

Committee Meeting Minutes

Thursday, February 1, 2018 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, Matthew Duplantis, Tyson Falk, Marge Frandsen, Mike Kazmierski, Bob LaRiviere, Dick Mills, Julia Ratti (arrived at 9:15 am), George Robison, Scott Smith, and Rod Young. Non-voting members Jay Aldean and Dean Schultz were also present. Members Dave Aiazzi and Mike Sprinkle were absent.

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

- B. Public Comment - Chair LaRiviere called for public comment and hearing none, he closed this item.

- C. Approval of Agenda for February 1, 2018 (*For Possible Action*)
Jay Aldean requested that Item 6 be taken prior to Item 2.

Motion 2018.2.1.1C to approve the agenda for February 1, 2018 as amended.

Moved: Member Frandsen Seconded: Member Young
Passed unanimously with those present.

- D. Approval of Draft Minutes of January 18, 2018 Meeting (*For Possible Action*)

Motion 2018.2.1.1D to approve the draft minutes of January 18, 2018.

Moved: Member Robison Seconded: Member Frandsen
Passed unanimously with those present.

6. Committee Member Comments, Requests, and Future Agenda Items

Member Aldean commented about a Weather Channel Article and read part of it. California is looking to revise all their levees based on Ark Storm planning for the West Coast for a potential Megastorm . If two back-to-back 100-year storms hit, we could have a mega flood. This may become the norm in California and everything Northern California receives, we receive. California is spending \$80 billion to revamp their levees and looking into federal funds, GID agencies, or user fees. He will send a link to the article to the committee members.

- 2. **Report and discussion on the estimated cash flow requirements for the design and construction of the Truckee River Flood Protection Project assuming three Direct Benefit Areas (DBAs). The report will assume for the purposes of analysis a range of rates calculated at \$8 per thousand square feet of developed square footage for DBA 1, \$5 per thousand square feet of developed square footage for DBA 2, and \$7 per thousand square feet of developed square footage for DBA 3. Possible action to approve a range of DBA rates (that may be higher or lower than those analyzed in the report) to be recommended to the Truckee River Flood Management Authority Board of Directors or to be used for further analysis or provide direction to staff. Requested by Member Ratti. (*For Possible Action*)**

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

John Sherman, Fiscal Solutions, LLC, reviewed his report (Copy on file).

Julia Ratti arrived at 9:15 am

Andrew Diss inquired if the TRFMA Board has the authority to institute the fee, why is this committee going through this? Michael Wolz, TRFMA General Counsel stated it is part of the committee's statutory mandate, if you recommend a tax, then you must recommend the fee.

Tray Abney asked if the total developed square footage includes every floor of a building; yes per Aldean. Aldean explained that's the way that the Board elected to go forward with the fee was to use the developed square footage. The Board has the ability to create an administrative process for who is in and out of the DBA. Aldean added this committee takes a position as to the amount of the fee but not on the amount of floors included in the developed square footage. Aldean indicated the Board will have to discuss and approve new DBA areas.

Diss stated this committee is tasked with making a recommendation to the Board based on calculations based on total square footage; he recommends it being based on the square footage actually impacted.

In response to an inquiry from Julia Ratti, Wolz referred to AB375 , Sec. 2 §1(a) 3 and noted that the committee must set a proposed rate and may specify the period when it can be imposed. Wolz indicated the committee could set a minimum rate and give the Board discretion to go above that number and leave as much discretion to the Board for the timing and the amount.

Ratti commented that it doesn't say we have to set a rate for that, just a fee structure; she may ask the Legislative Counsel Bureau for an opinion on that because the legislative intent is that the people who are benefiting from improvements should have to pay a fee. This committee could recommend zero for a fee, but we have to contemplate the fee first before going for a tax. There is the opportunity to leave it relatively broad. Wolz agreed that would be his preference as well.

Aldean commented that the usage of developed square footage is supposed to indicate economic activity on the site. Using this metric for charging fees has never been done in this country.

Robison commented that if hired as an expert witness, one way to attack the fee is to say that the GSR has 25 floors that have no damage yet the fee includes a damage component. A more legally defensible position would be to put the fee on the lower floors and then a nuisance fee for the higher floors. Aldean agreed that's a good argument and the Board could use it.

