoe being an interstate body of water affecting the rights of others. He expressed further concern that “the gains that we’ve made ... with clarity of the Lake and things of that nature, ... will not be ... sustained ... if we are bifurcated between the two communities.” He advised of having reviewed the proposed legislation, and read a portion of the compact preamble into the record. In consideration of the proposed amendment, he noted the language indicating that “the regional plan has to be updated to ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce.” He inquired as to what is in the proposed amendment that is not accomplished by the compact preamble. Supervisor Aldean advised that the compact preamble is often recited in discussions with the Lake Tahoe environmental community. “... there has to be an equilibrium. There has to be a balance between the man-made environment and the ecological environment. And those discussions, in large measure, fall on deaf ears.” As an example, Supervisor Aldean discussed the Sierra Colina project approved at Stateline and now “embroiled in litigation over a very narrow issue that ... has absolutely nothing to do with the environment. This project, based on the approval and based on what TRPA exacted from the developer, would voluntarily implement the total maximum daily load (“TMDL”) ... The developer volunteered to implement the TMDL in advance of its actual adoption, to use their development as a test case to determine

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whether or not it would have any ... sort of beneficial impact. In addition to that, they had entered into an agreement with Douglas County to address off-site drainage issues on their property. Ultimately, the TRPA approved the project, but ... the Sierra Club and the League to Save Lake Tahoe filed suit against the agency for having ... approved that project over an issue that concerned ... linear pathway facilities. ... We are hamstrung currently, at the Lake, ... by ... a classic power struggle because ... it has very little to do, frankly, with protecting the environment. TRPA, as it has moderated its stance over the years, has become an enemy of many of the environmental groups because it is no longer focusing strictly on ways of achieving its objectives. ... They want to leverage private dollars through economic or through environmental redevelopment ... in order to achieve improvements on the ground and that is something that most of the environmental groups are radically opposed to. And so, even though those words in the compact sound great, reciting them falls on deaf ears.”

Supervisor Aldean advised of having served as a member of the TRPA Governing Board for nearly eight and a half years, and discussed efforts to “morph this agency into something that is more accountable, something that is more user-friendly so that we can get away from this adversarial [relationship] between permittees and the agency and we’ve made tremendous progress. But unless we can somehow convince our colleagues in California that looking at a different way of doing business is environmentally sensible, we will continue to be frustrated. We will continue to be hamstrung by lawsuits and we will not be able to achieve our environmental objectives. That is of concern.” Supervisor Aldean expressed the opinion that “keeping the pressure applied, letting them know that we have had enough; that these changes in the compact are worthwhile, that they are going to lead to environmental gain, is very important.” She advised that the TRPA is constantly on the defensive “because of misinformation that is being propagated about the fact that we are so far out of compliance with respect to achieving thresholds that we might as well just fold up our tent and go home. That is a lie.” She discussed a recent report relative to the effects of boating on Lake Tahoe which indicated that the various constituents on air quality and water quality were “negligible if not non-existent.” She expressed the opinion that “some of these parties are [not] coming to the table with pure and honest objectives.” She reiterated the importance of “send[ing] a message to our colleagues in California, to the environmental community, that if you want to salvage this bi-state arrangement, then you need to come to the table, you need to negotiate in good faith and, at the end of the day, we need to walk away with something that is more user-friendly, something that it is going to enlist cooperation from the private sector and the folks who come before the agency to get permits to do the right thing.” She expressed the opinion that “without exception, the people who live in the Tahoe Basin, the people who develop in the Tahoe Basin, the last thing they want to do is to soil their own environment because that would be counter-productive to their own best interests.”

In response to a question, Supervisor Aldean advised that the Nevada TRPA delegation has not taken a formal position on SB271, as amended. She noted that the Douglas County Commissioners had a meeting scheduled later in the afternoon to review the proposed amendments. She was uncertain as to whether the Washoe County Commissioners had taken an official position. She advised that, based on conversations with her TRPA Governing Board colleagues, “they are tired of business as usual and they think that something needs to be done that is dramatic and effective to ... raise the level of dialogue and to compel some meaningful exchange of ideas.”

Supervisor McKenna expressed no opposition to supporting the concept, but the opinion that “they’re going about it the wrong way.” He expressed the belief that “you don’t try to figure out how to appease the other side if the other side will not cooperate. ... you simply turn this back over to the counties that it belongs

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to and let the county processes, which have dramatically increased over 40 years ... We need to get back to the basics and the basics are ... there are counties that control this. The counties can get along.” Supervisor McKenna expressed no problem “pulling out of it today and creating whatever cooperative agreements we need to ... keep the Lake environmentally sound.” He reiterated “it’s time to stop trying to appease a group that cannot be appeased.”

