

From: Gregg Lien <lakelaw@sierratahoe.net>
Sent: 6/25/2024 9:46:17 AM
To: Public Comment <PublicComment@trpa.gov>; Cindy Gustafson <cindygustafson@placer.ca.gov>; Hayley Williamson <hayley.a.williamson@gmail.com>; Shelly Aldean <shellyaldean@gmail.com>; fvaguilar@sos.nv.gov <fvaguilar@sos.nv.gov>; Ashley Conrad-Saydah <ashleyc@alumni.princeton.edu>; Vince Hoenigman <vhoenigman@yahoo.com>; Belinda Faustinos <belindafastinos@gmail.com>; Meghan Hays <Meghan.hays9@gmail.com>; Alexis Hill <AHill@washoecounty.us>; James Settlemeyer <JSettlemeyer@dcnr.nv.gov>; BOSFive@edcgov.us <BOSFive@edcgov.us>; Wesley Rice <wrice@douglasnv.us>; Alexandra Leumer <TRPALeumer@yahoo.com>
Cc: Julie Regan <jregan@trpa.gov>; John Marshall <jmarshall@trpa.gov>; Tiffany Good <tgood@trpa.gov>; Wendy Jepson <wJepson@trpa.gov>; Brandy McMahon <bmcMahon@trpa.gov>; Paul Thompson <pault@tbcorp.com>; Abigail Edwards <abby@tahoelandplanning.com>; Brent Thrans <Brent@EarthArt.pro>;
Subject: Re: Agenda Item VII.C - - Can an Ongoing Ordinance Amendment Process Be Stopped Based Upon Failure to Specifically Mention it in the Work Plan?

As you can see from the email exchange below, your General Counsel is taking precisely this position. By way of background, this office represents the Paul Thompson family, who own one of the largest privately owned rock crib pier structures on Tahoe. There is no disagreement that removing this massive rock crib and concrete structure and replacing it with an open piling pier would result in very significant environmental improvements. On the contrary, while there is agreement on the significant benefits, your General Counsel now feels that he and the staff no longer have sufficient time to follow through on the largely completed process.

This matter was before your Legal Committee and the Board at your September meeting last year. The Legal Committee directed staff to work on an Ordinance amendment that would provide incentives for rock crib piers, including the Thompson pier, to convert to open piling design. Based upon that direction, staff, counsel and the applicant's team had several meetings, and have produced draft language that is quite mature at this stage. In addition to substantial legal work, Thompson invested in having our scenic consultant, Brent Thrans, in conjunction with Tahoe Land Planning, produce a Basin-wide inventory of private rock crib structures, including analysis and photographic depiction of each and every one that could be located. All of this investment was induced on the good faith assumption that your staff and Legal Counsel would devote their own time in working toward a mutually agreeable package for your consideration. As you can see below, I was personally in disbelief that Counsel would take the position that silence in your very general "Work Plan" could over-ride the specific direction the of Legal Committee and Board to pursue this process.

To add insult to injury, this is the second time the Thompson family has experienced the rug being pulled out from under them by an abrupt change of policy. Back in December of 2019 Mr. Thompson and Ms. Edwards met with your staff to go over their proposal as part of the pre-application process. As it was consistent with the long-standing interpretation of your Code at that time that it was a permissible and welcome modification, over \$70,000 was invested in plans and applications. It was literally within days of the hearing to approve the project that your General Counsel abruptly announced a change in policy that would not permit approval. The appeal from that abrupt change is what was considered last September and resulted direction to explore a Code amendment. The Thompson family has now invested well over six figures in reliance on TRPA representations. And, once again, if your General Counsel's position stands, my client will be forced to continue with the appeal and other appropriate remedies.

It is important to note that your General Counsel's position is not based upon a legal opinion, but instead on a policy decision as to how TRPA's resources should be spent. In our view, government owes a duty of fundamental fairness and good faith conduct toward its constituents. In the past, TRPA has frequently treated "pipeline projects" differently, and for good reason. The appropriate exceptions, as far as I recall, are for specific legitimate threats to the environment. By contrast, the Thompson project will result in dramatic improvements to water quality, fisheries and scenic resources.

We ask that you take action to make sure our collective efforts to date are not wasted, and that staff and counsel be directed to continue to work as directed last September. We will look forward to discussing this with you further at your hearing on this item. Respectfully submitted, Gregg Lien

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Begin forwarded message:

From: John Marshall <jmarshall@trpa.gov>
Subject: RE: Governing Board 6/26, and Ordinance Amendment as to Conversion of Rock Crib Piers
Date: June 20, 2024 at 8:32:37 AM HST
To: Gregg Lien <lakelaw@sierratahoe.net>
Cc: Abigail Edwards <abby@tahoelandplanning.com>, Tiffany Good <tgood@trpa.gov>

Gregg,
While the work plan is general, it contains no direction to prioritize Shoreline Plan amendments, including the one sought by Mr. Thompson.
John

John L. Marshall
TRPA General Counsel

775-303-4882
jmarshall@trpa.gov

From: Gregg Lien <lakelaw@sierratahoe.net>
Sent: Thursday, June 20, 2024 10:07 AM
To: John Marshall <jmarshall@trpa.gov>
Cc: Abigail Edwards <abby@tahoelandplanning.com>
Subject: Governing Board 6/26, and Ordinance Amendment as to Conversion of Rock Crib Piers

Hi John,

I had left you a voicemail the other day before the Agenda and Board Packet came out. Having now reviewed the item at VII.C, as to the Work Plan, there does not seem to be anything at all pertaining to what we had been discussing other than generically authorizing ordinance amendments. Unless I hear from you to the contrary I will assume that the Work Plan is a far more generalized document and has nothing to do with our efforts to resolve the Thompson matter as per the direction of the Legal Committee. I'll look forward to your confirmation of this. Best, Gregg

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