May 2000
Governing Board Packet
TAHOE REGIONAL PLANNING AGENCY (TRPA)
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

NOTICE IS HEREBY GIVEN that on Wednesday, May 24, 2000, commencing at 9:30 a.m., the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. The agenda is attached hereto and made a part of this notice.

Governing Board Committee items are action items unless otherwise noted.

NOTICE IS FURTHER GIVEN that on Wednesday, May 24, 2000, commencing at 8:30 a.m., at the same location, the TRPA Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) April month-end trial balance; 3) status report on mitigation funds with regard to existing commitments and future disbursements; 4) discussion on use of mitigation funds and mitigation fund policy relative to project implementation; 5) discussion regarding use of mitigation fund interest and abandoned securities to establish a revolving loan fund for BMPs; 6) Placer County request for $100,000 additional water quality mitigation funds for the Snow Creek stream and wetland restoration project; and 7) member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS FURTHER GIVEN that on Wednesday, May 24, 2000, commencing at 8:30 a.m., at the same location, the TRPA Environmental Improvement Program Implementation Committee, will meet. The agenda will be as follows: 1) public interest comments (no action); 2) discussion on Environmental Improvement Program (EIP) strategy on federal involvement; and 3) member comments. (Committee: Waldie, Cole, Perock, Miner, DeLanoy)

NOTICE IS FURTHER GIVEN that on Wednesday, May 24, 2000, during the lunch recess, at the same location, the TRPA Rules Committee, will meet. The agenda will be as follows: 1) public interest comments (no action); 2) policy providing for the legal defense and indemnification of Agency employees and Advisory Planning Commission/Governing Board members; and 3) member comments. (Committee: Solaro, Neft, Heller, Galloway, Medina)

NOTICE IS FURTHER GIVEN that on Wednesday, May 24, 2000, during the lunch recess, at the same location, the TRPA Legal Committee, will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Kearns et al. v. TRPA (Hooks Landing) consideration of settlement proposal; and 3) member comments. (Committee: Sandoval, Miner, DeLanoy, Giles, Medina, Waldie)

May 15, 2000

[Signature]

Jerry Wells
Acting Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office, and the North Lake Tahoe Chamber of Commerce.
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
8318 North Lake Boulevard
Kings Beach, California

May 24, 2000
9:30 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

AGENDA

I. PLEDGE OF ALLEGIANCE (5 minutes)

II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)

III. PUBLIC INTEREST COMMENTS - All comments are to be limited to no more than five minutes per person.

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, Appeal, and Planning Matter items will be taken at the time those agenda items are heard. The Governing Board is prohibited by law from taking immediate action on or discussing issues raised by the public that are not listed on this agenda.

IV. APPROVAL OF AGENDA (5 minutes)

V. APPROVAL OF MINUTES (5 minutes)

VI. CONSENT CALENDAR (see agenda pg. 3 for specific items) (5 minutes)

VII. ADMINISTRATIVE MATTERS

A. Discussion and Decision on Filling the Executive Director Position and Related Administrative Matters, Resolution Appointing Interim Executive Director (60 minutes)

(Adjourn the TRPA, convene the TMPO)

VIII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

A. Public Interest Comments - All comments are to be limited to no more than five minutes per person.
B. Consent Calendar – 1) Report on the TTD April 21 and May 12 Meetings; Pg 39
2) Adoption of FY 2000-2001 OWP; Pg 47 3) Recreation Trails Project Funding Pg 51 (Recommended Action All Items: Receipt and/or Approval) (5 minutes)

(Adjourn the TMPO, reconvene the TRPA)

IX. PROJECT REVIEW – These project review items will be taken up following agenda item XI.A.

A. Richard Truesdell/U.S. Postal Service, New Post Office Building, Corner of U.S. Highway 50 and Apache, Meyers, El Dorado County APN 034-342-09 (15 minutes)

B. Staples New Commercial Building, 2061 Lake Tahoe Boulevard, City of South Lake Tahoe, El Dorado County APN 023-201-11, TRPA File #990780 (30 minutes)

X. PUBLIC HEARINGS

A. Amendment of the Boundary Between the Incline Commercial Community Plan and Plan Area Statement 046, Incline Village Residential, in the Area of Cottonwood Court (20 minutes)

B. Public Comments on Draft EIS for the Tahoe Keys Marina Master Plan (20 minutes)

XI. PLANNING MATTERS

A. Level of Service (LOS) Policy Discussion (30 minutes) – This item will be taken up prior to agenda items XI.A and B.

B. Finding That the City of South Lake Tahoe, El Dorado County, Placer County, Carson City, Washoe County, and Douglas County Have Demonstrated a Commitment to Assume Their Fair Share Responsibility to Provide Low and Very Low Income Housing (60 minutes)

C. Discussion and Clarification of Definition of Threshold-Related Research Facilities Relative to Social and Political Research as Set Forth in Chapter 18, Permissible Uses (10 minutes)

D. Discussion on Status of the Environmental Improvement Program (EIP) Update and Implementation (30 minutes)

E. Status Report on Coordinated Transit System (CTS) (30 minutes)

XII. ADMINISTRATIVE MATTERS

A. Discussion on Work Program Priorities (30 minutes)
XIII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee (5 minutes)

B. Legal Committee (15 minutes)
   1. *Kearns v. TRPA* (Hooks Landing), Consideration of Settlement Proposal
      Pg 137

C. Environmental Improvement Program Implementation Committee (5 minutes)

D. Rules Committee
   1. Resolution Amending the Personnel Policy Manual to Provide for the Legal Defense and Indemnification of Agency Employees and Advisory Planning Commission/Governing Board Members (15 minutes)
      Pg 155

XIV. REPORTS

A. Executive Director Monthly Status Report (5 minutes)
   1. Status Report on Project Applications
      Pg 165
   2. Notice of Circulation, 64-Acre Tract Environmental Document (TRPA DEIS, NEPA DEIS, and CEQA DEIR)
      Pg 167

B. Legal Division Monthly Status Report (5 minutes)

C. Governing Board Members (5 minutes)

XV. ADJOURNMENT

**CONSENT CALENDAR**

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<tr>
<th>Item</th>
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<tr>
<td>1. April Month-End Trial Balance</td>
<td>Receipt</td>
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<tr>
<td>3. Wm. Mosher, Forest Health Restoration Project, El Dorado County APNs 032-090-051 and 032-100-061, File No. 200029</td>
<td>Approval of Findings and Conditions</td>
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4. Placer County, Request for $100,000 Additional Water Quality Mitigation Funds for Snow Creek Stream and Watershed Restoration Project

The consent calendar items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that an item be removed from the calendar, it will be taken up separately in the appropriate agenda category.

Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Article III(g) Public Law 96-551

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Tahoe Regional Planning Agency Governing Board Members:

Chairman Larry Sevison, Placer County  Wayne Perock, Nev. Dept. of Conservation Appointee
Vice Chairman Don Miner, Douglas County  Drake DeLancy, Nevada Gov. Appointee
Kay Bennett, Carson City  Jerry Waldie, Calif. Senate Rules Com. Appointee
Jim Galloway, Washoe County  Leslie Medina, Calif. Assembly Spkr. Appointee
Hal Cole, South Lake Tahoe  Joanne Neff, Calif. Gov. Appointee
Dave Solaro, El Dorado County  Terry Giles, Calif. Gov. Appointee
Brian Sandovaal, Nevada At-Large Member  Peter Chase Neumann, Presidential Appointee
Dean Heller, Nevada Secretary of State  

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TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Seasons Resort
South Lake Tahoe, California

April 26, 2000

REGULAR MEETING MINUTES

I. ROLL CALL AND DETERMINATION OF QUORUM and

II. PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Larry Sevison called the regular April 26, 2000, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:35 a.m. and asked Vice Chairman Don Miner to Lead in the Pledge of Allegiance to the Flag.

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLaanoy, Mr. Solaro, Ms. Crowell, Ms. Brown (for the City of South Lake Tahoe), Ms. Bennett, Mr. Giles (present at 11:00 a.m. prior to staff presentation on item VIII.C.), Mr. Perock, Ms. Neft, Mr. Galloway, Ms. Medina, Mr. Sandoval (present at 10:20 a.m. at conclusion of action on consent item 11), Mr. Sevison

Member Absent: Mr. Neumann

Chairman Sevison noted that he had received a letter from South Lake Tahoe appointing Council member Judy Brown to sit in Mr. Cole’s absence. He also advised that his objective for the meeting was to complete the bulk of the agenda by 1:00 p.m., so that interviews for the Executive Director position could commence in the afternoon. The Board would continue to meet during the lunch hour, and sandwiches would be brought in.

III. PUBLIC INTEREST COMMENTS

Mr. Dorman Leader, Executive Director of the Zephyr Point Presbyterian Conference Center, commented on problems he had encountered in the processing of the Center’s expansion application. The application and environmental checklist were submitted to TRPA in September 1999, and problems started to develop in January 2000, when staff advised that the required backshore determination, which was submitted in December, was not received and addresses to notify adjacent property owners were lost and later found. Mr. Leader summarized problems with repeated reassignment of the project due to staffing changes in the Project Review Division. Numerous phone calls to staff went without response and documents were lost. With the reassignment of the Douglas County planner to another position, the project again was without an assigned planner. Mr. Leader asked that, because of the complexity of the project, potential impacts on the Lake, and the extensive proposed BMP work, a Senior Planner be assigned to process the application.

Chairman Sevison suggested that, rather than responding to these concerns today, staff provide a memo to the Board in May explaining what had been done to correct the problems.

Dr. Miner asked that Mr. Leader provide his observations and the project’s chronology in writing. Staff could respond to those specifically.

Mr. Leader agreed to provide the summary.
Dr. Miner noted that Mr. Leader's comments indicated a trend that was occurring with other projects as well, particularly in Douglas County. The problem needed to be defined, and staff needed to respond.

Mr. Gary Midkiff, a representative of several property owners, noted that Douglas County Planner Katie Guthrie, who had been working out of the TRPA office under an MOU arrangement, was hired by TRPA for a full-time position in the Compliance Division, leaving the Douglas County planner position vacant. He urged the Board, through Dr. Miner, to move as quickly as possible to fill the vacancy, preferably at a Senior level because of the complexity of County projects. While Lyn Barnett, Chief of Project Review, was doing a good job, there was currently a lot of staff turnover and a need to backfill positions and provide adequate training.

Dr. Miner explained that this Douglas County planner position working out of the TRPA office had been ongoing under the MOU for a year. It had taken a lot of persuasion to make it happen, and it was a good and effective process for Douglas County and its residents. Ms. Guthrie was hired by TRPA without regard to the political sensitivity of such a step. The feelings of his fellow County Commissioners had been blunted to the point that a replacement planner at TRPA was likely not going to happen for a year. The political sensitivity and ramifications of this action by TRPA should have been examined before the hiring.

Acting Executive Director Jerry Wells introduced new Executive Assistant Carol Watkin, who was providing clerical support to Human Resources, Finance, Public Affairs, and Special Projects.

Mr. Lyn Barnett, Chief of Project Review, introduced and summarized the backgrounds of new planners Gretchen Gibson and Michael Rhoades.

Agency Counsel John Marshall responded to Dr. Miner's comments regarding the hiring by TRPA of the Douglas County planner. It would be a blatantly illegal act for TRPA from a personnel standpoint to not hire someone because of political sensitivities. While the consequences may have been unfortunate, TRPA would be in a very difficult position if its employment decisions were made on that basis.

Dr. Miner suggested that, while legally there may have been a contract along with the MOU between TRPA and the County specifically forbidding such activities, he would not debate it now.

Board member Jim Galloway asked that he be permitted to address some of his big picture concerns at this point in the agenda. (Mr. Galloway moved to the public podium to address the Board as a Washoe County Commissioner.) Mr. Galloway commented on the importance of the decision regarding the Executive Director selection and the organizational and operational issues involved. He suggested that too many times the Board's direction was not being carried out by the staff. The primary big challenge facing the new Director was ensuring that there was a public perception that everyone was being treated even-handedly and that the Agency's ordinances were being interpreted the same for everyone. Too often staff was given direction which was not followed. Mr. Galloway commented further on his concerns with staff's handling of the Welze project and on the need and importance of focusing in the future on EIP implementation. To accomplish what needed to be done, TRPA needed to stabilize and, as much as possible, stop the in-fighting over development. Emphasis should be put on issues that were never resolved in a logical manner, one being the flood plain situation. In this case, the procedures followed in the Basin were not the same as those followed in the rest of the
TRPA REGULAR MEETING MINUTES APRIL 26, 2000

country. There were some real legal takings issues here. Although he understood that there
were those who had political views on issues relating to fiscal and social equity, this was the last
thing TRPA should be involved in.

IV. APPROVAL OF AGENDA

MOTION by Dr. Miner to approve the agenda as presented. The motion carried unanimously.

V. APPROVAL OF MINUTES

MOTION by Dr. Miner to approve the March 22 meeting minutes. The motion carried with Ms.
Brown and Mr. Sevion abstaining.

VI. CONSENT CALENDAR

Finance Committee Chairman Kay Bennett noted that her committee had met earlier in the day
and recommended approval of items 1, 2, 3, and 10.

Mr. Solaro asked that consent item 11 be pulled for discussion.

Mr. Wells advised that a copy of an additional condition to be placed on consent calendar item 2
(Release of Air Quality Funds to El Dorado County for Street Sweepers) was distributed to
Board members. This condition would restrict use of the sweepers to the Tahoe Basin.

MOTION by Ms. Neff to approve the consent calendar items 1-10. The motion carried with Ms.
Crowell abstaining on item 5.

(Following are items approved on the consent calendar:
1. March Month-End Trial Balance
2. Release of Air Quality Mitigation Funds to El Dorado County to Provide Half the Match for
Purc...
TRPA REGULAR MEETING MINUTES APRIL 26, 2000

Richard Truesdell/U.S. Postal Service, New Post office Building, Corner of U.S. Highway 50 and Apache, Meyers, El Dorado County APN 034-342-09 consent calendar item 11

Mr. Solaro described phone calls he had received on this project from post office representatives, the Meyers Community Council, and other citizens. The applicant had received a letter two weeks ago advising that the project would be approved on the consent calendar, although a later notice advised the project would be continued to May. Although a traffic plan was submitted with the original plan, the staff was recommending continuance of the project (as noted on the agenda) because of issues related to mitigation and level of service F. A community meeting was held to discuss Meyers traffic and other issues; and a Highway 50 Coalition meeting was held to discuss various issues, including traffic, at which representatives from Caltrans, City and County engineers, elected officials, the Highway Patrol, and Sheriff’s Department were present. No one from TRPA was present at these meetings. Mr. Solaro explained that his concern here related to communication between TRPA staff and the rest of the community. TRPA should have been in attendance at these well-publicized meetings. It appeared that this one project was being held up in an effort to solve all community issues in the Meyers area. While he understood that the Board could not act on the project today, he did want to raise the communication issue.

Mr. Galloway suggested this was another case where staff could have placed the project on the agenda for Board action, even though staff was recommending the matter be continued. The final decision should have been left up to the Board.

Mr. Duane Wallace, Executive Director of the South Lake Tahoe Chamber of Commerce and Chairman of the Highway 50 Coalition, noted there was not unanimous agreement in the Meyers community about the project and the study. The Chamber had received complaints that applicants, who were working their projects through the review process, were encountering the need for additional submittals, a piling-on effect. The post office was very frustrated by the fact that it thought it had fulfilled all the requirements. The question had come up whether the last guy in paid for the sins of those who had preceded him. This was a process question. With regard to communication and the traffic issues, there were some minor things that could be done to alleviate problems encountered during level of service F conditions when traffic was stopped. Before a study was done that had an end in mind, other practical, mechanical solutions should be researched.

Mr. Nick Carroll, Vice Chairman of the Meyers Community Round Table, explained that over the past three years the Postal Service had overcome a number of hurdles in getting a postal facility in Meyers. A traffic study was done in the last two months, and four or five projects were also being done in the Meyers corridor. It was the Round Table’s feeling that individual traffic studies for each project were inappropriate and a comprehensive traffic study should be prepared for the whole corridor. The rules should not be changed for the Postal Service. The community would like to see a comprehensive study of alternatives prepared to analyze, as an example, whether a traffic light at Apache and Highway 50 was appropriate. This project was being held hostage.

Dr. Miner asked that staff address TRPA’s financial participation in the Postal Service master plan. He had been told that TRPA promised a $10,000 contribution to development of that plan which the Postal Service had not received. He would like a written response. Also he asked for a clear definition of Level of Service F and what TRPA’s protocol was in the preparation of its traffic studies. Was it true that the worst day of the year was looked at and at the worst time of
the day? On a Sunday evening in Meyers during ski season, traffic was backed up for an hour or two. Was this Level F? Was this the condition that TRPA wished to see mitigated?

Chairman Sevison adjourned the TRPA Board and convened the TMPO. (Forest Service representative Ed. Gee was not present.)

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

A. Public Interest Comments – None

B. Consent Calendar – Report on the TTD April 21 Meeting

Transportation Program Manager Richard Wiggins noted that information on the April 21 as well as the May TTD meeting would be provided to the Board in May.

C. Update by Caltrans on EIP Master Plan for the Tahoe Basin

Mr. Dick Melim, from Caltrans, was present to respond to Board member questions on the memo in the packet materials. This was not an action item.

Ms. Bennett advised she had attended the TTD meeting on April 21 and heard a report on the Caltrans EIP master plan. It was a very interesting report and was evidence of Caltrans’ very sincere effort. What was particularly impressive and revealing to a Nevadan was the depth and complexity of the Caltrans organization. It made it easier to understand why it was so difficult to move with the same degree of flexibility that the Nevadans could in getting mitigation and projects on the ground. Caltrans was making a very sincere effort to meet the goal and was to be congratulated.

Chairman Sevison questioned the May opening of bids on the Highway 28 overlay and the start of work on June 19. Would work continue through the July 4 weekend?

Mr. Melim responded that the traffic management plan called for mostly night work, and the project anticipated the normal agreed-to shut-down period starting before the fourth of July through Labor Day. Caltrans would try to get the work done this season.

Mr. Sevison noted there was a lot less sand in his driveway this spring than last year. It appeared that Caltrans had done a good job of addressing the problem.

Mr. Melim explained that Caltrans had made a concerted effort on this situation and now had sweepers and vactor trucks dedicated to the Tahoe Basin.

On the subject of upcoming road work, Mr. Gary Midkiff, from the audience, advised that the Stateline stormwater drainage work would commence at Lake Parkway and Highway 50 starting from Sunday night to Friday noon. This project would be completed by the end of May. Work would occur during June on the Lake Parkway elements, and the large vaults in the center lane of Highway 50 would be installed after Labor Day. Also the major work on redevelopment in the Park Avenue area would start between June 1 and June 15. No more than 20-minute stops and no more than 30-minute delays were set forth in the NDOT contracts.
Ms. Bennett provided the Board with an update on the Highway 28 parking lot situation, noting that the environmental document may once again be challenged. It was hoped that a number of problems could be resolved prior to next month.

Dr. Miner asked that the next TMPO agenda contain an update on the status of the Coordinated Transit System (CTS), the contract, the systems development, design manual, the status of the program, how much was being spent, and what the next phase looked like.

Chairman Sevison adjourned the TMPO and reconvened the TRPA.

MOTION by Dr. Miner to continue item 11 on the TRPA consent calendar (Richard Truesdell/U.S. Postal Service, New Post Office Building, Meyers). The motion carried unanimously.

VIII. PUBLIC HEARINGS

A. Amendment of Chapter 4, Project Review and Exempt Activities, to Adopt a New Delegation Memorandum of Understanding Between TRPA and Placer County

Mr. Rick Angelocci, Chief of Special Programs, summarized the MOU as approved by the Placer County Supervisors and as recommended by the TRPA Advisory Planning Commission. Placer County would be assigning a planner to implement the MOU and to assist with the TRPA staff workload. Board member Sevison was very helpful in getting this underway.

No one wished to comment in the public hearing.

Chairman Sevison read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending Chapter 4 of the Code of Ordinances for the Tahoe Regional Planning Agency Relating to Exempt Activities; Providing for a Memorandum of Understanding Between TRPA and the County of Placer to Exempt Certain Activities from TRPA Review, and Other Matters Properly Related Thereto

MOTION by Mr. Galloway to make the findings for approval of the TRPA/Placer County MOU. The motion carried unanimously.

MOTION by Mr. Galloway to adopt Ordinance No. 2000-7. The motion carried unanimously.

B. Amendment of Chapter 73, Tree Removal, to Extend the Interim Ordinance for Protection of Late Successional/Old Growth Trees

Chairman Sevison noted that he had received a call from Dennis Machida, Executive Officer of the California Tahoe Conservancy, regarding the request for the Conservancy to submit a letter on this agenda item. The Conservancy did not have a position on the proposal at this point, because additional information was still being developed.

Mr. Steve Chilton, Chief of the Compliance Division, summarized the proposed one-year extension to May 2001 of the ordinance prohibiting the cutting of live, dead and dying trees 30” dbh or greater in certain areas. This extension would give time for the Forest Health Consensus Group to continue what it had been working on for the past three years and come up with a
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more comprehensive approach to this issue. The Advisory Planning Commission unanimously recommended approval of the ordinance and urged diligent work continue to provide alternatives for treatment of private timberlands in the Basin. Approximately 97 percent of the land was public, leaving a very small percentage of the remaining three percent in timberland. The largest piece of private timberland was 2,300 acres. Mr. Chilton presented more information on the specifics of the ordinance, the correspondence received relating to the ordinance, the interim nature of the ordinance, the lands exempt from the ordinance, the need for more work before finalizing the program, and possible options for treatment of private lands.

Mr. Waldie questioned the meaning of Board member Terry Giles' comments during the Menasha hearing in April regarding treatment of the show cause matter as a "strict liability situation."

Agency Counsel John Marshall suggested that, given the advanced notice to Menasha and Menasha's signing of the permit which contained a condition requiring compliance with the permit conditions, the record was clear that failure to comply was liability imposed. This may have been what Mr. Giles meant by strict liability. (Mr. Giles was not present during this discussion; he explained his remarks later in the meeting.)

Discussion followed on the difference between a standard of strict liability as established in an ordinance and a permit that established strict liability by ordering no cutting of trees without a tree-by-tree inspection.

Mr. Waldie noted that he would find difficulty with any proposal to soften a standard that now protected 30" or larger trees in the Basin.

Mr. Sandoval questioned the need to protect 30" or greater trees that were dead.

Mr. Chilton responded that there was a need for large snags (dead habitat trees) whether standing or fallen. It was a wildlife issue, primarily. While it could be argued that these trees were a fire hazard, fires in these larger dead snags trees did not often spread and were not a major problem. The fire hazard issue was found more often where the logs were on the ground, and even then those logs often got scorched but had no flames running through them. Fires in these areas tended not to spread. The main fire hazard came from the finer fuels, old slash, and small trees. There currently was an ordinance procedure for a land manager to take these trees down in the case of emergency. The proposed ordinance did not apply to urban interface areas.

Dr. Miner asked about protection of forests from the harvesting of trees before they got to the 30" size.

Mr. Chilton noted that the Board and staff approved timber harvest plans. Those plans included marking prescriptions. In California, a registered professional forester drew up harvest plans. It was not professional for a forester to write a prescription that took out everything 29" and under or even everything from 25" to 29". This was not a good forestry practice.

Mr. Chilton explained that the Forest Health Group would like to have rough draft language of the more comprehensive ordinance by this August; the goal was to have it before the Board in January 2001.
The Board continued to discuss the treatment of private v. public properties, the size of affected private properties, the need to protect some trees below the 30" size, and the possibility of relaxing coverage restrictions if it eliminated the cutting of large trees to accommodate a residence.

Ms. Shirley Taylor, owner of private property on South Upper Truckee Road, commented on her earlier correspondence to the Board and APC, advising that there were concerns in the community regarding the heavy handedness of the ordinance regarding the cutting of large trees. Three percent of the Basin was in private ownership; these properties should be totally exempt from the ordinance. In 1997 and 1998, when this topic was before the Forest Health Consensus Group, there was literally no private land owner representation to address this topic. The ordinance took advantage of this segment of the community. She hoped this would change in the next year and that the concerns of this group would be a part of the end resolution.

Mr. Michael Donahoe, representing the Sierra Club, concurred with the staff position on the ordinance and agreed more time was needed on this issue. In pre-Comstock times, 55 percent of the trees were old growth; that number now was down to 5 to 15 percent. The Sierra Club was committed to working with landowners and the Group to reach a legitimate way to look at this topic, the hope being that the percentage of these old growth trees would not decrease.

Mr. Dave Roberts, from the League to Save Lake Tahoe, suggested that one of the problems in this discussion was caused by the fact there was no working definition of a healthy forest or an old growth forest. The purpose of the ordinance was not just to provide for larger trees but also to contribute to whatever was needed to create the late successional, old growth forests. The large diameter tree was one of the most visible and the most important components of an old growth forest. Mr. Roberts complimented the Board for its action on the Menasha logging operation last month and noted that even with a tree-by-tree specification large diameter trees that provided no threat to anyone were taken. Because there was an incentive in logging operations to take large diameter trees, the ordinance needed to contain assurance and accountability that the large trees would be protected. The Forest Service had previously modified its harvesting contracts to incorporate the 30" rule after running into problems with a contractor cutting large trees. Operations had been profitable within that rule. Mr. Roberts also commented on pre-harvest inspections, the complexity of the process, the need for more time to work on the ordinance, and importance of including private property owners in deliberations on regulations addressing 30" or greater trees.

Chairman Sevison closed the public hearing.

MOTION by Dr. Miner to make the findings necessary to amend Chapter 71 as proposed. The motion carried unanimously.

Chairman Sevison read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending Chapter 71 of the Code of Ordinances Relating to Protection of Old Growth Trees; and Providing for Other Matters Properly Relating Thereto

MOTION by Dr. Miner to adopt Ordinance No. 2000-8. The motion carried unanimously.

(Mr. Giles came into the meeting at 11:00 a.m.)
C. Draft EIS for the Tahoe Keys Marina Master Plan

Senior Planner Coleen Shade noted this was not an action item but rather a public hearing matter. She explained that the Regional Plan reserved 2000 PAOTs (Persons At One Time) for marinas and marina expansions in the Basin. Marinas were required to have a master plan if they proposed to have more than 10 slips or 10 buoys. This also kicked in the requirement for an EIS. Ms. Shade addressed the history of planning for the Tahoe Keys expansion, contract arrangements for preparation of the EIS, the 60-day comment period concluding June 8, and payment of the EIS consultants upon satisfactory completion of specific contract tasks.

Mr. Dick Horton, co-owner of the Tahoe Keys Marina, noted that the cost of preparing master plan documents was $380,000 to date. Tahoe Keys Marina was the first commercial marina to seek a master plan in the Tahoe Basin and was completely situated on fee land with no public land involved. The intent of the master plan was, in part, to add a maximum of 150 slips, dependent on the size of boats using the marina. The master plan also called for a land exchange with the California Tahoe Conservancy of the Association’s corporate year located in an SEZ for an 80 foot strip of land. This would be used for marina parking and for those wishing to enjoy the beach and Conservancy’s wetlands. Mr. Horton presented more details on the proposed land exchange.

Ms. Sheila Brady, with LSA Associates, author of the EIS, presented a Power Point overview of the project, the alternatives evaluated in the EIS, and a roadmap to the EIS document. Her presentation addressed the proposed master plan components, the comparison of alternatives, their impacts and mitigation. The public review and comment period was scheduled to close on June 8, with the response to comments documents to be completed in the summer of 2000 and certification scheduled for fall 2000.

Mr. Galloway noted that a monitoring program of PAHs and boat emissions for the additional boating engines was not necessarily a mitigation. One way to mitigate more boats was to require that people using the slips verify their boat engines were tuned up.

Ms. Bennett questioned the proposed treatment of the aquatic milliflauge in the Tahoe Keys waterways and attempts to eradicate it.

Dr. Miner noted that the current practice of mowing the weeds in the lagoons created seedlings. This practice did not dispose of the problem.

Ms. Sandy Potter, LSA’s EIS project manager, explained that the biologist who assisted with the vegetation section of the EIR felt the milliflauge was ubiquitous in Lake Tahoe and would occur with or without the project. The document and the mitigation were focused primarily on the added slips in the marina. Boats coming into and out of the marina were checked for milliflauge in an effort to reduce the spreading of the problem.

Dr. Miner responded that traffic was present everywhere in the Basin as well, yet applicants were required to provide mitigation of their projects’ increased impacts in the project review process. Milliflauge was a serious concern in the Tahoe Keys and was being transferred to other marinas. He encouraged significant energy be spent looking at a fix.

