



FLOOD PROJECT COORDINATING COMMITTEE RETREAT

Friday, January 14, 2011, 8:30 A.M.

**Grand Sierra Resort
2500 E, Second Street
Reno, Nevada**

MINUTES

1. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE – 8:42 a.m.

Chair Smith called the Flood Project Coordinating Committee (FPCC) Retreat to order at 8:42 a.m. A quorum was established. The room did not have a flag so Members dispensed with the Pledge of Allegiance.

Voting Members Present:

Ron Smith, Chair
Robert Larkin, Vice-Chair
David Aiazzi
David Humke
Geno Martini
Jessica Sferrazza
Ron Zurek

Voting Members Absent (Excused):

Robert Dickens

Voting Alternates Present:

Ed Lawson
Troy Miller

Voting Alternates Absent (Excused):

Kitty Jung

Non-Voting Members Present:

Franco Crivelli
John Flansberg
Neil Krutz
Dennis Miller
Burnham Moffat
Austin Osborne
John Sherman
Katy Simon
Dan St. John

Non-Voting Members Absent (Excused):

Shaun Carey
Jeff Cronk
Donna Dreska
John Jackson
Jill Olsen

Staff Present: Naomi Duerr, Jay Aldean, Mimi Fujii-Strickler, Greg Salter, Laura Bayer, Lisa Diebler, Susie Kapahee, Paul Urban, Eric Scheetz, Lori Williams, Ed Evans, Melissa Faigeles, Kevin Gorges

2. WELCOME AND INTRODUCTIONS – 8:44 a.m.

Chair Smith introduced himself and welcomed Members and guests, including new Members Jessica Sferrazza and David Aiazzi, representing the City of Reno. He also welcomed the Army Corps of Engineers (Corps)' Sacramento District staff, who were in attendance.

Director Duerr welcomed Members and guests and thanked them for attending the Truckee River Flood Management Project Board Retreat. She welcomed Austin Osborne, the new Storey County representative, replacing Dennis Miller. She added that Mr. Osborne's alternate on the Board is Bob Kershaw. She also welcomed Victor Mercado, representing Senator Reid's office.

Katy Simon, Washoe County Manager, reported that Assemblyman-Elect Skip Daly was present and thanked him for attending.

Chair Smith also welcomed newly-elected Sparks Councilman Ed Lawson. Director Duerr mentioned that Councilman Lawson is also an alternate member of the Flood Board.

3. RETREAT ORGANIZATION – 8:46 a.m.

Director Duerr provided a brief summary of the organization of the Retreat. She stated that the purpose is to allow for open dialogue and exchange of information, and new ideas. It would include a review of the history of the Flood Project. She stated that the Corps was invited to the meeting to provide a better understanding of a new initiative, project "Reset". She explained that Reset is a method that will hopefully speed up the project by allowing planning to occur in a shorter timeframe. She explained that the Flood Project has been in the planning process for approximately 14 years. Under the new initiative, the Corps hopes to complete the planning in less than two years (where possible).

Director Duerr stated that the agenda packet included a draft Letter of Intent related to what is expected of the local sponsors. She added that the Corps requested having the Letter of Intent available approximately six months prior to completion of their planning to ensure local sponsorship of the project. She stated that also included in the packet is the Living River map plan, which is updated annually. She added that the latest update is significant and now includes fish passage in sync with the Living River Plan. She stated that many of the maps were updated and added that the updated plan is available on the Truckee River Flood Project website.

Director Duerr stated that another document, "Governance Model Documents for the FPCC" was provided to Members. She explained that the document includes a summary of the Key Provisions of the Joint Powers Authority (JPA) and a draft JPA Agreement (dated January 10, 2011), which shows all of the redline comments made. Also included was a memo from City of Reno staff to the Reno City Council proposing a different model for the Interlocal Agreement.

Director Duerr reported that John Flansberg, City of Reno, provided a side-by-side comparison of the JPA versus the Interlocal Agreement. She stated that another handout was entitled, "Who can be a Local Sponsor and what are their Responsibilities?" She explained that Members need to understand what will be expected under the Project Partnership Agreement (PPA). She stated that previous discussion has ensued over *who* can be a local sponsor.

Director Duerr stated that she would provide a brief presentation of the background of the Flood Project. The Corps will present an update on the Reset initiative and what is expected of the local sponsors, followed by discussion of governance coordination of the Flood Project and the best way to get organized to move forward with the project.

4. PUBLIC COMMENT - 8:49 a.m.

Chair Smith called for public comments, for which he had four speaker request cards. He invited others to submit request cards if they desire to make comments. He called on the first speaker.

Curt Chapman, American Council of Engineering Companies (ACEC) Nevada / Stantec Consulting, stated he was speaking as the President of ACEC Nevada, which represents private consulting companies in northern and southern Nevada. He reported that a number of ACEC members were present, including CH2M Hill, HDR, PBS&J, Wood Rogers and perhaps others. He stated on behalf of the engineering community, the ACEC offers its support of the Flood Project and what this committee has done. He added that the group appreciates the importance of the Flood Control Project, especially when remembering the flood of 1997 and previous events.

Mr. Chapman stated that as engineers, ACEC understands the potential for future problems. He stated there is great value in protecting the community from flood damage, preserving the quality of life and addressing economic issues. He reiterated that the ACEC fully supports the Flood Project and thanked the FPCC for the great deal of effort put forth, and commended them on their success locally and with the Corps of Engineers. He also thanked the Corps for their work and for elevating the priority of the project. He summarized that the Flood Project has the support and appreciation of the engineering community and they urge the Flood Project to address the issues in an effective fashion. He stated he understands that there have been questions and concerns about how the project will be implemented; however, the ACEC is confident that based on the effort put forth and the public input that was accepted, there will be an effective and viable solution and that the project will move forward in a timely matter. He again thanked all those involved and the FPCC for the opportunity to speak. Chair Smith thanked Mr. Chapman for his comments.

Steve Muchicko, Carpenters Union 971, thanked Members for the opportunity to speak. He stated that the Flood Control Project is very important and added that there are over 1,500 carpenter families living in and around Reno and Sparks. He stated that the Union urges the Flood Project to move forward and come to consensus on the JPA. He stated that we need to expedite the process in moving forward to protect our community and provide jobs. He stated that he does not believe that federal government is going to hold the funding for this area forever, so it is time to get some projects moving in order to protect the community and make this region a better place to live. He thanked Members for the opportunity to speak. Chair Smith thanked Mr. Muchicko for his comments.

Assemblyman-elect Richard (Skip) Daly, Laborers Union Local 169, stated that he was speaking as a private citizen and on behalf of the Laborers Union and added that he is also the Assemblyman for District 31, most of which is impacted by flood control. He stated that as a private citizen, he supports the JPA Agreement and believes it is the best path forward in providing the greatest degree of liability protection for the local governments. He referred to Mr. Muchicko's comment that the federal government will not hold the money for this project forever and that the money could be spent for a different qualifying project in the United States. He suggested that the Flood Project keep moving forward in trying to get the money from the

federal government, as well as the local match, in order to protect citizens and our community. He stated that the project covers everyone in the region in regard to public safety, the reputation of the community and provides the ability of people to invest in certain areas if they feel they are safe from flooding.

Mr. Daly stated that on behalf of the Laborers Union, jobs are needed in the community, which is an important benefit of the project. He stated in that respect, he is telling the Flood Project to "hit the gas" to do whatever must be done before the opportunity is missed. He stated that if any agency or group is being dilatory and trying to delay the process they "should be kicked in the shin". He reiterated that if this opportunity is missed, it could be another 25 years and three more floods before something moves forward. He thanked Members for the opportunity to speak. Chair Smith thanked Mr. Daly for his comments.

Kim Rhodemyre thanked FPCC Members for the opportunity to speak in support of the JPA as written. She stated that it is her belief that the Agreement provides the best choice for the entire Truckee Meadows area. She added that she believes the Flood Project in its entirety is going to be infrastructure and should be treated as such. She stated that Reno, Sparks and Washoe County have collective flood issues that are interwoven and connected; flood waters know no boundaries. She stated that she, representing residents, desires safety of the entire Truckee Meadows and added that it is not a housing or commercial property project that will eventually go to a private entity, but rather a collective infrastructure that will need to be repaired and updated like a highway or bridge. She stated, "therefore as the Regional Transportation Commission (RTC), as a collective piece of infrastructure, the Flood Project will be better served by turning into the JPA that will be responsible for the Flood Project forever".

Ms. Rhodemyre stated that the Flood Project is estimated to be completed in about 15 years, in which time the odds are that we will have one 100-year flood (possibly two), and several 30 to 50-year floods. She added that in 15 years, it is likely that updates or repairs will begin. She stated she would like those responsible to have an extensive knowledge of devastating floods as experienced in this region. She stated that while the Cities and County do their best, it is her belief that their expertise is not in the area of flooding. She stated that the JPA Agreement will benefit everyone in the Truckee Meadows. She stated that she would also like to point out that the end of the staff report related to the Interlocal Agreement, states that, "the Army Corps of Engineers require interest to adopt regulations as may be necessary to prevent unwise future development." She stated that statement seems to be a conflict of interest to City and County staff, which could "come back to haunt those bodies; so I heard you don't support the JPA Agreement. Thank you for letting me speak." Chair Smith thanked Ms. Rhodemyre for her comments.

Buzz Harris, Associated General Contractors (AGC), stated on behalf of the AGC that they are in support of the project. He stated that AGC obviously looks at this as an opportunity for jobs but also a way to improve our community in moving forward with the most effective and efficient way to get the project moving as soon as possible before we have another incident. He stated that AGC has participated through the contractor's auxiliary and hopes to not have to activate that group again. He added that he hopes to get the project moving as soon as possible in order to get not only contractors, but engineers and everyone in the community involved in the process. He thanked Members for the opportunity to speak. Chair Smith thanked Mr. Harris for his comments.

Chair Smith stated he had no further speaker request cards under this item but called for further public comments and hearing none, closed the public comment period.

5. SETTING THE STAGE:**A. FLOOD PROJECT – BACKGROUND MATERIALS AND UPDATE ON FLOOD PROJECT GOALS, PROJECTS, AND UPCOMING MILESTONES – 8:57 a.m.**

Chair Smith invited Director Duerr to present this item. Director Duerr stated that in an effort to get everyone focused on where we are, what we are doing and who the major partners are for the majority of funding, she thought the presentation should be turned over to the Corps. She added that the Corps could provide information on the Reset initiative, a letter they are expecting from the Flood Project, as well as anything else they would like to address.

B. U.S. ARMY CORPS OF ENGINEERS UPDATE AND RESET INITIATIVE – 9:00 a.m.

Lt. Colonel Andrew Kiger, PE, District Engineer for the Corps Sacramento District, thanked the FPCC for inviting the Corps to participate in the Retreat and stated that the Truckee River Flood Project is very important to the Corps' Sacramento District. He reported that he is aware that the Corps has been working on this project for many years, which has been frustrating to the community. He stated that the Corps is committed to the Reset plan and the timeline; however, commitment is needed from the Flood Project as well. He explained that the goal is to have the Chief's Report by the end of 2011, which is the critical path to federal funds. Colonel Kiger turned the discussion over to the Corps' Chief of Planning, Alicia Kirchner.

Ms. Kirchner stated she would be providing background information on the Reset plan. She reported that District sponsors, as well as others across the country, have expressed concerns over the length of time the Corps process takes for studies on which projects are identified to be recommended to Congress for federal participation. She reported that the Reset concept was recommended by Corps Headquarters, as well as the Assistant Secretary of the Army (ASA)'s office as a way to be responsive to the concerns. She stated that a few projects across the country have been identified for the process, the Truckee River Flood Project being the first to be Reset.

Ms. Kirchner reported that the concept is to stop, take a look at what has been done to date and what is currently being done and what needs to be accomplished. She stated that the concept was developed in October 2010 in Washington, D.C. She reported that the Sacramento District impressed upon Headquarters how much work has been accomplished, with which Headquarters was impressed, leading them to believe they could commit to completing agency recommendation by the end of this calendar year. She stated that the District has already seen an increase in the traction of the project, which includes development of a preliminary draft Decision Document as quickly as possible for inclusion in the Agency Technical Review (ATR) process and then to begin the Agency Policy Review (APR) process. She added that the ATR process has begun. She asked Beth Salyers, PE and Project Manager for the Corps, what the timeline for completion is for the ATR.