Wolz stated this committee could identify a lump sum that DBA fees are going to generate and that would be within the spirit of the statute.

Dean Schultz cautioned to be careful not to over burden the DBA area people to where they don't want to support this. The \$8 DBA would cost more than RTAA's current

insurance; it would cost \$200K plus when they're now paying \$20K per year. Schultz noted that Business Interruption is included in that flood insurance. The 1997 flood put the airport down for 36 hours.

Frandsen inquired about the residential DBA fees. Aldean answered that 98% of DBA is commercial/industrial and because residential is such a small amount we didn't bother with a calculation; there are only about 100 homes. A fee of \$25 per house per month was calculated about 4 years ago and that amount probably offsets their current flood insurance; it did not use square footage for homes. Aldean added because the number is so small, he decided not to include it.

Diss asked if government buildings are exempted from it; no per Aldean, but we cannot impose it on the Feds. Wolz explained that with the RSIC, there was a development agreement which states the tribe can either take over the cost of the maintenance of the levee or pay the fee. Eric Scheetz, TRFMA Engineer added that the RSIC paid for over half that project.

Sherman continued his presentation.

Kazmierski stated the committee has got to decide two things:

- Do we accept the DBA amounts used for the estimates as a generally reasonable number?
- Do we go with scenario one or two?

Sherman spoke about the aggregate DBA revenue vs aggregate tax revenue, referencing Table 2 on Page 4, this new tax for Scenario 1 has to generate about \$185 million. The equivalent period of time for all three DBAs is about \$82 million so you get a context of how much is coming out of the county-wide tax versus the DBA revenue stream.

Ratti commented that the DBA is \$82 million, the Federal Cost-Share is \$168.5 million (\$180 million less the \$13.5 million), how much does the 1/8 cent sales tax generate? Sherman is working on a way to simplify multiple cash inflows and outflows: taking the existing sales tax revenue and asking what can it pay for and how much? For example, maintenance and operations, revenue dedicated for debt repayment, take that revenue stream and deduct all that, then look at the other revenue streams (DBAs, federal government, project costs, debt payments), what is required after that and that comes out to \$185 million. He is simplifying it down to 6 or 7 lines items that takes that into play. And hoping to finalize those numbers tomorrow.

Ratti added get the revenue amount that is generated with the existing sales tax to Kazmierski's list of what needs to be done.

Ratti summarized: we make a recommendation on fee proposal then it is up to the discretion of Board to proceed with that fee; we make recommendation of the tax and that is the tax that has to go on the ballot. Wolz disagreed, his interpretation is that if the committee recommends an actual amount, the Board is bound by that. If the committee says the DBAs to be defined by the Board will generate "X" in total revenue over the life of the project; LaRiviere interjected that the committee cannot guarantee what a fee will generate over its lifetime. Wolz added that there's no guarantee with a

tax either. He cannot guarantee the fee, no matter how it is defined, will pass legal muster, it may be shot down by the court system.

Kazmierski suggested since the fee doesn't start until 2025, the Board has time to figure out how to get there. Frandsen asked how to get to the number if we don't know what the square footage we're dealing with; at this point we haven't determined that. Ratti suggested the committee say \$82 million minus ten percent to give the Board some leeway or give them a range between \$70 million and \$82 million. She doesn't think we should make the square footage decision because that requires public hearings and stakeholder input. Kazmierski agrees with Julia, adding that in the next seven years, there will be millions of square footage added to this area.

Schultz stated it was his understanding that the rate would not applied to new development. Aldean noted that DBA 2 could apply. Schultz replied that it sounds like the airport will be taxed for wet stuff and access to existing buildings as well as future development. Aldean stated the procedures for waiving people out of the DBAs have not been developed. If the building has access it is no longer in DBA 2. Staff would have to do a business analysis of every account in the area.

Ratti asked if the committee could craft the recommendation so we have a lot of leeway; say look at a range of fees for these DBA areas so we have a number to use for our assumptions to move forward. The Board can reduce the scope of the flood project based on tax revenue because they are going to be dealing with them for years. We use \$82 million but don't send that number to the Board.