Ms. Brady responded that the consultant would take a second look at this problem. There were not a lot of solutions beyond what was occurring.
Mr. DeLanoy suggested that the consultant work with the scientific experts at U.C. Davis to eliminate any possibility of additional last-minute expert testimony being presented at the end of the process. He also suggested there be some provision for employee housing.

Mr. Perock commented on the warm-water fish that had cropped up in the Tahoe Keys area and their potential impact on cold-water fish in the Lake.

Ms. Shade explained that the only way to get rid of this was rotenone. Similarly, the only sure fire way to get rid of miliefeuille was to use substances that the 208 plan prohibited.

More discussion followed on the seriousness of these problems, the need and attendant costs to get them addressed, and whether there was a significant difference from a pollution standpoint between larger and smaller boats.

Acting Executive Director Jerry Wells noted that no action was to be taken today; the public hearing would be continued to the May Board meeting.

IX. PLANNING MATTERS

A. TRPA's Air Deposition Research Scoping Document

Associate Planner Jim Allison distributed a copy of information regarding the scoping document that would look at the link between water quality, air quality, and transportation. His presentation addressed VMT, the connection between VMT and nitrogen, the current finding regarding the role of phosphorous in the Lake's algal growth, the current understanding of nitrogen and phosphorous process inputs, the intent to have an updated Regional Plan by 2007 and the need for updated science by 2005, the gaps in understanding air impacts on Lake Tahoe, the research plan, sampling, institutional coordination, and transportation and VMT data gaps. Mr. Allison responded to Board member questions.

(At this point in the meeting, Mr. Giles explained what he meant in his April comments regarding the Menasha timber cutting violation as a strict liability situation.)

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

Chairman Bennett noted the Committee had discussed and would be taking up at a future meeting the status of mitigation funds, how they were allocated and currently committed, and possible use of interest from unclaimed securities as part of a revolving loan fund for implementation of BMPs. Currently there was no such fund in Nevada.

(The Board members took a brief recess from 12:30 to 12:45 p.m. to get their sandwiches. The Board worked through lunch.)

C. Environmental Improvement Program Implementation Committee (EIPIC)

Committee member Don Miner reported on the earlier Committee meeting and explained that staff would start keeping a diary on all of its activities, its Washington D.C. trip results and strategies, a list of meeting participants, and what was generally discussed. This would allow the development of some history and an understanding of who the key players were and who
was participating in the strategies. As an example, there were different organizations involved in this effort, including the Coalition, the FACA, and the EIPIC. None of the Committee or Board members really understood what was going on – yet implementation of the EIP was the most important program going on at Lake Tahoe. The idea was to get more information out so the Board could set policy, direction, or strategy. Staff would be bringing this back next month, as it continued with its updating and prioritizing of projects. A recommendation would be prepared on what the top projects should be to receive the $38 million federal request.

Chairman Sevison advised that the California Tahoe Conservancy approved $10.5 million in funding for the Tahoe Keys project.

XII. REPORTS

A. Executive Director Monthly Status Report


Mr. Jerry Wells updated the Board on the Agency’s budget requests. In California, both the Senate and the Assembly Subcommittees had recommended approval. The preliminary budget request for 2001-2003 was submitted to Nevada yesterday, with the final submittal to be in August. Additional funding over the baseline budget was being requested in the area of salary comparability, EIP implementation, and preparation for the 2007 updating of the 20-year Regional Plan and possible threshold amendments.

Mr. Wells explained that, since he would be leaving the Agency the end of May, he had appointed Gordon Barrett as the Acting Deputy Director to help with the transition. He hoped that the new Executive Director would be able to spend some time at the Agency before his departure.

Mr. Wells advised the Board that there was another side to the comments presented during the Public Comment agenda item. Staff would like an opportunity to present that side.

Chairman Sevison suggested that, rather than spending a lot of time responding on a case-by-case basis, it would be more helpful for the Agency as a whole to look at ways it could continue to streamline and improve the process. He would not like to see the Board spend a lot of time answering complaints and losing sight of the need to streamline.

Ms. Neft noted that the staff had lost some of its key players, and that loss in any house of cards would cause the process to slow down. The Board had to understand this and be sympathetic to its impacts.

Dr. Minar suggested that management had to do a better job of anticipating changes in the job market and in making timely recommendations for amendment of the salary schedules and benefits packages. The market for planners in this region was very competitive, and the same problems were occurring in the State of Nevada. It was a good idea, too, to look at hiring senior-level planners so there would be less time spent training entry-level staff.

Mr. Wells explained that the Agency two years ago requested and received salary comparability adjustments from the two states. Just recently, however, California through its bargaining with state employees gave a retroactive pay adjustment of 13.5 percent. There was no way for
TRPA to anticipate this. Staff was putting in a request for salary comparability for the next biennium.

Ms. Bennett expressed concern with the apparent set of values which suggested that the customer seemed to come last. In view of these problems, there should be a shift away from the bigger issues and more time spent on assisting the public.

Chairman Sevison suggested this was not the time to tackle these issues. He asked staff to put an item on the May agenda for more discussion. Staff could respond to the comments raised earlier in the day and the Board could do some brainstorming. The Agency had made great progress in the past, but it now had so many things on its plate, including the EIP, that it was losing the ground it had gained. It was particularly difficult for the Public Education/Information Program to keep the public up on all that the Agency was doing. More discussion was needed.

B. Legal Division Monthly Status Report

Agency Counsel John Marshall advised that the Agency had in the last month filed two briefs in two major takings cases – one was to dismiss the most recently filed TSPC Regional Plan challenge and the other was for summary judgment in the Barbieri case.

Mr. Wells advised the Board that Andy Bourelle, Tribune reporter who covered TRPA, was moving on to take a job with the Reno Gazette.

Ms. Pam Drum, Environmental Education Coordinator, thanked Andy for the excellent job he had done covering TRPA and other agencies for the last two years.

C. Governing Board Members – no comments

X. ADMINISTRATIVE MATTERS

A. Executive Director Selection

Agency Counsel John Marshall thanked staff members Michele Chouinard and Carol Watkins for their work getting advertisements out and in doing administrative functions associated with the selection process. There were over 100 Executive Director applicants who met the minimum qualifications. On March 1, a 16-member community panel spent the day screening the applications down to ten candidates. On the evening of April 24 and all day April 25, the Governing Board’s Executive Director Screening Committee (Bennett, Sandoval, Waldie, Chairman Solaro) interviewed nine candidates. Mr. Marshall distributed the questions asked in the initial interview and explained that the Committee had narrowed the field to three candidates for the full Board to interview.

Committee Chairman Solaro thanked the 16 community members who had screened down the applications and thanked staff members, particularly Pam Drum, John Marshall, and Michele Chouinard, for their help. He also expressed thanks to the community and staff who had sat through the Committee’s interviews and provided input. All Committee members had agreed that they had outstanding individuals to interview. Contrary to rumors, the quality and caliber of candidates were excellent. Mr. Solaro thanked Committee members Bennett, Waldie, and Sandoval for the many hours they had put into the interview process.
Mr. Marshall explained that Ms. Chouinard had checked the references on all of the nine finalists and had received glowing recommendations for the three finalists.

More discussion followed on the process to date, and Mr. Marshall described the recommended interview process. He advised the Board that the Committee had found it helpful to get input from the public who were present at the interviews and from the staff. The Board may wish to do this as well. He recommended the interviews take place after this input. There were no scripted questions, and each candidate would provide five- to ten-minute opening comments. The Board would deliberate following the interviews and arrive at a decision. Inappropriate questions were those relating to age, marital status, information on spouses, number/ages of children, health, ancestry, sex, gender or preference, religion, disability or union membership. The critical vote was any eight Board members. The candidates would be interviewed in alphabetical order; there was no ranking by the Committee.

Staff member Gordon Barrett thanked the Committee for seeking staff input at the conclusion of the April 25 interviews on what criteria staff was looking for in the new Executive Director. In summary, staff was looking primarily for someone with a strong commitment to Tahoe’s environment; the ability to relate and listen to the Governing Board, to staff, and to the Agency’s partners; a person who could provide leadership in implementing the EIP and the Regional Plan update in the next several years; and a person who could look at the big picture. It was hoped that this person would have a commitment to professional growth and training and to staff retention and development. In his experience working with eight Executive Directors, Mr. Barrett noted that special qualities found in former Directors Bill Morgan and Jim Baetge included a strong vision for Tahoe, the ability to listen and adjust; experience in the Tahoe Basin, and experience with large organizations, budgets, personnel, and work programs. This person also needed the confidence and ability to work with Board members, legislators, and others at a peer level. A good working relationship between the Director and Deputy Director was also important, as one usually dealt with the details, the other with the big picture. It would be important for this person to be able to start as quickly as possible. TRPA was now submitting budgets to Nevada for the next biennium, and planning directions were being set. The next two months were critical in setting the road map for the next three years. Involvement of the new Executive Director in this process was very important.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, concurred with the points raised by Mr. Barrett and spoke on the importance of hiring a person with good strategic judgment and long-term thinking, someone who could begin with the end in mind and anticipate problems and address them — long before they turned into fires.

Mr. Gary Midkiff, from the audience, suggested that the TRPA Board already had a vision. The people of the Basin had worked with TRPA for the last ten to 15 years to develop that vision. There already was a game plan in place. What the Agency needed was someone with strong organizational and people skills, and the ability to implement the programs developed over the last several years. This was more important right now than a visionary. The Agency needed someone who could bring some sense of confidence and stability to staff and deal with the current turnover problem. The Board needed to send staff a message that it would put in place a strong manager who could make things happen and bring together all the forces in the Basin. This person needed not just the ability to deal with a broad cross section and diversity of Board members but a cross section of interest in the community. The Basin could not afford to fall back, regroup, and start over. It needed to keep on track and implement the programs it already had.
Mrs. Marjorie Springmeyer, from the audience, suggested that the new Executive Director should have a feeling for the taxpayers who had been at Tahoe for many years, those who had preserved their land and had done a lot for the community. She commented further on Tahoe's history and advised the Board that the original bistate compact was signed by, then, Governors Laxalt and Reagan on a boat owned by Bill Harrah in the middle of Lake Tahoe.

Following a brief recess, the Board conducted interviews in open session of the three finalists for the Executive Director position. Each interview lasted approximately 45 minutes and started with the candidates making a five- to ten-minute statement, followed by Board member questions and applicant responses. The candidates were Bill Allayaud, a principal planner for Salt Lake City since 1997; Gregory James, director of Inyo County Water Department since 1981; and Pam Wilcox, administrator of Nevada State Lands since 1981.

At the conclusion of the interviews, Chairman Sevison asked if anyone from the audience wished to comment. There were no comments. He asked the Board to take a straw vote initially, to rank the candidates, and to submit the paper votes to staff for compilation.

After the polling, Agency Counsel John Marshall announced that the result of the vote showed Mr. James with six first choice votes, Ms. Wilcox with four first choice votes, and Mr. Allayaud with four first choice votes. Mr. Allayaud got five votes as second choice; Mr. James got six votes as second choice; and Ms. Wilcox got three as the second choice. Mr. Allayaud got five votes as the third choice; Mr. James got two votes as third choice; and Ms. Wilcox got seven third-choice votes.

In its deliberations, the Board members discussed the advertised $80,000 to $90,000 salary range for the position, the Executive Director Committee's desire to have flexibility in the salary negotiations, and issues relating to offering the job at more than what was advertised.

MOTION by Mr. Walde to drop the third candidate in the straw vote and decide between Mr. Allayaud and Mr. James.

More discussion followed on the qualifications of the individual candidates and issues related to the discrepancy between the advertised salary range and a salary of $100,000.

Mr. Walde withdrew his motion.

The Board at this point decided to conduct a straw vote solely on the first place candidate. After the paper votes were tabulated, Mr. Marshall announced that Mr. James received eight votes; Ms. Wilcox received six.

MOTION by Dr. Miner to approve offering the position to Mr. James, subject to staff's negotiation at a salary of $90,000.

Chairman Sevison suggested that staff should negotiate the salary with Mr. James and come back with that salary for Board acceptance or rejection.

Mr. Galloway suggested that if the Board were going to consider increasing the salary to $120,000 the candidate search should continue. Others may have applied for the position if they felt the salary was higher than the advertised salary range.
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Motion amended by Dr. Miner to offer the position to Mr. James with the salary not to exceed $100,000.

Ms. Medina questioned the public notification responsibility of the Agency in publishing and soliciting an Executive Director position at an advertised salary range and then offering a different salary.

Mr. Marshall explained that the Committee’s intent was to come up with a balance between setting a range that would attract good candidates and leaving some element of flexibility to go above the range. The position was advertised at $80,000 to $90,000, plus excellent benefits, and salary negotiable depending on experience. Some may have read the ad as the salary being negotiable within the range.

Ms. Nason, for the League to Save Lake Tahoe, suggested that an executive or attorney deeply interested in a position would apply for that position even if it were advertised at less than what was the minimum required. There were many ways that executive compensation could be negotiated. The common assumption in the working world was that salaries could be adjusted upward if a candidate was attractive enough. To take a legalistic idea that because the salary range was advertised at $80,000 to $90,000 it was somehow impermissible to offer someone more was not reasonable. The financial difference of the 10 percent was eliminated by benefits.

Chairman Sevison suggested that the person selected be offered the position at the advertised salary with the idea in mind that after satisfactory completion of a probationary period the salary would be reevaluated. He would like to give staff a figure that the Board felt collectively was a package they could negotiate with.

Mr. Solaro suggested that Chairman Sevison should be part of the negotiations. Mr. Sevison concurred if Mr. Solaro, as chairman of the Executive Director Committee, would participate.

Mr. Galloway noted he would support up to $100,000 because it was within ten percent of the advertised salary. Going beyond that would make a significant difference in who could have applied. He also supported going out again.

Mr. DeLanoy suggested that the Board pick the majority candidate and negotiate the salary after that. Authority should be given to the Chairman and Agency Counsel to negotiate a salary.

MOTION by Mr. DeLanoy to select Mr. Gregory James as Executive Director. The motion carried unanimously on a roll call vote. (Members present: Medina, Galloway, Neft, Bennett, Waldie, Crowell, Giles, Sandoval, Solaro, DeLanoy, Perock, Brown, Miner, Sevison)

Dr. Miner suggested that negotiations with Mr. James stay within the limits of the advertised $90,000, subject to performance at 90 days and an increase of $10,000, and subject to another $10,000 at the end of six months of service.

Ms. Bennett asked to give staff and the Chairman some flexibility. She did not want to tie the Board’s hands.

Ms. Brown reminded the Board that Mr. James indicated in his interview that he would not be interested in the position for less than $100,000.
Mr. Giles asked if the Board would be meeting again to discuss and act on the results of the negotiations.

Acting Executive Director Jerry Wells suggested that the Board give an outer limit and delegate to Chairman Sevison the authority to make the final decision. This would eliminate having to wait another month to come back to the Board for action.

Mr. Giles spoke in favor of Dr. Miner’s suggestion to stay within the advertised parameter and to make allowance for increases at 90 and 180 days.

Mr. Wells noted that staff anticipated a 2 percent COLA on July 1. This should be taken into account. For the next fiscal year, staff had put $90,000 into the Agency’s budget for this position. If the salary were to be higher, staff would include this new figure in the budget to be brought to the Board in June for approval.

Mr. Steve Teshara, for the Lake Tahoe Gaming Alliance, suggested his discussions with Board members indicated a desire for a high-powered individual. He was dismayed at this stage that there now was a concern that because a salary range was set in writing the Board did not feel it had the flexibility to go beyond that. He felt the Board had that ability, because the ad said the salary was “dependent on experience.” The Board should go for the person it wanted and not get hung up on the strict interpretation of the published ad. The community would be satisfied with that.

Mr. Sevison reiterated the suggestion that the position be offered at $90,000 with an additional $10,000 at 90 days and an additional $10,000 after another 90 days – based on performance.

Mr. Waldie noted he would vote against this, because he felt the staff should have the opportunity to negotiate to keep the man on board. He was not willing to limit the negotiations to the amounts talked about. Mr. James was a good candidate, and to let him go for a $10,000 to $20,000 difference was shortsighted.

Ms. Medina concurred with Mr. Waldie. While she appreciated how the position was advertised, she felt there was flexibility to negotiate. For a $10,000 differential, it would be ridiculous to let someone go by. An $80,000 to $90,000 salary for an Executive Director in California was not competitive. The Chairman should be given some flexibility.

Mr. Sandoval noted he would vote in opposition as well. There was an image that there was a big disparity in the vote of 8 to 6. It was a close vote. The Board should let the Chairman negotiate the best deal and see where it went.

Mr. DeLancy asked if there was a legal problem with regard to how the salary was advertised.

Mr. Marshall suggested that some may argue that the $90,000 was the absolute top. There was, however, flexibility. He did not think there was a realistic risk of being sued.

Mr. Larry Hoffman, from the audience, noted that this entire conversation was being conducted in public session and could be in the newspapers. This was not a good way to negotiate. The Board should delegate the negotiating to Chairman Sevison and Committee Chairman Solaro. They were both aware of Board member concerns. There needed to be a recognition of what other agencies were paying in the Basin for their executives. To lose someone of Mr. James'
talent over $10,000 did not make sense. The Board should back off the motion and delegate the negotiations.

**MOTION** by Dr. Miner that it was the Board’s interpretation “as advertised” allowed the Board the discretion, based on applicant experience, to go outside the advertised range. The motion carried on the following vote:

**Ayes:** Mr. Galloway, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Giles, Mr. Solaro, Mr. Perock, Ms. Brown, Ms. Medina, Mr. Sevison

**Nays:** Ms. Crowell, Mr. Sandoval, Mr. DeLanoy, Dr. Miner

**Abstain:** None

**Absent:** None

**MOTION** by Dr. Miner to direct members Sevison and Solaro and staff to negotiate with Mr. James up to $100,000 for the Executive Director position.

More discussion followed on how to proceed and whether or not the matter would need to come back to the Board for final action or whether those negotiating the salary could make the final determination.

Mr. Sevison asked whether the Board was willing to give the negotiators the authority to proceed if the negotiations were able to come up with a package within the constraints being discussed ($100,000). If there was no agreement, the matter would come back to the Board in May.

**MOTION** by Ms. Neft to approve the limit of $100,000. If negotiations could not be concluded within that limit, whatever package was negotiated would be brought back to a later Board meeting for final action.

Mr. Sandoval asked what action the Board would take to fill the position if Mr. James would not accept the negotiations.

Mr. Sevison suggested that if the negotiations failed the matter would have to come back to the Board.

Mr. Wells asked if the Board wished to designate a number two candidate if the negotiations with Mr. James were not successful.

Several Board members disagreed. Chairman Sevison suggested this would not really speed up the process, because the matter would still have to come back next month for action.

Chairman Sevison reiterated that the motion on the floor was to approve the concept of a $100,000 limit. Anything beyond that would come back to the Board.

The motion carried on the following roll call vote:

**Ayes:** Ms. Neft, Ms. Bennett, Mr. Giles, Mr. Solaro, Mr. DeLanoy, Mr. Perock, Ms. Brown, Dr. Miner, Mr. Galloway, Mr. Sevison

**Nays:** Mr. Waldie, Ms. Crowell, Mr. Sandoval, Ms. Medina

**Abstain:** None

**Absent:** None
Chairman Sevison noted this concluded action on the hiring of an Executive Director. If there were any changes in direction it would likely be the Committee’s position to notify Board members as quickly as possible, advising in what areas negotiations had broken down so that the Board could be thinking about what direction it would take.

Mr. Larry Hoffman advised the Board that before coming to Tahoe he was the Chief Assistant City Attorney for Los Angeles during litigation with Inyo County. When he left the Los Angeles area, the City was winning the war. It was the biggest battle Los Angeles had ever been in. From what he knew, Inyo County did the right thing by moving out of the litigation mode and into the negotiating form. The result was a good negotiated agreement and many good things had occurred since. Mr. James did three-quarters of that negotiating. It was a very tough problem.

XIII. ADJOURNMENT – The meeting adjourned at 5:15 p.m.

Respectfully submitted,

[Signature]

Julie D. Frame
Clerk to the Governing Board

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (775) 588-4547. In addition, documents submitted at the meeting may be viewed at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.
MEMORANDUM

May 12, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: April Month-End Trial Balance

Background and Requested Action: Staff will be discussing the April month-end trial balance with the Finance Committee at 8:30 a.m. on May 24, before the start of the regular Board meeting. Requested action, should the Finance Committee concur, is receipt of the trial balance.

5/12/00
jf

Consent Calendar Item 1
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Safeway Rebuild and Expansion

Application Type: Commercial Rebuild and Floor Area Expansion

Applicant: Safeway, Inc., and Knox Johnson

Applicant's Representative: Gary Oswald

Agency Planner: Kathy Canfield, Project Review Division

Location: 1020 Johnson Boulevard, City of South Lake Tahoe, El Dorado County

Assessor's Parcel Number / File Number: APN 27-180-19, 22 & 23, 27-090-23 / 990890

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to remove the existing 29,740 square foot Safeway store and reconstruct a 55,542 square foot new Safeway store. The project includes both an allocation and transfer of commercial floor area to the site. The project also includes expanding the parking on the site to 323 spaces and reorienting the building from an east facing building to a north facing building. Additional land coverage will also be transferred to the site in accordance with Chapter 20 of the TRPA Code of Ordinances. Landscaping will be added to all street frontages and paved pedestrian access will be provided along the street frontages and from Treehaven Drive along the western property line to the front of the building. An adjacent parcel located at the northeast corner of Johnson Boulevard and Fairway Drive is also included in the project area. This parcel, which has been verified as Stream Environment Zone (SEZ), will have all the land coverage removed, with the exception of an existing pump station, and will be restored. A reduction in existing SEZ land coverage (5,187 square feet) will occur as a result of the project.

Site Description: The project area consists of four parcels totaling 377,363 square feet (8.66 acres) in area. The site consists of verified Class 7 and 1b land. An existing Safeway grocery store and associated parking/driveway areas currently exist on three of the four parcels comprising the project area. The fourth parcel is located across Johnson Boulevard, north of Fairway Drive, and contains approximately 9,000 square feet of pavement and a pump house. Although some Highway 50 street frontage landscaping has been added recently, the remaining portion of the site contains minimal vegetation. Surrounding land uses include commercial and tourist accommodation uses to the north, commercial, residential and recreation (Bijou Golf Course) uses to the east, residential uses to the south, and residential and commercial uses to the west.

/kc
05/16/00

CONSENT CALENDAR ITEM NO. 2
Issues: The proposed project involves an allocation and transfer of commercial floor area, and generates greater than 200 additional daily vehicle trip ends (dvte) which therefore requires Governing Board review in accordance with Chapter 4, Appendix A of the TRPA Code of Ordinances. The primary project related issues are:

1. Land Coverage: The TRPA Code of Ordinances, Subsection 20.3.B(2), allows for commercial properties within adopted community plans to transfer additional land coverage to the parcel beyond that which is considered the base allowable land coverage. In this case, three of the four parcels within the project area are located within the Bijou/Al Tahoe Community Plan. The fourth parcel, located at the northeast corner of Johnson Boulevard and Fairway Drive, is not within the Bijou/Al Tahoe Community Plan, and therefore, the above Code Section does not apply to this parcel.

Parcels on which there was no development legally established on the effective date of the Regional Plan are permitted to transfer up to 70% of the project area, while existing developed parcels are permitted to transfer up to 50% of the project area. The percentages can only be applied to the portions of high capability land (Classes 4, 5, 6 or 7) within the project area. Of the three remaining parcels within the project area, two parcels are considered vacant as defined by the TRPA Code of Ordinances, and one parcel contains the existing Safeway store. The survey submitted with the project application does show a small portion of roof overhang onto one of the vacant parcels, however, no portion of the building foundation is located on the adjacent parcel, and staff has interpreted that the roof overhang does not constitute existing development on the parcel.

Of the three parcels eligible for the transfer of additional land coverage, only the parcel adjacent to Treehaven Drive is requesting to transfer additional land coverage over and above that which is considered the base allowable for the parcel. This is one of the vacant parcels, and as such, is eligible to transfer up to 70% of the Class 7 area of the parcel. The applicant is proposing to relocate existing land coverage from other locations within the project area and to transfer the shortfall to the project area. Based on the submitted plans, approximately 21,436 square feet of additional land coverage will need to be transferred to the site. This amount represents a land coverage percentage of 65% for Class 7 portion of the parcel. As a condition of project approval, and in accordance with Subsection 20.3.C(b), land coverage shall be transferred at a ratio of 1:1 up to 50% of the Class 7 portion of the parcel area and at a rate of 1.75:1 from 50% up to 65% of the parcel area. Upon completion of the project, the total percent of land coverage for the entire project area will be 51%.

All land coverage proposed to be transferred to the site will be placed on Class 7 land. The project does propose the relocation of SEZ land coverage, however, the total land coverage with SEZ lands within the project area will be reduced by 5,187 square feet. The findings to permit the relocation of SEZ land coverage can be found in Section E, below.

/kc
05/16/00

CONSENT CALENDAR ITEM NO. 2
2. **Traffic and Circulation:** The applicant has prepared a traffic analysis in accordance with the requirements of Chapter 93 of the TRPA Code of Ordinances. The traffic analysis identified potential impacts associated with left turn movements from Johnson Boulevard onto Highway 50. The applicant investigated the possibility of installing a signal at the intersection, however, Caltrans was not supportive of a signalized intersection at this location due to the proximity of signals at Fairway Drive and Highway 50 and Takela Drive and Highway 50. To mitigate potential impacts, the applicant has proposed to install signs within the project area and along Johnson Boulevard directing left-turn traffic to the adjacent signalized intersections. In addition, the project is estimated to generate 2,635 additional daily vehicle trip ends (dvt). The applicant will be required to submit an air quality mitigation fee assessed at $25 for each new dvt generated as a result of the project.

Staff is also requiring that the applicant participate in the Coordinated Transit System (CTS). As a condition of project approval, the applicant will be required to commit to installing and maintaining a kiosk either inside the building or outside in a sheltered location within one year of CTS becoming operational.

3. **Scenic Impacts:** The applicant has submitted a scenic simulation of the proposed project. The project is visible from Scenic Roadway Unit Number 33 which is not in scenic attainment. In order for staff to approve a project within a non-attainment scenic corridor, the applicant must demonstrate a scenic improvement to the roadway unit.

The Scenic Quality Improvement Program (SQIP) identifies a scenic resource at the Takela and Highway 50 intersection which includes long distant views to Monument Peak and Heavenly Ski Resort. The proposed project will involve removing the existing building visible from the scenic resource location and installing additional landscaping. It is anticipated that the proposed project will not interfere with the existing views.

The scenic roadway corridor identifies problems that include sign proliferation, inadequate building setbacks, poor quality architecture, inadequate landscaping and visual prominence of the automobile. The applicant has located the building to the rear of the property and has proposed building colors and materials that blend, rather than contrast, with the natural surroundings. The Highway 50 street frontage improvements identified in the Bijou/Al Tahoe Community Plan will be installed and extensive landscaping will also be added to the Johnson Boulevard and Treehaven street frontages along with parking lot landscaping. Based on the submitted simulation, the landscape plan and the elevation drawings, and as conditioned for project approval, staff expects a scenic improvement to the roadway unit as a result of the proposed project.

4. **Commercial Floor Area:** Staff has verified that the existing Safeway store contains 29,740 square feet of commercial floor area. The new store will be 55,542 square feet, requiring the applicant to obtain 25,802 square feet of
additional commercial floor area. TRPA has received an allocation recommendation from the City of South Lake Tahoe (CSLT) identifying this project receiving 8,800 from the overall commercial floor area pool. The applicant has requested additional commercial floor area from the Bijou/Al Tahoe Community Plan commercial floor area pool. The remaining commercial floor area needed for the project will be transferred to the site. The applicant has identified sources for the remaining commercial floor area to TRPA staff.

At the time this staff report was written, the CSLT had not acted on the request for additional commercial floor area from the Bijou/Al Tahoe Community Plan. The request is scheduled to be heard by the CSLT May 25, 2000, the day following the May 2000 Governing Board meeting. Therefore, as a condition of project approval, the applicant will be required to transfer the remaining commercial floor area needed for the project to the site. Staff is requesting that if an allocation recommendation letter is received after the Governing Board acts on this project, and prior to final TRPA acknowledgement of the conditional permit, that the Governing Board authorize the Acting Executive Director to allocated any commercial floor area recommended by the CSLT for this project.

No commercial floor area will be allocated or transferred to the SEZ portion of the project area. The applicant will relocate existing commercial floor area from within the project area to the SEZ portion of the site. The findings to relocated the land coverage associated with the commercial floor area can be found in Section E of this staff summary.