Ms. Salyers stated that there are three rounds for the ATR, of which the first round is scheduled for completion on February 7, 2011; the second round is scheduled for completion by the end of April; with the third round to be completed just prior to going to the Civil Works Review Board, which is scheduled for September.

Ms. Kirchner stated that the prescribed approach to the ATR is the first unique aspect of the Reset initiative. She explained that traditionally the Corps would wait until all of the needed information was available to be included in the Preliminary Draft Report (PDR) and then into the

ATR process. She stated that under the new approach, information is being included as available while continuing to work to fill in the gaps. She summarized that the hope is to keep the process moving more quickly. Director Duerr referred Members to the schedule included in the agenda book, to which Ms. Kirchner and Ms. Salyers were referring.

Chair Smith stated that although the timeframes are available, he would like further explanation from Corps staff regarding the process after the Chief's Report. Ms. Kirchner agreed to explain the process but stated that she wished to continue explaining the process leading up to the Chief's Report. She stated that as the Corps finishes the ATR and has a draft report; it will be submitted to the Corps Headquarters to begin a 30-day policy review. Headquarters will provide policy comments on the report, which will be discussed with District staff including resolutions to the comments. She stated that the Alternative Formulation Briefing Milestone Conference is scheduled for the beginning of April, at which time the comment resolutions will be determined.

Ms. Salyers added that the project partners will be invited to the conference and will play a key role. She explained that the Flood Project's role at the conference will be to express support for the tentatively recommended plan that will be described in the document. Following the Alternative Formulation Briefing (AFB), the Corps' goal is to obtain permission from Headquarters to release the draft decision document and draft environmental impact statement (EIS) for public and agency review. She stated that the review process would be 45 days, with some time allowed for the Corps to respond to comments from the public agencies and process the final document. Upon completion of the final document, it begins its final policy review for the agency by going to the Division Office in San Francisco for a few days and then onto Headquarters where they will undertake final policy review. Headquarters will then convene a Civil Works Review Board, which will be a significant milestone conference just prior to the Chief's Report. She added that the conference will be held in Washington, D.C. and the sponsor will be invited and is expected to be present. Director Duerr referred to a graphic that lays out the process being explained by Ms. Kirchner in a very simple way.

Ms. Kirchner reported that the purpose of the Civil Works Review Board (CWRB) is for Headquarters to ask and resolve any lingering questions. She added that typically the ASA for the Civil Works office is present, as is the Office of Management and Budget (OMB), to provide a sneak peek at what they will be asked to weigh in on in the near-term following that process. She explained that the goal of the CWRB is to get approval to release the document and the "Proposed Report of the Chief Engineers" for public and agency review at the Washington, D.C. agency and the State agency level. She added that it is also part of the environmental compliance process, as it is the final public agency review of the EIS. She stated once that review process ends, staff will review any further comments from State agencies and then Headquarters will complete its Report of the Chief Engineers. She added that it is anticipated that the Chief of Engineers would sign off on the final report in the November 2011 timeframe.

Ms. Kirchner reported that once we have a Chief's Report, it is transmitted to the ASA for Civil Works, which constitutes the Corps' recommendation. It then is on its way to become an Administration recommendation. She stated that the ASA for Civil Works conducts the policy review and may have questions, which will be addressed by staff. She added that once the Chief's Report is signed off, it begins the 120-day clock in which they must complete their policy review and recommendation to Congress for the project on behalf of the Administration. She stated that part of the ASA office's review is coordination with the OMB, whose role is hopefully to indicate that the recommendation is consistent with the program policies of the Administration, which is the resounding endorsement of the OMB. She stated the other option is that the OMB would not endorse the program.

Ms. Kirchner stated that if endorsed by the OMB, the package is transmitted to Congress. She explained that upon the signing of the Chief Engineer's Report, courtesy copies are transmitted to the congressional authorization committees for their awareness while they are working toward development of authorization bills concurrent with the final review process. She stated that the goal is to provide a jumpstart for the review process in advance of the Administration's determination. She stated that the package is officially transmitted upon endorsement for the overall Administration. She explained that once the project is authorized, Congress is then able to appropriate funds for construction.

Chair Smith asked for clarification that if the Flood Project and the Corps do everything they are supposed to do, July of 2012 could be the beginning of construction. Ms. Kirchner stated that would depend on the congressional action taken.

Chair Smith asked where the Truckee River Flood Project is on the list of priorities for the United States. Ms. Kirchner deferred the question to Brandon Muncy, Chief of the Civil Works Program for the Corps. Mr. Muncy stated that the Corps has projects all over the United States and explained there is not necessarily a priority list nationwide. He stated that as the Colonel mentioned, the Flood Project is high on the Sacramento District's priority list. He explained that Headquarters, through the Reset plan, has focused their attention on this project. He added that Headquarters is looking at lessons learned and a successful project although he is unsure of the priority number of the project. He reiterated that Headquarters is very interested in the project and the Corps is focused on getting the project approved as quickly as possible.

Chair Smith asked for clarification that the Truckee River Flood Project is the test project for the Reset plan, which Ms. Kirchner stated is correct. Director Duerr stated that recently she heard Mr. Muncy say that in response to the Reset plan, the Corps has assigned staff from other projects to the Truckee River Flood Project in order to get the work done in such a short timeframe. She added that at the staff level, the project has a very high priority and is using many resources. Mr. Muncy agreed and added that Congress is providing a lot of funding for planning staff for the project. He added that the District is responding to the direction received from Headquarters and ensuring that enough resources are available to meet the timelines, as well as doing extensive coordination up and down the chain of command (or the vertical team). He stated that Headquarters and the Regional Office in San Francisco are intimately involved in the process. He stated that because the situation is unique, much of the coordination and the reason the process will be able to move quickly is based on the dedication of identifying a different process, which includes much communication to provide direction early in the process so any needed changes can be made quickly and move forward.

Chair Smith called for questions for the Corps. Member Sferrazza thanked the Corps for their presentation and referred to the JPA. She stated there is ongoing debate regarding the regulatory issues and the associated funding from the federal government. She asked for feedback from Corps staff prior to entering into the JPA regarding the regulatory review of impacts for development projects and perhaps best practices around the country. Mr. Muncy stated that when the Project Partnership Agreement (PPA) is signed by a non-federal agency, one of the agency's commitments is to do operation and maintenance (O&M) for the project, part of which is to ensure that the flood protection project continues and operates as authorized. He explained that if there are any encroachments or other activities that may or may not have a potential impact to the ability to provide the level of protection that has been authorized, the non-federal agency is expected to have the wherewithal to ensure that there is a process in place to assure that activities do not occur within the floodplain that might have an impact. He

explained that it is up to the local agencies to determine how that determination is made. He stated that at times there is a process where the agency would need to provide all of the information and ask the Corps for direction, which would provide an analysis and determination of whether or not an activity might impact the Flood Project.

Mr. Muncy stated that there is an important commitment to the PPA that the project will operate as authorized to provide the level of protection as authorized and that the sponsor is responsible for the life of the project to maintain the ability to operate as authorized. Member Sferrazza referred to Mr. Muncy's comment that it is up to the Flood Project to determine how that process occurs. She asked in his experience if that is something that each local government could potentially do on its own when a development review comes forward. She explained that there are three local government entities involved in the Flood Project. Mr. Muncy stated it could; however, there could be a problem with the determination of who has jurisdiction over what, which can be quite complicated. He added that the alternative would be that one agency would provide the review and make the determination.

Mr. Muncy referred to the PPA, who the signatories are, and what are the responsibilities. He stated that the local responsibilities are spelled out. He stated there are basically three avenues of signing a PPA, two of which include one signature besides the Corps; another is a signature by multiple sponsors. He stated in the past the Corps normally had one signer. He added that the Corps' Model Agreement is based on that concept, which is preferred by the Corps. He stated the reason is that it is simpler to negotiate the PPA and the contract and to move forward in a simpler fashion because the process has already been agreed upon. He stated the first of the two options requiring one signature in addition to the Corps is based on a JPA-type authority where there is one sponsor. He stated that the signer of the PPA is the responsible party with which the Corps works and has all the legal protections and responsibilities. He reiterated that the signer would be responsible for everything, including making a determination during the development review process as to any potential impacts. The signer is also responsible for land easements, rights-of-way, relocations and disposal areas, and providing the proper amount of cash to cover their part. He summarized that the signing agency is responsible for all of those issues, which from the Corps' perspective is easier to manage with one signing agency.

Member Sferrazza stated that in her opinion, it seems that having one signing agency would be helpful in speeding up the review and authorization process. She asked Mr. Muncy if typically PPAs are implemented with a JPA-type authority or one signing agency. He stated yes most of the agreements are based on one sponsor. He stated that there is another one-signature type agreement that is used by the Sacramento District. He explained that the Sacramento District deals with the State of California, which has processes and regulations that require them to have local cost agreements with different agencies. He stated that under that situation, for instance Washoe County would sign the PPA and have local cooperation agreements with those determined to be local cooperation agencies. He further explained in that case, the Corps would officially recognize Washoe County as the primary legal signer and responsible party, which would make Washoe County responsible for the associated agreements with other agencies. He clarified that the Corps tries to avoid making recommendations for how agencies wish to enter into agreements with the Corps. He reiterated that the third option is to have multiple signing agencies.

Member Larkin asked while the Corps is not in the business of advising agencies on such issues, what is the best practice. Mr. Muncy stated that the best practice has been one agency signing and working with the Corps because as he explained, the process is much simpler to deal with any associated issues. He added that this is a very complex project and if it receives

authorization as expected, there are many elements to be addressed, such as cost sharing. Member Larkin asked if Mr. Muncy could provide any examples of projects across the United States in which multiple agencies have been involved and the outcomes.

Mr. Muncy stated that the Corps is pretty limited in its experience of working with multiple signature agreements. He added that a copy of a sample agreement with two signing agencies, State of California and City of Marysville, was provided to Members. He explained that the reason for two signers was the concern over California's budget and whether it would be able to provide the required money in a timely manner. City of Marysville signed the agreement so that in the event that the State could not provide their part of the cost sharing agreement, the local sponsor could provide the funding in order to move forward with the project. Member Larkin clarified that the issue was financial, not operational, with which Mr. Muncy agreed.

Mr. Muncy explained that per the document provided to staff, the Corps would prefer to have a single signature; however, there is a methodology to address multiple signatures. He reiterated that in such a situation, each signing agency is responsible for the execution of the agreement, which refers to each entity as the non-federal sponsors so each is held jointly responsible. He stated that the issue could arise over agency responsibility for a particular issue, which would present complexities; however, he reiterated that it could be done. He stated that another alternative could be to lay out separate responsibilities in the agreement per signature. He added that if that alternative is desired, it would have to be part of the decision document or would have to be approved by Headquarters. He stated, for example, one agency might only be able to provide cash, where another agency would be required to provide all the land easements and rights-of-way. He stated that other responsibilities could be divided; however, it would complicate the coordination factor, which would require approval by the ASA. He added that with such a draft agreement, there are many concerns that there will be inadvertent problems with possible omissions in the agreement.

Director Duerr referred to the Model Agreement and stated that the community was concerned that each legal signatory would have responsibility for the entire project. Mr. Muncy reiterated that the Corps has been involved in multiple signature agreements and has yet to run into problems. He explained however, in the past the multiple signature agreements have focused on one purpose project; whereas the Flood Project has three purposes and could lead to misunderstandings over responsibilities. Director Duerr clarified that the key components would be flood control, restoration projects, and fish passage and recreation.

Member Sferrazza stated that many of the Truckee River Action (TRAction) projects have been implemented and asked what would happen if others, such as the Virginia Street Bridge or the North Truckee Drain Relocation began construction prior to congressional authorization. Mr. Muncy stated that two authorities allow the process to occur, one being the Section 104 (several of which have already been approved by the ASA). He added that the Flood Project also has the authority of Section 113, which allows projects to begin prior to the final authorization as long as they have been approved. Member Sferrazza asked if those would be funded by the local match. Mr. Muncy stated that part of the ongoing process is to determine how the local match dollars spent will be credited in the local match that goes forward. He reiterated that projects can be implemented without waiting for the final authorization and will be included in the current report, which will explain how the funds were used as part of the local match to be credited.

