

Meeting Minutes

Thursday, November 2, 2017 at 9 am
TMWA Conference Rooms, 1355 Capital Blvd, Reno, NV



1. Call to Order

- A. Roll Call and Establishment of Quorum - Chair LaRiviere called the meeting to order at 9:00 am.

A quorum was established with voting members: Tray Abney, Andrew Diss, Tyson Falk (arrived at 9:02 am), Marge Frandsen, Mike Kazmierski, Bob LaRiviere, Dick Mills, George Robison, Mike Sprinkle, and Rod Young. Non-voting members Jay Aldean and Dean Schultz were also present. Members Dave Aiazzi, Matthew Duplantis, Julia Ratti, and Scott Smith were absent.

TRFMA staff present: Laura Bayer, Ed Evans, Danielle Henderson, Eric Scheetz, Lori Williams, and Michael Wolz.

- B. Public Comment –

Jeff Church, Reno Tax Revolt, distributed a handout to the committee (copy on file) stating others are looking for tax increases as well. He noted that AB379 is going to raise property taxes. He stated that SB207 ends in 2025 and asked if TRFMA could pass a tax that doesn't take effect until 2025 when SB207 ends. He asked if TRFMA can buy out the people in the floodplain.

- C. Approval of Agenda for November 2, 2017 (For Possible Action)
Motion 2017.11.2.1C to approve the agenda for November 2, 2017.
Moved: Member Mills Seconded: Member Sprinkle
Passed Unanimously with those present.

- D. Approval of Draft Minutes of October 19, 2017 Meeting (For Possible Action)
Motion 2017.11.2.1C to approve the draft minutes of October 16, 2017.
Moved: Member Frandsen Seconded: Member Diss
Passed Unanimously with those present.

2. Presentation and discussion regarding procedures applicable to the proposed TRFMA flood protection fees, rates, or charges and legal issues arising from the promulgation of such fees, rates or charges.

Steve Tackes, Attorney at Kaempfer Crowell, was hired by TRFMA in 2009 as a rate consultant. He stated the rate has to have some relationship to the benefits. He advised the Committee not to get caught up in the weeds regarding exemptions and disputes on rates; stay focused on the main issue of what rate the Committee is going to set. Once the Committee adopts the rate, TRFMA has a five-month process to utilize the provisions of NRS233.B to hold hearings, adopt, and implement the rates.

Members

- Bob LaRiviere, Chair
- Tray Abney, Vice Chair
- Dave Aiazzi
- Jay Aldean
- Andrew Diss
- Matthew Duplantis
- Tyson Falk
- Marge Frandsen
- Mike Kazmierski
- Dick Mills
- Julia Ratti
- George Robison
- Dean Schultz
- Scott Smith
- Mike Sprinkle
- Rod Young

He explained the difference between a tax and a fee: user fees are payments given in return for a government provided benefit; taxes are forced contributions for support of the government. A fee can only be collected for a specific purpose and the fee has to be something less than the benefit you're getting. He recognizes that at some time there is going to be a court challenge so once the fees and taxes are established we will file a petition with the court to get their opinion.

George Robison stated that the rate isn't meaningful unless we know what the boundaries are. Jay Aldean gave a real world example that staff made the assumption that if the flood boundary touched the building, that building would be included in the DBA. The question is do we include all condos if the basement gets flooded?

Michael Wolz noted that if the Committee recommends a fee, they have to recommend the fee amount also; the Committee has the discretionary authority to recommend the duration of the fee. He noted that staff may ask the Committee to consider the timing of the hearing; the timing of the imposition of the fee; or specifically state that discretion has been left to the Board.

3. Presentation and discussion regarding the proposed TRFMA flood protection fee and associated issues including, but not limited to, the rate study and rate model, the direct benefit area description and possible variances; interactions with property owners in the potential direct benefit area; hypothetical fee amounts and their possible impacts on businesses; and the performance of fees, rates, and charges.