5. Building Height: Additional height beyond Table A of Chapter 22 is not available to commercial uses. However, Subsection 4.8.B. does permit for the reconstruction or an expansion of a structure as long as the reconstruction or expansion does not increase the non-conformity, subject to specific findings. The applicant has provided an analysis of the height and cubic volume of the existing Safeway store versus the height and cubic volume of the proposed store. In addition, an analysis of the original natural grade of the site has also been submitted. Although the proposed store will exceed the height permitted by Table A, the total height and cubic volume of the proposed store will be less than the existing store. The findings to permit the proposed reconstruction and expansion can be found in Section E of this staff summary.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC), a traffic analysis, a Soils/Hydrologic Report and a scenic simulation, in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the above stated items will be made available at the Governing Board hearing and at TRPA.
B. Community Plan: This project is located within the Bijou/Al Tahoe Community Plan, District #1. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. Agency staff has reviewed the subject community plan and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed use (food and beverage retail sales) is listed as an allowed use for the community plan.

C. Land Coverage: As discussed above in the Issues section of this staff summary, the applicant is proposing to transfer additional land coverage to this project area. TRPA has verified that the 377,363 square foot (8.66 acre) project area contains 159,024 square feet of existing land coverage in Land Capability District Class 7 and 12,091 square feet of existing land coverage in Land Capability District Class 1b (SEZ). All land coverage proposed to be transferred to the site will be placed in the Class 7 portion of the project area. As a condition of project approval, the applicant will be required to mitigate the existing excess land coverage on the site. Transferred land coverage is not subject to water quality mitigation requirements.

D. Building Height: The building site has a cross slope of approximately 2%. With proposed roof pitches of 1:12 and 10:12, the allowable building height for the project is 24 feet, 6 inches for the 1:12 roof pitch and 36 feet, 6 inches for the 10:12 roof pitch. The applicant has proposed 27 feet, 2 inches for the 1:12 roof pitch and 37 feet, 5 inches for the 10:12 roof pitch. This can be approved subject to the Chapter 4 findings being made below.

E. Required Findings: The following is a list of the required findings as set forth in Chapters 4, 6, 20, 22, 28 and 64 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. Chapter 4 Findings:
   a. The structure is not subject to a specific program of removal or modification pursuant to the site development provisions or other implementing programs of TRPA, or that the structure shall comply with the requirements of the applicable programs.
   
   This building is not required to be removed or modified by TRPA. The project is being proposed by the applicant.

   b. The repair or remodeling, reconstruction, modification or expansion does not increase the extent to which the structure does not comply with the site development provisions.
   
   The applicant has submitted calculations demonstrating that the total cubic volume of the proposed building will be decreased from
the existing cubic volume based on the area of roof that exceeds the allowable height.

c. **Any expansion complies with all applicable site development provisions.**

The project, as proposed and conditioned, will be consisted with the TRPA Code of Ordinances. The proposed height will be less non-conforming than currently exists, and existing excess land coverage will be mitigated consistent with TRPA requirements.

2. **Chapter 6 Findings:**

   a. **The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.**

      (1) **Land Use:** The proposed project is a rebuild and expansion of an existing land use. The proposed use (food and beverage retail sales) is an allowed use for the Bijou/Al Tahoe Community Plan. Surrounding land uses include commercial and tourist accommodation uses to the north, commercial, residential and recreation (Bijou Golf Course) uses to the east, residential uses to the south, and residential and commercial uses to the west.

      (2) **Transportation:** The applicant has submitted a traffic analysis in order to assess the potential traffic impacts of the project. The traffic analysis identified mitigation measures for the proposed project which includes adding direction signs and paying an air quality mitigation fee. In addition, as a condition of project approval, staff is requiring that the applicant participate in the Coordinated Transit System (CTS) by providing and maintaining a CTS kiosk within the project area.

      (3) **Conservation:** This project is visible from Scenic Roadway Unit Number 33 which is not in scenic quality attainment. The applicant has submitted a scenic simulation and has proposed scenic mitigation measures consistent with the Scenic Quality Improvement Program (SQIP) and the Bijou/Al Tahoe Community Plan. These mitigation measures include the selection of building colors and materials that blend with the natural surroundings and the addition of landscaping to not only the parcel perimeter, but also to the parking lot. It is expected that upon
completion of the project, the applicant will demonstrate an improvement to the scenic quality of the roadway unit.

In addition, the applicant will apply Best Management Practices (BMPs) to the project area. There are no known special interest species, sensitive or uncommon plants or cultural or historical resources within the project area.

(4) Recreation: This project does not involve any recreation facilities or uses.

(5) Public Service and Facilities: This project does not require any additions to existing public service facilities. As a condition of project approval, the applicant will be installing sidewalks along the Johnson Boulevard and Treehaven Drive street frontages.

(6) Implementation: This project is requesting that 8,800 square feet of commercial floor area be assigned to the project area as recommended by the City of South Lake Tahoe. The remainder of the commercial floor area needed for the project will be transferred to the site.

The applicant has requested an additional 4,500 square feet of commercial floor area be allocated to the project from the Bijou/Al Tahoe Community Plan. At the time of the Governing Board hearing, a recommendation from the City of South Lake Tahoe to allow the 4,500 to be assigned to this project had not been received. Staff is requesting that if a recommendation from the City of South Lake Tahoe is received prior to final TRPA acknowledgement of the permit for this project, that the Governing Board authorize the Acting Executive Director to allocate the recommended commercial floor area to the project.

b. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board and at TRPA.

/kc
05/16/00

CONSENT CALENDAR ITEM NO. 2
c. Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph b, above.)

3. Chapter 20 Findings:

a. The relocation of land coverage is to an equal or superior portion of the parcel or project area.

All land coverage will be relocated from Class 7 to Class 7 land or from Class 1b (Stream Environment Zone –SEZ) to Class 7 and Class 1b.

b. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

As a condition of project approval, the applicant shall submit a landscape/restoration plan demonstrating all areas of removed land coverage will be revegetated. The areas of removed land coverage located within the Class 1b will be restored to Stream Environment Zone.

c. The relocation is not to Land Capability Districts 1a, 1b, 1c, 2 or 3, from any higher numbered land capability district.

All land coverage will be relocated from Class 7 to Class 7 land or from Class 1b (Stream Environment Zone –SEZ) to Class 7 and Class 1b.

d. If the relocation is from one portion of a stream environment zone to another portion, there is a net environmental benefit to a stream environment zone.

The applicant has submitted a report by a certified professional soil scientist stating that because of the 5,187 square foot decrease in the amount of land coverage located within the SEZ, and that the existing areas of SEZ where land coverage is to be removed will be revegetated with native SEZ vegetation there will be a net environmental benefit to SEZ land.

4. Chapter 22 Findings:

a. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of
300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The applicant has submitted photographs and a scenic simulation demonstrating that the proposed building will not block ridgeline views. The removal of the existing building will open up views to the ridgeline that are currently blocked.

b. **When outside a community plan, the additional height is consistent with the surrounding uses.**

The proposed project is located within the Bijou/Al Tahoe Community Plan and therefore, this finding does not apply.

c. **With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.**

The new building will be place approximately 380 feet from U.S. Highway 50, closer to the forested backdrop. As depicted in the submitted scenic simulation and in photographs, the proposed project will provide new views to ridgelines that are currently blocked as viewed from U.S. Highway 50.

d. **The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.**

As a condition of project approval, the applicant will be required to add architectural features to the east, west and south elevations to provide a break in the appearance of a flat wall, which will meet the intent of this finding.

5. **Chapter 28 Findings:**

a. **TRPA may permit stream environment zone restoration projects within a 100-year floodplain if the project, program or facility is necessary for environmental protection.**

The proposed project will remove existing land coverage and disturbance within a 100-year floodplain. The additional
landscaping and grading associated with the project is designed to provide a functioning SEZ.

b. There is no reasonable alternative which reduces the extent of encroachment in the floodplain.

To remove the existing land coverage and to restore the site, the project must encroach in the 100-year floodplain.

c. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 20.3 C(2)(e) are met.

The proposed project will remove existing land coverage and restore the site. No new land coverage is proposed within the 100-year floodplain.

6. **Chapter 64 Findings:**

a. A soils/hydrologic report prepared by a qualified professional, whose proposed content and methodology has been reviewed and approved in advance by TRPA, demonstrates that no interference or interception of groundwater will occur as a result of the excavation.

The applicant submitted a soils/hydrologic report which was approved by TRPA on November 19, 1999. The results of the report concluded that the proposed six foot excavation would not intercept the highest recorded groundwater levels. This excavation would be located along the west property line in the general vicinity of the proposed loading dock.

b. The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to Subsection 65.2.E, including root systems, and hydrologic conditions of the soil.

At the site of the proposed excavation, mature landscaping to be retained does not exist.

c. Excavated material is disposed of pursuant to Section 64.5 and the project area’s natural topography is maintained pursuant to Subparagraph 30.5.A(1).

All material not utilized within the building footprint or approved landscape plan shall be removed to a site approved by TRPA.
F. **Required Actions:** Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and the evidence contained in the record:

   I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect

   II. A motion to approve the project, based on the staff summary, subject to the standard and special conditions of approval found in the attached draft permit.
DRAFT PERMIT

PROJECT DESCRIPTION: Safeway Rebuild & Expansion
APN 27-180-19,22,23
27-090-23

PERMITTEE(S): Knox Johnson
FILE #990890

COUNTRY/LOCATION: El Dorado/1020 Johnson Blvd., City of South Lake Tahoe

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on May 24, 2000, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on May 24, 2003 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A CITY BUILDING PERMIT. THE CITY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A CITY BUILDING PERMIT.

________________________________________________________________________
TRPA Executive Director/Designee Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents’ and employees’ compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain all and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) _______________________________ Date __________

/kc
05/16/00

CONSENT CALENDAR ITEM NO. 2
DRAFT

APN 27-180-19,22,23 & 27-090-23
FILE NO. 990890

Air Quality Mitigation Fee: Amount $65,875 Paid _______ Receipt No. ___________
Excess Coverage Mitigation Fee: Amount $* Paid _______ Receipt No. ___________
Offsite Coverage Mitigation Fee: Amount $* Paid _______ Receipt No. ___________
Security Posted: Amount $* Posted _______ Receipt No. _______ Type ___________
Security Administrative Fee: Amount $** Paid _______ Receipt No. ___________

* To be determined.
** $130 if cash security posted, $65 if non-cash security posted, please see Attachment J.

Required plans determined to be in conformance with approval: Date: __________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a city building permit:

________________________________________________________________________
TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit is for the reconstruction and expansion of a Safeway store. The project includes an expansion of approximately 25,802 square feet of new commercial floor area for a total building size of 55,542 square feet of commercial floor area. The project area includes a parcel located at the northeast corner of Johnson Boulevard and Fairway Drive in addition to three parcels bordered by U.S. Highway 50, Johnson Boulevard, and Treehaven Drive. The project also includes the construction of a 323 space parking lot, drainage improvements on all four parcels, and the addition of landscaping to the perimeter of the parcels and the parking lot. The new land coverage and commercial floor area within the Stream Environment Zone (SEZ) is being relocated from within the project area. No transfer or allocation will occur to SEZ land.

2. The Standard Conditions of Attachment Q shall apply to this project.

/kc
05/16/00
3. Prior to TRPA final acknowledgement of the permit, the following special conditions of approval shall be satisfied:

A. The site plan shall be revised to include the following:

   (1) Revised land coverage calculations based on the land coverage modifications contained in the May 12, 2000 letter from Harding Lawson Associates to TRPA.

   (2) Consistent with Chapter 1, Section 4 of the City of South Lake Tahoe Design Standards and with Subsection 30.5.B(2) of the TRPA Code of Ordinances, a four foot wide paved pathway along the existing disturbed area in the Fairway Drive right-of-way shall be installed to provide pedestrian access to the adjacent neighborhood.

   (3) Delineation of the Army Corps of Engineers mapped 100-year floodplain on APN 27-180-23.

   (4) Location of construction staging and material storage area. No staging or storage of materials shall be permitted within the SEZ.

   (5) Location of directional signs associated with the traffic mitigation measures identified in the submitted traffic analysis.

   (6) Identification of the use of the walled area adjacent to the trash compactor. Some plans show a rear access door, other plans do not. If rear access is proposed, a paved accessway shall be provided. The above referenced land coverage calculations do not include any access to this area. The land coverage calculations and required land coverage transfer amounts shall be revised accordingly.

   (7) Location of snow storage areas, and appropriate Best Management Practices (BMPs) shall be identified.

   (8) A detail of the proposed emergency access along the east side of the building, through the proposed basin shall be provided.

   (9) Striping of the existing right-turn lane from Highway 50 to Johnson Boulevard shall be shown on the submitted site plan, subject to Caltrans approval.

   (10) Details of the proposed retaining walls shall be provided.

   (11) Location and details of all exterior building and parking lot lighting shall be provided. All lighting shall be consistent with Chapter 1,
Section 7 of the City of South Lake Tahoe Design Standards and with Chapter 30 of the TRPA Code of Ordinances. Lighting along the east, west and south building frontages shall be kept to the minimum needed for public safety. All lights shall be shielded and directed downward.

(12) Parking barriers shall be installed adjacent to all landscaped areas and areas of restored land cover.

(13) Details of any proposed fencing within the entire project area.

(14) Location and details of any exterior mechanical equipment. All equipment shall be screened from public view with screening that is effective year-round.

B. The permittee shall submit a $65,875 air quality mitigation fee. This fee is based on the estimated daily vehicle trip end (dvte) generation of 2,635 dvte assess at $25 per dvte.

C. The permittee shall submit an excess land coverage mitigation fee for the excess land coverage associated with APN 27-180-22 & 23 and 27-090-23 in accordance with the requirements of Subsection 20.5.A(3).

D. The security required under Standard Condition 1.2 of Attachment Q shall be determined upon the permittee’s submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures.

E. The permittee shall either pay an offsite coverage mitigation fee assessed at $5 per square foot for the creation of any new impervious coverage in the public right-of-way, reduce an equal amount of land coverage being created from any remaining allowable land coverage that may exist on the parcel, or transfer the needed land coverage to the right-of-way.

F. The permittee shall transfer 37,513 square feet of existing hard land coverage to this parcel. All transferred coverage shall be from any Bailey land capability class or have had any IPES score, and be located within Hydrologic Area 4. All transferred land coverage shall be placed in the Class 7 portion of the project area. (Note all coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances, and the TRPA Rules of Procedure and shall require a separate application to TRPA.) The above transfer number has been calculated as follows:

Total proposed land coverage for the Class 7 portion of APN 27-180-19 is 93,746 s.f. which is equal to 65% of the Class 7 portion of the parcel.
APN 27-180-19 contains 34,310 s.f. of existing Class 7 land coverage and 1,144 s.f. of existing SEZ land coverage.

4,879 s.f. of SEZ land coverage will be relocated from APN 27-180-23 to the SEZ land on APN 27-180-19.

38,000 s.f. will be relocated to APN 27-180-19 from the other three parcels within the project area which leaves a total of 21,436 s.f. of needed land coverage to be obtained from outside of the project area to equal a total proposed land coverage of 99,746 s.f. for the parcel (34,310 + 38,000 + 21,436 = 99,746)

50% of the Class 7 parcel size is 71,718 s.f. The existing and relocated Class 7 land coverage exceeds 50% of the Class 7 parcel size.

The needed 21,436 is transferred at a ratio of 1.75:1 pursuant to Subsection 20.3.C of the TRPA Code of Ordinances utilizing the 65% final coverage figure for the Class 7 portion of APN 27-180-19. The results are that 21,436 s.f. x 1.75 = 37,513 s.f. of land coverage must be transferred to the site.

G. The permittee shall record a project area deed restriction against APN 27-180-19, 22 & 23 and 27-090-23. TRPA “approval as to form” must be included on the document. Evidence of document recording is required prior to final acknowledgement of the permit.

H. The permittee shall transfer 17,002 square feet of commercial floor area to the Class 7 portion of the project area. All transfer shall be subject to separate TRPA review and approval. This number may be modified to 12,822 square feet of commercial floor area if the City of South Lake Tahoe provides an allocation recommendation of 4,180 square feet of commercial floor area to be assigned to this project from the Bijou/AI Tahoe Community Plan.

I. The elevation drawings shall be revised to include articulation along the east, west and south walls to demonstrate that at any corner, the total height of the walls will not exceed 90% of the total building height consistent with Subsection 22.7.(8) of the TRPA Code of Ordinances. Any proposed building modification is subject to TRPA review and approval.

J. The permittee shall submit a grading plan for the entire project area. The grading plan shall include, but shall not be limited to the following:
Demonstration that the proposed depths of the water quality basins will not intercept groundwater. The distance between groundwater and the bottom of the basins shall be identified.

Demonstration that the proposed excavation within the Class 7 land will not exceed six feet as approved by the Soils/Hydrologic Report approved by TRPA.

Identification of the amount of cut/fill needed for the project and the location of from where fill will be obtained, and the final location of any excess material, if applicable.

Demonstration that any proposed grading within the Army Corps of Engineers identified 100-year floodplain will not interfere with the function of the floodplain. Redirection of potential flows shall be included in the analysis. Berms in this location may not be feasible.

It is unclear from the submitted plans of the proposed heights or depths of the basins/berms. Staff has concerns about the revegetation potential of steep basin slopes and of the functionality of adding berms to an entire parcel.

Landscape berms along the south and east sides of the proposed building shall be identified.

The permittee shall submit a revised landscape plan that includes, but is not limited to, the following:

The placement of additional evergreen trees within the parking lot. The placement of only deciduous trees in the large visually dominant area will not provide the desired visual effect year-round.

The use of native plant species shall be installed within the project area. The majority of the species cited on the preliminary landscape plans are not considered native plant species. Non-native plants shall be used as accent vegetation only.

A written discussion of the SEZ plant species selected for the revegetation of SEZ areas. All vegetation shall be conducive to SEZ land.

A fertilizer management plan for the entire project area. Please note that no fertilizer use is permitted in the SEZ. Any plant species selected for the SEZ will need to be established without the use of fertilizer.
(5) A temporary and permanent irrigation system to ensure establishment and longevity of the planted vegetation.

(6) A detailed SEZ restoration plan for APN 27-180-23.

L. The permittee shall submit a revised Best Management Practices (BMP) plan which includes the following:

(1) Identification of the need to add berms around APN 27-180-23. A written discussion of other options in lieu of the berm shall be provided.

(2) Identification that the drainage basins will be connected.

(3) Modifications to engineered calculations based on any design changes as a result of potential berm removal, groundwater interception and revegetation concerns. At a minimum, the BMPs for the project area shall intercept and infiltrate a 20 year/1 hour storm event. Sand, grease and oil separation shall also be included.

M. The permittee shall submit an Employer-Based Trip Reduction Program consistent with Chapter 97 of the TRPA Code of Ordinances to TRPA for review and approval.

N. The permittee shall submit a long-term maintenance and monitoring plan (minimum period of 10 years) to TRPA for review and approval. The monitoring portion of this plan shall include bi-annual sampling of storm water runoff and shall compare the sampling results to the following adopted TRPA surface runoff discharge standards (pursuant to Subsection 81.2.A, TRPA Code).

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Description</th>
<th>Parameter</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>WQ-5</td>
<td>Storm water runoff quality</td>
<td>Surface discharge to water surface</td>
<td>TRPA thresholds: 0.5mg/l Dissolved inorganic nitrogen as N; 0.1mg/l Dissolved phosphorus as P; 0.5mg/l Dissolved iron as Fe; 2.0 mg/l Grease and oil; 250 mg/l Suspended sediment</td>
</tr>
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Sampling shall occur during the peak spring runoff period and during a summer thunderstorm event (if any). Two sampling locations shall be established for the project. Base line data shall be collected during the first year after construction. Pollution concentrations shall meet the
above discharge standards, if possible. In no case shall discharge waters be allowed to leave the project area in a worse condition than at the primary discharge point. Reasonable corrective measures based on Best Available Technology (BAT) may be required to improve water quality discharges if the system fails meet any TRPA discharge standard. The long-term maintenance and monitoring plan shall also report on the general effectiveness of approved vegetation used to stabilize on-site soils and improve water quality. By accepting this condition, the permittee agrees to implement any identified correction measures in a timeframe acceptable to TRPA.

O. The permittee shall submit five final plans to TRPA.

4. By acceptance of this permit, the permittee agrees to actively participate in the Coordinated Transit System (CTS) by providing and operating a kiosk either from within the store or in a sheltered location outside of the store. Installation of the kiosk shall occur within one year from the date CTS becomes operational.

5. This permit does not address signs within the project area, other than the directional signs discussed in the submitted traffic analysis. All signs shall be reviewed by the City of South Lake Tahoe.

6. All utilities within the project area shall be placed underground.

7. By acceptance of this permit, the permittee agrees that all mitigation measures outlined in the scenic analysis, traffic analysis and soils/hydrologic report are considered conditions of this permit approval.
TAHOE REGIONAL PLANNING AGENCY

THOMAS M. RICHARDS, CEO

TAHOE REGIONAL PLANNING AGENCY

STAFF SUMMARY

Project Name: William Mosher Forest Health Restoration Project

Application Type: Resource Management

Applicant: William Mosher

Applicants Representative: David Early

Agency Planner: Jesse Jones, Associate Environmental Specialist, RPF #2545

Location: El Dorado County

Assessor’s Parcel Number/File Number: 032-090-05, File #200029

Staff Recommendation: Staff recommends approval of the project. The required findings and recommended conditions are outlined in Sections D and E of this staff summary.

Project Description: The project is located on 120 acres just east of the Upper Truckee River and the South Lake Tahoe airport. Approximately 49 acres of the property are meadows, sagebrush and other areas excluded from operations. Approximately 69 acres of forest will be thinned to promote the development of a healthy late successional old growth forest resistant to effects of drought and insects. Some dead and dying trees will be harvested, including firewood cutting in two acres of lodgepole pine killed by bark beetles. Log removal shall be by ground or over-snow skidding on Land Capability Districts 4 and 5, and by end lining or hand carrying in districts 1b and 2.

A Timber Harvest Plan (THP) for this project has been prepared by Registered Professional Forester David Early, submitted to the California Department of Forestry and Fire Protection (CDF), and approved. This plan includes a required Confidential Archaeological Addendum which provides for records checks, site survey, identification, recording and protection of any cultural resources which may exist on the project area. Exclusion of cultural resource sites from logging activities is required under the THP and under TRPA Standard Permitting Conditions.

Timber marking shall be reviewed for compliance with TRPA Ordinances and Regional Plan Goals and Policies. All live timber to be cut shall be marked, and timber marking shall be consistent with the Regional Plan’s direction to “Provide for promotion and perpetuation of late successional/old growth forests…to increase late successional/old growth conditions… Individual trees greater than 30” dbh shall also be favored for retention….” Trees 30” dbh and greater shall only be cut with TRPA approval on a tree-by-tree basis.
Site Description: The project area is located ¼ mi. east of the South Lake Tahoe airport, in Plan Area 095 (Trout/Cold Creek), zoned for Conservation. The entire project area is within 0.5 km. of developed residential, commercial and public service zoned lands. The project area includes Land Capability Districts 1b, 2, 4 and 5.

Overall, the forest is an uneven-aged mosaic of generally even-aged groups of trees interspersed with meadows and brushy areas. Tree species composition is: Jeffrey pine 94%, lodgepole pine 4% and white fir 2%. Current basal is estimated at 255 square feet per acre for trees > 6 inches dbh. Many of the white fir have died or are being killed by bark beetles. Some areas of dense stocking of lodgepole and Jeffrey pine have been decimated by bark beetles. Jeffrey pine bark beetles are currently active in the stand. Some Jeffrey pine are heavily infested with dwarf mistletoe, a parasitic plant which spreads seeds to young trees in the vicinity. About 2 trees/acre 30" dbh and greater are scattered across the property. Hand-sawed stumps, tops, cull logs and downed, dead trees in the project area provide insight into pre-settlement forest tree species, size and spacing. The pre-settlement forest was generally medium to low density Jeffrey pine with scattered white fir, and lodgepole pine in moister areas, as well as occasional trees in meadows and brushy areas.

The project is located on generally west-facing slopes with drainage to the Upper Truckee River. One perennial stream/wet meadow system crosses the center of the property and is excluded from activities associated with the project, except for some end lining and hand removal of dead lodgepole pine firewood. Several small, seasonally wet areas are associated with subsurface flow toward the river. Several channels show some evidence of occasional ephemeral above ground water flow toward the river. Some erosion problems were seen on nearby property not owned by the applicant or his family. This project is planned to avoid contributing to these problems.

Issues: The proposed project involves substantial tree removal and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. Water Quality:
   Substantial tree removal by its nature involves ground disturbance. The project, as proposed and conditioned, will be conducted with ground or over-snow skidding on the higher land capabilities, and end lining and hand carrying for lower land capabilities. Skid trails shall be flagged in advance, and trees shall be felled to lead. Following logging, roads, landings and skid trails shall be covered with slash, pine needle mulch or weed-free straw as required in TRPA’s standard permitting conditions, and additionally as needed.

2. Vegetation Management:
   The project area can be broken down into three basic vegetation types: pine forest, meadows, and brushy areas dominated by sagebrush and manzanita. Tree removal operations will be generally confined to forested areas, but with only two small log deckign areas planned, it may be necessary to skid logs on flagged skid trails across open areas. This shall be done in compliance with applicable California Forest Practice Rules and TRPA Regional Plan direction and ordinances for protection of vegetation, SEZ’s and soils.
According to William Mosher, this project was initiated in response to dialogue between the property owners and the USDA Forest Service, which is completing forest health enhancement and fuels management projects on adjacent national forest lands. It is apparent that on much of the project area, too many trees are competing for available soil moisture, nutrients, sunlight, and growing space. These trees are weakened and susceptible to drought stress, attack by insects, and fire. Areas of 100% mortality of fairly young trees due to insect attack are found on the project area. If these conditions are not addressed, these trees may be killed by insects or fire, and they will not develop late successional old growth attributes.

This situation contrasts with the general pre-settlement forest conditions in which periodic ground fires thinned out the weaker trees, while stronger trees survived fire and utilized available site resources to strengthen themselves against future insect attacks and fires. The project area contains evidence that these conditions previously prevailed.

Thinning these trees will restore forest health and allow the forest to develop late successional old growth characteristics. Healthy, dominant, well-spaced trees will be retained and will benefit from increased availability of soil moisture, nutrients, light and growing space. Tree diameter growth will increase with increased tree vigor. Over time, the stand will come to more closely resemble the forests appreciated by early inhabitants of, and visitors to, the Tahoe region.

3. Historical Resources:
A Confidential Archaeological Addendum has been prepared for the area where harvest operations will occur, in accordance with California Forest Practice Rules for preparation of Timber Harvest Plans. This includes a Records Check with the California Historical Resource Information System, a site survey by professional archaeologist Michael Drews, relocation of any previously recorded sites and updating of records, recording of new sites, and protection of all identified sites. Also included is required consultation with Native American groups and individuals on the Native American Heritage Commission contact list regarding Native American cultural resources. In addition, Dave Early, the forester preparing the plan, states that he is certified as an archaeological surveyor pursuant to the California Forest Practice Rules.

The Timber Harvest Plan discloses that archaeological and/or historical sites were discovered. California Forest Practice Rules for a Modified THP require that these sites be excluded from any logging activity. The Confidential Archaeological Addendum has been reviewed and approved by an archaeologist employed by the California Department of Forestry and Fire Protection.

4. Hazard Reduction
Throughout the logging area, all limbs shall be lopped from the un-utilized portions of trees generated during timber harvest activities. Lopping of limbs shall be done concurrently with the timber operations, scattered over the ground, and will result in a layer of residual limbs scattered to a depth not to exceed 20 inches. Over time, snow loads will help crush these fuels to a lower level, which will help promote decomposition. Slash generated within 100 feet of public trails
and 200 feet of structures used for habitation or public roads shall be removed. Prescribed burning is not a part of this project. Removal of dead and dying trees will reduce fuel loads. Thinning trees will reduce potential future tree mortality which could result in increased fuels hazards.

5. Scenic:
The project area is visible as a distant background from Highway 50. It is visible from the South Lake Tahoe airport, from the windows of airplanes, and from homes adjacent to a portion of the project area. From a horizontal view, the effects of harvest will be nearly unnoticeable, as Forest Practice Rules require that 50% of trees be retained, and these will be the larger trees. From above, the forest will have the appearance of a medium density pine forest instead of a high density pine forest. Over time, the benefit of this project will be larger, healthier trees and reduction of mortality associated with crowded stands of trees. John Hitchcock, TRPA Scenic Program Manager, concurred that this project will not have significant impact on scenic resources.