Member Larkin referred to item number two, which says, "Any divided responsibilities must be coordinated with the vertical team." He stated he doubts that more than three people at this

table know what the “vertical team” is. He added that the Corps can not even agree with its vertical team. He asked for Mr. Muncy's comments on the vertical team process of the Marysville project. Mr. Muncy stated he does not have any comments to share in that he is not real familiar with the process. He explained that the District has a certain perspective; and locals, the Regional Office, and Headquarters will each have a different perspective. He summarized that even so, we will come to agreement although it will take time.

Member Larkin again asked for any other comparison that has worked well. Mr. Muncy stated he did not come prepared to talk about such comparisons; however, he offered to go through his information to see if he can find such a comparison. Member Larkin stated that he is hearing that type of variance is beyond the level of the Sacramento District, with which Mr. Muncy agreed. He thanked Mr. Muncy.

Chair Smith called for further questions or comments. Director Duerr stated that Mr. Muncy was beginning to mention the responsibilities and duties of the local sponsor, which are listed in the packet and include lands, easements, rights-of-way, relocation, disposal areas, records, local cost sharing, paying operation and maintenance (O&M) costs, and debt service. She asked if Mr. Muncy had any further comments on the issue.

Mr. Muncy stated that in his experience with the Sacramento District, one of the biggest challenges has been keeping the local cost share agreement updated and how it has been provided and documented. He added that once the PPA is signed with several different authorities and several methods of payment, it is very important to keep exact records of what is being spent for what purpose. He advised the FPCC to have staff in place that can adequately keep the records. He provided an example of a dam that was built in Utah in 1985 and the records were just closed this year. He again stressed the importance of good record-keeping on the federal appropriations versus the non-federal appropriations.

Chair Smith referred to the money already spent by the Flood Project and stated that by the time the project finally gets authorized, it will probably be over \$100 million and asked if in Mr. Muncy's experience, when payment is authorized if the money already spent is normally paid back immediately or do they provide annual payments so that we are constantly working from the local funding. Mr. Muncy stated that the bad news is that there is currently no cost-sharing agreement in place; so there is no mechanism for recognizing money already spent. He stated that unofficially it is recognized that a lot of money has been spent, for which credit is not available right now. He stated that once the agreement is signed, money spent will be a credit towards the local cost share.

Mr. Muncy stated that the Corps recognizes that land has been purchased, for which regulations and policies allow the Corps to provide credit through a process. He explained that currently there is no legislation for the Flood Project to receive credit for the costs incurred without special legislation. He stated that once the PPA is signed, it will address the items for which the Flood Project will receive credit, along with all the processes that must be in place. He added that another consideration is how much money is appropriated from Congress each year.

Chair Smith asked if the project is a \$1 billion project, which is divided between \$30 to \$40 million per year, if that funding would credit money already spent or if it would be for additional work. Mr. Muncy stated that when the PPA is signed, Congress is basically providing \$40 million per year (or whatever amount), at which time the Corps' responsibility is to construct a project. He clarified that the majority of the money, if not all, would be used toward constructing the project. He added that there is a 5% cash requirement for the local share. He stated that the

lands, easements and rights-of-way would serve as a credit and the Corps would use the remaining \$40 million to complete design and build the project. He explained that the intent of Congress when they provide funding is for the Corps to be in the position to finalize designs and get into construction.

Chair Smith asked whether the 5% cash requirement could be in the form of work that has already been done. Mr. Muncy stated no, it would be additional funding. He explained that the policy for the 5% cash requirement is for the flood damage reduction piece only, which is 5% of the total project cost (i.e. 5% of the lands, 5% of the construction, 5% of the design and 5% of the relocations). He clarified that he believes the 5% is all the Flood Project will have to come up with, provided that the 35% local match is granted.

Katy Simon, Washoe County Manager, referred to a document, "Truckee Meadows GRR Feasibility Reset Plan (11/18/10)" and stated she assumes it is a Corps-prepared document. She referred to a summary schedule in the document and stated that the Reset plan (vertical team) meeting includes talking points, one of which states, "We will need local cost share letters by the Alternatives Formulation Board (AFB) meeting April 5, 2011." She stated she needs to understand what it is that the County will be committing to by April 5, 2011.

Ms. Kirchner explained that it would be an expression of the County's intent to cost share and be the sponsor for implementation of the project and the intent to enter into the cost share agreement. She added that it is basically confirmation from the County that it is able to enter into the cost-sharing agreement and is able and willing to sign for the items of local cooperation that have been discussed. She stated that the cost share letters, in and of themselves, are not legally binding documents; however, it is an expression of the County's intent and ability.

Chair Smith called for additional questions or comments. He thanked the Corps and attendees for the great questions and discussion.

Colonel Kiger stated that the Corps will meet its commitment to the timeline for the Reset plan.

6. GOVERNANCE AND COORDINATION OF FLOOD PROJECT – 9:38 a.m.

Chair Smith explained that during this agenda item, discussion would be allowed without formal raising of hands or being called upon. He referred to the JPA, to which approximately 15 additional edits have been made.

Director Duerr reported that she was asked by the Managers to briefly remind the group how the Flood Project has gotten to this point, including some key milestones. She stated that in February 2009, prior to a joint meeting, Mr. Salter and she visited with the Board and discussed six alternatives for possibly setting up a new governance model. The alternatives include the JPA, a general improvement district model, a flood control district model, and three different versions of an interlocal government model, which had different levels of centralization and decentralization. She reported that at the joint meeting, the collective body took separate votes and unanimously selected the JPA as the preferred method. She stated that her understanding is that the JPA was selected because it has been used many times in the community, with which the community has been generally satisfied. She added that the JPA provides the councils and commissions the opportunity to appoint Members to represent their body.

Director Duerr stated that the JPA required additional legislation, for which she and all the partner representatives visited the Legislature in Carson City. She added that a bill draft was

proposed on behalf of the Flood Project by the Committee that Oversees the Western Regional Water Commission (WRWC), Senate Bill (SB) 175, which passed. She stated that the bill included key principles that would allow for a flood JPA and would allow the Authority to establish a fee for support of the project. It would also allow the project to access the County Bond Bank and other provisions. She stated that the bill passed almost unanimously in both Houses of the Legislature. She stated that once passed, staff began developing Key Provisions of what a JPA would look like, which were presented to each of the councils and commissions.

Director Duerr stated at the joint meeting in February 2010, a unanimous vote was held to move forward with a JPA under the Key Provisions, which included the nature of the organization, who would represent the JPA, what it would do, how it would be governed, how voting would occur, how it would be dissolved, what the regulatory planning and power would be, emergencies and flood warning, the 1/8-cent sales tax, and rate making powers. She credited Mr. Salter for developing the document, which was a summary of many meetings of discussion. She stated that many of the participants in the JPA development process were present today at the Retreat.

Director Duerr reported that the Key Provisions were adopted by each individual entity (Reno, Sparks and Washoe County). She stated once that occurred, staff began drafting the JPA document. She again thanked Mr. Salter for his work on drafting the JPA. She stated that many meetings were held, including those with the County and City Managers, Katy Simon, Shaun Carey, and Donna Dreska. Once approval was received by all, the draft document was published in October 2010. A Town Hall meeting was held, in which the public made numerous comments and asked questions.

Director Duerr stated that there were two main focuses of the regulatory roles, the first of which is to "protect our protection". She reported that the Flood Project has a responsibility to protect the investment in the project and to not undermine the level of flood protection. There is a Corps requirement to annually report the level of flood protection. She added that the FPCC also has the responsibility to ensure that the project is maintained and that floodplain information is distributed. She summarized that the Flood Project has to ensure that all new development recognizes the existence of these facilities and their importance.

Director Duerr reported that public workshops were held where public concerns were expressed. Staff began a three-month process of visiting independently with the concerned entities (approximately 20). She added that FPCC Members were present at many of the meetings. She stated that every time there was a proposed change to the JPA draft, the team reconvened, and vetted the change(s) with the attorneys and technical staff to reach consensus. She summarized that the result of all that work is included in the package in the form of a JPA agreement showing all of the additions, deletions and revisions.

She explained that one change, based on concerns from the regulated community, was to add a "grandfathering" clause that if a development has already received a planned unit development (PUD) approval, it does not need to be brought before the Flood Project staff for review. She added that one concern was that new development would require a permit from the Flood Project, which is not the case. She stated that what the Flood Project was seeking is the authority to review development applications as do other boards, such as the school board, RTC or District Health, in order to provide comments to Planning Commissions for consideration as appropriate.

Director Duerr stated that today's focus is on the January 10, 2011 version of the JPA. She reported that staff has heard from the community and partners that there are other changes they would like to see. She stated she would like to credit new member Dave Aiazzi, who has spent a large amount of time reviewing the draft JPA. She stated that Mr. Salter and she have examined ways to incorporate further comments or ideas from Member Aiazzi, which she believes are on behalf of City of Reno as a whole. She stated there may also be Members of the Flood Board, Managers, key staff and attorneys who wish to make further corrections or additions to the JPA, which will be done during the meeting.

Member Sferrazza asked if the concept of the interlocal provision would be reviewed and discussed during this meeting, to which Director Duerr stated yes. Member Sferrazza stated that the JPA did come before the Reno City Council and added that she has always been in favor of the JPA. She added that she is concerned with the interlocal provision because it would require legislative changes. She stated that she would like to ask her colleague from City of Reno (Member Aiazzi) for his support of the JPA during this process. She stated that her questions were addressed by the Corps today, primarily that it is important to have one sponsor of the Flood Project, which needs to move forward. She agreed that Member Aiazzi spent a lot of time reviewing the document. She added that she believes some further technical changes are needed in relation to what is being promised to the public in terms of flood reduction and damages but reiterated that she thinks the JPA needs to move forward.

Chair Smith stated that the plan is to review the JPA and make any necessary changes and if desired to pull the presentation of the Interlocal Agreement following this item. He stated that over the last three or four months, all the meetings held with the community were absolutely appropriate; all of the questions and concerns raised serve to make the JPA stronger. He added that he appreciates all of the concerns raised by the community and the input received.

Member Larkin referred to the comparison between the JPA and the Interlocal Agreement and stated that he would like to see the presentation, as requested by Reno City Council. He added that there are Members of the community that are not as informed and this would be a good opportunity for them to hear the comparison. Chair Smith reiterated that a presentation of the Interlocal Agreement could be made after the presentation of the JPA.

Member Martini agreed with Member Sferrazza that we need to move forward with the JPA. He added that he read the Interlocal Agreement from the City of Reno and asked Mr. Salter if the changes made to the Interlocal Agreement could be incorporated into the JPA. Mr. Salter stated that he believes most of the proposed edits could be accomplished under the JPA. He added that there are a couple of issues about decentralization that might be rough to work through; however, probably 98% of the Interlocal's goals could be achieved through the JPA. Member Martini stated it sounds like we are very close to being able to move forward with the JPA, which he believes should be done. Mr. Salter agreed that we are at about 95% agreement on the JPA.

Chair Smith opened discussion of the JPA and asked that if Members had questions or comments to refer to the page and section number for discussion.

Director Duerr stated that she had not heard any suggested edits or changes to Articles 1 or 2 but invited comments. She clarified that the JPA could also be called an Interlocal Agreement or a Cooperative Agreement; however, it is called, "The Truckee River Flood Management Authority Agreement".

Member Aiazzi referred to page 6 and asked if “key tributary” was deleted. Director Duerr reiterated that no changes have been made; however, it could be changed at this time. She directed Laura Bayer, Flood Project Administrative Assistant, to make the change to the definition under Article 2. Chair Smith suggested going through the document page by page, with which Director Duerr agreed.

Director Duerr referred Members to the text of the document and began with page 1, “Interlocal Cooperative Agreement”.

Page 6 – “Key Tributary” - Director Duerr stated that this phrase is used primarily in the regulatory section, which is Article 4. She stated there was a proposal that rather than naming only three water bodies, all 21 could be named. She stated that the definition could also be changed to reflect waters that drain into the Truckee River watershed, which is supported by staff because there are many unnamed sources of water that drain to the Truckee River. Member Aiazzi mentioned that by defining “key tributary” and then later saying the regulations will be for the key tributaries, if an entity is not on the key tributary list, it is not regulated. He suggested either expanding the definition to what is intended or removing the definition entirely and adding staff’s recommendation, “if it flows to the Truckee River, it will be regulated”.