Todd Chase, FCS Group, presented a PowerPoint (copy on file). In response to an inquiry from Mike Sprinkle, Jay Aldean stated TRFMA did not survey all the businesses in the DBA (Direct Benefit Area), noting that if a building is above the flood elevation, they are excluded. Until the process of surveying properties goes forward, which will probably be several years; we won't know the final number of properties in the DBA.

George Robison inquired since downtown Reno does get flooded why aren't they included in the DBA? Aldean responded that is a policy issue; downtown Reno isn't protected to a FEMA Zone A protection level. The TRFMA Board can still add downtown Reno into the DBA.

Robison asked if a different inundation pattern can be shown after completion of the project, would that be enough of a legal benefit to charge the DBA fee regardless of the FEMA designation. Michael Wolz stated that issue was discussed by the Board of Directors; one benefit the downtown properties will not receive is a reduction in their flood insurance. Based on that lesser benefit, the Board chose to exclude downtown Reno from the DBA.

Dean Schultz stated that not all of the airport flooded even though it appears that way on slide seven in the presentation. He also asked about property being developed on vacant land would that be assessed a direct benefit fee? Michael Wolz indicated TRFMA doesn't have any answer at this time. Some of those questions may have to

be resolved in court. Todd Chase answered that for the financial model FCS assumes zero customer growth to be conservative in the forecast.

Tray Abney asked why is there no business disruption avoidance assigned to the inundation area? Chase replied that number would be distributed based on employment, so they would get a share of the regional number.

Chase stated the TRFMA Board focused on developed total floor area of a building as being the best metric to track for charging the rate. The County Assessor has a data base of floor area of every improved property in the county.

He then reviewed the Preliminary Rate Analysis of Direct Benefit Area. Bob LaRiviere noted that Kmart is closed down. Chase stated even though a business is closed, they would pay the DBA fee unless they apply for a variance.

Andrew Diss asked if the square foot listed for the GSR includes the condos; Aldean replied it is a floor area number and based upon assessor's current data.

George Robinson asked if we're breaking off the direct benefit area based on whether the insurance premiums are gone and it's only a \$1 million benefit, wouldn't the overriding benefit be the property damage avoidance? Chase answered that in terms of defining the DBA, the property damage avoidance is far more critical. Robison then asked if the Committee creates a DBA in Sparks only and yet Reno gets benefits, could that be the basis of legal action. Wolz answered that is possible.

In response to an inquiry from Mike Sprinkle regarding the general support for monthly rate of \$8/k sq ft., Aldean stated that it was suggested by some of the commercial customers staff met with several years ago and the TRFMA Board gave staff direction to use that number. Wolz clarified that it was not specific polling; just conversations with property owners.

Dean Schultz asked if a property will still flood after the project is done due to other tributaries, should they still be assessed the fee? Aldean explained that the Virginia Lake watershed floods the airport in addition to the Truckee River. Tray Abney asked if we have a list of other properties that do that. Robison answered that all properties do that; even though you're paying to be protected from a 100-year, you're still vulnerable to a 300-year flood and paying for a benefit of being less likely to flood.

Wolz said the argument would be that the measure of the benefit is off to some degree since you have another source of flooding. A judge would have to say you can't pay the whole fee because you're not receiving the full benefit.

Mike Sprinkle reminded all that the charge for this Committee is not talking about anything other than the Truckee River flooding; once we finish that work then we could potentially look at other tributaries.

Mike Kazmierski commented that this will have some strong headwinds to getting voter approval. DBA only generating \$2 million per year isn't going to do much when we need between \$17 and \$26 million per year. If the DBA is the solution, then let's make it the primary solution and Reno should be included. The assumptions made by the Flood Board are interesting but not relevant; the decisions this Committee makes are going to the voters. Vacant land in a Direct Benefit Area should be charged the fee and the DBA is too small.