6. Air Quality:
Ground skidding by its nature will cause some air quality disturbance due to disturbance of soil. However, fugitive dust is not anticipated to present a problem due to the fairly small scale of the operation. Most of the project area is buffered by national forest or California Tahoe Conservancy lands. Skidding will only occur on a portion of the project area at any given time, and will be planned to avoid open areas where wind erosion could occur. The main access road from the north is paved, with a very short unpaved spur. The access road from the south is covered with wood chips. Any occurrence of dust will be temporary.

7. Biological Resources:
The forester preparing the project plan reports that he consulted the TRPA Special Interest Species and Sensitive and Uncommon Plants Atlas while preparing the plan. A goshawk nest over ½ mile away was found in the atlas. He says USDA Forest Service biologist Mollie Hurt had no record of this nest. TRPA Wildlife Biologist Shane Romansos was contacted, and he reported no known sensitive, threatened or endangered species in the area.

The forester preparing the plan cataloged the wildlife seen in plan preparation. No Special Interest, Threatened, Endangered or Rare Species were seen by the forester preparing the THP associated with this project, or by TRPA staff inspecting the project area.

Standing dead trees with diameters eleven inches (d.b.h.) or greater, and more than 20 feet tall, shall not be removed except as hazard or when densities of snags in the immediate area exceed two per acre. Suitable snags will be identified on site.

8. Noise:
The project is expected to have noise impacts on the adjacent residential neighborhoods from the harvest activity and logging truck activities. Subsection 23.8 of the TRPA Code exempts TRPA-approved construction or maintenance
activities from the TRPA Community Noise Equivalent Levels (CNEL) between the hours of 8:00 a.m. and 6:30 p.m.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) and a Timber Harvest Plan (THP) prepared by a registered forester in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC and THP will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement: This project is located within Plan Area 095 (Trout/Cold Creek). The Land Use Classification is Conservation, and the Management Strategy is Mitigation. Agency staff has reviewed the subject Plan Area and determined the proposed project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (resource management – thinning and sanitation salvage) is listed as an allowed use.

C. Land Coverage: No additional land coverage will be created as a result of this project.

D. Required Findings: The following is a list of required findings as set forth in Chapters 5 and 71 of the TRPA Code of Ordinances. Following each finding Agency staff has briefly summarized the evidence on which the finding can be made.

1. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.
   a. Land Use: The proposed project is for forest health enhancement/timber stand improvement. The primary land use of the project area (Conservation) will not be altered as a result of the proposed project. The proposed project method of thinning and sanitation salvage is an allowed use for the Plan Area. The removal methods are consistent with Chapter 71 of the TRPA Code of Ordinances.
   b. Transportation: There will be a short-term increase in daily vehicle trip ends (DVTE) associated with the transportation of logs from the project area. This increase is considered temporary. Forest products removal will not interfere with peak summer recreational or ski traffic by limiting hauling to weekdays and non-holiday periods. Hauling hours will be limited to the hours between 8:00 a.m. and 8:30 p.m.
c. **Conservation:** The thinning of overstocked stands of trees and the removal of dying trees will promote forest health. Residual snags, downed logs and slash treatment will comply with Chapter 71 of the TRPA Code of Ordinances. All proposed timber removal methods are consistent with the land capability systems. Land capabilities within the harvest area include 1b, 2, 4 and 5. The applicant is proposing possible over-snow removal if conditions are available. Skidding over snow is preferred to ground skidding provided that the depth of the snow is sufficient to prevent disturbance of the soil beneath the snow as determined by site specific field observations (Section 71.3.F (1) of the Code of Ordinances).

There are no known special interest species, or sensitive or uncommon plants within the project area or adjacent to the project area. Trees greater than 30” diameter at breast height (d.b.h) shall not be cut unless they are approved on a tree-by-tree basis by TRPA and consistent with applicable provisions of the Regional Plan and TRPA Ordinances.

d. **This project will not affect any existing recreation facilities on or adjacent to the project area.** Restoration of forest health will ensure the long-term viability of the forest. No adverse visual impacts are expected to occur from this project. Increased tree vigor and growth will improve the aesthetic enjoyment of the area in the future.

de. **Public Service and Facilities:** This project will not create a new demand for public service or necessitate any additions to existing public facilities.

e. **Implementation:** This resource management project does not require any allocations of development.

2. **This project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V (g) Findings” in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained within said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

3. **Wherever federal, state or local air and water quality standards are applicable for the Region, whichever are strictest must be attained and maintained pursuant to Article V (g) of the TRPA Compact.**
The project meets or exceeds such standards. Potential dust problems are mitigated by avoiding areas prone to wind erosion, and by covering skid trails with slash. The California Regional Water Quality Control Board (Lahontan Region) has concluded that this project will not result in impacts to water quality, and TRPA staff concurs.

4. The project or activity, based on a report by a qualified forester, is consistent with Chapter 71 of the TRPA Code of Ordinances.

The forest health restoration project was prepared by a Registered Professional Forester. The proposed project activity, as conditioned, meets the requirements of Chapter 71 of the TRPA Code of Ordinances.

E. Required Actions: Agency staff recommends the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section D above, and a finding of no significant environmental effect.

II. A motion to approve the project based on the staff summary, subject to the following standard and special conditions:

1. This permit is for the property identified as William Mosher Forest Health Restoration Project, owned by William Mosher (as timber owner), and Alva Barton, the L. Fay Ledbetter Trust and Trustees Melba Mosher and William Ledbetter (as landowners), as described in the Timber Harvest Plan prepared by David Early, Registered Professional Forester.

2. Prior to acknowledgement of the permit and commencement of the project activities, security shall be posted with TRPA to ensure compliance with all permit conditions. The security shall be equal to 110 percent of the cost of Best Management Practices (BMPs) and other erosion control and water quality improvements required for the timber harvest. The minimum security shall be $5,000.

3. The Standard Conditions of Approval in Attachment T.

4. If cultural resources are discovered prior to commencing harvest operations, the permittee shall amend the THP to include recording and exclusion from logging of any cultural resource sites found subsequent to plan preparation.

5. All live trees to be cut shall be marked. Timber marking shall be reviewed and approved by TRPA for consistency with the THP, the Regional Plan, TRPA Ordinances, and Standard and Special Conditions of Approval. Timber marking/cutting shall perpetuate...
and/or enhance Late Successional Old Growth forest where it exists, and shall promote its development in younger trees.

6. Trees 30" dbh and greater shall not be cut or removed unless approved by TRPA on a tree-by-tree basis. Examples of potentially approvable trees include hazard trees, trees currently under severe attack by insects, and trees spreading dwarf mistletoe to young trees. Trees 30" dbh and greater shall be favored for retention consistent with direction from the Regional Plan and Chapter 71 of the Code of Ordinances. TRPA shall mark, map and record these trees in an agreed-upon manner.

7. No new permanent roads or increase in the size of existing roads are authorized as part of this approval.

8. Slash generated within 100 feet of public trails and 200 feet of structures used for habitation or public roads shall be removed.

9. Any sighting of a TRPA sensitive species or species of interest (or location of nest or dens of these species) shall be immediately reported to the TRPA Compliance Inspector.

10. The adequacy and need for temporary BMPs will be determined at the time of the preharvest inspection. Any required modifications as determined by TRPA shall be incorporated into the project permit at that time.

11. The project area shall be subdivided into logical logging units. Prior to felling operations, skid trails shall be planned and flagged for each unit to protect soils from unnecessary impacts. Skidding shall be planned consistent with the Code of Ordinances.

12. Stumps shall be kept to a height of 6 inches or less, on the side adjacent to the highest ground, except where safety or embedded metal make this impractical. Stumps shall be treated with borax or other material approved by TRPA.

13. To prevent introduction of weeds and other potential pests, off-highway heavy equipment to be used in the logging, including the skidder and loader, but not including trucks which do not drive past the landings, shall be pressure-washed and free from caked-on dirt prior to entering the site.

14. Plastic flagging shall be removed from the forest and disposed of appropriately when it is no longer needed.

15. "Leaky" logging equipment shall not be used. "Leaky" equipment shall be removed from the site immediately. Emergency repairs on-site are permitted only if they result in less leakage than
immediately removing the equipment for repairs. Any leakage shall be contained and disposed of at an approved site.

16. The Licensed Timber Operator shall supply TRPA with proof of compliance with applicable county road use permitting provisions from the El Dorado County Transportation Department. The Licensed Timber Operator shall comply with all applicable local, county and state regulations regarding road use, including residential speed limits.
TAHOE REGIONAL PLANNING AGENCY
308 Doris Court
Eiks Point, Nevada
www.ceres.ca.gov/trpa

MEMORANDUM

May 11, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of additional Water Quality Mitigation Funds in the amount of $100,000 for the Snow Creek Stream & Wetland Restoration to Placer County.

Proposed Action: Authorize the release of $100,000 in water quality mitigation to Placer County for the above mentioned project.

Staff Recommendation: Staff recommends granting the release of all funds subject to the conditions cited below.

Summary: Placer County will be constructing the Snow Creek project ($100,000 in additional WQ requested) in this construction season. The Governing Board approved the release of $100,000 in WQ and $350,000 in SEZ mitigation funds for this project in October 1999. Placer County had stated in October 1999 that an additional $100,000 would be requested at a later date if needed, and the construction bids have proved that need.

The Snow Creek Stream and Wetland Restoration is project #0025 in the Environmental Improvement Program. This project is on the Placer County five year list of CIP Projects.

Staff recommends approval of release subject to the conditions cited below.

Conditions:

1. The County shall only use the funds for the above project as approved by TRPA.

2. The County shall keep complete records of all funds expended on the project and how they were used. Such records shall be made available for review and audit by TRPA upon written request.

3. Any unused mitigation funds shall be returned to TRPA, or TRPA approval shall be acquired before their re-allocation to another project is made.

4. Signage used to identify the project(s) during construction shall include all funding sources.

If you have any questions regarding this item please contact Larry Benoit, Associate Planner, at (775) 588-4547.
Facsimile

April 20, 2000

Mr. Larry Benoit
Tahoe Regional Planning Agency
P.O. Box 1036
Zephyr Cove, NV 89448

RE: REQUEST FOR DISBURSEMENT OF WATER QUALITY FUNDS
SNOW CREEK STREAM AND WETLAND RESTORATION PROJECT

Dear Mr. Benoit:

In our letter of October 14, 1999, we requested allocation of Water Quality Mitigation funds for the Snow Creek Stream and Wetland Restoration Project funds. At that time, we only requested a portion of the Water Quality Funds for the project, and stated the remaining $100,000 would be requested, if needed, at a later date. We are now requesting the release of the remaining portion ($100,000) of the Snow Creek Stream and Wetland Restoration Project's Water Quality Mitigation Fund allocation.

On March 21, 2000, bids for construction were received with an apparent low bid of $2,264,658.50, which exceeds the project funding by approximately $300,000. The California Tahoe Conservancy has tentatively committed additional $200,000 to the County. Thus, the funding disbursement of the remaining $100,000 of Water Quality Mitigation Funds is requested to allow the County to encumber and award the construction contract for this project. With the construction season approaching fast, a timely response to this request would be sincerely appreciated.

If you have any questions regarding this request for disbursement, please call Tim Kiser at (530) 889-7552 or me at (530) 889-7524. Thank you for your assistance in processing this request.

Sincerely,

County of Placer
Department of Public Works
T. D. Hackworth, Acting Director

[Signature]

Robert Costa
Engineering Manager

cc: Carol McNeely, DPW
    Tim Kiser, DPW

Auburn: 11444 B Avenue / DeWitt Center / Auburn, California 95603-2603 / (530) 889-7500 / Fax (530) 889-7544
Tahoe: 565 West Lake Blvd. / P.O. Box 1909 / Tahoe City, California 96148-1909 / (530) 581-6227 / Fax (530) 581-6228
Internet Address: http://www.placer.ca.gov
MEMORANDUM

May 16, 2000

TO: Tahoe Metropolitan Planning Organization
    Tahoe Regional Planning Agency

FROM: Richard Wiggins, Transportation Programs Manager

SUBJECT: Agenda of the Tahoe Transportation District/Tahoe Transportation Commission April 21, 2000 and May 12, 2000 Meetings

Proposed Action: Review of the attached TTD/TTC Agenda and Action Sheet from the April 21, 2000 and May 12, 2000 meetings, and review of items presented.

Staff Recommendation: Seek clarification as necessary.

If there are any questions regarding this agenda item, please contact Richard Wiggins at (775) 588-4547.
TAHOE TRANSPORTATION DISTRICT (TTD)
TAHOE TRANSPORTATION COMMISSION (TTC)
AGENDAS

Forest Inn Suites
Sierra Board Room
# 1 Lake Parkway
So. Lake Tahoe, CA
(530) 541-6655

All items on this agenda are action items unless otherwise noted.

I. TAHOE TRANSPORTATION DISTRICT AND TAHOE TRANSPORTATION COMMISSION CALL TO ORDER AND GENERAL MATTERS

A. Roll Call and Determination of Quorum

B. Approval of Agenda for April 21, 2000

C. Approval of Minutes of March 10, 2000

II. PUBLIC INTEREST COMMENTS (No Action)

III. CONSENT CALENDAR

A. Resolution in Support of a Nevada Section 5311 Grant Application Supporting Trolley Operations in Douglas County Summer 2001 (TTD)

B. Resolution Declaring Computer System Surplus and Directing Disposition (TTD)

C. Acceptance of FY 1999/2000 Audit (TTD)

D. Approval of Trolley Lease Agreement between TTD and Placer County (TTD)

E. Approval of Trolley Lease Agreement between TTD and Area Transit Management, Inc. (TTD)

F. Approval of Vehicle Lease Agreement between TTD and Area Transit Management, Inc. (TTD)

IV. PLANNING AND PROGRAMMING MATTERS

A. Discussion of Highway 50/Echo Summit Congestion (TRPA/TTD/TMPO)

B. Update by Caltrans on EIP Master Plan for the Lake Tahoe Basin (TRPA)

C. Discussion of Need to Develop Regional ADA Paratransit Compliance Plan (TTD)

V. POLICY MATTERS

RW:jrwb

AGENDA ITEM VIII.B.1.
A. Discussion of Caltrans Organization and Staff Responsibilities (TTD)

VI. OPERATIONS AND PROJECT MATTERS

A. Discussion of Issues Related to the Installation of Changeable Message Signs and Antenna for Highway Advisory Audio Systems (TRPA)

B. Presentation by Caltrans Regarding California Planning, Programming and Project Delivery Process (TRPA/TTD/TMPO)

VII. REPORTS AND INFORMATIONAL ITEMS

A. Finance Committee

B. Transportation Technical Advisory Committee

C. Board and Commission Members

D. Tahoe Regional Planning Agency and Staff
   a. Report on Staff Activities
   b. SR 28 Request to NV Oversight Committee on TRPA

VIII. ADJOURNMENT OF THE TAHOE TRANSPORTATION DISTRICT AND THE TAHOE TRANSPORTATION COMMISSION

IX. ATTACHMENTS

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, May 12, 2000, beginning at 9:00 a.m., at the Tahoe City Public Utility District, Tahoe City, CA. (Regular TTD and TTC Board meetings are held on the second Friday of each month).
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THAOE TRANSPORTATION DISTRICT (TTD)  
THAOE TRANSPORTATION COMMISSION (TTC)  
AGENDAS  

9:00 a.m.  
May 12, 2000  

Tahoe City Public Utility District  
221 Fairway Drive  
Tahoe City, California  
(530) 583-3796  

All items on this agenda are action items unless otherwise noted.  

I.  THAOE TRANSPORTATION DISTRICT AND THAOE TRANSPORTATION COMMISSION CALL TO ORDER AND GENERAL MATTERS  

A. Roll Call and Determination of Quorum  
B. Approval of Agenda for May 12, 2000  
C. Approval of Minutes of April 21, 2000  

II.  PUBLIC INTEREST COMMENTS (No Action)  

III.  CONSENT CALENDAR  

A. Adoption of FY 2000/2001 Budget (TTD)  
B. A-Z Bus Sales Consignment (Revised)  

IV.  PLANNING AND PROGRAMMING MATTERS  

A. Recommendation to TMPO for adoption of FY 2000/2001 OWP (TMPO)  
C. Recommendation for Inclusion of a Recreational Trails Program Project in the California FSTIP (TMPO)  

V.  OPERATIONAL AND PROJECT MATTERS  

A. Review and Acceptance of Road Marker Program Grant for El Dorado County (TTD)  
B. Presentation by Transportation Development Act Claimants Regarding transit services (TRPA)  
C. Discussion of SR 28 Eastshore Access Planning (TRPA, TTD)  
D. Review and Discussion of US 50 Highway Improvement Project (TRPA)  

RW:jrwb  

AGENDA ITEM VIII.B.1.
E. Review and Discussion of CTS Project (TRPA)

VI. POLICY MATTERS

A. Discussion of NDOT Organization and Staff Responsibilities

VII. REPORTS AND INFORMATIONAL ITEMS

A. Finance Committee

B. Transportation Technical Advisory Committee

C. Board and Commission Members

D. Tahoe Regional Planning Agency and Staff
   a. Report on Staff Activities
   b. HARS Status
   c. 2000 FTP and FTIP Status

VIII. ADJOURNMENT OF THE TAHOE TRANSPORTATION DISTRICT AND THE
      TAHOE TRANSPORTATION COMMISSION

X. ATTACHMENTS

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, June 9, 2000, beginning at 9:00 a.m., at the Offices of the Tahoe Regional Planning Agency, Zephyr Cove, NV. (Regular TTD and TTC Board meetings are held on the second Friday of each month).
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<td>A. Recommendation to TMPO for Adoption of FY 00/01 OWP</td>
<td>Continued w/Request to Present at GB in June, 2000</td>
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<tr>
<td>B. Recommendation of Nevada DOT FY 01/03 Long Range Project List</td>
<td>Continued w/Request to Present at GB in June, 2000</td>
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<td>C. Recommendation for Inclusion of a Recreational Trail Program Project in the California FSTIP</td>
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<tr>
<td>TTD/TTC Operational and Project Matters</td>
<td>Approved w/continued Development</td>
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<tr>
<td>A. Review and Acceptance of Road Marker Grant for El Dorado County</td>
<td>Approved w/continued Development</td>
</tr>
<tr>
<td>B. Presentation by Transportation Development Act Claimants Regarding Transit Services</td>
<td>Received</td>
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<tr>
<td>C. Discussion of SR 28 Eastshore Access Planning</td>
<td>Received</td>
</tr>
<tr>
<td>D. Review and Discussion of US 50 Highway Improvement Project</td>
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<tr>
<td>E. Review and Discussion of CTS Project</td>
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<td>TTD/TTC Policy Matters</td>
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<tr>
<td>A. Discussion of NDOT Organization and Staff Responsibilities</td>
<td>Received</td>
</tr>
<tr>
<td>TTD/TTC Reports and Informational Items</td>
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MEMORANDUM

May 16, 2000

To: Governing Board of the Tahoe Metropolitan Planning Organization

From: TRPA Staff

Subject: Adoption of the FY 2000-2001 Tahoe Basin Transportation Planning Overall Work Program

Proposed Action: Review the proposed FY 2000-2001 Overall Work Program for Transportation Planning and adopt the attached resolution from the Tahoe Metropolitan Planning Organization (TMPO).

Staff Recommendation: Staff recommends the TRPA and TMPO adopt the FY 2000-2001 Transportation Planning Overall Work Program by approving the attached resolution.

Background: Each year TRPA is required to adopt an Overall Work Program (OWP) that describes the TRPA transportation planning program. The OWP must include all transportation revenues and expenditures, and describe work elements within the OWP that staff will complete during the fiscal year. In addition, the OWP must now meet federal requirements of metropolitan planning organizations, including addressing Federal Emphasis Areas.

The Overall Work Program for FY 2000-2001 is similar to the 1999/2000 OWP, and incorporates the requirements of the Tahoe Metropolitan Planning Organization. The OWP this year includes funding from approximately fourteen different sources. This includes PL funds (available to MPOs for transportation planning) from California and Nevada, as well as special discretionary funding sources. There are several special funding sources programmed to complete specific projects (i.e., California State Planning & Research (SP&R) funds; and Federal Aviation Administration (FAA)).

This OWP includes work tasks that are the responsibility of the TMPO, TRPA, Tahoe Transportation District and the advisory bodies to each of these entities. The OWP describes the role and responsibilities of each of the entities, and how they differ and/or overlap. The products identified for each work element show who the responsible agency should be, but it is not shown for each task. TRPA staff will perform all of the tasks identified in the OWP and will serve as staff to the TRPA, TTD and TMPO.
Memo to the TMPO Governing Board
Adoption of the FY 2000-2001 Overall Work Program
Page 2

Work tasks in the FY 2000-2001 OWP will focus on refinement of the MPO planning process, consensus building, development of the Regional Transportation Plan, and air quality and alternative energy.

The first section of the OWP provides a setting and background for the transportation planning conditions that currently exist in the Tahoe Region. This section describes how the TMPO fits into the process in Tahoe, and how the existing entities (TRPA, TTD) will work together with the TMPO. A status of the FY 1999-00 work program is provided, as well as how the projects proposed in the FY 2000-2001 OWP fit into the federal planning and strategy areas. A series of tables is then provided that summarizes the financial conditions of the document. Overall revenues and expenditures are identified, as well as funding source by work element and funding for staff and other expenses (direct, contract, etc.) by work element.

Each work element is described individually in the final section. Tasks and products are identified, and the funding summary is shown for each work element. Completion dates have been estimated for each product.

Members of the TRPA and TMPO Governing Board have received a copy of the full OWP in addition to the Governing Board packet. The document is available for review at TRPA, or by calling the phone number below.

If you have any questions or comments regarding this agenda item, please contact Richard Wiggins at (775) 588-4547.
TAHOE METROPOLITAN PLANNING ORGANIZATION
TMPO RESOLUTION NO. 2000-__

RESOLUTION ADOPTING THE FY 2000-2001 TAHOE BASIN TRANSPORTATION PLANNING OVERALL WORK PROGRAM

WHEREAS, the Tahoe Basin Transportation Planning Overall Work Program (OWP) is the document required for the programming of federal and state transportation planning funds; and

WHEREAS, the Tahoe Regional Planning Agency is responsible for developing transportation and air quality plans, programs and projects designed to attain and maintain environmental thresholds pursuant to the Tahoe Regional Planning Compact; and

WHEREAS, TEA 21 provided for the establishment of a metropolitan planning organization for the Lake Tahoe Basin, and that the Governors of California and Nevada designated the Tahoe Metropolitan Planning Organization in 1998; and the Tahoe Metropolitan Planning Organization is responsible for the adoption of transportation plans, programs and projects consistent with the Bi-State Compact; and

WHEREAS, the Tahoe Transportation District is established under Article IX of the Compact, as amended, and is charged with the operation and ownership of public transportation and parking systems; and

WHEREAS, the local jurisdictions of the City of South Lake Tahoe, El Dorado County, Placer County, Washoe County, Carson City and Douglas County are represented in the transportation planning process by membership on the Boards of the Tahoe Planning Agency, the Tahoe Metropolitan Planning Organization and the Tahoe Transportation District; and

WHEREAS, the United States Forest Service is a member of the Tahoe Metropolitan Planning Organization and the Departments of Transportation for the States of Nevada and California are ex-officio members of the Tahoe Transportation District; and

WHEREAS, this document has been properly noticed for review at the Tahoe Transportation Technical Advisory Committee and the Tahoe Transportation District, and that a Public Hearing was properly noticed and held by the Tahoe Metropolitan Planning Organization.

NOW THEREFORE BE IT RESOLVED that the Tahoe Metropolitan Planning Organization Board of Directors, this _____ day of May 2000, adopts and approves the FY 2000-2001 Tahoe Basin Transportation Planning Overall Work Program and budget and certifies that its planning process will be implemented through this document in accordance with:

- Sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d));
• Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each state under 23 U.S.C. 324 and 29 U.S.C. 794;

• Section 1101(b) of the Transportation Equity Act for the 21st Century (Pub. L. 105-178 112 Stat 107) regarding the involvement of disadvantaged business enterprises in the FHWA and FTA funded planning projects (Section 105(f)), Pub. L. 97-424, 96 Stat. 2100; 49 CFR Part 26); and


Ayes:

Nayes:

Abstain:

Absent:

Larry Sevison, Chairman
Tahoe Metropolitan Planning Organization
May 15, 2000

To: Tahoe Metropolitan Planning Organization

From: Transportation Staff

Subject: Inclusion of the Rubicon-Lighthouse Trail as a Recreational Trail Program Project in the California Federal Statewide Transportation Improvement Program

Action Requested: The TMPO Board is requested to approve the programming of federal funds for the Rubicon-Lighthouse Trail project in El Dorado County in order for the funds to be included in the California Federal Statewide Transportation Improvement Program (FSTIP).

Tahoe Transportation Commission Recommendation: The TTC reviewed this project at their May 12, 2000 meeting and voted unanimously to recommend to the TMPO this project be approved for inclusion in the California FSTIP.

Discussion: With the implementation of the Tahoe Metropolitan Planning Organization (TMPO), new requirements exist for the programming of federally funded projects. These requirements include the need to program all such projects in the TMPO's Federal Transportation Improvement Program. In the absence of a conforming FTIP, the California division of the Federal Highway Administration (FHWA), in cooperation with Caltrans, has agreed to an interim process.

The interim process has the following characteristics:
- Only projects that are exempt from air quality conformity will be programmed;
- The TMPO Board must approve these projects before they are incorporated into the California FSTIP;
- Upon TMPO approval, Caltrans Transportation Programming will coordinate with FHWA and the Federal Transit Administration for the inclusion of the projects into the FSTIP.

The TMPO received a request from the Federal Highway Administration to approve one Recreational Trails Program project for inclusion in the FSTIP (request is attached). The Recreation Trails Program project list for FY 2000 was developed by the California State Department of Parks and Recreation.
Recreational Trails Program Project
Page 2

The Rubicon-Lighthouse Trail project is a non-motorized trail project within the Tahoe Region in El Dorado County. The project is essentially the reconstruction of an existing hiking trail segment. The total project cost is $150,000, of which $130,000 is federal funds.

If you have any questions, please feel free to call Richard Wiggins at (775) 588-4547.
January 31, 2000

Mr. José Medina, Director
CALTRANS, 1120 N Street
Sacramento, California 95814

Attention: Federal Resources Branch, Room 3500 for Garland Hagen

Dear Mr. Medina:

SUBJECT: Recreational Trails FY 2000 Project Programming

The California State Department of Parks and Recreation has made its motorized and nonmotorized project selections to the Federal Highway Administration (FHWA) for FY 2000 for the Recreational Trails Program (RTP) under the Transportation Equity Act for the 21st Century (TEA-21). The FY 2000 apportionment is $3,228,579, including State Administration expenses. Enclosed is a complete motorized and non-motorized selected project listing totaling $3,002,579.

The RTP was authorized in TEA-21 as a Federal-aid highway program and codified into 23 U.S.C. 206. Due to the fact that the RTP is codified under Chapter 2 of Title 23 U.S.C., the metropolitan and statewide planning requirements of 23 U.S.C. 134 and 135 apply. Trail projects must be consistent with statewide and applicable metropolitan long range transportation plans. Furthermore, RTP projects must be included within the Federal Statewide Transportation Improvement Program (FSTIP) and applicable metropolitan planning organization (MPO) Federal Transportation Improvement Programs (FTIP). Except for RTP projects determined to be regionally significant, it is recommended that projects be grouped and incorporated into applicable FTIPs and the FSTIP as one line item (lump sum). If an RTP project is determined to be regionally significant, it must be listed individually within the FSTIP and any applicable FTIP.

The California Department of Parks and Recreation is recognized by the FHWA as the agency designated to administer the RTP in California. The RTP is a program to help State provide and maintain recreational trails for both motorized and non-motorized recreational trails use. The program provides funds for all kinds of recreational uses, such as pedestrian uses, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four wheel driving, or using other off-road motorized vehicles. The RTP further
allows payment of costs to the State incurred in administering the program (up to seven percent of yearly apportionment). The Federal share of RTP trail projects is limited to 80 percent. The sliding scale provisions of 23 U.S.C. 120(b) applies only to the State RTP administrative costs.

Please take the necessary actions to incorporate the RTP project list information into California's 1998/99-2000/01 FSTIP, and, as appropriate, the responsible MPO FTIPs.

By copy of this letter we are transmitting copies of the RTP project listing to those California MPOs with programming responsibility for those projects. If you have any questions concerning programming of these projects, please contact Bill Haas at (916) 498-5013.