Member Sferrazza asked if a vote should be taken on each individual suggestion. Chair Smith suggested that if no objection is heard, a vote is not necessary on each individual item. He asked Mr. Salter for his opinion on the suggestion. Mr. Salter stated that the definition could be eliminated, which would have an impact on two sections of the document, one being the regulatory authority of the agency to review and comment on development applications and the other under the emergency management section. He reiterated that he thinks it is possible to eliminate that definition and the reference to “key tributary” within the agreement. Director Duerr asked Mr. Salter if he would recommend replacing “key tributary” with “Truckee River watershed”. Mr. Salter stated the issue of exactly what should be referred to the Authority has been discussed at length because the Authority does not have the right to say “no” to anything. He added that Chapter 278 grants all land-use power decisions to the local planning commissions. He stated that the intent under Article 4 of this Agreement was to provide the JPA the authority to review certain applications and comment to the Planning Commission as to whether or not those developments would have an adverse impact on the flood facilities being built.

Mr. Salter stated that much time has been spent trying to define, narrow and limit in nature the type of applications that would be submitted to the JPA because we do not want to see signed permits or a vast majority of applications. He stated that in the beginning, it was determined that one of the criteria for the type of application that would be presented to the JPA for review and comment would be those developments... Member Larkin interrupted Mr. Salter and stated that the FPCC understands the history but the question raised by Member Aiazzi is why “key tributary” is used. Mr. Salter stated he believes it could be eliminated. Member Larkin asked why it is in the JPA to begin with. Mr. Salter stated because it was one of the regulatory powers that the Authority would have for emergency management. Member Larkin asked for clarification that it is a regulatory requirement, which he believes are the types of responses we want if it is key to the regulatory response or regulatory nature of the agency and stated if that is the case, we do not want to be tampering with that at this juncture, do we? Mr. Salter stated that if we are going to make the change, this is the place to do it.

Member Larkin stated that is not the question; the question is, do we want to be tampering with the regulatory authority nature of the body we are trying to establish. He stated that Mr. Salter

has been a vociferous opponent of trying to tamper with the regulatory nature because we have been trying to balance the JPA and asked if in his opinion, removing “key tributary” would compromise the regulatory nature of the body we are trying to establish. He stated it is a “yes or no” answer. Mr. Salter stated that eliminating the definition of “key tributary” would not have an adverse impact on the regulatory authority of the agency. Member Larkin again asked why it was included in the JPA. Mr. Salter stated it was included because it was one of the criteria thought to be useful in determining which applications would come before the JPA. Member Larkin asked for clarification that this definition is not required to establish the regulatory nature. Mr. Salter stated no, it was one way to do it; however, there are other ways to accomplish the same thing.

Member Larkin asked Member Aiazzi for his opinion. Member Aiazzi reiterated his suggestion of eliminating the definition. Director Duerr stated that the recommendation from staff to clarify the review criteria is to specify that applications within the “Truckee River watershed” would be reviewed. She added that the JPA would cover the entire Washoe County, not all of which is within the Truckee River watershed. She added that the JPA is only seeking to review applications within a limited area. She stated that the tributary approach was one approach; however, staff is recommending that it be replaced wherever it appears with “Truckee River watershed”, which is defined in the community as any place where there is drainage into the Truckee River. She added that water that does not drain into the Truckee River, such as basins in the North Valleys, would not be reviewed.

Member Larkin clarified that anywhere that “key tributary” appears will be replaced by Truckee River watershed and again asked for clarification that it would have no impact on the regulatory nature of the Authority. Director Duerr stated that is correct and added that it does not change anything; it simply clarifies. She added that she appreciates Member Aiazzi bringing up the issue because it would head off questions about which tributaries were meant to be included.

Chair Smith called for additional questions or comments. Member Larkin asked for clarification that if such an item is discussed with no dissension, it would be considered consensus and not requiring a motion. Chair Smith stated that is correct.

Mr. Salter referred Members to the section that references “key tributaries” and stated that if the desire is to change the language at this meeting, discussion will be required; the words “key tributary” cannot simply be changed to “Truckee River watershed” globally. He stated that the definition of Truckee River watershed seems to say that water within the Truckee River watershed would ultimately discharge into the Truckee River, which then gets into the definition of watershed and some of the requirements such as a project that “would ultimately discharge or drain into the Truckee River” will require some language adjustments.

Member Aiazzi referred to e-mailed comments from the Truckee Meadows Water Authority (TMWA) Board, of which he is a member. He stated that the request is to remove section 3.02.B, item viii, to store flood waters of surface detention or retention facilities within or without the jurisdictional boundaries of the authority...”

Member Sferrazza asked if discussion could first focus on section 3.01.D, duration of existence. She stated that one of the concerns raised by the Reno City Council would be creating another government body that will go on forever. She stated she believed that issue could be solved by adding a “reopener” clause over a seven-year timeframe for the JPA and that if all parties agree that modifications are needed, they could be done at that time. She clarified that Member Aiazzi made such a comment at the Finance Subcommittee (FSC) meeting the previous day. She

stated that the intent would be to meet the concerns of the community in that we are creating another layer of government; however, it would be reviewed in a seven-year timeframe.

Member Larkin asked for clarification that the concept would be to keep the language intact with the addition to require a reopener at a seven-year time interval or at some time interval. Member Sferrazza stated that is correct. Chair Smith clarified that the intent is to add a reopener that would occur seven years from the date the JPA was signed; which would require discussion to begin six months prior to that date. Member Sferrazza agreed and added that the addition would be no different from other agreements, franchise or otherwise.

Ms. Simon stated that in light of the Corps' requirement that provisions be made for the sponsoring agency to operate and maintain the project, it might need to say, "The Authority shall remain in existence for the operation and maintenance of the project unless and until amended or resolved." She stated that if desired a reopener clause could be included elsewhere in the agreement; however, the Corps needs the assurance that the sponsoring agency (if the JPA is the sponsoring agency) will remain in effect for the life of the project. Mr. Salter mentioned that if this duration language is revised, John Sherman, Finance Director for Washoe County, may have an issue with the financial clause.

Member Sferrazza stated that is not her point; she stated that as Members who serve on local government bodies, it is understood that once a revenue source is dedicated, you enter into bonding agreements that cannot be changed. She explained that the suggestion for the language revision would require that all three governing bodies would have to agree upon any amendments to the JPA, though likely it will not be Members of this current board. She added that it would provide the future JPA the opportunity to determine whether any amendments or modifications are needed.

Chair Smith agreed that the intent is not to change any language pertaining to financing. Mr. Salter suggested that if a reopener clause is desired, it be included under Article 12.01, which refers to the terms of the agreement. He proposed adding a new paragraph, 12.01.C, entitled "Reopening", which would read, "All parties to this Agreement hereby agree to reopen this Agreement on February 1, 2018 and to meet, review and negotiate in good faith all of its terms, provided, however, that the parties may not renegotiate any term or provision that would impair the Authority's ability to meet any of its obligations under any Debt Instrument." Member Sferrazza agreed that was a great solution.

Member Aiazzi again referred to the e-mail from the TMWA Board, which suggests deleting Article 3.02.B, viii. He read from the e-mail, "We have been advised that the Authority could not lawfully store, save, conserve or reclaim floodwaters of the Truckee River or its tributaries for present or future use of the Authority without a water right to do so. Although the document does not define floodwaters, there is no water of the Truckee River including floodwaters, which are unappropriated; therefore, it would not be possible to obtain a water right to do what is provided in that paragraph even if the Authority applied for one."

Director Duerr stated that one of the reasons for the paragraph is that storage (basically detention of flood waters) has been a part of the project for a long time. She referred to the Huffaker storage area, for which the Flood Project does not hold water rights; however, it is provided by Nevada Revised Statutes (NRS) to detain the water as long as it is not used (which would require a water right) in order to keep it from flooding people. She stated that the comment was dropped and another provision was suggested to store water downstream. She stated that Pyramid Lake Paiute Tribe (PLPT) has proposed to store water in the Truckee

Canal. She added that also by providing benching in the river, more water would be stored in the river. She explained that perhaps it is a technicality and added that water goes into critical flood zone one, but it is not be detained there.

Director Duerr reported that originally there was a proposal in the Corps project to build a detention facility at UNR Farms to store water. She asked Mr. Salter if it impairs the ability to create such facilities. She stated that the intent was to let the public know that storing water and preventing it from going someplace was included in the Agreement.

Member Aiazzi suggested that Mr. Salter meet with Mike Pagni, Legal Counsel for TMWA, to make the language acceptable. Ms. Simon suggested revising the language to "In the event of flooding, to temporarily store flood waters in surface detention or retention facilities..." Member Aiazzi agreed to work with the TMWA Board on acceptable language.

Member Aiazzi stated that the next request by the TMWA Board reads, "TMWA asks the FPCC to consider a limitation on powers relevant to the Truckee River Operating Agreement (TROA) identical to those imposed on the Western Regional Water Commission". He explained that the request was to add under Article 3.02.C, number 3, which would read, "The Authority shall not abridge the exclusive power and authority of the Truckee Meadows Water Authority to negotiate, execute, and implement its obligations under the Truckee River Operating Agreement, as the successor in interest to Sierra Pacific Power Company, nor shall the Authority alter the rights and obligations under the Truckee River Operating Agreement or the rights and obligations of the Water Quality Settlement Agreement." Director Duerr stated she believes everyone would be agreeable to that addition.

Member Larkin asked if Mr. Salter was agreeable to that addition. Mr. Salter stated that he has not reviewed the paragraph; however, it sounds acceptable to him and does not sound as if it would create any significant problems for the JPA.

Member Sferrazza referred to Article 3.02.A, ii, and stated that Reno was unable to find NRS 414.490. Mr. Salter agreed it was an error and should be NRS 414.090.

Chair Smith called for a brief recess from 10:15 a.m. to 10:25 a.m.

Director Duerr stated that during the break she was asked by a couple of the people if this type of detailed review of a document was the typical modus operandi (MO) for the FPCC, to which she explained the FPCC has never been engaged in this type of process before; it has relied on staff. She explained that the reason for today's process is that we are at the end of a very long road in developing the JPA and the FPCC expressed its desire to work "hands on" with the document to finalize a few outstanding issues at today's Retreat.

Mr. Salter suggested that while correcting the NRS reference, "and it's key tributaries" be removed from paragraphs i and ii under Article 3.02.A.

Member Sferrazza referred to Article 3.02.A, vii, "To provide financial assistance to owners of public and private properties in areas that are likely to be flooded in order to make such property resistant to flood damage in accordance with NRS 244.3653". She stated that Reno had an issue with the statement. Chair Smith suggested changing the statement to, "may provide financial assistance..." Mr. Salter stated that the "conferred functions" are functions that the Cities and County expect the Authority to do, which is why they are referred to as "conferred functions". He explained that the financial assistance program must be established by an

ordinance of the Board of County Commissioners (BCC); he stated that the Authority cannot impose such an ordinance. Chair Smith asked if the statement needs to remain as written, which Mr. Salter stated would be his recommendation.

Member Aiazzi stated that in speaking with staff, it was determined that Item vii is not something that the Authority is required to do; it is something that the Authority is allowed to do. Director Duerr agreed and explained that in order to provide financial assistance, the Authority would have to approve budget authority and a Truckee River Action (TRAction) project to do so, and summarized there would be many steps in the approval process.

Mr. Salter asked if consensus had been reached on Article 3.02.B, viii related to storing of flood waters. He stated that Ms. Simon suggested adding the word "temporarily" to the paragraph, which would begin, "to *temporarily* store flood waters in service detention or retention facilities within or without the jurisdictional boundaries of the Authority..." Member Larkin stated that he understood the direction to be that Mr. Salter would meet with Mr. Pagni to discuss the language. Mr. Salter agreed to discuss that as well as the water rights issue with Mr. Pagni.