PUBLIC COMMENT:

Kerri Lanza, City of Reno Engineering Manager, asked if the funding for bridges might come from RTC then what is the flood project providing the downtown area. From a public works standpoint, if a flood used to cause \$1 million in cleanup and after the flood project, it's only \$500,000 that is a benefit, but from a homeowner's perspective if you flooded 5' before the project and you flood only 2' after project completion, that's not really a benefit.

- 4. Presentation of updated *Summary of Review Yields* handout originally presented by John Sherman at the Truckee River Flood Control Project Needs Committee meeting of October 19, 2017, including a summary of the historical tax base, as requested by Members Aiazzi, Smith, and Diss. by John Sherman, Fiscal Solutions, LLC**

John Sherman – reviewed his updated spreadsheet and stated the numbers will be updated to 2018 dollars in a future presentation. Bob LaRiviere cautioned that construction costs are up 25% this year and we need to look at these escalating costs. Sherman said he would be happy to bring back those inflation numbers.

- 5. Committee Member Comments, Requests, and Future Agenda Items**

Mike Kazmierski asked for an agenda item regarding what are the project costs, what are we going to do, where, when, and what can we do to shift some of those costs to reduce impact, for example move some project components to 10 years out and fund them with the current 1/8 cent sales tax?

Kazmierski also stated there are many funding options to consider now and the sooner we can eliminate ways to come up with funds, the better. Once we have the project cost, we can get rid of options, make an assumption and vote on it. There is competition with others for taxes. How can we get more bang for our buck with the DBA? It is time for us to make some decisions.

Chair LaRiviere added when we get through all these different items, Committee Members have to be able to articulate it in an elevator speech. General Counsel Wolz asked what additional information the committee would like on rates. Chair LaRiviere stated staff needs to go back to HDR for some hard costs.

Dean Schultz appreciates the point that the DBA is a small number in the scheme of things; however, he would like to get more information regarding the conversations staff had with small businesses in the DBA. Jay Aldean stated they were just general

conversations and asked how would the committee prefer to pursue assessing the support level: polling, staff meetings with small businesses? Staff met with about 25 representatives of the commercial area several years ago and talked about the \$8k/ksq ft and they thought it was a doable number.

Chair LaRiviere suggested setting up a series of workshops/public meetings to show the overall plan and get feedback from people in the area.

Dick Mills stated that the DBA has been studied for the last 10 to 12 years and to do more studying is bogging it down. The TRFMA Board has spoken loud and clear about that number.

Mike Kazmierski stated the DBA fee needs to be per square foot, not 1000 square foot. He would like to have a real estate person give an in or out of the flood zone square foot number for industrial/commercial properties. He disagrees with the Board determining the DBA number and suggests the Committee not take \$8/ksq ft in the commercial area as concrete. General Counsel Wolz will draft an agenda item for a Real Estate person to give those numbers.

6. **Public Comment** - Chair LaRiviere called for Public Comment and hearing none, he closed this item.
7. **Adjournment (For Possible Action) – 10:39**

Summary of Committee Member Requests from November 2nd Meeting

- A. What are the project costs, what are we going to do, where, when, and what can we do to shift some of those costs to reduce impact, for example move some project components to 10 years out and fund them with the current 1/8 cent sales tax? (Kazmierski)
- B. Vote on eliminating funding options. How can we get more bang for our buck with the DBA? (Kazmierski)
- C. Go back to HDR for some hard costs. (LaRiviere)
- D. Would like to get more information regarding the conversations staff had with small businesses in the DBA. (Schultz)
- E. Set up a series of workshops/public meetings. Show the overall plan and get feedback from people in the area. (LaRiviere)
- F. The DBA fee needs to be per square foot, not 1000 square foot. (Kazmierski)
- G. Would like to have a real estate person give an in or out of the flood zone square foot number for industrial/commercial properties. (Kazmierski)

Respectfully submitted,
Laura Bayer, FCPNC Liaison
Approved in Session on November 16, 2017.