Supervisor Aldean expressed appreciation for Supervisor McKenna’s comments. In consideration of the economic condition of most local jurisdictions, she suggested that “the very idea of taking over TRPA’s responsibilities chills them to the bone.” She suggested the proposed legislation represents the “next transition. ... We go from TRPA to NTRPA. Then NTRPA can enact what TRPA was intending to do and that is to start offloading some of the responsibility to the local jurisdictions which might naturally evolve into the formation of a coalition of Basin governments [which] basically assume these regional responsibilities in a cooperative manner.” Supervisor Aldean agreed that the Lake Basin jurisdictions have matured significantly over the last 20 years. “They understand that big, blue body of water is a very important resource to them economically and the last thing they want to do is to soil it.” She acknowledged that the proposed legislation is probably not perfect, but expressed the opinion that it will achieve some of our objectives, “one of which is to send a message to California and the environmental community that business as usual is not acceptable and that we need to work in a more cooperative manner and experiment with new, innovative approaches to ensuring that the Lake is protected for future generations ...” In response to a previous question, she advised of the “presumption ... that if NTRPA is reconstituted ... in California, they will resurrect the CTRPA which was in existence a number of years ago.” Supervisor Aldean expressed agreement with previous comments that “it’s a bit of a leap of faith,” but advised that TRPA staff has “adopted a new approach and are being thwarted at every turn.”

In consideration of the interstate body of water, Supervisor Abowd inquired as to the possibility of less cooperation and more litigation. Supervisor Aldean expressed the hope that “it doesn’t get to that point; ... that the hammer will not fall; that they will ... see the light and they will start negotiating in good faith and TRPA can continue ... its march down that pathway toward a renewed sense of purpose, in partnership with both the public and the private sector.”

In response to a question, discussion took place regarding operating capital. Mayor Crowell expressed concern that neither the NTRPA nor the CTRPA has “the requisite authority, acting independently, to protect what people call the eighth wonder of the world.” Supervisor Aldean advised that many of the same involved people, on behalf of Nevada, are still going to be in place. “Nobody in the Nevada delegation is interested in doing anything that’s going to be injurious to that Lake. What we want to do ... is more forward in a more progressive manner.” Supervisor Aldean expressed the opinion that “the only way to accomplish that, given where we are today, ... is to send that vital message to our counterparts in California and to the environmental community that ... they have to be more receptive to looking at these more innovative approaches to achieving our objectives. They have to stop spreading misinformation. TRPA has become kind of the common enemy, a rallying cry around which they raise money for their organizations.” Supervisor Aldean expressed understanding for the misgivings expressed by the other Board members. She re-assured them that the composition is not going to change significantly “if we became an NTRPA. You’re still going to have that same level of dedication to the Lake. You’re going to still have those same people advocating on its behalf, whether it has to do with funding, whether it has to do with specific provisions in the Nevada-specific version of the regional plan.”

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Mayor Crowell inquired as to whether national funding could be jeopardized with two individual agencies. Supervisor Aldean expressed certainty that two individual agencies would not lessen the importance of Lake Tahoe as a national treasure. She expressed the opinion that the logical sequence of events will be that the NTRPA and the CTRPA will cooperate on issues of concern and benefit. She discussed the importance of becoming “more cooperative and more appreciative of the fact that it takes a Basin to achieve benefits and improvements.”

Supervisor McKenna offered to make a motion following public comment. He expressed appreciation for Supervisor Aldean’s passion, and requested her to “carry back the message that creating structures in governments to manage things when there’s already an existing set of county governments that can easily do it just as well doesn’t solve any problem. It’s like the parents trying to deal with a recalcitrant son that won’t change. The only way to change it is by causing a final action. We leave TRPA and we manage our own property. That is the ultimate, cheapest, best solution for the entire thing,” and Supervisor McKenna offered to work with Supervisor Aldean “on all these other things to bring the son back into the fold ...” He expressed the opinion that the “sooner we get out of it, the better off we are.” Supervisor Aldean expressed appreciation, and stated, “To the extent the counties can afford to take on some of these responsibilities, ... they would. But, they have, up until this time, been somewhat reluctant to do that. The one thing that is causing more cooperation among the local jurisdictions ... is the fact that they have developed ... the prosperity plan for Lake Tahoe ... which is going to focus on things like health, ... creating ... state-of-the-art, environmentally-friendly business in the Basin ... to capitalize on what is already a focus at Lake Tahoe and that has to do with green building, environmental improvements. And so you see, at that level, quite a bit of cooperation among the various local jurisdictions because there is mutual benefit.” She agreed to communicate Supervisor McKenna’s concerns.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor McKenna moved that Carson City support SB 271, as amended and to be amended. Supervisor Aldean seconded the motion. Motion carried 3-1.**

Supervisor McKenna announced a work day at Van Sickle Bi-State Park, scheduled for June 4th, National Trails Day, and invited participation.

7. ACTION TO ADJOURN (11:11:36) - Supervisor Aldean moved to adjourn the meeting at 11:11 a.m. The motion was seconded and carried 4-0.

The Minutes of the May 27, 2011 Carson City Board of Supervisors meeting are so approved this _____ day of August, 2011.

ROBERT L. CROWELL, Mayor

ATTEST:

ALAN GLOVER, Clerk - Recorder