Member Sferrazza referred to 3.02.B, xiv, "(a) to acquire and provide without cost to the operating entity the land..." and asked if it had been discussed at the FSC meeting. Mr. Salter stated the recommendation was to revise it to read, "(a) to acquire and provide *with or without* cost to the operating entity the land..."

Member Sferrazza next referred to 3.02.B, xix regarding employment and employee benefits, including retirement, health, vacation and leave benefits, and stated she does not understand why this would be part of the JPA. Member Larkin stated it is included because the JPA will actually be the employer. Member Aiazzi stated that it was explained to him that this paragraph in the Agreement provides the authority to the JPA to hire employees. Director Duerr explained that the JPA can determine its hiring requirements; however, without this paragraph the JPA cannot hire any employee; it must be spelled out as a conferred function. Member Larkin stated that the language is similar to TMWA's JPA.

Member Sferrazza asked Member Aiazzi if the Finance Subcommittee discussed Article 3.02.C, number 2, "the governing body of the affected member shall promptly consider the request in its sole and absolute legislative discretion." She stated that Reno City Council thought that "promptly" should be spelled out, perhaps "within 90 days". Mr. Salter agreed that is a good idea and recommended making the change.

Member Aiazzi referred to Article 3.05B, "approval of actions". He stated that as a new member of the FPCC, he is unsure why the membership of the JPA will be two representatives from each of the three entities. He stated that voting should be unanimous or that the number of voting members should be changed. He added that in order to get approval by the Reno City Council, the current proposed voting structure would have to change.

Director Duerr referred to a few slides that explained the proposed composition of the JPA Board as follows:

- The reason for not including UNR or Storey County is that there is a separate Memorandum of Understanding (MOU) and process for UNR; and Storey County has no flood features to benefit them, only mitigation.

- In trying to determine the number of Board members per partner agency, a couple of representational models were reviewed, one of which specifies representation per jurisdiction based on some metric, such as:
 - Size of jurisdiction area
 - Number of structures damaged
 - Dollar amount of expected damages
 - Number of ratepayers (home, business, government)
 - Amount of assessed value
 - Amount of funding generated
 - Another JPA such as TMWA, or WRWC
 - Another metric

Director Duerr stated that in trying to determine which metric is correct, a persuasive argument could be made for almost all.

- Another reviewed model was the Senatorial model, which is based on equal representation per jurisdiction because:
 - Flood waters do not respect jurisdiction boundaries
 - Flood features must be planned, built and operated together to work
 - Flood features in one jurisdiction can affect flood impacts or benefits in other jurisdictions, even more than in their own area
 - With respect to the Flood Project, "what happens to one jurisdiction does not stay in that jurisdiction"
 - The Senatorial model has worked for 5 1/2 years.

Director Duerr stated that an example model was run based on a goal to fund the National Economic Development plan using fees and sales tax, based on the metric of the amount of funding generated per jurisdiction. Based on that metric, staff ran it through a system with some basic assumptions, such as:

- Board Members per jurisdiction is based on number of ratepayers:
 - 55% Reno
 - 35% Sparks
 - 10% County
- Amount of fees ramp-up or stay constant (low, medium, or high)
- Sales tax income assigned to County and ramps up (or decreases) over time at steady rate
- With 6 Board members: at least one member each, so maximum members each = 4
- With 7 Board members: at least one member each, so maximum members each = 5

The next slide showed a graph of monthly residential rates based on three different alternatives of starting with low, medium or high rates. Director Duerr stated that she had backup spreadsheets available if desired. She explained that when running all the numbers, it mattered how the rates were implemented: when starting with a low rate, a lower amount of money is coming in from fees from Reno, Sparks and Washoe County. When starting with the mid-rate level, the sales tax starts low or at the mid-level, with more being brought in by the 1/8-cent sales tax provided by the fees. She stated that in implementing a constant rate, it equals out so that fees bring in about as much as the 1/8-cent sales tax or even more.

Director Duerr stated that the numbers of members were rounded (you can't have part of a member!) and resulted in the following:

Rate Options	Number of Seats					
	6 Members			7 Members		
	Reno	Sparks	WC	Reno	Sparks	WC
Rates Constant	2	2	2	3	2	2
Rates Start Low	2	1	3	2	1	4
Rates "Smoothed"	2	1	3	2	2	3

Director Duerr summarized that even within one metric (in this case funds), it matters how the fees are actually implemented, which ends up driving who is providing more of the funding at any one time over a 15-year period. She stated that there are many constellations for how to create the Board and any one of the member agencies could argue that they should have more representation. She reported that based on the modeling and results, staff recommended consideration of the Senatorial model of two members each.

Member Aiazzi stated he would "pretend to understand the explanation that if rates are changed, it determines which jurisdiction pays more". He referred to the metric based on the number of ratepayers per jurisdiction (i.e. Reno = 55%, Sparks = 35% and Washoe County = 10%) and stated that it is almost identical to the TMWA Board representation when it was established, which did not equal 2-2-2. He stated that even if the Senatorial model has worked great for 5 1/2 years, so has unanimous voting. He suggested if one is not being changed, do not change the other.

Chair Smith stated that Sparks is in favor of 2-2-2 because we are all at risk. He added that he does not have a problem with consensus voting and added that it has worked for this Board to date and summarized that he could support that. Member Sferrazza agreed on the 2-2-2 representation; however, she stated that when we get to the Corps stage perhaps there would be a reduction in funding, each jurisdiction will have a vested interest and everyone will have their say. She stated that Reno is concerned over the non-consensus voting because one jurisdiction could decide that a project is not needed in a different jurisdiction. She stated she has been involved on the FPCC for many years although she took a leave of absence for one year. She agreed that the unanimous voting structure has worked and the Board has worked together to ensure that each jurisdiction was represented. She summarized that Reno prefers the unanimous voting model.

Member Martini agreed that the consensus voting process has worked well although he is shocked that it did. He stated that the Board has addressed some controversial items but in the spirit of cooperation, the consensus voting has worked. He clarified that he was in support of the recommendation for passage by an affirmative vote of 75% of all the Directors; however, he stated it is not a sticking point and he would support consensus voting for the JPA.

Member Larkin welcomed Member Sferrazza back to the Board and stated she had been missed. He agreed that when the FPCC first entered into the consensus voting model, there was public disdain and critical comments; however, he too agreed that it has worked well. He stated that the reason consensus voting works is that everyone is at risk. He summarized that if the Board has consensus on this issue, we should move on.

Member Sferrazza stated she is aware of staff concerns on the financials; however, once the bonding is approved, it cannot be reneged to the bondholders.

Chair Smith asked if the change to consensus voting can be made. Mr. Salter stated yes; however, he is obligated to make an observation, which is where there is a requirement of unanimity, there is an ability to paralyze the organization very easily. Chair Smith stated that ability has been in place all along. Mr. Salter continued that to date, the FPCC has been doing planning activities and forward thinking; we have not gotten to the point where the entities will be wrangling over money, where it goes and how things are done. He stated that if situations arise where the three governing bodies' interests are significantly impacted, there may be a difference in reaching consensus. He explained that if the JPA goes into unanimity requirement, it increases the credit risk of lending money to the organization because even if it is unanimously agreed to issue bonds, there could be disagreement down the road on how to establish the reserve accounts, where the money goes and priorities, which could make the credit market a little nervous about dealing with the JPA. Mr. Salter stated that being said, the answer to the question of whether voting can be changed to be unanimous is, yes, it can be done. Member Larkin summarized that voting would be made unanimous.

Member Aiazzi stated this discussion is a great example of why the provision for a reopener is needed so that if desired, such issues can be changed.

Chair Smith asked Mr. Salter how he would like the voting language changed. Director Duerr stated that the language will be changed that all votes must be 100%. Mr. Salter suggested that the language in the table related to voting needs to be changed not only to reflect 100% voting but with that in mind, whether it should include the directors and the governing body of each affected member in order to approve changes to the Agreement and proposed amendments or regulatory measures. He summarized that based on the recommendation of the Board, the Directors of the JPA have to approve everything 100%; however, the Agreement also includes that significant changes to the Agreement or withdrawal of a Member require approval of the governing bodies of all Members. Member Larkin stated that would not change.

Director Duerr suggested, and Mr. Salter agreed, that with unanimous voting, the table is no longer needed in the Agreement. Member Larkin suggested that since the table has been part of the Agreement, it should remain consistent and to include the table with the edits.

Mr. Salter referred to Proposed Action 2a regarding voting on proposed amendments to regulatory measures for inclusion in Local Development Codes. Director Duerr stated that voting would have to be unanimous by the Board and if required, would have to be approved by the governing body of each affected Member.

Member Aiazzi asked for clarification of what would constitute a quorum required for a vote, for instance if four Members were in attendance would that represent a quorum. Mr. Salter stated no - a quorum is 100% of the voting Membership. Member Aiazzi asked if that could be changed at this time to be a unanimous vote of those Board Members present. He suggested that a quorum should be a majority of the Members, which for this board would be four Members and if all voted in favor, it would represent a quorum. Member Martini stated that is how consensus voting of the FPCC has occurred in the past.

Director Duerr stated that her understanding of how the current Cooperative Agreement works is that five of eight Members must be present to represent a quorum and under unanimous voting all would have to be in agreement. The voting language was changed to, "affirmative vote

of all of the Directors present at the meeting where action is considered." Mr. Salter stated that there are requirements for a quorum under Open Meeting Law and offered to review and ensure that recommendations regarding quorums and voting comply with State Law.

Member Sferrazza referred to Article 3.07.B, number 2, regarding employees and stated she is not against some of the conclusions; however, she does not agree that they should be spelled out in the JPA. She stated that in later sections, comments are made related to collective bargaining, which she believes limits the Authority under this JPA. Chair Smith asked for clarification that Member Sferrazza is referring to the statement that the Authority is a public employer, to which she stated yes. Mr. Salter explained that the wording is required in the JPA that employees cannot be dropped from the Public Employees Retirement System (PERS). He suggested that it is possible that in the future not all employees of the Authority will be required to be Washoe County employees; and could include independent contractors. He stated that PERS would have to make a determination of whether such employees would be covered. Member Sferrazza stated that is not her issue.

Chair Smith asked where else the reference is to public employees and stated that the Authority needs to be as transparent as possible in everything it does. Mr. Salter agreed and stated this is a typical clause that is included in JPA Agreements and PERS looks for such language.

Member Sferrazza explained that her issue is not with the employees under the Authority or their benefits; however, she is concerned that over the next 15 years, various engineers and independent contractors will work on the project, which will not be full-time employees of the Flood Project. Director Duerr suggested adding a clause that specifies that the Authority may hire independent contractors that will not be employees of the Authority. Member Sferrazza stated that is the current process; however, the language of the JPA would make every employee a County employee.

Ms. Simon stated that "employee" is defined by State Law to not include independent contractors, which the JPA does not have the authority to change. She added that the Authority would have officers and employees but reiterated that independent contractors would not be considered employees. She agreed with the addition of the statement suggested by Director Duerr that independent contractors could be hired by the Authority and suggested the wording to be, "The Authority may engage independent contractors". She added that all of the partners of the JPA have the authority to hire independent contractors as well. Member Sferrazza agreed with the suggestion. Mr. Salter suggested omitting the last half of the sentence, "and all officers and employees shall be entitled to the benefits of NRS chapter 286", so that the sentence would read "The Authority is a public employer under NRS 286.070." Members agreed with the suggestion.

Member Aiazzi referred to Article 3.07.D related to the Chief Financial Officer/Treasurer and stated that it was discussed at that Finance Subcommittee meeting. Mr. Salter suggested that the sentence should read, "The Executive Director may select and appoint *subject to confirmation by the Board*, a Chief Financial Officer who shall, in addition to other duties established by the Board, act as Treasurer of the Authority." Members agreed with the revision.

Member Aiazzi referred to Article 4.02.C, "Policies, Procedures, and Thresholds for Application Review" and stated that City of Reno suggested revisions, including the addition of paragraph 4, "The Authority may allow Members to provide regulatory review consistent with the agreed upon model." Mr. Salter stated that would be an appropriate location for that statement but suggested the wording, "The Authority may allow by Agreement a member to provide regulatory review and

comment on application submitted under paragraph 4.02.B.2.a." He explained that his understanding of the comment is to provide the ability for the Authority on a particular application, you (the city planners or engineers) could provide the review and make comment on behalf of the Authority. He summarized that it would be a delegation back to the governing bodies.