Schultz stated come April when a ballot question is being prepared he cannot support it if the fee is not definite. Aldean offered to do some engineering work to give the airport some comfort level.

Member Kazmierski moved to go with Scenario 1 and use \$82 million as a funding number and maximize discretion to the Board. Member Ratti seconded for discussion.

Robison stated he would like to split this process, first establish that Reno is included (Reno plus the Meadows).

Kazmierski amended his motion to approve Scenario 1, Ratti agreed as seconder, and Chair LaRiviere called for a vote. Member Diss opposed, all others in favor, motion passed.

- 3. Report from Committee Members on the tax revenue source(s) preferred by the organizations they represent and discussion of those reports. Requested by Chair LaRiviere.**

The Committee Members stated their opinions regarding the four taxes currently under consideration.

- 4. Discussion regarding possible new tax revenue sources for the design and construction of the Truckee River Flood Protection Project, including but not limited to Property Tax, Government Services Tax, Real Property Transfer Tax, and Room**

Tax. Discussion regarding estimated revenue generated at different hypothetical tax rates, and the financial impacts to taxpayers under hypothetical scenarios. Possible action to eliminate all or certain tax revenue sources from future consideration for the funding of the Truckee River Flood Protection Project, identify certain tax revenue sources for further analysis, establish the amount of tax revenue to be raised to fund the Truckee River Flood Protection Project, identify the tax revenue sources that will be presented to Washoe County voters for consideration together with the rates of those taxes, or provide direction to staff. *(For Possible Action)*

Member Diss moved to eliminate the Room Tax from consideration, **Kazmierski** seconded. All in favor, motion passed.

Member Frandsen moved to remove Real Property Transfer Tax from consideration, **Abney** seconded.

Robison noted that out of the polling Real Property Transfer Tax is the only viable one; we may as well disband the committee if we're going to try to do a property tax.

Frandsen said she wants to be sure that people being polled understand the question and the impact it would have on a homebuyer.

Kazmierski stated the reality is that room tax has a large well-funded contingency that would kill the vote. Abney said one could argue that there is a large and well-funded opposition to a real estate transfer tax. Frandsen agreed with what Abney just said.

With a motion and second on the floor, Chair LaRiviere called for a vote: Members Diss, Duplantis, Abney, and Frandsen were in favor; all else opposed, motion failed.

Chair LaRiviere called for any other motions and receiving none, he closed this item.

- 5. Discussion regarding the next round of public opinion polling, including, but not limited to, identifying specific project costs and potential tax increase amounts to use in the polling questions. Possible action to identify specific project costs and potential tax increase amounts to use in the polling questions, identify topics or questions for use in the poll, form a subcommittee to write questions for the pollster, or provide direction to staff. *(For Possible Action)***

Jay Aldean, TRFMA Executive Director will contact the pollster to set up questions for the poll to be done this month. The poll will include real dollar examples in the questions and secure a larger sample size.

In response to a request from Kazmierski, Aldean said he will send the questions to the committee prior to sending them to the pollster; however, he will not be looking for general comments. Smith suggested having a lead-in explanation about the project prior to polling, Aldean agreed.

Chair LaRiviere announced there is no need to meet prior to receiving the polling results so the meeting on February 15th is canceled.

6. Committee Member Comments, Requests, and Future Agenda Items

Aldean stated he will be having back surgery on February 21st and he will be off for a week.

Diss asked Ratti to share the legal opinion she will get from the LCB because he doesn't necessarily agree with how the committee's counsel is reading the bill. Ratti is considering whether to reach out to the LCB or not. Diss will leave it to Ratti's discretion.

7. Public Comment - Chair LaRiviere called for public comment and hearing none, he closed this item.

8. Adjournment (For Possible Action) – The meeting adjourned at 11 am.

Summary of Committee Member Requests from February 1st Meeting

- A. Aldean will send the Arkstorm article to the Committee Members (Young).
- B. Aldean will send polling questions to the Committee Members prior to doing the polling (Kazmierski).
- C. John Sherman will calculate the revenue generated with the existing sales tax. (Ratti)

Respectfully submitted,
Laura J. Bayer, FCPNC Liaison
Approved in Session on March 1, 2018.