Sincerely,

[Signature]

For
David A. Nicol
Acting Division Administrator

Enclosure

cc: (w/ Encl)
FSTIP Binder
AMBAG
BCAG
COFCG
Kern COG
LAMTA
MTC
OCTA, Dean Delgado
SACOG
SANBAG
SANDAG
SCAG, Rosemary Ayala,
SHASTA
SLOCOG
Ventura COG
Western Riverside COG
Dept. Parks and Recreation, Odel King
Dept. Parks and Recreation, John Schmill,
### Department of Parks and Recreation
#### Recreational Trails Program
#### List of Non-Motorized Trail Projects FY 2000

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Agency</th>
<th>County</th>
<th>Federal Funds</th>
<th>Total Funds</th>
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</thead>
<tbody>
<tr>
<td>Ballone Creek Trail</td>
<td>Baldwin Hill Reg Cons.Auth</td>
<td>Los Angeles</td>
<td>$200,000</td>
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<td>Bay Trail</td>
<td>East Bay R.P.D.</td>
<td>Alameda</td>
<td>$80,000</td>
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<td>Big Rock Trail</td>
<td>DPR Los Logos Lake Parris SRA</td>
<td>Riversides</td>
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<td>Calabasas/Cold Creek Trail</td>
<td>Mountains Restoration Trust</td>
<td>Los Angeles</td>
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<td>Elk-Prairie, Foothill Cathedral</td>
<td>DPR North Coast Redwoods</td>
<td>Humboldt</td>
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<td>Flint Wash Trail</td>
<td>City of Pasadena</td>
<td>Los Angeles</td>
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<td>Kelly Ridge Trail</td>
<td>DPR Northern Buttes District</td>
<td>Butte</td>
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<td>Los Gatos Creek Trail</td>
<td>City of San Jose</td>
<td>Santa Clara</td>
<td>$200,000</td>
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<td>Manilla Dunes Trail</td>
<td>Manila CSD</td>
<td>Humboldt</td>
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<td>Mull Hill/San Pasqual Trail</td>
<td>San Dieguito River Park JA</td>
<td>San Diego</td>
<td>$82,000</td>
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<td>Presidio Curve Trail</td>
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<td>Rubicon-Lighthouse Trail</td>
<td>DPR Sierra District</td>
<td>El Dorado</td>
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<td>Santa Rosa Creek Trail</td>
<td>City of Santa Rosa</td>
<td>Sonoma</td>
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<td>Santee Lakes Obs. Trail</td>
<td>Padre Dam MWD</td>
<td>San Diego</td>
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<td>Skyline Trail</td>
<td>Skyline Park Citizen's Assoc.</td>
<td>Napa</td>
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<td>Topanga Lookout Trail</td>
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<td>Union Pacific Trail</td>
<td>City of Fullerton</td>
<td>Orange</td>
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<td>Wildwood Regional Park Trail</td>
<td>Conejo R.P.D.</td>
<td>Ventura</td>
<td>$46,000</td>
<td>$62,850</td>
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Total Federal Project Cost (non-motorized): $2,101,805
Total Project Cost (non-motorized): $12,844,133

### List of Motorized Trail Projects FY 2000

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<tr>
<th>Project Name</th>
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<th>Federal Funds</th>
<th>Total Funds</th>
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<tr>
<td>Indian Canyon Trail Head and Restroom Facility</td>
<td>CA Trail Users Coalition</td>
<td>Los Angeles</td>
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<td>Grooming Shed Development</td>
<td>Dept. Parks and Recreation</td>
<td>Fresno</td>
<td>$143,000</td>
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<td></td>
<td>Siskiyou</td>
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<td></td>
<td>Shasta</td>
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<tr>
<td>Mammoth Bar CHV Trail Maintenance</td>
<td>American River DPR</td>
<td>Placer</td>
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<td>Pozo-La Panza Motorized Trail Rehabilitation</td>
<td>CA Conservation Corps</td>
<td>San Luis Obispo</td>
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<td>Sprey Wash Route Improvement</td>
<td>Friends of Jawbone</td>
<td>San Bernardino</td>
<td>$363,300</td>
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<td>CALPAL/Off-Road PAL Camping Gear Project</td>
<td>San Diego Off-Road Coalition</td>
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<td>Rock Front Motorized Trails Rehabilitation Project</td>
<td>CA Conservation Corps</td>
<td>Santa Barbara</td>
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<td>Chester Lake Almanor Snowmobile Park</td>
<td>Plumas County</td>
<td>Plumas</td>
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<td>Jonesville Trail Maintenance Project</td>
<td>Butte Meadows Hillsiders</td>
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<td>$29,980</td>
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<td></td>
<td>Plumas</td>
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<td></td>
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<tr>
<td>Hollister Hills Trail Development Project</td>
<td>Hollister Hills, DPR</td>
<td>San Benito</td>
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<td>$352,131</td>
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</table>

Total Federal Project Cost (motorized): $900,774
Total Project Cost (motorized): $1,125,969

CA Dept. of Parks & Rec. Administration: $226,000
Total Federal Funds (Including State Administration): $3,228,579
Total Project Cost: $13,570,102

55
TAHOE REGIONAL PLANNING AGENCY  
STAFF SUMMARY

Project Name: Meyers Post Office  
Application Type: New Public Service Facility  
Applicant: Richard Truesdell / U.S. Postal Service  
Applicant's Representative: Susan Simon, Simon Planning  
Agency Planner: Jeanne McNamara, Project Review Division  
Location: Corner of U.S. Highway 50 & Apache Avenue, Meyers, El Dorado County  
Assessor's Parcel Number/Project Number: APN 034-342-09 / 990255  

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to construct a 4,835 square foot post office building on a vacant parcel in Meyers at the corner of U.S. Highway 50 and Apache Avenue. The project includes a new one-story building which will contain a full-service counter and 1,180 post office boxes. The project also includes 15 parking spaces, on-site landscaping, and installation of Best Management Practices (BMPs). The project will result in 14,972 square feet of new land coverage. The Postal Service presently operates a 880 square foot facility in the Meyers Downtown Café building on U.S. Highway 50. It contains a full service counter, general delivery service and approximately 768 individual post boxes. That facility will be relocated to the new building once it is operational.

Site Description: The subject vacant parcel is 32,201 square feet and the land capability has been verified as Class 5. Surrounding land uses include single family residences to the east, and commercial uses to the south and north. The parcel is located within the Meyers Community Plan on the corner of U.S. Highway 50 and Apache Avenue.

Issues: The proposed project involves a special use determination (local post office) and is a new public service facility involving over 2,000 square feet of floor area, over 3,000 square feet of new land coverage, and a significant increase in traffic, and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. Traffic / Air Quality: The applicant has submitted a traffic analysis to evaluate the potential traffic and air quality impacts of the project as required by Chapter 93 of the TRPA Code of Ordinances. The traffic analysis will be made available at the Governing Board hearing and at TRPA. The analysis reaches the following conclusions:

5/15/00  
/JMC  

AGENDA ITEM NO. IX.A
Vehicle Trip Generation: The traffic analysis estimates that the proposed project will generate 1,457 daily vehicle trips (dvte). The TRPA Code of Ordinances defines this as a significant increase.

Ingress / Egress: Ingress and egress to the proposed project will be off of Apache Avenue which is consistent with the site development provisions outlined in the Meyers Community Plan. Two driveways are proposed for access to the project with one-way circulation for the parking lot. Vehicles will enter from the northern entrance (near the US Highway 50 intersection) and exit via the southern drive.

Parking: A fifteen-space parking lot is proposed. The Meyers Community Plan does not address the number of parking spaces required for projects. The interim TRPA parking standards provide that the local jurisdiction parking standards apply to the project. As a condition of project approval, the applicant will be required to demonstrate that the proposed parking meets El Dorado County requirements. If the proposed parking does not meet County requirements, the project shall be redesigned to ensure compliance.

Vehicle Miles Traveled (VMT): The project proposes an increase of 1,348 VMT based on 1,457 dvte. This increase represents a total of 0.08% of the total estimated 1,735,079 VMT for the Lake Tahoe Basin. This has been determined by TRPA staff to be an insignificant increase.

Level of Service (LOS): The intersection of Apache Avenue and U.S. Highway 50 is an unsignalized intersection currently operating at level of service “F” for left turn and through movements off of Apache. The proposed project will increase the average delays for the left turn and through movements but will not impact LOS for other intersection movements.

The submitted traffic report analyzed a variety of measures to remedy the poor LOS for left turn and through movements at this intersection. However, no feasible strategies were found to address the issue. Additional turn lanes do not eliminate the very long delays to these movements, while the intersection traffic volumes do not meet the minimum warrants applied by Caltrans for consideration of a new traffic signal. Without a community-wide transportation plan for Meyers, which has not been prepared to date, there are no reasonable actions which can be identified to remedy the poor level of service. It is important to note that there are no TRPA adopted standards for LOS at unsignalized intersections therefore, this is not considered a significant impact.

Mitigation Measures: The applicant will be required to mitigate the new 1,457 dvte by paying a mitigation fee (1,457 dvte x $25 per dvte = $36,425). Also, the applicant will be required to put in a right turn lane from Apache onto Highway 50 as outlined in the Meyers Community Plan. This will help alleviate some of the anticipated congestion of vehicles waiting to make left turn and through movements at the intersection. The applicant will also be required to continue to promote home delivery.
2. **Scenic Quality:** The proposed project is located within Scenic Roadway Unit #36 (Airport Area), which is not in attainment with TRPA scenic quality standards. Problems identified for this area of the roadway unit include the absence of a distinctive architectural design, lack of landscaping, visibility of parking areas, sign proliferation, and numerous driveway openings onto Highway 50. The applicant has proposed wood and stone siding, wood columns, and earthtone colors for the trim and roof. The building includes a covered "porch-like" area, a roof pitch greater than 6:12, natural building materials, and earthtone colors. By incorporating these items, the applicant is addressing the concerns outlined in the TRPA Scenic Quality Improvement Program and is meeting the requirements of the Meyers Community Plan.

3. **Western Junipers:** The project area contains a number of live Western Juniper trees. The Meyers Community Plan calls for the protection of juniper trees by siting buildings and improvements around these trees and minimizing disturbance or grading in their vicinity. The proposed project proposes to relocate three existing junipers. Alternatives were examined including designing around the juniper trees. This did not appear feasible because of the site constraints and a requirement for a truck loading bay and access. Creating planting islands around the junipers was also examined but there were concerns that the asphalt could detrimentally affect the root system and decrease the tree's survivability. Prior to acknowledgement of the permit, the permittee shall submit a relocation plan and detailed methodology for these juniper trees to TRPA for review and approval. Also, the submitted landscape plan shall be revised to include plantings of Western Junipers throughout the project area.

**Staff Analysis:**

A. **Environmental Documentation:** The applicant has completed an Initial Environmental Checklist (IEC) and a traffic analysis in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC and traffic analysis will be made available at the Governing Board hearing and at TRPA.

B. **Plan Area Statement:** The project is located within the Meyers Community Plan, Special Area #2 (Lake Valley District). The Land Use Classification is Commercial/Public Service and the Management Strategy is Mitigation. Agency Staff has reviewed the subject Community Plan and has determined that project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (local post office) is listed as a special use.

C. **Land Coverage:**

   1. **Land Capability Districts:**

The verified land capability district for the parcel is Class 5 which allows 25 percent land coverage.
2. **Base Allowable Land Coverage:**

Parcel Area (32,201 square feet) x 25% = 8,050 square feet

Because this parcel is located within an adopted community plan, the parcel is eligible to transfer up to a maximum of 50 percent of the project area. In this case, the maximum allowable land coverage for the project area is 16,101 square feet. Any additional land coverage proposed beyond the base allowable land coverage of 8,050 square feet will be required to be transferred to the site.

3. **Existing Land Coverage:**

Apache Avenue Pavement 520 square feet

4. **Proposed Coverage:**

<table>
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<th>Building</th>
<th>4,835 square feet</th>
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<tbody>
<tr>
<td>Parking</td>
<td>9,090 square feet</td>
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<tr>
<td>Walks</td>
<td>1,032 square feet</td>
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<tr>
<td>Sign</td>
<td>15 square feet</td>
</tr>
<tr>
<td>Apache Avenue Pavement*</td>
<td>520 square feet</td>
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</table>

**Total Proposed Coverage:** 15,492 square feet

*There could be an increase in the proposed onsite (and offsite) land coverage for Apache Avenue due to the addition of a right-turn lane. Proposed land coverage calculations could change with submittal of a plan for the turn lane.

D. **Building Height:** Based on a 2% cross-slope retained across the building site, and a 6:12 roof pitch, the maximum allowed height for the proposed building is 31 feet, 8 inches. The proposed building will have a maximum building height of 29 feet, 0 inches.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18, 22 and 33 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

   (a) **Land Use:** The applicant is required to apply temporary and permanent Best Management Practices (BMPs) to the project area. The proposed use (local post office) is a special use for the Lake Valley District of the Meyers Community Plan. Surrounding land uses include residential and commercial.
(b) **Transportation:** The applicant has submitted a traffic analysis to evaluate the potential impacts of the proposed project. A discussion of the conclusions in the traffic analysis is included in the Issues section of this staff summary. The proposed project is estimated to generate 1,457 daily vehicle trip ends (dVTE) which is defined by the TRPA Code of Ordinances as a significant increase. As a condition of project approval, the applicant will be required to mitigate the dVTE generated as a result of this project consistent with Chapter 93 of the TRPA Code of Ordinances.

(c) **Conservation:** This project is visible from Scenic Roadway Unit #36, which is not in scenic attainment. The applicant has proposed design standards and guidelines outlined in the Meyers Community Plan. These standards and guidelines are consistent with the Scenic Quality Improvement Program. The applicant will be required to apply Best Management Practices (BMPs) to the project area. There are no known special interest species, sensitive or uncommon plants or cultural or historic resources within the project area.

(d) **Recreation:** An existing bicycle path is located in the adjacent Caltrans right-of-way. This project does not propose any modifications to the bicycle path or any other recreation uses or facilities.

(e) **Public Service and Facilities:** This project is considered a new public service facility. The required findings to allow for the new public service facility are included below. No other additions to public services or facilities are required as a result of this project.

(f) **Implementation:** This project does not require any allocations of development.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

3. **Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TRPA Compact, the project meets or exceeds such standards.**

(Refer to paragraph 2, above.)

4. **The project, to which the use pertains, is of such of nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.**
The proposed 4,835 square foot post office building will be located on a vacant parcel in Meyers. Surrounding land uses include residential and commercial facilities. The post office will serve the local community.

5. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of the persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners.

The proposed project will install temporary and permanent Best Management Practices (BMPs) for the entire project area. All runoff generated by a 20 year/1 hour storm event will be treated and infiltrated onsite and all areas disturbed by construction will be revegetated. Access to the property will be limited to Apache Avenue. There is an existing single family residence located directly adjacent to the project area. At the property owner's request, the applicant has agreed to add landscaping to this portion of the project area to buffer noise from and views of the proposed post office.

6. The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

The proposed project, as conditioned, will be consistent with the Meyers Community Plan

7. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The project site is not visible from the waters of Lake Tahoe, public recreation areas or any scenic turnouts. The applicant has submitted photographs of the project area as viewed from U.S. Highway 50. The photographs demonstrate that the proposed building will not extend above the forest canopy or block a ridgeline.

9. The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof.

The applicant has proposed a roof pitch of 6:12 and a maximum height of 29 feet, 0 inches which meets this requirement.

9. There is a need for the project.

The proposed project involves relocating an existing post office currently located in Meyers. The new location will offer better access, will be more centrally located, and will offer a wider range of services for the local community.
10. The project complies with the Goals and Policies, applicable plan area statements, and Code.

Staff has reviewed the project against the requirements of the Goals and Policies, the Meyers Community Plan, and the Code and, with the special conditions of approval outlined in Section F of this staff summary, the project is consistent with these requirements.

11. The project is consistent with the TRPA Environmental Improvement Program.

There are no Environmental Improvement Program (EIP) projects slated for the project area and the proposed project will not compromise the goals of the EIP.

12. The project meets the findings adopted pursuant to Article V(g) of the Compact as set forth in Chapter 6 as they are applicable to the project's service capacity.

The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

13. If the proposed project is to be located within the boundaries of the community plan area, then, to the extent possible consistent with public health and safety, the project is compatible with the applicable community plan.

The applicant has included the community plan design standards into the proposed project. The proposed project is consistent with the planning statement, planning consideration and special policies of the Meyers Community Plan.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the conditions contained in the attached Draft TRPA Permit.
D-R-A-F-T

PERMIT

PROJECT DESCRIPTION: Meyers Post Office

PERMITTEE(S): Richard Truesdell / US Postal Service

COUNTY/LOCATION: El Dorado County / Corner of Apache Avenue and U.S. Highway

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on May 24, 2000, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on May 24, 2003 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

TRPA Executive Director/Designee

Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) _______________________________ Date ______________

/jmc

PERMIT CONTINUED ON NEXT PAGE
D-R-A-F-T

APN:
FILE NO.

Air Quality Mitigation Fee: Amount $36,425 Paid ___________ Receipt No. ___________

Water Quality Mitigation Fee: Amount $10,787 Paid ___________ Receipt No. ___________

Offsite Coverage Mitigation Fee: Amount $ * Paid ___________ Receipt No. ___________

Security Posted: Amount $ ** Posted _______ Receipt No. _______ Type ___________

Security Administrative Fee: Amount $ ** Paid _______ Receipt No. ___________

* To be determined.
** $130 if cash security posted or $65 if non-cash security posted.

Required plans determined to be in conformance with approval: Date: ___________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

__________________________________________________________
TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. The permit is for a new post office building at the corner of U.S. Highway 50 and Apache Avenue, Assessor’s Parcel Number (APN) 034-342-09. The project includes a new one-story building which will contain a full-service counter and 1,180 post office boxes. The project also includes 15 parking spaces, on-site landscaping, and installation of Best Management Practices (BMPs). This permit authorizes 14,972 square feet of new land coverage.

2. The Standard Conditions of Approval listed in Attachment Q.

3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.

A. The site plan shall be revised to include:

   (1) Any reference to a project area shall be removed. The project area for this project shall be the parcel size of 32,201 square feet.

   (2) Existing and proposed offsite land coverage.

   (3) The location of the proposed construction staging area.

   (4) Temporary erosion control structures located downslope of the proposed construction areas.

5/15/00
/JMC

AGENDA ITEM NO. IX.A

65
(5) Vegetation protective fencing around the entire construction site. Fencing shall be placed so that all construction activity is well away from the driplines of any existing juniper trees.

(6) Infiltration devices to infiltrate parking lot runoff. Engineered calculations shall be submitted that demonstrate that the infiltration devices are designed for a 20 year/1 hour storm event and include grease/sand/oil separation.

(7) Details and location of all exterior building lighting and parking lot lighting. All lighting shall demonstrate conformance with Subsection B.4 of the Meyers Community Plan Design Review Guidelines.

(8) Location and details of all exterior mechanical equipment and trash facilities. All equipment and facilities shall be screened from public view in accordance with Sections 30.5.B and 30.6 of the TRPA Code of Ordinances. The trash enclosure shall include a notation that the trash facility will be “bear-proof” as noted in Section B.2.1 of the Meyers Community Plan.

(9) Location of bicycle racks within the project area.

(10) Location of any required utility grading. All utilities within the project area shall be placed underground.

(11) The limits of any grading for the detention basin adjacent to the 34" juniper between the proposed building and Highway 50. In order to insure survival of the juniper, all grading must be outside of the dripline of the tree.

(12) A right turn lane on Apache Avenue onto Highway 50 as outlined on page 4-4 of the Meyers Community Plan. Authorization from the appropriate jurisdictions authorizing this work shall also be submitted.

(13) The location of the proposed flagpole.

B. The permittee shall acknowledge the lot line adjustment permit (TRPA File #990482) prior to acknowledgement of this permit.

C. The permittee shall submit a $36,425 air quality mitigation fee. This fee is based on an estimated generation of 1,457 daily vehicle trip ends (dvte) assessed at $25 per dvte.

D. The security required under Standard Condition 1.2 of Attachment Q shall be determined upon the permittee's submittal of required Best Management Practices (BMP) plan and related cost estimate. Please see Attachment J, Security Procedures.
E. The permittee shall provide evidence that all basic service requirements will be met or exceeded in accordance with Chapter 27 of the TRPA Code of Ordinances.

F. The permittee shall transfer 7,442 square feet of land coverage to the parcel. All land coverage shall be from Class 1 through 5, or from any IPES parcel and shall be located in Hydrologic Area 5. All land coverage transfers require separate TRPA review and approval. Please note that all land coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances.

G. The permittee shall submit a $10,090.20 water quality mitigation fee. This fee is based upon the creation of 7,530 square feet of land coverage assessed at $1.34 per square foot.

H. The permittee shall submit an offsite coverage mitigation fee assessed at $5 per square foot for the creation of any impervious coverage in the public right-of-way.

I. Prior to acknowledgement of the permit, the permittee shall submit a relocation plan and methodology for the relocated Juniper trees to TRPA for review and approval. This plan shall include temporary irrigation to ensure establishment and a maintenance and monitoring plan.

J. The submitted landscape plan shall be revised to include:

(1) Planting of new Western Junipers throughout the project area.

(2) Extension of the proposed plantings along the entire property line between the project area and APN 034-342-03. Plantings in this area shall be designed to screen the project area from the residence and buffer noise.

K. The permittee shall submit a sign plan to TRPA for review and approval. Please note that all signs must be in conformance with the standards set forth in the Meyers Community Plan.

L. The permittee shall provide evidence from El Dorado County that the proposed parking meets the local jurisdiction requirements. If the proposed parking does not meet County requirements, the project shall be redesigned and the land coverage calculations revised accordingly to insure compliance with County parking requirements.

M. The permittee shall submit 3 (three) sets of final construction drawings and site plans to TRPA.

4. Prior to the TRPA pre-grade inspection, the permittee shall submit a projected construction completion schedule to TRPA. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.

5. Excavation equipment shall be limited to the foundation and parking lot footprint to minimize site disturbance.
6. The permittee shall not excavate five feet or more below natural ground elevation.

7. No trees, other than those designated on the site plan, shall be removed without prior TRPA written approval.

8. The U.S. Postal Service shall continue to promote home delivery in Meyers by posting flyers and providing a demonstration of correct mailbox placement in the lobby of the new building.
Concerns regarding the proposed Post Office on the corner of Hwy. 50 and Apache Drive in Meyers, Calif.

1. The increased traffic flow along the side streets that connect to Apache Drive, mainly the traffic that will use Cheyenne Drive as a shortcut. The T.R.P.A. Regional Transportation Plan must consider more than 100 trips per day as significant. On June 4th 1990 the public was asked to review plans for the Winter Sports Center (staff report S90-10 Ari Makinin) and during that review it was noted that there would be an increase in traffic to the adjacent neighborhood but it would not be over 100 trips per day. That number did not include all of the privately owned vehicles that accessed the Winter Sports Center. On weekends there were 20 - 25 cars parked all around the Center including all along both sides of Apache Drive which is directly in front of the proposed entrance and exit to the Post Office. The increase of traffic from both the Winter Sports Center and the Post Office will overtax the already deteriorating roads through these neighborhoods.

2. During this review period of the Winter Sports Center, a petition was presented to the County Planning Commission that indicated that the neighborhood was opposed to any proposal for future expansion on the opposite corner between the Pacific Bell Phone building and the corner of Apache Dr. and Cheyenne Dr.

3. On April 22,1992 the Traffic Advisory Committee approved the installation of "STOP" signs on Cheyenne Drive. During the meeting the discussion was as follows: "Cheyenne Drive, in conduction with portions of Cornelian Drive, Mulberry Drive and Apache Avenue form a short-cut for local residents who wish to bypass the busy intersection at U.S. Highway 50 and State Route 89. The residents along these residential streets have long complained that motorists and truck drivers are using this bypass to avoid chain-control on the State Highways during the snowy season."

   This neighborhood was not designed for thru-traffic. Many people use Cheyenne Drive as a short-cut to Kirkwood Ski Resort. Many of these people are younger drivers that speed, thus endangering the lives of the
residents. The proposal of a Post Office with a connection to Apache Drive will increase the traffic significantly along Cheyenne Drive. The increase in traffic may warrant the installation of traffic lights at the intersection of State Highway 50 and Apache Drive. A traffic light will only create more traffic because Apache will be seen as a major road. Cal Trans removed the turn lane that was painted in the center of Hwy. 50 on the East side of Apache during the summer of 1999. This turn lane was confusing tourists, (they thought they were turning on Hwy. 89) so many of them were driving around the neighborhood lost.

4. If the Post Office only received and discharged traffic onto Hwy. 50 then I would not have any reason to reject the proposal. I completely object to any connection to Apache Drive.

  Steve Ricioli
  1039 Cheyenne Dr.
  (530) 577-5845
Project Name: Staples Office Supply Store

Application Type: New Commercial, General Merchandise

Applicant: Hawkins-Smith & Jason, LLC

Applicant's Representative: Gary Midkiff, Midkiff and Associates, Inc.

Agency Planners: Lyn Barnett and Jeanne McNamara, Project Review Division

Location: 2061 Lake Tahoe Boulevard, South Lake Tahoe, California (former Caltrans yard)

Assessor's Parcel Number/Project Number: 023-201-11/990780

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions of approval are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to construct a new 23,945 square foot, one-story general merchandise store on the affected property. The project also includes a new 74 space parking area, landscaping, water quality improvements, and highway frontage improvements. Existing development on the property associated with a former California Department of Transportation maintenance facility, will be removed. As there is no commercial floor area (CFA) existing on the parcel, all of the proposed CFA will transferred to the parcel as a condition of project approval.

Site Description: The project area is located on Lake Tahoe Boulevard in the City of South Lake Tahoe near the intersection of US Highways 89 and 50 (the South "Y" intersection). The parcel is relatively flat with a less than 2 percent grade from the back of the property to the US Highway 50 frontage. Almost the entire site has been previously disturbed and has been verified as Class 7 land.

Issues: The proposed project involves a transfer of commercial floor area in excess of 2,500 square feet and also will generate more than 200 daily vehicle trips and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. Traffic: The applicant has submitted a traffic analysis for the proposed project pursuant to Chapter 93 of the TRPA Code. This analysis addresses the following:

   - Vehicle Trip Generation: The proposed project will generate 1,078 new daily vehicle trip ends (dvte). The TRPA Code of Ordinances defines this amount as a significant increase in trips. The applicant will be required to mitigate the new dvte by paying an air quality mitigation fee equal to $26,950 (assessed at $25 per dvte).
• **Ingress / Egress:** The proposed project will be served by a single driveway to Highway 50 and a single driveway to James Street. Dave Gay Road, a paved private driveway currently open to the public and located on the affected property, will be abandoned. However, access through the site will be maintained to allow emergency vehicles access from Highway 50 to James Street.

• **Parking:** The applicant is proposing to provide 74 parking spaces for the new building. This number is six fewer than the City of South Lake Tahoe area-wide standard of 80 spaces, but is adequate to accommodate the proposed use. The City of South Lake Tahoe has also reviewed this parking space reduction and has found it to be acceptable. The proposed building location is adjacent to other large commercial businesses and will benefit from walk-by traffic generated by the surrounding business district.

• **Level of Service:** According to the applicant's traffic consultant, the proposed project, without mitigation, will cause unacceptable Level of Service (LOS) impacts to two important intersections in South Lake Tahoe: Highway 50 and Highway 89 (South "Y"); and Highway 50 and Tahoe Keys Boulevard. The South "Y" intersection is currently operating at LOS "F" based on average delay times per vehicle. LOS "F" is considered a failing condition and indicates that the intersection has reached or exceeded its design capacity. In addition, the projected trend at this intersection indicates that LOS will continue to worsen from a current delay of about 90 seconds to a delay of more than 140 seconds by the year 2006. This trend will occur with or without the proposed project. According to the applicant's consultant, the threshold for LOS "F" is 80 seconds of delay at this location. The proposed project will increase delay times at this intersection by about 10 seconds.

LOS conditions at the South "Y" intersection (and other failing intersections in the Region) have long been a concern for TRPA, in part due to negative air quality impacts caused by idling vehicles. To address this condition, the City of South Lake Tahoe commissioned an intersection study by transportation consultants Fehr and Peers Associates, Inc. in 1997. A portion of this study ($24,000) was paid for by TRPA through monies collected from the developer of Blockbuster Video, which is located next door to the proposed Staples project. The Governing Board accepted this contribution in 1996 to help study LOS at the South "Y", which was a major source of controversy at the Governing Board hearing for Blockbuster Video. Since the Blockbuster Video approval, several other commercial expansions and remodels have been approved by TRPA (or the City of South Lake Tahoe) near the "Y" intersection including the Starbucks Coffee change in operation, El Dorado Savings Bank expansion, Office Depot change in use and building replacement, Kraken Auto Parts change in operation, among others. The Staples project represents the largest and most significant potential impact to the South "Y" intersection since the Blockbuster Video project.