Member Aiazzi stated that part of the concern he heard was on how rigid the Agreement is, providing no flexibility in the future to "do anything". He stated there may be situations in which the local jurisdictions are better qualified to provide such reviews than the Authority. Member Larkin agreed that it would provide direction that it would be a preferred action that the Authority is to follow. Director Duerr stated that it would not necessarily say whether or not it was preferred; however, it would allow for the member staffs to conduct the reviews under an agreement (an agreement would be necessary because it would include terms and conditions, such as which model or what criteria would be used for the review). Mr. Salter agreed that such an agreement is crucial to the process.

Member Larkin referred to the clause related to grandfathering projects that have already undergone and received final approval of a planned unit development. Mr. Salter referred to Article 4.02.B.2.a, related to the section on Local Code Amendments; Content and Adoption, for Review and Comment. He read item i, "All Master Plan updates and amendments initiated *by a Member*" and clarified that Master Plan updates and amendments *by a developer* need not be reviewed by the Authority.

Mr. Salter referred to item ii and stated that the intent was to include that if a planned development or special use permit is under the initial approval process, the application would be sent to the Authority "if the development or project in question would ultimately discharge or drain into the Truckee River or a key tributary". He stated this is an opportunity to change "key tributary" as previously discussed and suggested changing the language to, "if the development or project in question *is within the Truckee River watershed...*" Director Duerr stated that the exception would be for projects that drain into Lake Tahoe. Paul Urban clarified that the Truckee River watershed refers to areas between Tahoe City and the Vista Gauge. Members agreed with Mr. Salter's suggested edits.

Mr. Salter continued and read from item ii (b) that within the Truckee River watershed, "Applications for initial approval of, or amendment to, special use permits and planned unit developments if (b) "it is reasonably believed that the approval sought would potentially change the hydrologic response generated by the project site." He asked Members if that language was acceptable. Members agreed that it was. Mr. Salter suggested adding a provision, "and (c) applications for special use permits are not subject to review and comment by the Authority and need not be sent to the Authority if the development or project in question is a final approved planned unit development." He stated that the intent is that if a planned development has been handbook-approved, even though a developer needs to get maps and special use permits approved in order to implement the project in the handbook; if it has already been approved and is still within the parameters of the handbook approval, there is no need for the Authority to review or comment on the maps or special use permit applications.

Director Duerr asked for clarification based on previous discussion that if there was an amendment to the planned unit development (PUD), the amended PUD would require review by the Authority, to which Mr. Salter stated it would. Director Duerr asked for further clarification that Mr. Salter is referring to the final map that relates to the approved PUD or special use permit, which is not being amended. Mr. Salter stated that is correct and stated that requirement

is spelled out at the beginning of section ii. He directed staff to copy and paste from section iii, "applications for initial approval of, or amendment to, tentative maps if the development or project in question" into the new item ii (c).

Director Duerr explained that based on direction provided today, the JPA would be revised; however, there will be another opportunity for reviewing the revised JPA prior to final approval. Chair Smith stated that it also requires approval by the entities. Member Larkin stated that he does not believe that there will be another opportunity to review the document prior to finalizing.

Member Larkin asked Mr. Salter if based on his discussions with the development community, if Article 4 does not generally recognize statutory limitations, which prohibit imposing new conditions or restrictions on entitled projects. He stated that Article 4 seems to be silent on that issue and asked if expressed language needs to be included that recognizes such statutory limitations. Mr. Salter stated that if desired that language could be included; however, it is not necessary because the Authority has no power to stop any development or to impose new conditions on anyone. He clarified that the Authority only has the power to recommend and comment to the Planning Commissions. Member Larkin stated he understands that; however, he believes there is a difference on the legal viewpoint. Mr. Salter stated he searched for that provision under Chapter 278 the night before but did not find it. He reiterated that if desired, that language, "the Cities and County telling the Authority that it cannot impair or impose (per the language from the Statute)" could be added. Member Larkin stated he believes it would behoove the Authority if the JPA clarified that issue.

Member Sferrazza stated that she assumes Sparks and Washoe County are in the same situation that City of Reno is in terms of receiving requests for extensions of timelines for approval of applications. She stated that in some cases those approvals technically expired based on changes in the environment, and items might be added to or deleted from projects that were previously approved. She stated she is concerned with the language related to prior approvals. She explained that City of Reno is receiving many requests for time extensions for previously approved projects where, for instance, the developer committed to build a roadway within a certain period of time. She asked for clarification of how that issue would apply to the review process for the Authority.

Chair Smith asked if the extensions are being requested in order to change the projects and stated that he believes if it is simply an extension of time, it would not require review by the Authority. Member Sferrazza stated part of her concern is that some of the extension requests are for up to seven years, at which time the Flood Project may be underway, which could be substantially affected by the project. She summarized that by including the language, it could be detrimental in the case that the Corps or Authority finds that a previously approved development could harm the Flood Project. She requested that some thought be given to the issue of timeline extensions.

Ms. Simon stated that her suggestion is that if a project has been approved, it must be honored as approved. She added that if there is an amendment to an approved project; however, the amendment would have to be reviewed because it could potentially change the hydraulics of the project. She reiterated that if only an extension of time for the project is approved, it would not need to come before the Authority for review. Chair Smith agreed with Ms. Simon's comments. Mr. Salter asked for direction from planning staff on what sort of items might require an extension request, other than a tentative map or special use permit, which would have an expiration date.

Neil Krutz, Director of Community Development and Public Works for the City of Sparks, stated that items with an expiration date include tentative maps and special use permits; however, final maps do not. He stated that the vast majority of the development done within the City of Sparks falls under the planned unit development process, which does not expire. He stated he does not see a concern when referring to extension of a tentative map or special use permit. He added that it would not require review by the Authority because it would not change the hydraulic response of the site. He stated, however, if a developer were including an amendment in the extension, as Ms. Simon stated, it would be appropriate for the Authority to review the amendment. He summarized that the text in the JPA currently covers the issue of extensions.

Member Larkin reiterated his question to Mr. Salter based on his discussions with the development community, if Article 4 does not generally recognize statutory limitations, which prohibit imposing new conditions or restrictions on entitled projects. He clarified that Article 4 seems to be silent on that issue and asked if language needs to be included that recognizes such statutory limitations. Mr. Salter stated that the issue requires further review because the idea of changing the rules after a project has been approved would be considered a regulatory taking. He added that he has not found a statute that says that changes can not be made after a project has been approved.

Mr. Salter stated that Susan Schlerf, City of Reno, provided him with a provision that deals only with specific development agreements under a specific statute. He summarized that he would need time to develop language to accomplish Member Larkin's request. He stated that he does not believe the language is necessary; however, if desired he will draft language. Chair Smith stated that the language is already included in the JPA regarding projects that have been approved, with which Mr. Salter and Members agreed.

Mr. Salter referred to Section iii, related to applications for tentative maps, as well as Sections iv and v and stated that each reference to a "key tributary" needs to be changed to "within the Truckee River watershed". He referred to edits made to Section iv, "Applications for grading permits where the grading is part of an overall development or project that (a) has not already been *reviewed by the authority*", which now must be unanimously *approved* by the Board of Directors and the regulations must also be approved by the Governing Bodies of each Member. Mr. Salter stated that the phrase, "would ultimately discharge or drain water into the Truckee River or key tributary" will be replaced with, "are within the Truckee River watershed".

A ten minute recess was taken for lunch from 11:20 a.m. to 11:30 a.m.

Member Aiazzi referred to Article 4.02.D related to the Interagency Hydrologic Modeling Team. He stated that he fully believes the team is necessary; however, he does not believe that full configuration of the team is necessary in the JPA. He explained that the configuration could be agreed upon in some other fashion so that if changes are desired, the JPA would not have to be reopened for discussion. Mr. Salter agreed that could be done; however, he cautioned that if the language is removed, the Cities and County staff will have nothing to say about the model under the JPA. He added that the reason for inclusion in the JPA was to improve the credibility of the model by saying it would be run by all of the entities.

Mr. Krutz stated that in his opinion the Interagency Hydrologic Modeling Team (IHMT) goes part and parcel with the local sponsors' consideration of sharing regulatory authority with the new Authority. He explained that it provides a "seat at the table" to ensure that the regulations that are drafted and come back to the JPA are in fact are done in a shared format. He stated he would like for the language to remain in the JPA.

Member Aiazzi stated that if the local jurisdiction has a problem, they should go to their local representative to ensure that it is addressed. He stated for instance one of his issues is the statement that, "The City and County Manager of the Members and the Executive Director of the Authority shall each appoint an equal number of voting Members to the team." He asked if Reno only appoints one member, does that mean Washoe County and Sparks can only appoint one member.

Mr. Krutz stated that point is understood; however, his point is that so much of the work is done at the staff level so we need to ensure that staff is working at the same level. Member Aiazzi reiterated that he understands that issue; however, the JPA puts it "in granite for all time". Mr. Krutz stated, "as do the regulatory sentences that go part and parcel with this".

Member Larkin asked Mr. Salter for clarification that the reason for inclusion of the hydrologic model in Article 4 is to substantiate the regulatory authority requirements that the JPA will have. Mr. Salter stated that is correct and added that one of the regulatory functions of the Authority will be to administer the model. He added that the language was included to state that in administering the model, the Authority will cooperate with planning staffs of the Cities and County. Member Aiazzi requested revising the statement to read as Mr. Salter's comment. Mr. Salter stated that the intent is to do so through a committee.

Member Larkin referred to Member Aiazzi's comment related to the membership of the IHMT and asked if his opposition is in spelling out the membership of the committee within the JPA because it "puts it in granite". Member Aiazzi stated that is correct. Mr. Salter stated that removing the language would actually improve the regulatory authority of the agency because no longer would the Authority have to clear or coordinate anything with the planning staff.

Member Larkin asked if the language were removed, how the membership of the committee would be specified. Chair Smith clarified that it does not mean that Board Members would not meet with their staff and bring their concerns forward. Mr. Salter stated that is correct; it would just remove the mandatory requirement. Member Aiazzi reiterated his suggestion to enter into a separate agreement that defines the membership of the modeling team.

Director Duerr agreed that the team membership could be specified in the JPA or a separate document, as a Directive of the Board. Member Larkin asked for clarification that the requirements to exhibit regulatory authority is based on a modeling process and asked whether membership is or is not a component of the regulatory nature. Mr. Salter stated that it is not a necessary component of the establishment of the power. Member Larkin asked what if the language were removed and it was decided that only non-professionals and lay persons that have no idea of the hydrologic model were appointed. Mr. Salter stated that could not happen unless the Board unanimously approved such membership in a separate agreement.

Member Larkin suggested keeping the language regarding the regulatory requirements of the hydrologic model; however, removing the requirements of the committee to be of a certain kind or type of person. Member Aiazzi agreed and added the committee members would not even be required to be of this jurisdiction; Members could appoint whomever they wish.

Jay Aldean, Deputy Director of the Flood Project, reiterated Director Duerr's statement that staff can live with the membership requirements under a separate agreement and agreed that it might be easier. He reminded Members that the hydrologic model is one tool of many that will

be utilized in performing reviews. He added that sometimes the model will not be run because it will not be necessary due to our (staff's) expertise and knowledge of a particular area.

Member Larkin stated he does not believe the desire is to remove the language but rather to clarify it. He referred to the statement that, "The Executive Director shall assemble and administer an Interagency Hydrologic Modeling Team to advise..." and stated that language is probably sufficient by itself.

Ms. Simon referred to Article 4.02.C.3 and the sentence, "If the authority develops a regional hydrologic model, it shall cooperatively, *through the Hydrologic Modeling Team*, establish policies and procedures regarding ownership, quality control, quality assurance, operation and use of such model, including the use of the model by private entities." She suggested that the sentence could be revised to eliminate discussion of the "Hydrologic Modeling Team". She summarized that the intent is that the entities will cooperate; however, she agreed that the membership does not have to be specified in this Agreement. She added that Article 4.02.D.1 could be deleted.

Member Larkin asked Mr. Krutz if those deletions would substantially compromise the concept of what the interagency committee would do. Mr. Krutz stated he did not believe that it would and stated that the suggested language would address his concern that essentially the local governments would continue to have a seat at the table in developing the regulations.