To mitigate LOS impacts to the South "Y" intersection, staff proposes that the applicant pay their "fair share" of the intersection improvements identified in the Fehr and Peers study as a one-time intersection impact fee. This fee would be in addition to the air quality mitigation fee required in Chapter 93 of TRPA Code, and could only be used for improvements at the affected intersection. According to the Fehrs and
Peers Study, the Staples property will contribute approximately 1.5 percent of the traffic volume to this intersection by the year 2016 during typical weekday conditions. Based on a cost estimate of $1,008,750 to implement the South "Y" improvements, the applicant's contribution would be equal to $15,131. An identification of other funding sources, and a preliminary construction schedule, will be made available at the Governing Board hearing. If constructed, the proposed South "Y" intersection modifications will improve the intersection from a LOS "F" to an LOS "D", even with the new traffic generated by the proposed Staples project.

The applicant's traffic consultant also projects that the proposed Staples project will cause the U.S. Highway 50/Tahoe Keys Boulevard intersection to drop from an LOS "D" to LOS "F" in the year 2000. The LOS trend for this location indicates that the intersection will drop to LOS “F” by the year 2002 even without the project. To mitigate LOS impact to the Tahoe Keys Boulevard intersection, staff also proposes that the applicant pay their “fair share” of the intersection improvements identified in the Fehr and Peers study as a one-time traffic impact fee. According to the Fehrs and Peers study, the Staples property will contribute approximately 1.5 percent of the traffic volume to this intersection by the year 2016 during typical weekday conditions. Based on a cost estimate of $1,000,000 to implement the improvements, the applicant's contribution would be equal to $15,000.

In the draft permit for the project, staff is requesting that the applicant post special securities to be held by TRPA until funding can be released by the applicant to the proposed intersection improvements. If the cost of the projects is less than the projected costs outlined above, the applicants shall receive a refund in an appropriate amount. If the cost is higher, no additional fees will be requested.

2. Scenic Quality: The proposed project is located along Scenic Roadway Unit Number 35, Al Tahoe, which is not in scenic attainment. The applicant has submitted simulations of the proposed project as viewed from this roadway. The proposed building will be setback 20 feet from this roadway. The original plans for this project showed a large, unarticulated roof area that would be visible from the Scenic Roadway. The applicant has re-designed the project to reduce the uniform roof plane by adding a “notch” to the roof. This notch will help reduce the visual mass of the roof when viewed from the roadway by breaking-up an otherwise prominent structure.

Some existing landscaping adjacent to Highway 50 was planted as mitigation for construction of a Caltrans’ changeable message sign in the late 1980s. Most of this vegetation is now overgrown and will be thinned to a healthier level. Some additional plantings will also be included in this area to increase plant diversity and interest. Although some large trees on the site will be removed for construction of the proposed building, the parking area has been re-designed to save a prominent 42-inch diameter old-growth pine tree.

It is important to note that the affected Scenic Roadway Unit is within an urban corridor where man-made development is identified as the dominant visual feature in the Scenic Quality Improvement Plan (SQIP). The proposed landscape plan and frontage improvements will help to break-up the mass of the building consistent with TRPA design goals and standards. The scenic goal for this project is to not completely screen the proposed building but to reduce its visual impact as viewed from the roadway unit. There are also distant screened views of the proposed project from Scenic Roadway.
Staples New Commercial Building
Page 4

Unit Number 1, Tahoe Valley. The applicant submitted a simulation of the proposed project from Roadway Unit Number 1, and because of the distance and neighborhood tree screening, the new building will not effect the score of the roadway unit.

Staff Analysis:

A. **Environmental Documentation:** The applicant has submitted an Initial Environmental Checklist (IEC), a visual simulation, and a traffic analysis to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC, visual simulation, and traffic analysis will be made available at the Governing Board hearing and at TRPA.

B. **Plan Area Statement:** The project is located within Plan Area 110, South "Y". The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. Staff has reviewed the subject plan area and has determined that project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (general merchandise) is listed as an allowed use.

C. **Land Coverage:**

1. **Land Capability District:** The land capability district of the project area is Class 7 which allows 30 percent base land coverage. The total parcel size is 87,362 square feet (approximately two acres).

2. **Existing Land Coverage:**

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<td>Soft Coverage</td>
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3. **Proposed Land Coverage:**

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<td>Total</td>
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</tbody>
</table>

Land coverage will be reduced by this project. Upon project completion 1,105 square feet of hard Class 7 land coverage will be banked on the parcel.

4. **Allowable Land Coverage:**

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<thead>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

5. **Coverage Mitigation:** Based on the above coverage figures, the existing project area contains 34,944 square feet of excess land coverage. To mitigate the existing land coverage, the applicant shall be required to either pay a mitigation fee, or reduce existing coverage pursuant to Subsection 20.5 of the TRPA Code of Ordinances.
D. **Building Height:** Based on a 0% cross-slope retained across the building site, and a 6:12 majority roof pitch, the maximum allowed height for the proposed building is 31 feet, 2 inches. The proposed building has a maximum building height of 30 feet, 0 inches which meets this requirement.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 20 and 22 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

   (a) **Land Use:** The applicant is required to apply temporary and permanent Best Management Practices (BMPs) to the project area. The proposed use (general merchandise) is an allowed use for Plan Area 110, South “Y”. Surrounding land uses include retail commercial, a church, professional offices, and a wholesale fuel distributor.

   (b) **Transportation:** The proposed use is estimated to generate 1,078 daily vehicle trip ends (dvte) based on 23,945 square feet of commercial floor area of the building. The TRPA Code of Ordinances defines this as a significant increase. The applicant will be required to mitigate all dvte generated as a result of the proposed project and contribute their “fair share” to U.S. Highway 50 intersection improvements at the South Tahoe “Y” and Tahoe Keys Boulevard.

   (c) **Conservation:** This project fronts Scenic Roadway Unit #35, Al Tahoe, and has screened views from Scenic Roadway Unit #1, Tahoe Valley, both of which are not in scenic attainment. Problems identified for this area of the roadway unit includes sign proliferation, inadequate building setbacks, poor quality architecture, inadequate landscaping, and the visual prominence of the automobile. The applicant has submitted a landscape plan that shows screening of the parking area and some portions of the building. The proposed building will be setback 20 feet from the property line and has been redesigned to demonstrate more articulation of the roof.

   There are no known special interest species, sensitive or uncommon plants, or cultural or historical resources within the project area.

   (d) **Recreation:** This project does not involve any recreation facilities or uses.

   (e) **Public Service and Facilities:** This project has adequate public service and utility service.

   (f) **Implementation:** The applicant will be required to transfer 23,945 square feet of CFA to the property as required by the TRPA Code of Ordinances.
2. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

3. Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 2, above.)

4. The relocation of land coverage is to an equal or superior portion of the parcel or project area.

The entire project area has been verified as land capability Class 7, therefore all land coverage to be relocated within Class 7 land.

5. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

The applicant has submitted a landscape plan for the entire project area which shows that all disturbed areas will be revegetated.

6. The relocation of land coverage is not to Land Capability Districts 1a, 1b, 1c, 2, or 3 from any higher numbered land capability district.

All relocated land coverage will be within Class 7 areas.

7. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The project site is not visible from the waters of Lake Tahoe, public recreation areas, or any scenic turnouts. The applicant has submitted photographs of the project area and simulations demonstrating that the proposed building will not extend above the forest canopy when viewed from Highway 50 at a distance of not less than 300 feet.

8. When outside a community plan, the additional height is consistent with the surrounding uses.

The proposed one-story building is similar in height to the surrounding one and two-story buildings. The project area is located in an unadopted community plan area.
9. With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.

The proposed building will be 30 feet high. The proposed building will not extend above the forest canopy or a ridgeline when viewed from public rights-of-way based on the submitted photographs and simulations.

10. The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.

The maximum height at the corner of two exterior walls is 20 feet, which is less than 90-percent of the maximum building height.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the conditions contained in the attached Draft Permit.
PROJECT DESCRIPTION: New General Merchandise Store/Staples

PERMITTEE: Hawkins-Smith & Jason, LLC

COUNTY/LOCATION: El Dorado (within City of S.L.T.)/2061 Lake Tahoe Blvd.

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on June 24, 2000, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on June 24, 2003, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A CITY BUILDING PERMIT. THE CITY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A CITY BUILDING PERMIT.

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA.

Signature of Permittee(s) Date

PERMIT CONTINUED ON NEXT PAGE

AGENDA ITEM NO. IX.B

5/15/00

84
<table>
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Notes:
(1) To be determined. See Special Condition 2.H, below.
(2) To be determined. See Special Condition 2.G, below.
(3) To be determined - $10,000 minimum. See Special Condition 2.D, below, and Attachment "J."
(4) $130 if cash security is posted, or $65 if non-cash security is posted.
(5) For South "Y" (Highway 50/89) intersection improvements. See Special Condition 2.E, below, and Attachment "J."
(6) For Highway 50/Keys Blvd. intersection improvements. See Special Condition 2.F, below, and Attachment "J."

Required plans determined to be in conformance with approval: Date: _____________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a city building permit:

TRPA Executive Director/Designee __________________________ Date _____________

5/15/00
LB/JMC

AGENDA ITEM NO. IX.B

85
SPECIAL CONDITIONS

1. This permit authorizes demolition of existing structures associated with a former California Department of Transportation maintenance facility for construction of a new, single story, 23,945 square foot general merchandise commercial building, parking area, landscaping, water quality improvements, lighting, and other accessory facilities identified on the preliminary plans for the project. This permit does not authorize new signs. Sign approvals must be received through the City of South Lake Tahoe.

2. The standard conditions of approval in Attachment Q.

3. Prior to acknowledgement of the permit, the following conditions must be satisfied:

   A. The site plan shall be revised to include:

      (1) A note that 1,105 square feet of hard Class 7 land coverage shall be banked on the site after construction is completed. This coverage is also eligible for excess land coverage mitigation credit pursuant to Special Condition 2.H, below.

      (2) An increase in the west side yard building set-back to preserve a greater number of existing trees in this area. At least three additional trees shall be preserved in this setback area. Gas and other underground utility lines shall not be placed within the drip lines of any tree on the property when alternate locations are available. See Special Condition 2.A(3), below, for related requirements.

      (3) An increased setback from the 42-inch pine shown on Sheet C-2 near the Retention Pond/Primary Snow Storage Area. Minimal excavation shall occur within the drip line of this tree consistent with TRPA BMP-8, Volume II, Handbook of Best Management Practices. Reduction in the pond surface area may be accomplished though deepening the pond or adding a below grade infiltration area beneath the paved parking area. Any excavation below five feet in depth shall require separate TRPA review and approval.

      (4) A slotted drain or valley gutter at the property line for the driveway at Highway 50 to collect and transport storm water runoff to approved infiltration facilities.

      (5) A note indicating: “All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices. Application of a mulch may enhance vegetative establishment.”

      (6) Appropriate sized infiltration facilities to infiltrate all roof runoff for the TRPA design storm.

      (7) Existing and proposed off-site land coverage calculations.
(8) A construction equipment and material staging area shall be identified on the site plan and storage of equipment and material shall be limited to this area. The staging area shall be sited to avoid impacts to existing vegetation.

(9) Location and details of all exterior mechanical equipment (both roof and ground mounted) and trash facilities. All exterior mechanical equipment and trash facilities shall be screened from public view with screening that is effective in both summer and winter months and is consistent with Chapter 30 of the TRPA Code.

(10) The site plan shall be revised to show minimal cut and fill for the building and parking area. The revised site plan shall show that the natural slope of the project site was maintained to the greatest extent possible, while still allowing for positive drainage to infiltration and treatment areas.

(11) The location of temporary erosion control structures which should be located downslope of the proposed construction areas.

B. The permittee shall submit a long-term maintenance and monitoring plan (minimum period of 10 years) to TRPA for review and approval. The monitoring portion of this plan shall include bi-annual sampling of storm water runoff and shall compare the sampling results to the following adopted TRPA surface runoff discharge standards (pursuant to Subsection 81.2.A, TRPA Code).

<table>
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<td>WQ- 5</td>
<td>Storm water runoff quality</td>
<td>Surface discharge to water surface</td>
<td>TRPA thresholds:</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Dissolved inorganic nitrogen as N: 0.5mg/l</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Dissolved phosphorus as P: 0.1mg/l</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Dissolved iron as Fe: 0.5mg/l</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Grease and oil: 2.0 mg/l</td>
</tr>
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<td></td>
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Sampling shall occur during the peak spring runoff period and during a summer thunderstorm event (if any). Two sampling locations shall be established for the project. Base line data shall be collected during the first year after construction. Pollution concentrations shall meet the above discharge standards, if possible. In no case shall discharge waters be allowed to leave the project area in a worse condition than at the primary discharge point. Reasonable corrective measures based on Best Available Technology (BAT) may be required to improve water quality discharges if the system fails to meet any TRPA discharge standard. The long-term maintenance and monitoring plan shall also report on the general effectiveness of approved vegetation used to stabilize on-site soils and improve water quality. By accepting this condition, the permittee agrees to implement any identified correction measures in a timeframe acceptable to TRPA.
C. The permittee shall submit a $26,951 air quality mitigation fee. This fee is based on 1,078 daily vehicle trip ends (dve) being generated as a result of the proposed project.

D. The permittee shall submit a cost estimate for all Best Management Practices (BMPs) within the project area. The security (Security No. 1) required under Standard Condition L.2 of Attachment Q shall be equal to 110 percent of the estimated BMP costs. Please see Attachment J, Security Procedures. In no case shall the security be less than $10,000.

E. For South “Y” (Highway 50/89) intersection improvements, the applicant shall submit a special security of $15,131 (Security No. 2). This is based on a 1.5% “fair share” construction cost estimate of $1,008,750 for intersection improvements. If the cost of the project is less than the projected cost outlined above, the permittee shall receive a refund in an appropriate amount. If the cost is higher, no additional security or fees will be requested. This security may be returned upon demonstration that the permittee has submitted a $15,131 impact fee to TRPA for South “Y” (Highway 50/89) intersection improvements. The impact fee cannot be collected until the improvements are completely funded and a final design approved by TRPA for the improvements.

F. For Highway 50/Tahoe Keys Boulevard intersection improvements, the applicant shall submit a special security of $15,000 (Security No. 3). This is based on a 1.5% “fair share” construction cost estimate of $1,000,000 for intersection improvements. If the cost of the project is less than the projected cost outlined above, the permittee shall receive a refund in an appropriate amount. If the cost is higher, no additional security or fees will be requested. This security may be returned upon demonstration that the permittee has submitted a $15,000 impact fee to TRPA for Highway 50/Tahoe Keys Boulevard intersection improvements. The impact fee cannot be collected until the improvements are completely funded and a final design approved by TRPA for the improvements.

G. If additional offsite land coverage is proposed, the permittee shall either pay an offsite coverage mitigation fee assessed at $5 per square foot for the creation of any impervious coverage in the public right-of-way or reduce an equal amount of land coverage being created from any remaining allowable land coverage that may exist on the parcel.

H. The permittee shall mitigate 34,944 square feet of excess land coverage on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area Number 5 (see attached map).

The excess coverage mitigation fee shall be calculated as follows:

(1) Estimated Project Construction Cost x 0.0325.

Please provide a construction cost estimate by your contractor, architect or engineer. In no case shall the mitigation fee be less than $100.00.
Excess land coverage may be removed in lieu of an excess coverage mitigation fee. To calculate the amount of excess coverage to be removed use the following formula:

(2) Excess coverage mitigation fee (per formula (1), above) divided by $5.00 per square foot. If you choose this option, please revise your final site plan and land coverage calculations to account for the coverage removal.

I. The permittee shall transfer 23,945 square feet of commercial floor area to the project area (under separate application to TRPA). All commercial floor area transfers shall be in accordance with Chapter 34 and other applicable provisions of the TRPA Code. This permit is not a conceptual approval any future transfer applications.

J. The permittee shall submit a lighting plan for the project area. All lighting shall conform to Chapter 30 of the TRPA Code.

K. The permittee shall provide evidence that all basic service requirements for minimum fire flow will be met or exceeded in accordance with Section 27.3.B., Table 27-1 of the TRPA Code.

L. The permittee shall submit a projected construction completion schedule to TRPA. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.

M. The permittee shall submit five (5) sets of final construction drawings and site plans to TRPA.

4. The permittee shall not excavate more than five feet natural grade. Any modification of this structure shall conform to TRPA’s height standards.

5. Fertilizer use on this property shall be managed to include the appropriate type of fertilizer, rate, and frequency of application to avoid release of excessive nutrients and minimize use of fertilizer.

6. The adequacy of all require BMPs as shown on the final construction plans shall be confirmed at the time of the TRPA pre-grading inspection. Any required modifications, as determined by TRPA, shall be incorporated into the project permit at that time.

7. All utilities shall be underground.

8. The color of light structures shall be earhtone and non-reflective.

9. This permit does not address signage: All signs must be reviewed and approved by the City of South Lake Tahoe.

10. By acknowledgement of this permit, the permittee shall conform with Subsection 97.2.A of the TRPA Code of Ordinances. This includes, posting informational material to encourage ridesharing and distributing rideshare applications to interested employees when a regional service is available.
MEMORANDUM

May 15, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of the Boundary Between the Incline Village Commercial Community Plan and Plan Area Statement 046, Incline Village Residential in the Area of Cottonwood Court.

Proposed Action: The applicant, Cottonwood Court Properties, LLC, proposes to amend the boundary line between PAS 046, Incline Village Residential and Incline Village Commercial Community Plan, to add Washoe County APNs 124-041-90, -34, and -36 into PAS 046 (see Exhibit A).

Staff Recommendation: Staff recommends approval of the boundary line amendment between PAS 046, Incline Village Residential and Incline Village Commercial Community Plan, to add Washoe County APNs 124-041-90, -34, and -36 into PAS 046 (see Exhibit A).

APC Recommendation: The Advisory Planning Commission recommends approval of the Plan Area Boundary amendment (9 votes in favor, 3 votes against).

APC Discussion: Members of the APC expressed concern about approving the amendment due to the perception that the boundary amendment is an attempt to relieve the property from the requirement to deed restrict the units to affordable housing units, or become a mixed-used situation (residential and commercial) should the property apply for subdivision. However, the action contemplated deals with the issue of the boundary line, and not the issue of subdivision, although it is a foreseeable action.

The question was also raised, and expressed by the applicants' representative, that the boundary line was drawn in error when the Community Plan was adopted. Staff is unable to determine whether or not the line was drawn in error. At the time of adoption, the Community Plan boundary mimicked the Washoe County zoning boundary.

Discussion: The subject parcels are located within the Incline Village Commercial Community Plan area, and border PAS 046, Incline Village Residential. The parcels are currently developed as a multi-family use. The parcels are located on, and accessed by Cottonwood Court. Surrounding land uses to the north, east and west of the subject parcels consist mainly of multi-family and condominium development (within PAS 046). The core of the Incline Village Commercial Community Plan area is to the south of the subject parcels, and comprised mainly of retail and office commercial uses. The subject parcels are located on the border of the two plan areas; the applicant proposes to amend the boundary line in order to include the parcels within PAS 046, Incline Residential, thereby removing them from the Incline Village Commercial Community Plan.

PE/dmc

AGENDA ITEM X.A
The Incline Village Commercial Community Plan states, "The plan’s vision... is creating a traditional downtown (village core) that is people friendly, interesting and aesthetically pleasing... High-density residential uses, including affordable housing, surrounding the commercial area are an integral part of the town center."

The original application for this project was made to subdivide the existing multi-family units into single-family units. However, within the Incline Village Commercial Community Plan, section ICCP.4.1.4 states “Single family dwellings shall only be allowed in the plan area when they are part of a mixed use development or when they are affordable housing units.” Within the Community Plan, subdivision of the existing units creating a single-family use is permissible, provided the subdivision results in affordable housing units, as defined by income limitations established by the U.S. Department of Housing and Urban Development.

By amending the boundary line between these plan areas, the existing multi-family development (use) will remain as a multi-family development (use) within the Community Plan. Within PAS 046, single-family residences are a Special Use. Therefore, if and when an application to subdivide these units is made, the approval will involve the subdivision of those units in addition to making the Special Use findings necessary to make them a conforming use, post subdivision action.

The Incline Village Commercial Community Plan and PAS 046, Incline Village Residential, both possess the special designation of Preferred Affordable Housing Area. This special designation is intended to preserve and encourage the development of affordable housing.

**Washoe County Zoning and Comprehensive Plan Designations:** Washoe County has adopted the Incline Village Commercial Community Plan. Washoe County’s zoning designation for PAS 046 is High Density Residential (HDR).

Washoe County Planning Commission unanimously approved the amendment during their regular April meeting.

**Required Findings:** The following findings must be made prior to adopting the proposed amendment:

**Chapter 6 Findings:**

1. **Finding:** The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

   **Rationale:** The proposed amendment to the Community Plan will not adversely affect implementation of the Regional Plan. The boundary amendment will not increase development potential in the Region, and will be consistent with the Plan Area Statement, Code and other planning provisions.
2. **Finding:** The project will not cause the environmental thresholds to be exceeded.

**Rationale:** The plan area boundary amendment would not cause any of the environmental thresholds to be exceeded.

3. **Finding:** Wherever federal, state and local air and water quality standards applicable to the Regions, which ever are strictest, must be attained and maintained pursuant to Article V(c) of the Compact, the project meets or exceeds such standards.

**Rationale:** The boundary amendment will not adversely affect air and water quality standards, further, the subject property will still be required to comply with all applicable air and water quality standards.

4. **Finding:** The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

**Rationale:** The plan area boundary amendment would not cause any of the environmental thresholds to be exceeded.

5. **Finding:** The Regional Plan, as amended, achieves and maintains the thresholds.

**Rationale:** The plan area boundary amendment would not cause any of the environmental thresholds to be exceeded.

**Chapter 13 Findings:**

1. **Finding:** The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C of the TRPA Code of Ordinances.

**Rationale:** Plan Area Statement 046, Incline Village Residential, has a Land Use Classification of Residential. The existing and proposed use is consistent with this land use classification as residential. The surrounding land use of this subject property is predominately residential, with close proximity to commercial uses.

The Management Strategy for PAS 046, Incline Village Residential is Mitigation. Areas with this designation can accommodate additional development if the impacts are fully mitigated and the land is capable of withstanding the use. The proposed action will not increase development potential, nor will on-site mitigation be required. Existing
land uses suggest that this area is capable of withstanding the proposed single-family use.

PAS 046 possesses the Special Designations of: TDR receiving area for 1. Existing Development, and 2. Multi-Residential Units. Further, Preferred Affordable Housing Location, Scenic Restoration Area and Multi-Residential Incentive Programs are all included in the PAS as Special designations. The proposed action does not employ any of these special designations.

Environmental Documentation: An Initial Environmental Checklist has been completed for the proposed action. Staff recommends a Finding of No Significant Effect (FONSE) based on the Chapter 6 and 13 findings, and on the following:

1. No additional development would be permitted by the amendment than is otherwise permissible under the Regional Plan.

Requested Action: Staff requests the Governing Board take the following actions:

1. Motion to make the required findings:
   a) Make the Chapter 6 and 13 findings; and
   b) Make a Finding of No Significant Effect (FONSE).

2. Motion to approve the Plan Area amendment.

Please contact Peter Eichar at (775) 588-4547, or recreation@trpa.org, if you have any questions regarding this agenda item.
MEMORANDUM

May 15, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Public Comments on Draft EIS for the Tahoe Keys Marina Master Plan

This item is a continuation from last month; the focus of comments is on the adequacy of the Draft EIS for the Tahoe Keys Marina Master Plan.

If you have any questions regarding this agenda item please call Coleen Shade at (775) 588-4547.
MEMORANDUM

May 15, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: Level of Service (LOS) Policy Discussion

Proposed Action: No action is requested at this time.

Staff Recommendation: No recommendation is provided at this time, other than for the Board to seek clarification as necessary during the Board presentation.

Discussion: Staff and representatives from the consulting firms of Parsons Brinckerhoff Quade & Douglas, Inc. and Fehr & Peers, Inc. (assisting TRPA with the Regional and Federal Transportation Plans) will make a short presentation regarding the concept of LOS. The purpose will be to provide the Board with some LOS familiarity and application of LOS in transportation planning. The presentation will include definitions, capacity discussions, the rating system, illustrations, the use of LOS and examples of standards in other jurisdictions.

If you have any questions regarding this item, please contact Richard Wiggins at (775) 588-4547.
MEMORANDUM

May 15, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Finding That the City of South Lake Tahoe, El Dorado County, Placer County, Cason City, Washoe County and Douglas County Have Demonstrated a Commitment to Assume Their Fair Share Responsibility to Provide Low and Very-Low Income Housing

Proposed Action: Finding that the City of South Lake Tahoe, El Dorado County, Placer County, Carson City, Washoe County and Douglas County have demonstrated a commitment to assume their fair share responsibility to provide low and very-low income housing. This finding is necessary to permit approval of subdivisions on vacant parcels within preferred affordable housing areas (Code subsection 43.4.F).

Staff Recommendations: Staff recommends the Governing Board:

1. Find that the City of South Lake Tahoe, El Dorado County, Placer County, Douglas County, and Washoe County have demonstrated a commitment to assume their fair share responsibility to provide low and very-low income housing; with reconsideration of these findings in December 2001 based on the milestones established in Exhibit A.

2. Find that the Code section 43.4.F (2) is not applicable to Carson City.

APC Recommendation: At the January APC meeting, the following recommendations were made:

1. The Governing Board find that a commitment to assume their fair share of affordable housing has been demonstrated by all jurisdictions, with reconsideration of the findings scheduled for December 2000. Eight (8) APC members voted in favor of the motion, five (5) members voted against, and six (6) members were absent.

2. The Governing Board direct staff to work with the local jurisdictions to develop criteria to measure the success of the jurisdictions efforts to provide low and very-low income housing pursuant to Subparagraph 43.4.F (2). This motion received unanimous approval from the thirteen (13) APC members who were present.

Background: At the January Governing Board meeting, the Board made the findings for all of the jurisdictions, with reconsideration of those findings scheduled for May 2000. Staff was directed to work with the local jurisdictions in developing "criteria" by which each jurisdiction would be evaluated in the future. Under the action taken in January, the
local jurisdictions were also invited to present their housing program proposals for Governing Board consideration.

To date there has been a lot of discussion that surrounded the question of whether it is appropriate for the TRPA to address affordable housing issues in the Basin, and by what policies was TRPA to participate in affordable housing workshops, programs, funding, approval, and regulatory concessions. While housing is not an Environmental Threshold Carrying Capacity, housing does affect the thresholds directly and indirectly.

Within the TRPA Goals and Policies Land Use Element, the Housing Subelement reads as follows:

HOUSING
The purpose of this Subelement is to assess the housing needs of the Region and to make provisions for adequate housing. The Compact does not specifically mandate this Subelement nor do the environmental thresholds address this topic. However, the states of Nevada and California both require housing to be addressed as part of a general plan. [It is the intent of this Subelement to address housing issues on a regional basis with local plans handling the specifics of implementation.

GOAL #1
TO THE EXTENT POSSIBLE, AFFORDABLE HOUSING WILL BE PROVIDED IN SUITABLE LOCATIONS FOR THE RESIDENTS OF THE REGION.

POLICIES

1. SPECIAL INCENTIVES, SUCH AS BONUS DEVELOPMENT UNITS, WILL BE GIVEN TO PROMOTE AFFORDABLE OR GOVERNMENT-ASSISTED HOUSING FOR LOWER INCOME HOUSEHOLDS (80 PERCENT OF RESPECTIVE COUNTY'S MEDIAN INCOME) AND FOR VERY LOW INCOME HOUSEHOLDS (50 PERCENT OF RESPECTIVE COUNTY'S MEDIAN INCOME). EACH COUNTY'S MEDIAN INCOME WILL BE DETERMINED ACCORDING TO THE INCOME LIMITS PUBLISHED ANNUALLY BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

The 1980 census data indicate that approximately 95 percent of the region's lower income households were paying more than the recommended costs for rental housing. There is a need to reverse the current trend of higher cost housing and to provide needed affordable housing.

2. LOCAL GOVERNMENTS WILL BE ENCOURAGED TO ASSUME THEIR "FAIR SHARE" OF THE RESPONSIBILITY TO PROVIDE LOWER AND VERY LOW INCOME HOUSING.

Current data indicate the City of South Lake Tahoe and Placer County are assuming more than their share of the responsibility as detailed in the Regional Plan EIS.

3. FACILITIES SHALL BE DESIGNED AND OCCUPIED IN ACCORDANCE WITH LOCAL, REGIONAL, STATE, AND FEDERAL STANDARDS FOR THE ASSISTANCE OF HOUSEHOLDS WITH LOW AND VERY LOW INCOMES. SUCH HOUSING UNITS SHALL BE MADE AVAILABLE FOR RENTAL OR SALE AT A COST TO SUCH PERSONS THAT WOULD NOT EXCEED THE RECOMMENDED STATE AND FEDERAL STANDARDS.