Member Aiazzi suggested removing paragraphs 2 and 3 under Article 4.02.D, with which Members agreed.

Member Aiazzi referred to Article 6.01 related to Fees, Rates and Charges. He asked if the Authority would have to go to the Debt Management Commission to get permission to issue bonds. Director Duerr stated that John Sherman would address that issue. Member Aiazzi stated he is just requesting a yes or no answer and if the answer is yes, he wants that language added that the Authority would have to go to the Debt Management Commission.

Mr. Sherman, Washoe County Finance Director, stated that there are two answers. If the Authority issues revenue bonds only, the answer would be no. If the Authority wishes to use the County Bond Bank for general obligation (GO)-backed revenue bonds, the answer is yes. Member Aiazzi asked if that statement could be added to the Agreement. Mr. Sherman stated he did not believe it was necessary because it is set by Statute, with which Mr. Salter agreed.

Mr. Salter suggested simply adding, "If the Authority intends to issue GO-backed bonds, it would have to go to the Debt Commission." Mr. Sherman suggested, "It must be in compliance with NRS 350

Director Duerr and staff agreed to add a third paragraph under Article 6.01.A.1, which would be item (c) that would read, "The County, Reno and Sparks agree that the Authority is a "flood management authority" as defined in NRS 244A.0297 and NRS 350A.055, and non-exclusively delegate to the Authority each of the powers of the parties to issue Debt Instruments for the purpose of a "flood management project" as defined in NRS 244A.0297 and 268.691, in the manner provided in Chapter 350 of NRS."

Member Aiazzi referred to Article 8.02.B, Status of Executive Director. He stated he understands why the Executive Director shall be administratively attached to the Washoe County Manager's Office; however, he was unsure why the benefits would be tied to anything

(i.e. "equal to that of a department head into County"). He stated that should be up to the Authority.

Ms. Simon stated that Washoe County has a salary program that is adopted that includes benchmarks between positions, such as supervisors and directors in relation to other employees. She stated that if all of the employees are in the County system, the department head and the County has a relationship in their pay. She stated it is up to the Authority; however, it does create inequities when a County employee's salary is set by a different group, although it is not unheard of.

Member Aiazzi referred to language in Section 3 that basically says the Executive Director shall be appointed by and serve at the pleasure of the Board. He suggested possibly deleting the statement that refers to salary and benefits, "equal to that of a department head in the County".

Member Sferrazza suggested striking all of 8.02.B because the JPA already says that the Executive Director works for the Board of Directors. Member Larkin stated that the wording could be changed as requested; however, the Authority needs to work under the County system. He explained that TMWA went through the same process when establishing the JPA.

Discussion ensued about whether to strike the entire paragraph or the statement, "equal to that of a department head of the County", which Members agreed to strike the statement only.

Member Aiazzi referred to Article 10.05 and asked why the North Truckee Drain Relocation Project is the only listed TRAction project in the JPA. Mr. Krutz explained that it was included in relation to the River Flood Protection rate that City of Sparks has been collecting to fund its portion of this larger Flood Project. He stated that Sparks felt it was appropriate to include in the JPA language an explanation that once the new fees are enacted, Sparks will simultaneously eliminate the current fee. He stated that Sparks also felt it was important to describe what the funding has been spent on that has been collected to date by Sparks, as well as to include timelines for the Authority to begin collecting the fees. Chair Smith added that Sparks has been collecting those fees for two years.

Member Aiazzi asked for clarification that once the Board adopts a new fee structure, Sparks is required to drop their fee structure. Mr. Krutz stated that is correct. Member Aiazzi stated that concludes his questions and comments on the JPA. Chair Smith called for other questions and comments.

Susan Schlerf referred to a couple of typos under Article 4.08, Emergency Management Obligations and Powers of the Authority. She stated that NRS chapter 414.095 is misleading because it references people with pets and suggested dropping the .095. She also stated that NRS 404.110 was incorrect and should be changed to 414.110. Staff agreed to make the edits per Ms. Schlerf and Mr. Salter's clarifications.

Presentation of Reno's Interlocal Agreement

Chair Smith welcomed Ms. Schlerf to present Reno's draft Interlocal Agreement. She reported that Reno City Council requested that City staff address some of the issues as they relate to a concern by the community over review and land use changes and future development proposals, as well as staffing resources needed for a separate agency. She stated that handouts were provided to Members that compared the Interlocal Agreement to the JPA from the City of Reno's staff perspective. She stated that it was never intended by Reno staff that this

would be a Board with three different signing authorities. She stated that the Interlocal is intended to have single signing authority.

Chair Smith requested that Ms. Schlerf review the highlights. He stated that he believed the big difference would be that the County would be the lead agency and would be responsible and liable. Ms. Schlerf stated that is correct. She added that under the Interlocal, there would be no new agency. She apologized that she did not incorporate comments from Ms. Simon on the Interlocal but welcomed them at this time.

Ms. Schlerf asked that in listening to the concerns of the community and while local governments are being asked to consolidate services and processes, is the JPA in keeping with the community's request to consolidate staff functions. She provided the following comparisons between the JPA and the Interlocal Agreement.

JPA	Interlocal
Would be a separate agency	Would be under the auspices of Washoe County as the lead agency
Would be similar to the Interlocal	Administrative functions and project management would be mostly centralized or decentralized
Would be the signatory with the Corps	Washoe County Board of Commissioners would be the signatory with the Corps
The FPCC will become the JPA when it becomes effective and will continue to establish the priorities of the projects, funding levels and continued administration throughout the life of the Flood Project	The FPCC would continue to exist and would assist with establishing priority of the projects, as well as establishing funding options and would disband after that time. The staff at that time would be assumed or subsumed under Washoe County Public Works, as opposed to being separate staff. The FPCC would be responsible for: Phase 1 - planning and scoping Phase 2 - construction Phase 3 - maintenance of the facilities and continued reporting to the Corps
Land and facility ownership would remain the same. Some facilities could be owned by the JPA or the individual entities, which would be subject to coordination and oversight with the Corps	Land and facility ownership would remain the same. Some facilities could be owned by the County or individual entities, which would be subject to coordination and oversight with the Corps
Would set and impose rates	Two options for rates: If Washoe County sets the rates, the State Legislature would have to grant the regulatory authority to do so. If the three entities were to hold rate hearings and adopt rates at a joint meeting, it would be allowable under State Law.
Would be an additional entity in the area for regulation and hearing public concerns	Would continue to use the BCC with its duties, responsibilities and liabilities, which would be addressed by the Interlocal Agreement
Representation of the governing boards would	The BCC is set by Statute and the issue of

be 2-2-2, including the five elected officials	voting requirements would be determined
The County Bond Bank would be used for funding	The County Bond Bank would be used for funding

Ms. Schlerf summarized that her presentation was based on a request from the Reno City Council that this comparison be presented to the FPCC and the community, upon which to base its decision on whether an additional entity is warranted when we are looking to consolidate functions of local government. She reiterated that Ms. Simon's comments did not get incorporated into the document and welcomed her input.

Ms. Simon stated that she appreciates the direction that Reno staff received from their Council and the dialogue that has occurred. She stated that she would not speak for the BCC; however, she stated that staff's recommendation to the BCC is that they examine some of the problematic issues, which include:

- Rate setting under the Interlocal Agreement would require legislative changes if the County were to impose rates
 - If the County is responsible for providing the local cost share to the Corps, but is dependent upon a vote by the governing bodies to produce the funding for the local cost share, not only is that not advisable but it could impair the County's bonds by holding the County responsible without having the full authority to impose the rates
- The liability associated with the proposed Interlocal Agreement would be an issue in relation to operation and maintenance of the facilities, for which the County would be responsible under the Corps' requirements; however, the County would not have the authority to oversee the execution of the operation and maintenance.
- She stated she used the following example with the Builder's Association in an effort to clarify the liabilities that would be put on the County, such as:
 - If during a very significant flood event, for example, significant damage occurred to the Rainbow Bend subdivision, the County would be responsible for the liability. Under that scenario, there could be concerns over the design, construction or operation and maintenance of the project even though individual entities could own and operate individual flood features or facilities. She summarized that the County would still be the first to be held responsible and liable.

Ms. Simon summarized that the County professional staff's recommendation to the BCC regarding the Interlocal Agreement would be to not support taking on such a large role. Ms. Schlerf stated that those issues could be dealt with by County and City of Reno staff in finalizing an Interlocal Agreement.

Chair Smith called for further questions or comments. He welcomed Member Humke, who joined the meeting.

Member Aiazzi stated that having attended the City Council meeting and hearing staff's presentation on an Interlocal Agreement; and based on the revisions to the JPA made at today's meeting, including the reopener clause, the revised voting structure, grandfathering in

previously approved developments, and Ms. Simon's comments related to the associated responsibilities and liabilities; he would like to make a motion.

Member Aiazzi made a motion to move forward with the JPA to the local governments with the changes made today and knowing that two items would be brought back for discussion; one to include the language regarding TROA from the TMWA JPA; and the wording related to the reopener clause. Member Martini seconded the motion.

Chair Smith stated that prior to taking a vote he wished to invite further public comment.

Perry DiLoreto, Damonte Ranch, Inc., thanked Members for the opportunity to speak on this issue. He stated that the group's perseverance and patience has been exemplary and he commended all involved on this difficult subject. He added that no one could say the JPA was passed without knowing what it contained. He stated that he has had ample opportunities to present his views and stated that his purpose for speaking is to express his appreciation of the depth of the elected official's investigation and deliberation prior to making a decision, even though he might not fully agree with it. He stated that he is the developer for a 2,000-acre master-planned community called Damonte Ranch. He stated that he has a responsibility to protect the integrity of the approvals that are in place and is therefore particularly concerned with the grandfathering provisions. He stated that flood control at Damonte Ranch was accomplished by extensive collaboration with Washoe County, which initially approved the project. He stated that Damonte Ranch, Inc. designed, with the assistance of the County flood managers, a regional facility with private dollars from his company, for which the only reimbursed fees are in the form of impact fees. He stated there was no risk or cost to the taxpayers.

Mr. DiLoreto stated that the project does have complete approval and a final Letter of Map Revision (LOMR). He stated that the purpose of his comments is to try to protect against unintended consequences. He added that he believes everyone, at least on a technical level, has agreed that if a master-planned community is approved that unless a change is requested regarding the use of the development, the project will not be subject to further review and additional regulations that may be imposed. He reported that his attorneys worked with Mr. Salter, who demonstrated a great deal of patience, and reached agreement on the important issues. He stated for the record, that he believes he understands what he is being told, which is that the integrity of the plan will be honored and respected and will not be subject to additional review. He added that by the way, every homeowner and business in Damonte Ranch contributes to flood control and in structuring the project with Washoe County, he believes that they demonstrated that we need to take care of ourselves and do the things to protect properties. He stated that he believes Damonte Ranch has done so and he believes the JPA does that as well.

In closing, Mr. DiLoreto cautioned that one of the biggest elements of the plan is the flood control model, which is an engineering / computer model. He stated that he has worked with many engineering and computer models. He requested that Members review the model as closely as they have the JPA. He added that "models have a way of trapping you, even with the best of intentions and engineering intelligence put forth; flood control is still a lot of art. There is a lot of science; but there is a lot of art." He stated that when one component is changed in the model, something else gets changed as well. He again cautioned against the community being trapped by the model, which deserves a lot of examination. He again thanked Members for the opportunity to comment. Chair Smith thanked Mr. DiLoreto for his comments.

Chair Smith invited Burnham Moffat to speak. Mr. Moffat, private citizen and longtime member of the Flood Project Working Group, stated he agreed with Member Aiazzi that we need to move forward with the JPA and have a single point of contact with the Corps of Engineers. He stated having a single board of six directors providing direction will save the Cities and County a fair amount of time related to meetings and tracking what has occurred. Mr. Moffat stated that a technical point on the use of the hydrologic model is that it is a technical tool and he did not feel that it even needs to be mentioned in the JPA. He clarified that it had already been defined what items must be submitted to the JPA for recommendations and comments, most of which will be based on technical grounds. He stated that the technical tool to be used should be based on the recommendation of staff of the JPA as approved by the Board of Directors. He added that the discussion of the model gets into too much detail and recommended that it not be included. He thanked Members for the opportunity to speak. Chair Smith thanked Mr. Moffat for his comments.