4. AFFORDABLE OR GOVERNMENT ASSISTED HOUSING FOR LOWER INCOME HOUSEHOLDS SHOULD BE LOCATED IN CLOSE PROXIMITY TO EMPLOYMENT CENTERS, GOVERNMENT SERVICES, AND TRANSIT FACILITIES. SUCH HOUSING MUST BE COMPATIBLE WITH THE SCALE AND DENSITY OF THE SURROUNDING NEIGHBORHOOD.
In addition to the Goal and Policy statements, affordable housing is addressed in 24 separate subsections of the Code of Ordinances, including the subject of this staff summary.

Staff recognizes that there is a certain degree of interpretation required by the existing code language, which reads:

43.4.F (2) Subdivisions in Preferred Affordable Housing Areas: Approval of Subdivisions after December 31, 1995 of post-1987 residential projects which do not qualify as affordable housing are prohibited until TRPA finds the city or county, with zoning jurisdiction, has demonstrated its commitment to assume its "fair share" responsibility to provide lower and very low income housing within the existing urban areas pursuant to Goal #1 of the TRPA Housing Subelement of the Regional Plan Goals and Polices.

This Code provision was the result of the Joint Settlement Agreement and Stipulation for Entry of Judgment, August 4, 1994, League To Save Lake Tahoe vs. Tahoe Regional Planning Agency, Eastern District of California, Case No. CV-S-94-0069.

Discussion: Code subsection 43.4.F (2) only applies to those projects that are proposed for new construction of post-1987 residential projects that apply for subdivision, within preferred affordable housing areas. Existing multi-residential structures, regardless of plan area location, are exempt from this code section. Table 1 provides a listing of those Plan Area Statements and Community Plans that have the special designation of Preferred Affordable Housing Area.

Table 1. Plan Areas With Preferred Affordable Housing Special Designation

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Plan Area Statement</th>
<th>Number</th>
<th>Jurisdiction</th>
<th>Community Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placer Co.</td>
<td>Tahoe City Industrial</td>
<td>001B</td>
<td>City of SLT</td>
<td>Stateline/Ski Run CP</td>
</tr>
<tr>
<td>Placer Co.</td>
<td>Fairway Tract</td>
<td>002</td>
<td>Placer Co.</td>
<td>Tahoe City CP</td>
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<td>Placer Co.</td>
<td>Dollar Hill (1)</td>
<td>009B</td>
<td>Placer Co.</td>
<td>Tahoe Vista CP</td>
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<tr>
<td>Placer Co.</td>
<td>Kings Beach Residential</td>
<td>028</td>
<td>Placer/Washoe</td>
<td>North Stateline CP</td>
</tr>
<tr>
<td>City of SLT</td>
<td>Pioneer/Ski Run</td>
<td>092</td>
<td>Washoe Co.</td>
<td>Incline Village CP</td>
</tr>
<tr>
<td></td>
<td>Bijou</td>
<td>093</td>
<td>Washoe Co.</td>
<td>Incline Village Tourist CP</td>
</tr>
<tr>
<td>City of SLT</td>
<td>Al Tahoe</td>
<td>099</td>
<td>Washoe Co.</td>
<td>Ponderosa Ranch CP</td>
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<tr>
<td>City of SLT</td>
<td>Sierra Tract</td>
<td>105</td>
<td>Douglas Co.</td>
<td>Kingsbury CP</td>
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<tr>
<td>City of SLT</td>
<td>South &quot;Y&quot;</td>
<td>110</td>
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<td></td>
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<tr>
<td>City of SLT</td>
<td>Tahoe Island</td>
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<td>El Dorado Co.</td>
<td>Camp Richardson</td>
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<tr>
<td>El Dorado Co.</td>
<td>Fallen Leaf North (2)</td>
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</tr>
</tbody>
</table>

Notes:
(1) Senior Citizen Only
(2) USFS Employees Only

Staff met with each local jurisdiction, except for Carson City, to discuss the type of information sought in order to make a positive recommendation to the Board that each jurisdiction is demonstrating their commitment to providing their fair share of low and very-low income housing. Within the Tahoe Region, Carson City does not have any land
zoned for residential or commercial development, therefore the affordable housing commitment finding is not applicable.

Staff requested information on programs, staffing and funding for the short and long term goals of the local jurisdiction. Staff requested information regarding any current projects, in addition to programs, staffing levels and funding the local jurisdictions anticipate in the next five years. Staff chose a five-year planning horizon in requesting information about the future, but the local jurisdictions could have provided information spanning beyond the next five years.

As has been previously discussed by the Governing Board, each jurisdiction has unique circumstances that warrant separate evaluative criteria. Although this may eliminate unrealistic expectations for some jurisdictions, it does make cross evaluation between jurisdictions very difficult. Therefore, when evaluating the information submitted by the local jurisdictions, staff must first ask if there are any other elements that would work for a local jurisdiction. Should staff determine that a local jurisdiction is committing to the appropriate level of action, a positive recommendation can be made. However, should staff determine that more substantive measures need to be taken in order to deal with the provision of low and very-low income housing, then a positive recommendation would not be prudent.

It is important to remember that this Code section only applies to multi-residential projects on vacant land, which choose to subdivide. The reality is that there are very few locations where this type of activity will occur; given the plan areas this code provision applies to and the amount of remaining vacant land within those plan areas. Moreover, the prohibition of multi-residential subdivisions on vacant land is only one effort to preserve land for affordable housing development.

The Affordable Housing Working Group, comprised of staff from TRPA, local jurisdictions, state agencies, private developers and Tahoe residents, generated a list of programs and action items that staff used in evaluating this issue. See Exhibit B for this list.

See Exhibit C for copies of the memos given to staff for evaluation.

Staff will make a brief presentation on this agenda item, after which each jurisdiction has been invited to make a brief (five minutes) presentation on their jurisdiction’s behalf.

Future Evaluation: Future consideration of this issue is dependent upon the motion made and approved by the Governing Board, i.e., annual reconsideration of findings or, no reconsideration of the findings. Staff is recommending reconsideration in December 2001, based on the milestones established in Exhibit A.
Requested Action: Staff requests the Governing Board take the following action:

Motion to make the following findings:

1. Find that the City of South Lake Tahoe, El Dorado County, Placer County, Douglas County, and Washoe County have demonstrated a commitment to assume their fair share responsibility to provide low and very-low income housing, with reconsideration of these findings in December 2001 based on the milestones established in Exhibit A.

2. Find that the Code section 43.4.F (2) is not applicable to Carson City.

Questions regarding this agenda item should be directed to Peter Eichar at (775) 588-4547, or recreation@trpa.org.
Subdivisions in Preferred Affordable Housing Areas, 43.4.F (2)
Evaluation Criteria for December 2001

The following jurisdiction specific criteria will be used to determine if each jurisdiction has demonstrated a commitment to providing their fair share of affordable housing for low and very-low income families.

City of South Lake Tahoe
1. Continue pursuit of private/public partnerships for new unit construction;
2. Continue funding and implementation of multi-residential and single-family housing rehabilitation program;
3. Continue support and funding for first-time homebuyer programs;
4. Continue conversion of illegal unit program;
5. Maintain funding and staffing for the City's Housing and Economic Development Department.

El Dorado County
1. Implement the Affordable Housing Fee Structure Policy;
2. Continue Section 8, rental voucher program;
3. Continue Low Income Home Energy Assistance Program (weatherization);
4. Continue the various utility assistance programs;
5. Maintain the Mortgage Credit Certificate Program (MCC);
6. Pursue funding for housing rehabilitation programs.

Placer County
1. Implement the County Affordable Housing Strategy by following the Redevelopment Agency’s Affordable Housing Implementation Plan;
2. Continue multi-residential and single-family rehabilitation programs;
3. Continue first-time homebuyer program;
4. Pursue private/public partnerships for the development of affordable housing units;
5. Support staffing and funding levels for the Housing Division of the County Redevelopment Agency;
6. Engage major local employers to address affordable housing for employees.

Douglas County
1. Continue first-time homebuyer program, and pursue additional funding;
2. Pursue and participate in funding for acquisition of vacant and developed property for affordable housing unit construction and/or development;
3. Support Douglas County Board of Commissioners approval of Development Application Fee waiver;
4. Participate in and pursue implementation of mass transit (CTS) and support facilities;
5. Engage major local employers to address affordable housing for employees;
6. Pursue funding for staff member dedicated to housing issues inside and outside of the Tahoe Region;
7. Pursue private/public partnerships for the development of affordable housing units inside the Tahoe Region.

Washoe County
1. Continue first-time homebuyer program, and pursue additional funding;
2. Participate in and pursue implementation of mass transit (CTS) and support facilities;
3. Continue working with CSA to implement housing rehabilitation programs, and pursue additional funding;
4. Pursue and participate in funding for acquisition of vacant and developed property for affordable housing unit construction and/or development;
5. Pursue private/public partnerships for the development of affordable housing units inside the Tahoe Region;
6. Pursue funding for staff member dedicated to housing issues inside and outside of the Tahoe Region.
Affordable Housing Working Group: Potential Affordable Housing Solution List

- Programmatic approach to addressing affordable housing issues
  - Financial plan
  - Staffing plan
  - Implementation timeline
- Dedicated Staff member/time
- Rehabilitation and construction loan program
- Multi-residential unit rehabilitation
- First-time homebuyer loan program
- Creation of Housing Authority
- Establishment of Redevelopment Agency
- New unit/project construction
- Conversion of hotel units for employee housing
- Conversion of illegal units to deed restricted affordable housing units
- Expand areas for affordable housing as appropriate and to accommodate opportunities
- Create local housing requirements for projects that generate additional employees
- Affordable housing mitigation fee to local jurisdiction from projects creating new jobs
- Mitigation fund created so that affordable housing projects are not priced out of the market by the mitigation fees
- Elimination of application fees for affordable housing, where legal
- Formalize a fair-share goal/plan for implementation by jurisdiction
- The use of MOUs to enforce TAU s
- Each jurisdiction have a full-time dedicated person to housing – affordable housing
- Public education to address public concerns re: affordable housing
- Local participation in the new CHDO/CBO (to be developed w/HUD’s “animal” development)
- Reduce parking standards for certain types of affordable housing projects
- Cease the conversion of residential units to tourist accommodations
- Reevaluate the siting recommended in the TRPA Affordable Housing Needs Assessment for affordable housing
- Condemnation by counties of lands for public use/affordable housing within legal means
- Actively enlist the major employers for affordable housing solution participation
- Enterprise zone creation
- Affordable transportation inside and outside Basin
- Tax Credit Allocations
- 501C3 – Non-profit creation
- Rental Assistance (Section 8) Project Based
  - TOT reasonable set aside for tax credits, non-profit creation and management, rental assistance programs, NV + CA
- Public Education → re: community benefits for government officials and all levels of staff → can’t be truly a priority without this
- ID Agency responsibility for ensuring conditions of approval are made
- Rental housing assistance entity and program
- Property management association
- local jurisdiction parking requirements lowered
- $ for non utility upgrades as well as unit construction rehabilitation
April 14, 2000

Mr. Peter Eichar
Associate Planner
Tahoe Regional Planning Agency
PO Box 1038
Zephyr Cove, NV 89448-1038

RE: Affordable Housing Fair Share Update

Dear Mr. Eichar:

Per your request, I am providing you with an update on the efforts that the City of South Lake Tahoe has made towards providing its fair share of affordable housing since 1995 when the Tahoe Regional Planning Agency enacted its fair share ordinance. Also, included is a listing of our current activities and projected number of units that the City anticipates to create over the next five years. Lastly, there is a brief discussion of our staffing levels and funding sources.

Achievements

The City has created programs or assisted housing developers to produce the following number of affordable housing units since 1995:

- New Construction 45 units
- Large Apartment Rehabilitation 70 units
- Single Family/Small Multifamily Rehabilitation 35 units
- Acquisition Assistance for First Time Homebuyer 11 units
- Conversion of Illegal Units 17 units

Total 178 units

In Progress

The following projects and programs are presently in some stage of development:

- A 19-unit new construction affordable housing project for persons with disabilities;
• A 92-unit acquisition and rehabilitation project of an existing affordable housing project that is approximately 30 years old;
• Reinstatement of the First Time Homebuyer Program;
• Continuation of the Single Family/Small Multifamily Rehabilitation Program; and
• Continuation of the Illegal Unit Conversion Program.

Five Year Projections

Over the next five years, I estimate that the City can produce approximately the same number of affordable housing units as it did in the previous five years. Listed below is a breakdown by program of how the City might achieve this goal. However, it is anticipated that the actual number of units per program will be different but the total amount of units to be generated is believed to be a reasonable estimate for the City to achieve.

- New Construction
- Large Apartment Rehabilitation
- Single Family/Small Multifamily Rehabilitation
- Acquisition Assistance for First Time Homebuyer
- Conversion of Illegal Units

<table>
<thead>
<tr>
<th>Program</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Construction</td>
<td>50</td>
</tr>
<tr>
<td>Large Apartment Rehabilitation</td>
<td>60</td>
</tr>
<tr>
<td>Single Family/Small Multifamily Rehabilitation</td>
<td>35</td>
</tr>
<tr>
<td>Acquisition Assistance for First Time Homebuyer</td>
<td>15</td>
</tr>
<tr>
<td>Conversion of Illegal Units</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>180</strong></td>
</tr>
</tbody>
</table>

The Housing and Economic Development Division of the City of South Lake Tahoe has the responsibility to produce the affordable housing. The Division has a staff of 4 fulltime positions and is funded through State and Federal grants and Redevelopment Low and Moderate Income Housing Funds. The City generates around $500,000 to $1,500,000 per year from these funding sources and often uses these monies to assist affordable housing developers in securing additional grant funding to construction and rehabilitate units for low income persons.

If you have any questions regarding the above information, please feel free to contact me at (530) 542-6043.

Sincerely,

[Signature]

Patrick M. Conway
Housing and Economic Development Coordinator

Dana/TSPA/Fairhace Letter April 14, 2000
Memorandum

TO: Peter Eichar, Associate Planner, Long Range Planning
    Tahoe Regional Planning Agency
FROM: Joyce Aldrich, Housing, Community & Economic Development Manager
       El Dorado County Department of Community Services
SUBJ: Goals Update
DATE: April 20, 2000

Per our telephone conversation it is my understanding that the Tahoe Regional Planning Agency needs an update on the goals of El Dorado County demonstrating a commitment to affordable housing in our County.

The Board of Supervisors, acting as the Board of Directors of the County Housing Authority, adopted the Housing Authority’s mission statement to promote adequate, safe and affordable housing, economic opportunity and a suitable living environment free from discrimination to low income households in our communities.

Short term goals for El Dorado County include:

- Over the next five (5) years to implement an Affordable Housing Fee Structure Policy passed by the Board of Supervisors on March 14, 2000. This new policy establishes an affordable housing fee structure that provides a mechanism for lower income and very low income households to benefit from the deferral, reduction, or waiver of certain Planning, Building, Transportation, Environmental Management, and Parks and Recreation fees. Under the Affordable Housing Fee Structure El Dorado County may offer fee deferrals to federally tax-exempt private non-profit or public agency applicants for construction of affordable housing utilizing primarily volunteer or self-help construction labor, and may waive fees for developers of affordable housing under certain circumstances.
- To promote affordable housing opportunities countywide through a Density Bonus Program, as described in the Housing Element, Policy 4.3.1.2, which
• encourages all builders and developers to provide dwelling units suitable for sale to low and moderate income groups.

• To assist an increased number of low-income families throughout El Dorado County, including the incorporated and unincorporated areas of South Lake Tahoe, with affordable housing through an application for additional Section 8 rental vouchers.

• To apply for Section 8 Program Mainstream Vouchers to assist non-elderly persons with disabilities throughout El Dorado County, including both the incorporated and unincorporated areas of South Lake Tahoe.

• To assist 10 households annually in the incorporated and unincorporated areas of South Lake Tahoe with home weatherization under the Low Income Home Energy Assistance Program by installing energy efficiency measures.

• To assist 185 households annually in the South Lake Tahoe area in meeting their energy costs through the Low Income Home Energy Assistance Program.

• To assist 15 South Lake Tahoe area households annually through the CARE program to obtain a reduced rate for electric and natural gas and to assist 60 households with a portion of their natural gas bills through the SHARE program.

• To assist 16 South Lake Tahoe area households annually with their water and sewer bills.

• To assist 70 South Lake Tahoe area households with their electric bills through the SAFE program.

• To expand a Mortgage Credit Certificate (MCC) Program during the year 2000. El Dorado County has contacted the South Lake Tahoe Board of Realtors to provide training to agents in the South Lake Tahoe area updating them on the availability of 15% MCC’s this year. MCC’s are available to both the incorporated and unincorporated areas of South Lake Tahoe with a specific target area which encompasses Census Tract 301.02 (this area covers from Ski Run Blvd. to Stateline, Nevada). Target area means a Census Tract in which 70% or more of the households have an income that is 80% or less of the statewide median family income. This area is not subject to the prior home ownership restriction, and maximum purchase prices can be 110% of average area purchase price.

• To develop a 2000 Community Development Block Grant application for housing rehabilitation, assisting moderate and low-income homeowners with loans to rehabilitate dilapidated housing. Should this grant be funded, homeowners in the Meyers area of South Lake Tahoe will be eligible for assistance.

• To seek to develop first time homebuyers down payment assistance through a HOME Program application in 2000.
El Dorado County Long Term Goals:

- To assist low-income households in obtaining adequate, safe and affordable housing.
- To promote affordable housing needs with developers.
- To promote and assist in meeting affordable housing needs in the South Lake Tahoe Basin.
- To work cooperatively with Tahoe Regional Planning Agency in meeting the needs of affordable housing in the Basin.

How El Dorado County Approaches the Issue of Affordable Housing:

- El Dorado County has an Economic Development Coordinator and a Housing, Community and Economic Development Manager on staff to research and apply for funding and to work with developers and low-income households to address affordable housing needs.
- With the implementation of the Housing Authority Agency Plan and Economic Development, Community Development, Energy Assistance, Weatherization Assistance, and Mortgage Credit Certificate programs, El Dorado County is addressing the issue of affordable housing in our unincorporated and incorporated areas.
- Effective March 14, 2000 El Dorado County Board of Supervisors adopted the Affordable Housing Fee Structure Policy promoting fee deferrals for construction of affordable housing.
May 15, 2000

Peter Eichar, Associate Planner
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448-1038

Dear Mr. Eichar:

Thank you for your continuing interest in and assistance with Placer County performance in housing related issues involving the greater Tahoe area. As background, the following information details current efforts of the County of Placer to preserve, improve, and expand affordable housing opportunities in the greater Tahoe area. Also attached is a copy of the Countywide Housing Strategy document that details the County’s overall approach to these issues including major emphasis on the areas of concern to TRPA. In it’s efforts, the County is placing an immediate emphasis on addressing substandard conditions and requiring large-scale, new developments to provide significant housing opportunities to the preponderant number of new employees required to fill the low and moderate income paying jobs supporting new development.

We have observed that effective response to the housing issues before the County frequently demand actions geared to private sector and market timing and not necessarily governmental schedules and sequenced strategies. The need for program knowledge, flexibility, and quick response is nowhere more evident than in the greater Tahoe area. Over the last two years, the County has taken significant strides to develop these capacities. The County Redevelopment Agency, created only three years ago, is tasked with the responsibility of coordinating Countywide affordable housing efforts and implementing the strategy. In the last year, to achieve its goals the Agency has undertaken the following activities:

- Created a County Affordable Housing Strategy to permit a comprehensive and consistent framework for policy development, staffing, and funding to address work force housing requirements within the County.
Since the transfer of housing responsibility to Redevelopment, the Agency has been successful in five out of six grant applications resulting in a total of more than $1,100,000 in new State funding. The majority of grant funds has thus far been directed to housing. Additionally, the County currently has two grant applications at the State related to housing for total of $535,000.

To assist in implementing the Affordable Housing Strategy, the County has added an Administrative Services Officer to assist in support of the strategy’s implementation.

Again in March of this year, the Board of Supervisors approved a CDBG Program Income Re-use Plan that allocates 67% of the County’s revolving loan funds to affordable housing efforts. In the last two years, more than $400,000 has been committed from this revolving loan fund for housing related projects, most of which have been located in the redevelopment project areas in the Tahoe area.

A Kings Beach Housing Rehabilitation Program funded in early 1999 by a combination of approximately $300,000 in CDBG and Redevelopment Agency funds has been initiated. It is estimated that all funds will be committed by the end of the current fiscal year.

The County signed a contract with the Rural California Housing Corporation (RCHC) to provide staff and advisory support to the Redevelopment Agency on a wide range of affordable housing related activities including those identified above. Since October of 1999, RCHC has packaged and received loan approvals for eleven loans in the Tahoe area. More than $200,000 has been committed to these efforts.

In support of the Redevelopment Agency’s Affordable Housing Implementation Plan, the county has undertaken the following actions:

- Negotiation with developers of the last significant multi-family zoned, vacant property in Squaw Valley to include an equivalent of ± 80 units of rental housing affordable at or below 60% of median income; to include some large family units and a term of affordability of at least 30 years. Credit against this requirement may be given for unique responses to existing residential needs in the greater Tahoe area including such things as improving existing neighborhoods. Consideration may be given for offsite performance and/or "in lieu" payments at ± $30,000 per unit (if acceptable site(s) are available).

- Current discussion with developers in the Northstar area (constrained somewhat by prior regulatory agreements) have the county still targeting a requirement that 10% of the units produced be affordable at or less than
60% of median income and that the developer house 50% of the employees generated by the project. Affordability is targeted for at least 30 years and/or "in lieu" funding targets are set at ± $30,000 per unit if an acceptable development site(s) is/are available.

- Initial discussion with Truckee School District for the purchase/long term lease of District owned property for the development of Tax Credit units (40 - 60) affordable ≤ 60% of median income, 55 year affordability with residential preference for teacher/employees of the District.

- Initial discussion with private owner for the joint development of property to include a 75 unit senior, Tax Credit, rental facility, offices and single family homes.

- Initial discussions with private landowner for the purchase of four acre vacant parcel within the redevelopment area for the development of 40 - 50 unit, Tax Credit, family's development to serve as a major relocation resource required to complement any aggressive code enforcement / abatement activity in the Tahoe redevelopment areas.

- Ongoing efforts to assemble parcels within the greater Kings Beach area including both governmental action and "in lieu" actions/contributions by large-scaled developers described above.

- Redevelopment Agency staff has made presentations to several community meetings in North Tahoe over the past year to increase awareness, receive input from local residents and businesses, and work toward a consensus on the need for affordable housing options within the community.

- The County has been successful with a $500,000 HOME grant application matched with $119,000 in Redevelopment Agency housing set-aside funds to fund a First Time Home Owners Program. Significant participation is expected from the greater Tahoe area.

In addition to the specific actions/programs discussed above, the County is currently studying the feasibility and timing of a Tax Increment bond issue, which would include significant additional funding for housing. The county continues to submit for all discretionary housing funds that may be available and appropriate and is looking forward to the potential refunding of the State's Multifamily Housing Program.

Within the near term (1-2 years), it is the intent of the County to rehab 5 to 10 units per year and to assist in the submittal of at least one tax credit proposal per year. The near term will also include increased efforts in code enforcement and abatement but aggressive actions in these areas will require relocation resources to be made available.
from new development activity. The County will continue to emphasize requirements for
the inclusion of fair share commitments to affordable housing with an emphasis on
employee housing in all applicable large-scale developments. In the long term (5 years),
the County expects to see the occupancy of at least two tax credit developments and
significant levels of reinvestment in the Kings Beach and Tahoe City areas.

The County of Placer is continuing to review the list of actions proposed by the
"Affordable Housing Working Group" from the Tahoe area. From a staff prospective,
nothing jumps off the pages as being something we would not consider. Priorities and
refinements will be offered for your consideration at a later date.

With regards to actions that TRPA might take, the idea of the creation of TRPA staff
dedicated to facilitating the consideration and where appropriate, the processing of
affordable housing proposals certainly seems supportable. Emphasis on requirements for
the mandatory inclusion of housing for employees supporting large-scale
recreational/commercial ventures is also consistent with the policy of the County of
Placer. Again, County staff will continue to review the list of TRPA actions summarized
by the working group and will include additional comment in a latter communication.

If I can provide further information for you or if you wish to discuss Placer efforts in
more detail, please call me at (530) 889-4239.

Sincerely,

Reed Flory, Housing Program Coordinator
Redevelopment Agency

Enclosure

cc:    Rex Bloomfield, Supervisor – District 5
       Richard Colwell, Deputy CEO - Redevelopment
       Grayson Marshall, Executive Assistant – Tahoe
       Mark Heckey, Redevelopment Program Manager
March 3, 2000

Peter Eichar
Tahoe Regional Planning Agency
P O Box 1038
Zephyr Cove, NV 8944801038

Re: Suggested Criteria to Meet Affordable Housing/Fair Share Responsibilities
Douglas County

Dear Peter,

This letter is in response to the direction provided by the Governing Board in February of this year in regards to Douglas County meeting its fair share responsibilities for affordable housing. At that time, the Governing Board directed TRPA staff to meet with a County representative to consider specific criteria which could assist the County in meeting its fair share responsibilities. To this end, County staff attended all of the housing workshops held by TRPA staff and also met with you on April 7, 2000 to review and discuss opportunities and constraints related to this subject.

Before I discuss what new criteria might work for the County as well as for other basin-wide jurisdictions, I would like to compare some of the statistical information provided in the February, 1997 Affordable Housing Needs Assessment against current figures provided through our GIS department.

• **Lower Kingsbury area:** Current County records indicate that there are 20 vacant parcels located in the preferred affordable housing area noted in the needs assessment. These parcels total approximately 10.5 acres. A breakdown of the area is noted below:

  a. 5.9 acres are privately held and have an IPES score of 606 or more.
  b. 3 acres are owned by the County, having an IPES score of 606 or more.
  c. 1.5 acres are privately held with unknown IPES scores.

Without a land capability verification for these parcels, the best estimate on the number of new single-family homes that could be constructed is 30 units (includes 10 units within the County parcel per previous TRPA staff analysis of multi residential sites). In addition, the County Assessor indicates that 6.7 acres currently developed in the area have a fair to poor quality rating which indicates that those properties could be suitable for rehabilitation (two existing mobile home parks [+- 100 units] and ten single-family residential lots – note: these
figures do not include Kahle Dr. apartments). The total new unit count vs. existing density is unknown at this time based on land capability and land coverage limitations. Further, it is unknown as to how many of these existing units already provide affordable housing. It should also be noted that some of these parcels are located outside of the one-quarter mile radius.

**Potential Net Gain = 30-40 units.**

- **Roundhill Community Plan:** Currently, the Round Hill Community Plan includes only two vacant parcels totaling 0.52 acre in area. With such a small area available for development, it would be difficult to estimate the number of potential new units (10 units per TRPA analysis). The needs assessment included a much larger area within this community. Again, the assessment did not take into consideration the actual available vacant land. Additionally, the County Assessor has not given properties in this area a fair or poor rating (no properties to consider for rehab).

**Potential net gain = 10 units.**

The Needs Assessment limits preferred affordable housing areas to Lower Kingsbury and Roundhill. Based on the information noted above, the maximum number of units that might be developed in these two areas is 40-50 units. This begs the question as to how Douglas County can provide some 1,456 units when the areas available for new development can only support 3 percent of the total needed?

**Recommendations:**

1) Amend the Needs Assessment to expand preferred areas to the Stateline Community Plan and Lake Village Drive area, which already allow multi-family or employee housing units. As identified by TRPA staff, these two areas could support some 165 additional new units without urban boundary changes or other amendments to TRPA Code. Priority must then be given to the construction of employee/affordable housing within the Stateline casino core, even prior to Hwy 50 scenic improvements (per the Community Plan).

**Potential net gain = 165 units**

2) Amend TRPA code to allow the maximum base density for affordable housing units to 25 units per acre for Nevada communities (no density bonus). This would enable Douglas and Washoe County to maximize the number of units, especially since potential development sites are limited. I am told that California limits the density bonus to 25 percent (i.e., 12 units maximum per acre plus 25 percent bonus = 15 units per acre). This adjustment would concentrate more housing units near employment and shopping centers, overall lessening VMT's and water quality impacts for the region.

3) Amend the TRPA Code to provide additional incentives and reduce impediments in order to reach the housing goals identified in the report (i.e., allow for flexible height and parking standards, reduce land coverage rules on a case-by-case basis if justified).