Chair Smith called for further public comments and hearing none, closed the public comment period. He invited Mr. Muncy to continue his discussion.

Mr. Muncy stated that the Corps has some concerns with some of the language in Article 5 of the Agreement. He apologized and explained that staff was further reviewing the Agreement during the meeting. He referred to Article 5.05.A and stated he is unsure of the intent of the paragraph. He stated that in accordance with the Project Partnership Agreement (PPA), Article 2, paragraph 1, the Corps of Engineers is assigned the responsibility for constructing the project. He stated that provisions are outlined in the responsibilities of the local sponsor. He stated that Article 5.05.A gives an impression that the JPA has the authority to enter into construction contracts to build pieces of the project; however, even if the Corps is authorized to do so, the JPA does not have that authority. He suggested that perhaps the paragraph, which reads, "As funds become available, the Board shall plan, schedule and enter into and administer contracts for the construction of all Flood Management Facilities in accordance with the PPA and approved capital improvement plans", could be deleted.

Mr. Salter stated that the JPA includes language that recognizes that the Corps will design and build the project. He stated that the intent of the paragraph was to instruct the Board that as money becomes available, it has to plan and schedule projects. He agreed that perhaps it was over-worded. Member Larkin suggested changing "shall" to "may".

Mr. Muncy stated if that is the intent of the paragraph, perhaps Article 5.01.B should be revised. Director Duerr suggested the revision as, "The Board shall, *in conjunction with the USACE*, establish the overall order of construction of the Flood Management Facilities..." Mr. Muncy explained to the Board that the Corps does have policies and procedures of how it proceeds with prioritizing and constructing a project that must be followed; however, the Corps' non-federal partners will have significant input into those decisions.

Mr. Salter stated that another related issue is in Article 5.05.B because even if the Corps is going to build, for example a levee in Reno, the Authority would be obligated to deal with (maintain) the levee after construction, and therefore wishes to determine prior to planning and construction, that agreement is reached on who will own and maintain the facility. He asked Mr. Muncy if that would go against USACE policy. Mr. Muncy stated no it would not because that issue is already covered in the PPA. He explained that the PPA includes a process that prior to entering into a construction contract, the Authority must certify that it has all of the lands, easements, rights-of-way, not only for construction but also for operation and maintenance.

Director Duerr referred to Article 5.05.A and suggested the addition of "as appropriate" to follow "enter into and administer contracts". She stated that another option would be to change the order of the sentence to bring "in accordance with the PPA" to the beginning. She stated that there is the possibility that down the road the Authority might build something separate from the Corps. She mentioned that there have been situations where the Corps has collaboratively allowed a local sponsor to enter into a design-build project.

Director Duerr stated that she and Mr. Muncy have had discussions that if down the road the Authority builds additional TRAction projects, it could reach its local share; which could result in the Corps buying land rather than the Authority. She summarized that it is just a possibility. Mr. Muncy agreed.

Mr. Muncy stated that he is trying to be flexible regarding the language because the Authority could have a different definition of a "construction project" than the Corps. He stated that one of the Authority's responsibilities is to relocate utilities, which the Authority could consider as a construction contract, which would be covered under the PPA and the Corps does not have a problem with that. He stated that he just wants to ensure that everyone understands what the existing authorities are currently and how it plays into the Authorized Project. Director Duerr summarized that the Authority would be responsible for buying land, relocating tenants, relocating utilities and managing the disposal areas. She added that the Corps, working with the Authority, would be responsible for design, entering into contracts and constructing the project. Mr. Muncy agreed that is correct. He added that the Corps also looks to the Authority to certify that the Authority has met its end of the deal in meeting all the requirements.

Mr. Aldean stated that the phrase "as funds become available" may be contrary to the requirements of the PPA, which requires 5% cash at a particular time so the Board would have to figure out how to raise the funds.

Mr. Aldean referred to the Home Elevation Program, which is a financial assistance program, for which the County has adopted an ordinance to administer the program, which is a flood damage reduction element. He stated that the Flood Project wishes to administer the program itself and asked Mr. Muncy if that would be acceptable. Director Duerr clarified that Mr. Aldean is talking about if the program that is in process prior to authorization, that the Flood Project would not wish to hand over administration of the program to the Corps. Mr. Muncy stated that would depend on what gets authorized; if the program is part of the authorization, it could be discussed with the Chief as to whether administration would continue under the Flood Project. Mr. Aldean stated that his concern was whether or not the Home Elevation Program would be considered a construction project. Mr. Muncy stated that his concern is the reference to being in accordance with the PPA. He explained that in accordance with the PPA, the Flood Project could not construct anything that is included in the authorization.

Member Aiazzi stated that this sounds like a discussion between the Flood Project and the Corps and asked why it is included in the JPA. Member Sferrazza agreed and suggested striking Article 5.05.A in an effort to move forward in the process of JPA approval. Mr. Salter stated that Articles 5.05.B through D are needed and asked if they could be retained. Mr. Muncy stated that 5.05.B could remain but suggested adding, "in accordance with the PPA". He stated that the PPA covers all of the issues and questioned the intent of this section. Director Duerr stated that the intent was to cover certain duties and obligations of the Authority, with or without the Corps. She added that perhaps the clause should be added that "Nothing in this JPA is meant to impair or supersede a PPA that may be adopted or entered into".

Mr. Muncy reiterated that the Corps has policies and procedures by which it must abide and added that the Corps would not be tied to what is included in the JPA. He explained that he thinks it is important for everyone to understand the process.

Chair Smith asked if the Board's pleasure is to delete 5.05.A. Member Aiazzi reiterated the comment to perhaps add a non-impairment agreement and clause to Article 12 in case anything else has been missed that relates to the PPA. Mr. Salter stated that is not a good option and suggested finessing the language. He explained that non-impairment language impairs the Authority's legislative ability.

Mr. Krutz mentioned the possibility of combining items C and D and asked if that would address the concern. Mr. Muncy agreed that items C and D cover most of the concerns being raised and suggested deleting item A.

Chair Smith summarized that item A would be deleted. Director Duerr asked Mr. Muncy if item B could remain because it pertains to ownership and Mr. Salter stated that it is needed. He explained that it applies to two circumstances, if a project is to be locally built (TRAction project or a PPA exception) the Authority has discussed that there may be times in which Members will want to own the end result. He stated that between the Corps and the Authority, if a levee were to be built in Reno and Reno wanted to own the levee once constructed; that needs to be determined and agreed upon prior to building the project. He explained that in that type of situation, the Authority would own the project while under construction and upon completion a certificate would be issued to the Corps showing that Reno has ownership and continued maintenance responsibility of the project. Mr. Muncy stated that in light of that explanation, the Corps is probably okay with the Section.

Chair Smith summarized that item A would be deleted, and items B through D would become items A through C, with which Members agreed. Director Duerr stated that Mr. Muncy commented to her about project design and asked if he would like to discuss that issue. Mr. Muncy stated that there were a couple of additional minor things, however nothing significant. He stated that the revisions to Article 5 satisfied his major concern.

Chair Smith stated that hearing no further discussion, there is a motion and second on the floor and asked Member Aiazzi if he would amend his motion to consider the comments made after his motion.

Member Aiazzi amended his motion to include all of the amendments to the JPA from today's meeting. Member Martini seconded the revised motion.

Chair Smith called for further discussion on the motion.

Member Larkin thanked City of Reno staff for responding to the citizens and bringing forward the Interlocal Agreement although he does not believe that was the correct methodology for the Flood Project Coordinating Committee to recommend to the three governing bodies. He stated that in the case of the County being the responsible party, "we have been there, done that and it did not work". He stated that citizens who are opposed to expanding government have a very real concern; however, every elected official took an oath to uphold and defend, part of which is protection, and by establishing the new agency, it adds to the protection of the value of the community, to which he is obligated unless there is another viable option. He stated that the Interlocal Agreement has some attraction, including the appearance that there would not be

another level of government; however, the FPCC is currently operating at another level of government for the protection of the Truckee Meadows.

Member Larkin stated that the notion that the Flood Project could somehow maneuver through getting new Statute amendments approved in a very short time is probably not possible. He summarized that the Flood Project needs to move forward at this critical time because it has pushed the Corps on accelerating the schedule, with which they have agreed. He also thanked Colonel Kiger, Ms. Kirchner, Mr. Muncy and Ms. Salyers for attending and participating in today's Retreat. He stated that he thinks it is important for Corps staff to realize how passionate the FPCC is and its commitment to the project. He stated that the FPCC has been working on the JPA through extensive hearings and added that the entire community is aware of the JPA.

Member Larkin stated that based on all of his above comments, he is in support of the motion and will be an advocate to the Board of County Commissioners to move forward with establishment of the JPA. He stated that the JPA is a necessary component in protecting Reno, Sparks and all of the downstream neighbors, including Storey County. He added that because more water will be sent down the river, an entity is needed that can expand and grow to meet the needs of the community.

Chair Smith called for additional comments or discussion.

Member Sferrazza thanked City of Sparks and Washoe County elected officials and stated this is a huge step forward for the community, not only for the public safety aspect, but also as mentioned during public comments it will create more jobs over the next 10 years for the region. She stated that she appreciates the Corps moving forward with the accelerated schedule and stated she is happy to finally be able to say that next year we will be under construction of the Flood Project. She thanked her fellow Board Members for going through the lengthy process to make and agree upon all the revisions to the JPA today.

Chair Smith called for a vote on the motion to forward the JPA to the entities. The motion carried unanimously.

Chair Smith encouraged Members to schedule the JPA on their respective commissions and councils as soon as possible. Member Sferrazza stated that Reno's next City Council meeting is scheduled for January 26, 2011. Chair Smith stated the next Sparks Council meeting is scheduled for January 24, 2011 and asked if the item could be placed on the agenda, with which Mr. Krutz agreed.

Chair Smith called for any additional comments on the Retreat and stated that following this item there are other agenda items for the regular meeting.

Director Duerr stated that Mr. Muncy made a very interesting comment during lunch about the benefit to the Corps of moving forward with the JPA. Mr. Muncy stated that the Corps appreciates the leadership of the FPCC and staff and stated this is a significant event in moving forward to partner with the Corps in getting the project authorized. He complimented FPCC staff on being very proactive in focusing on the PPA and educating everyone as to the responsibilities.

Mr. Muncy stated that many comments have been made regarding the desire to go to construction in 2012, which is definitely an admirable goal that is supported by the Corps. He stated that despite all the power in this room, the Corps does not have the authority to control

when the project gets authorized or when it gets funded. He stated that he wants the Board to be aware that the Corps does recognize that authorizations normally do not come immediately after a Chief's Report and there is sometimes several years of delay in between the Chief's Report and true authorization and funding. He stated that in accordance with that and in order to keep projects moving along, there is a design agreement process, which allows the Corps to sign an agreement with its non-federal partner in order to continue moving forward in designing the project. He stated that this is a very complex project, which requires extensive design. He suggested that while Congress is doing what Congress does, we can be in the process of moving forward with designing the project.

Mr. Muncy stated that there is a certain trigger mechanism in that once the AFB report has passed a certain stage (probably sometime this summer), the design agreement can be signed and entered into. He stated that the expectation would be to put ourselves into a position that as soon as Congress provides funding, the project is designed and ready to go directly into construction. He thanked the Board.

Chair Smith stated that is great news and asked if Director Duerr had further comments.

Director Duerr stated that Mr. Salter and she are extremely grateful that the FPCC has once again found a way to reach consensus on an approach. She added that she is grateful for the work of the Board, and that all of the staff were feeling a bit emotional at this momentous occasion.

Chair Smith stated that he has been on the FPCC Board for the past four years and some Members longer than that. He stated that the last couple months of effort have been well worth coming to today's conclusion on the JPA. He thanked Members, staff and the Corps.

7. Retreat Summary and Wrap-Up

Chair Smith closed the retreat portion of the meeting at 12:35 p.m. and stated that a ten minute recess would be held before resuming the second part of the agenda.

Respectfully submitted by,

Niki Linn, Recording Secretary

Approved by FPCC in session on March 11, 2011.