4) TRPA should consider a reduction in mitigation fees (1/2 cost) for affordable housing projects. Douglas County can support waiving development application fees (approx. $1,000 to
$3,000), but per Nevada Revised Statute (NRS) the County cannot waive building permit fees nor apply impact fees similar to that of the TRPA.

5) Consider affordable housing sites outside of the basin for the following reasons:
   a. Reality of lower housing costs outside of the basin (as seen in the median cost of houses per the County Master Plan).
   b. Travel time outside of the basin may well be the same as travel time within the basin. In fact, total travel time may be less.
   c. Creates a stronger incentive for the County to improve transit throughout the County, and
   d. Would still meet the ideals of job-housing balance identified in the needs assessment.

The previous letters submitted by the County which detailed the County’s commitment to its fair share responsibilities noted that the County participates in the Western Nevada HOME Consortium Program. This program provides for down payment assistance (up to $10,000) based on income limits (see attached handout and income matrix). Unfortunately, this assistance program is unlikely to be used for the purchase of homes in the Tahoe Basin since the median home price, based on the County Master Plan 1995 figures, is approximately $228,000. Note that the mortgage limit for a family of four persons is $155,250 with income limits at $46,700. In comparison, the median cost of homes in the Carson Valley area is $135,500. The inflated cost of properties in the basin reconfirms one of the main reasons why residents choose to live in the Carson Valley rather than at Lake Tahoe.

At this time, the community has not expressed support for the formation of a redevelopment area at the Lake. In reviewing assessor records, the most likely areas for redevelopment in the future is the upper Kingsbury area which has a high number of deteriorating structures, but is well outside of the one-quarter mile radius and far from transit or commercial centers. Additionally, Nevada State law does not provide financial subsides for affordable housing, and is unlikely to provide assistance in the future. I would also note that redevelopment does not guarantee any additional funds for affordable housing.

In conclusion, Douglas County is committed to pursuing ways to increase our affordable housing stock. As evidenced in this letter, the amount of potential affordable housing sites allowed under the current TRPA code and per the Needs Assessment is minimal at best (50 +/- units). The County believes the Needs Assessment prepared in 1997 is a valuable tool for communities to use and a good step at identifying employment patterns in the basin and bringing housing problems to the forefront. However, the County feels that rather than the TRPA dictating what type of housing is best for each community, the TRPA should allow the communities to use the information presented in the assessment, thereby enabling the communities to provide housing solutions that best meet the needs of their respective community.

Regards,

[Signature]

Dan Holler
County Manager
Attachment

C: Board of Commissioners
   Bob Nunes
   Mimi Moss

mm.lrn.trpaffordhou.doc
May 5, 2000

TO: Governing Board
    Tahoe Regional Planning Agency

FROM: Robert W. Sellman, Director
      Community Development Department

direct phone #: 775-328-3606

direct fax #: 775-328-3648

e-mail: rsellman@mail.co.washoe.nv.us

SUBJECT: Affordable Housing in the Lake Tahoe Basin and Washoe County

In response to concerns raised by Tahoe Regional Planning Agency (TRPA) staff, Washoe County has prepared an outline showing a regional approach and both a long term and short term work program on how to address affordable housing issues for parts of Washoe County located within the Lake Tahoe Basin.

Through review of the outline below, members of the Governing Board will be able to see Washoe County’s commitment to working on a solution for affordable housing issues. Staff understands that in order for affordable housing to be a viable option anywhere in the Lake Tahoe Basin, there needs to be cooperation from all local agencies and guidance from TRPA. The Lake Tahoe area is unique and opportunities for locating affordable housing will be challenging. However, we believe that if there is commitment on the part of local agencies and TRPA, some of the issues can be made better or even resolved.

I. Regional Approach to Housing and Relationship to Environmental Requirements

The Lake Tahoe Basin area is unique and unlike any other in the world. The area encompasses two states and one agency (TRPA) has the authority to regulate several different areas in the Basin. TRPA was formed in the 1960’s as an agency whose primary purpose was to protect the environmental integrity of the basin.

In recent months, there has been a heightened amount of concern for the quality of the area, specifically water quality. However, it is critical to look at all components of what TRPA is involved with in order to have an effective end result. This would include reviewing affordable housing and how it fits into the overall goals of the Basin.

II. Long Term Work Program

a. Last month, Washoe County completed the process of taking aerial photographs of the County in six-inch pixel view. The cost to complete this was approximately $500,000. Once the photographs are processed and returned to the County, we can begin to take a look at vacant parcels within our portion of the Lake Tahoe Basin area to determine if there are any more vacant parcels that could be developed for affordable housing.

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These photographs will provide a second check to other information that is currently used such as assessor’s data and visual inspections.

b. Merger of accurate assessor’s parcel information with the current GIS system will assist to correctly identify occupancies.

c. The 2000 Census was conducted last month. Over the next several months data will begin to be released by the United States Census Bureau. We expect to have all data sometime in mid-2001. Once the data is received, we will be able to better assess the need for affordable housing, how much is currently being provided for and where it is located.

d. Proportionality of developed land to vacant land. A few months ago, we received a listing from TRPA of parcels that could potentially be developed for affordable housing. TRPA had identified a total of 156 multi-family lots. Once staff reviewed the information and compared it against current assessor’s data, we found that there were in fact only 24 potential lots. Washoe County will use this data to continue review and monitoring of how vacant land is being developed. In addition, as with all areas in the Basin, are several parcels of vacant land which appear on the surface as available for development, but most of these lots have been “retired” and are typically owned by the United States Government. Therefore, development of these lots is almost impossible because these lots have been retired to comply with environmental regulations of the Basin.

e. Washoe County has a strong commitment to enforce the environmental requirements of the Lake Tahoe Basin. Staff is continually reviewing projects with current regulations to ensure that the condition of the Basin is not worsened by development. Part of the commitment means recognizing the retired lots as described above and respecting the reason for which they have been retired. Compliance with environmental regulations may mean a decrease in lots available for development.

f. Due to the nature of affordable housing and the typical resident who lives there, a successful public transportation system must be in place so that the residents have means of being transported throughout the Basin. Without a successful system, affordable housing may be difficult to complete. Therefore, the transportation component of the Lake Tahoe Basin will be reviewed and appropriate action taken by Washoe County to make it successful in our County. However, our County is one component of the Basin and all agencies involved will need to create a consensus agreement if the system is to function properly.

g. Commercial employer/employee mix and commuting trends will be analyzed to determine exactly what is needed in Washoe County. If a majority of those who live in Washoe County commute to other portions of the Basin for employment, it may not be necessary to provide several affordable housing projects in Washoe County. However, it can also go the other way in that if a large number of employees commute to Washoe County for employment, then there may be a significant need for affordable housing in Washoe County. The County is willing to review the trends and work to TRPA to determine what a good solution can be.
III. Short Term Work Program

a. In order for an effective affordable housing program to take place, each agency located with the Lake Tahoe Basin will need to work with TRPA to formulate housing programs. Examples of housing programs that can be implemented include first-time homebuyer, down payment assistance, housing rehabilitation, private/public partnerships with developers and tax incentive/density bonuses.

b. Allow accessory dwelling units to be counted towards affordable housing numbers. Within Washoe County there are several instances where homes can be developed with accessory units that can be rented to students or seniors. An advantage to doing this is that in most cases the accessory dwelling unit can be incorporated into the same structure as the main dwelling unit, thereby eliminating the appearance of two residences. In addition, there are several property owners who live in Washoe County part-time, but do have full-time staff living at their residence. By allowing more than one dwelling unit on a property, other environmental benefits can occur. For example, the number of vehicle trips could be reduced because there would be no need for staff to drive to the residence and separate affordable housing units would not need to be constructed.

c. Implement the strategies of the Washoe County Consolidated Plan (2000-2005) that has been adopted by all three jurisdictions. The Consolidated Plan provides specific goals and objectives for providing decent, fair housing in Washoe County. The document as adopted by the jurisdictions has goals and strategies that can be implemented in the Basin. Copies of applicable goals and objectives have been included for your review.

d. Implement Washoe County Home Consortium (WCHC) specific funding with Community Services Agency (CSA) for housing rehabilitation. A total of $150,000 is available for the program. CSA anticipates that at least five homeowners will be assisted through this program. The organization of the program has not been finalized at this time and it is not known if the program will be used to completely rehabilitate houses (including interior/exterior work, painting, landscaping, roofing, etc.), where the cost can be up to $20,000 per property. In lieu of complete rehabilitation, the program may target and rehabilitate health and safety issues such as water heater replacement, winterization, etc., where the cost can be substantially less per residence. The County has been working with CSA to implement this program as soon as possible. This program is specifically targeted for the Incline Village area.

e. Analyze the County’s first time homebuyer/down payment assistance program. $88,733 available for the program based on authorization from the WCHC. This program will also be administered by CSA. A maximum of $5,000 will be allocated to each homeowner who can demonstrate need. This program is targeted to all of unincorporated Washoe County.
f. Washoe County is prepared to acquire existing developed parcels if and when they come available. Through acquisition, the County can then in turn enter into agreements with housing agencies, such as the Reno Housing Authority, to maintain the buildings for affordable housing.

g. Currently, one full-time staff position works on affordable housing programs in addition to their other responsibilities. The County has also considered the possibility of hiring a consultant specifically to work on affordable housing issues.

I hope that this information will give you an understanding Washoe County’s commitment to affordable housing issues within the Lake Tahoe Basin.

Robert W. Schmoker
Community Development Director

RS: mad
Enclosures:
Correspondence – S. Kvas to P. Eichar
Correspondence to J. Galloway – Regional Transportation Commission
Zahler – Other thoughts on housing opportunities

cc: TRPA Staff
County Commissioner Jim Galloway
Katy Singlaub, County Manager
MEMORANDUM

May 12, 2000

To: Governing Board

From: TRPA Staff

Subject: Discussion and Clarification of Definition of Threshold-Related Research Facilities Relative to Political Research as set Forth in Chapter 18, Permissible Uses

Proposed Action: At the February Governing Board meeting, a GB member requested clarification of Threshold-Related Research Facilities relative to social and political research. Staff has brought this back to the GB for discussion and clarification.

Staff and APC Recommendation: Staff recommends that, at the conclusion of the staff presentation, the GB Chairman facilitate a discussion focused on the definition of Threshold Related Research Facilities in Chapter 18 (see Attachment A). Of particular importance is the inclusion of social and political research in the use definition, and whether it is appropriate to include these two areas of research. Both Staff and the APC believe that the use, Threshold-Related Research Facilities, is appropriate as currently defined.

APC Discussion: On May 10, 2000, TRPA staff presented the GB concern to the APC regarding whether social and political research should be considered as appropriate scientific research to include in the definition of Threshold Related Research Facilities. It was the opinion of several members of the APC that political as well as social sciences are scientific fields that can illuminate issues that are of importance in the Tahoe Basin. It was mentioned that the Watershed Assessment document identified social and political science research as lacking in the Lake Tahoe Region. Another APC member felt that, in order to advance TRPA goals, behavioral changes are required of the Region’s visitors and residents alike. They felt it is the social sciences that can provide the ideas to create a catalyst for change. The APC did not want to tie the hands of researchers as long as the research has specific Tahoe importance. In addition, they wanted to make it clear that the intent of the definition is that the research is grounded in political science or social science protocol.

Background: At both the Advisory Planning Commission and the Governing Board meetings in October of 1998, the amendment to Chapter 18, Permissible Uses, to add Threshold-Related Research Facilities to the permissible use list was given a public hearing. During the APC public hearing on this item there was a discussion regarding the types of research that should be included in the definition. A representative of University of California, Davis felt that research being conducted in the fields of biophysics, environmental, socio-economics, and political systems that contribute to our understanding of the Tahoe Basin, but not strictly and directly threshold related, should
be considered. TRPA staff suggested adding the wording "social, political, biological, or scientific research relating to the Lake Tahoe Environmental Thresholds or the ecosystem."

The discussion on this agenda item was brief at the October 1998 Governing Board meeting. The only discussion regarding the type of research that the definition included focused on whether research should be threshold-related or EIP-related. Staff recommended threshold-related.

At the February Governing Board meeting, as a part of the discussion on the agenda item to add Threshold-Related Research Facilities to 7 community plans as a special use, a Board member asked how appropriate it was to have social and political research as part of what defines Threshold-Related Research Facilities. Staff was asked to bring back the issue of the appropriate definition for the types of research to be conducted under this use as a discussion item on the agenda in April.

If you have any questions regarding this agenda item please call Coleen Shade at (775) 588-4547 or e-mail at coleens@trpa.org.
Chapter 18
PERMISSIBLE USES

18.2.G Threshold Related Research Facilities: Facilities may be designated "Threshold Related Research Facilities" if they meet the following criteria:

(1) The Facilities shall be primarily used to implement social, political and scientific research relating to the Lake Tahoe Environmental Thresholds or the Lake Tahoe ecosystem.

(2) Structures and related improvements designated as "Threshold Related Research Facilities" shall provide adequate security, such as a bond, lease requirement, deed restriction or other appropriate mechanism, to assure their removal or conversion consistent with TRPA ordinances upon discontinuance of threshold research.

(3) "Threshold Related Research Facilities" shall be located in community plan areas unless TRPA finds that there is a demonstrated need to locate them outside a CP area, the use is designated a special use by the applicable plan area statement, and that the project area for which the threshold related research facility is proposed contains existing development.

(4) Subject to the provisions for development rights and allocation of residential development, overnight multi-person facilities for up to 25 persons and caretaker facilities may be deemed accessory to this use.

18.4 Definitions of Uses: The uses listed in the Table of Primary Uses in section 18.3 are defined in this section. Uses accessory to the uses listed in the Table of Primary Uses are also defined and, to the extent practicable, listed in this section. Certain of the terms employed in defining the uses in this section may be defined in Chapter 2.

Threshold Related Research Facilities: Public or non-profit research establishments primarily engaged in implementing social, political and scientific research relating to the Lake Tahoe Environmental Thresholds or the Lake Tahoe ecosystem. The use includes laboratories, monitoring stations, scientific interpretive centers, research and training classrooms, and related support facilities. It does not include facilities not related to threshold related research such as general college administrative offices and classrooms which are listed under Schools-College and government administrative offices which are listed under Government Offices or non threshold related research (which may be conducted under the Professional Office use). Overnight multi-person facilities, outside storage, and caretaker facilities may be considered as accessory to this use. [Amended 10/28/98]
MEMORANDUM

May 15, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Status Report on Coordinated Transit System

Proposed Action: No action is requested at this time.

Staff Recommendation: Staff recommend the Board consider the status of the CTS project based on presentation by the staff and ask questions for clarification as appropriate.

Background: The Coordinated Transit System (CTS) was conceived in 1994 as a preferred alternative to the construction of significant highway improvements that would have been needed as mitigation for several large projects being considered on the South Shore. The CTS approach was significant in that trying to implement transit as project mitigation is very difficult, in that the size and scope of transit generally extend beyond the limits of any particular project. With CTS, the area of impact from the project proposals was fairly large, making transit as a mitigation measure a more viable solution and, in addition, the concept involved a significant segment of the community that otherwise would not have been involved, namely the gaming industry.

The initial buy-in from both the public and private sectors was made possible by the underlying goals stated for the CTS project. These included provision of a unified transit system for both residents and visitors alike, implementation of a predominately market and demand driven system rather than a schedule driven system, creation of a system that treats passengers as guests and that stands for and promotes the convenience of its guests. With these goals in hand, the existing public and private transit operators recognized that their combined resources could provide an economy of scale needed to make a truly coordinated transit system possible. The CTS agreement that the four project proponents entered into provided for establishment of a CTS Mitigation Fund totaling $1.2 million, plus 5% of all future sewer connection fees, plus the value of the vehicles to be contributed to the project. The four projects, including redevelopment at Park Avenue and Ski Run and approval of the Heavenly Master Plan, are each committed to the CTS project as their mitigation for transportation and air quality impacts.
The CTS participants initiated a transit study that identified existing transit services and their shortcomings relative to what a more coordinated system could provide. The report then evaluated the benefits of a coordinated system and projected changes in ridership, travel times and other transit related performance standards based on a series of operating assumptions. To achieve coordination, the report identified various existing transit technologies that, applied to the South Shore transit services, would enable transit to meet the CTS goals as well as quantifiable transit performance measurements. Financial projections were also provided, including capital cost estimates, fare box projections and other grant revenue possibilities. The final report that generally defined the CTS project was completed in March 1995.

In late 1996 and early 1997, with the attention of the President and Vice-President focused on Lake Tahoe, the Federal Transit Administration and the Environmental Protection Agency each were granted funds from Congressional earmarks for the CTS project. The fact that over $1 million in local funds were committed to the project, that the project was very much a reality, and the overall transportation and air quality benefits from CTS persuaded Congress that this was a top candidate for Congressional funding. The FTA and EPA grants totaled over $2.5 million specifically for the CTS project as approved.

With the report completed and federal funding assured, the various CTS stakeholders entered into a series of meetings that more clearly identified some of the operating and management parameters needed to gain full agreement for CTS participation. This was an eighteen month process and involved considerable debate over such issues as air quality mitigation credits, the five-year term of the agreement, the management entity – its composition, voting and powers, start-up capital contributions, replacement vehicle contributions, acceptance of existing rolling stock, the role of ski shuttles, grant funding, annual operating fund contributions, casino ‘first-drop’ requirements, service standards, accounts, reports and budgets, operating contractors, insurance and liability, and dispute arbitration, to name just a few. Agreement on these parameters was needed to begin design of the CTS system.

This agreement was executed on May 1, 1998. From that point, the attention turned to the nuts and bolts of getting the project off the ground. The South Shore Transportation Management Association (SSTMA) entered into a Memorandum of Understanding with TRPA for the day-to-day management of the CTS project, using the CTS Oversight Committee as the common forum for project review, and immediately began to develop a Request for Qualifications for the system integration phase of the CTS project.

This new phase of the project required a significant level of technical expertise. While each of the proposed transit technologies was available on the open market, the challenge for CTS was to integrate each of the technologies under one operating system, rather than stand alone systems. Four proposals were received, and the CTS Oversight Committee recommended the selection of Trapeze Software Group, Inc. as the preferred system integrator for CTS. Given the complex nature of the project, no single company was capable of providing all of the operating systems. Thus, Trapeze included various subcontractors as part of the proposal. Following a complicated contract negotiation process, TRPA executed the contract with Trapeze on July 29, 1999.
The contract with Trapeze was broken out into two phases: Phase I called for development of a System Requirements Document detailing the cost, project schedule, and specifications of the CTS project. Phase II, to be executed upon acceptance of the System Requirements Document, would be the actual build-out of the CTS project. Phase I and Phase II were split for legal structural reasons and to ensure that accurate cost estimates would be included in Phase II based on the design work contained in Phase I.

Attachment "A" shows the CTS Mitigation Fund as of April 30, 2000. Please note that the $317,137 shown as remaining balance due for Heavenly Ski Resort was paid to TRPA in May 2000. The only remaining balance due is for Park Avenue.

Attachment "B" shows the CTS Mitigation Fund Reconciliation as of April 30, 2000, again not reflective of the $317,137 paid by Heavenly in May. A total of $254,855 has been paid from the CTS Mitigation Fund to the SSTMA for project administration, legal counsel, consultant services, travel, advertising and meeting expenses associated with the project, of which approximately $120,011 is due to the SSTMA for services rendered in project administration over a four year period.

Attachment "C" shows the status of the EPA CTS grant as of December 31, 1999. A total of $181,043 has been expended against the grant, with $72,032 being paid to Trapeze for Phase I services out of a total Phase I contract cost of $177,350. An additional $41,466 has been invoiced since the grant reimbursement request, for a total of $113,498 in Trapeze expenses (64% of contract total).

Discussion: The Phase I Final Draft of the System Requirements Document was submitted in April 2000 and is currently under final review for accuracy and completeness. This document includes the following sections:

- Project Schedule and Organization
- Operational Policies and Procedures
- System Functional Specifications
- Implementation Plan
- Mobile Data Computer and Automatic Vehicle Location Requirements
- Kiosk System Requirements and Specifications
- Interactive Voice Response Communications System Requirements
- Training Program
- Database Requirements
- Project Cost
- Testing (Lab, Pilot and Full-buildout)
- Warranty

Final acceptance of the Phase I System Requirements Document is expected in May 2000, with the Phase II contract expected to be initiated in June 2000. Once Phase II is underway, the CTS project is expected to be complete by fall of 2001. The Phase II cost will not be specified until the Phase I document is accepted.

In the meantime, TRPA staff have engaged the services of DKS and Associates, Inc. to complete an Intelligent Transportation System (ITS) Strategic Plan for the Lake Tahoe Region.
This ITS master plan will build upon the CTS project and provide a blueprint for the application of other ITS elements in the future. This project is due to be completed in June 2001.

Staff, as well as representatives of the SSTMA and others, will provide a brief review of the CTS project and be available to answer any questions that the Board might have. If you have any questions regarding this item, please contact Richard Wiggins at (775) 588-4547.
May 15, 2000

To: Governing Board
From: TRPA Staff
Subject: Discussion on Work Program Priorities

TRPA staff is requesting Governing Board input on the Work Program priorities for FY 00-01. The FY 00-01 Work Program and Budget will be presented in June for Governing Board Approval. The basic budget has already been established in submittals to the states and final approval from California is due in June. The discussion will focus on establishing the major work priorities for next year. In light of recent events, staff thought it would be useful to have this Work Program discussion prior to the June presentation. TRPA staff will be having a FY 00-01 Work Program Retreat on Thursday, May 18, 2000 and will report the results to the Governing Board.

If you have any questions please contact Gordon Barrett at 775-588-4547 ext. 219.
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MEMORANDUM

May 16, 2000

To: TRPA Governing Board members

From: TRPA Legal Division

Subject: Proposed Settlement of Kearns, et al., v. Tahoe Regional Planning Agency, Eastern District of California, Case No. CIV-S-99-2203 LKK DAD

John Kearns, Michael Kearns, and Rhonda Gramanz ("plaintiffs") have proposed to settle a lawsuit that they filed challenging two actions by the TRPA Governing Board at its July, 1999, meeting. The plaintiffs in the past operated a watercraft concession, including commercial fuel sales at the Hooks Landing pier located in Tahoe City, Placer County, California. Their lawsuit alleges that the Governing Board abused its discretion when it voted to:

- deny a claim for vested rights to operate an outdoor recreation project including fuel sales because the use had been discontinued for more than one year; and
- deny a separate application for an outdoor recreation concession at Hooks Landing that did not include fuel sales.

In their lawsuit, the plaintiffs ask the court to acknowledge either the vested rights or the new permit.

In a letter dated March 10, 2000, the plaintiffs propose to dismiss the lawsuit in exchange for a new permit allowing an outdoor recreation project. This letter is attached as Exhibit A. The project proposed as settlement is substantially similar to the project rejected at the July, 1999, Governing Board meeting. Consisting of one less rental powerboat and three less rental sailboats than the denied project, the proposed settlement contains as inventory as follows:

- 6 personal watercraft
- 1 parasailing boat
- 8 single kayaks
- 4 pedal boats
- Packaged food and beverage

3 rental power boats
1 fishing charter
8 double kayaks
3 canoes

JLM/
May 16, 2000

AGENDA ITEM NO. XIII.B.1
The TRPA Legal Division recommends that the Governing Board not approve the proposed settlement. As explained in Section I, the Legal Division believes that the risk of losing the litigation is relatively low. Section II lists the Legal Division's concerns about the precedent set by allowing disappointed project applicants to use litigation as leverage to overturn Governing Board actions. Therefore, although the proposed resolution will provide the public with additional recreational opportunities and increased access to Lake Tahoe, the Legal Division recommends against the settlement. The required actions are outlined in Section III of this memorandum.

I. The risk of an adverse outcome in litigation is low

A. The standard of review is favorable

Governing Board actions that adjudicate and approve or disapprove projects are reviewed as to “whether there was a prejudicial abuse of discretion.” Both of the July, 1999, Governing Board actions concerning Hooks Landing fall within this category. Article VI(j)(5) of the TRPA Compact contains a description of this standard: “Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision or the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record.”

The “substantial evidence” standard under used to review the Governing Board actions on Hooks Landing is frequently used in administrative law. The inquiry for the reviewing court is to determine whether there was “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Consolidated Edison v. NLRB, 305 U.S. 197, 229 (1938). The substantial evidence test is satisfied where “the agency has done a careful, workmanlike job of collecting and evaluating the available data.” Ernest Gellhorn & Ronald Levin, ADMINISTRATIVE LAW AND PROCESS IN A NUTSHELL, 93 (1990).

Plaintiffs will not likely prevail with their lawsuit because under this deferential standard of review, the administrative record supports both the denial of vested rights and the denial of the watercraft concession project at Hooks Landing. While litigation is not without risks, on balance, TRPA’s defense is strong as set forth below.

B. The denial of vested rights is supported by the administrative record

The Governing Board voted to deny plaintiffs’ appeal of the Executive Director’s July 3, 1997, Administrative Determination that both the fuel sales and watercraft concession at Hooks Landing had been discontinued pursuant to Section 51.5.A(1) of the TRPA Code. This Governing Board action relies on two independent determinations: (1) that commercial fuel sales and watercraft concession at Hooks Landing are non-conforming uses; and, (2) that both uses had been discontinued for more than one year as contemplated by the TRPA Code. As recognized by TRPA staff
in its recommendation and by the Governing Board in its vote, the administrative record contains ample support for both these determinations.

1. **Non-conforming uses**

   The evidence presented to the Governing Board establishes that the sale of commercial fuel at Hooks Landing is a non-conforming use. Under the Tahoe City Community Plan, commercial fuel sales and watercraft concessions are special, rather than allowed uses. Absent special use findings, which were never made and probably could never be made for Hooks Landing, these uses are non-conforming. Plaintiffs argue that Hooks Landing is properly classified as a marina rather than a pier. If it is a marina, then commercial fuel sales and the watercraft concessions are conforming, allowed uses. However, TRPA has never identified Hooks Landing as a marina, and TRPA has never made the special use findings recognizing the facility as a marina.

2. **Use Discontinued for more than one year**

   Under Section 51.5.A.(1) of the TRPA Code, a non-conforming use discontinued for more than one year ceases to be vested. The evidence presented to the Governing Board established that the commercial fuel sales and watercraft concession at Hooks Landing had been discontinued for more than one year as contemplated by Section 51.5.A(1). The sale of fuel and watercraft concession have not occurred at Hooks Landing since 1990 and 1994, respectively. The Governing Board interpreted Section 51.5.A(1) as setting forth an objective standard that does not require an intent to abandon. Section 51.5.A(1) tempers that standard by stating that circumstances "beyond the applicant's control" and "governmental seasonal regulations" are to be excluded from calculation of the one year. However, the Governing Board found these exceptions inapplicable.

   The plaintiffs argue that "discontinuation," as used in the TRPA Code, is defined by California state law as requiring an intent to abandon and that TRPA has not proved such an intent. Because the fuel sales and watercraft concession at Hooks Landing were not voluntarily relinquished, the plaintiffs' claim that the Governing Board incorrectly determined that uses were discontinued for more than one year as contemplated by the TRPA Code. However, the Governing Board interpreted Section 51.5.A(1) as not requiring an intent to abandon relying on *League to Save Lake Tahoe v. Crystal Bay Enterprises*, 685 F.2d 1142, 1146 (9th Cir. 1982) (TRPA land use ordinances involving discontinuance did not require a showing of intent to abandon because of the presence of a prescribed time limit on discontinuance).

   The plaintiffs also claim that the "beyond the applicant's control" exception in Section 51.5.A(1) applies because of low lake water levels and fuel tank upgrades. The evidence presented before the Governing Board established that the low lake waters did not qualify for the exception because plaintiffs operated the concession during low water years between 1987 and 1990 and moved the operation to another location after
1994. The evidence presented to the Board also establishes that plaintiffs' fuel tank upgrades were undertaken at their own risk and do not qualify for the exception.

The plaintiffs argue that the "governmental seasonal regulations" exception to Section 51.5.A(1) excludes the time between the grading season (October 15th to May 1st) from the one year calculation. The evidence presented to the Governing Board establishes that the exception should not be so interpreted, as the plaintiffs chose not to replace their tanks during the 1995 and 1996 grading seasons and did not seek an extension of the grading season under Section 64.2.B.

C. The denial of the application for and outdoor recreation concession is supported by the administrative record

The Governing Board voted to deny the plaintiffs' watercraft concession project without fuel sales based on several significant concerns, especially those relating to traffic/parking and sanitation. In their letter, plaintiffs state that parking was the sole reason for the denial (Exhibit A, page 4). Although parking was a primary concern, the administrative record reveals that additional considerations factored into the Governing Board's decision to deny the Hooks Landing watercraft concession project.

1. Traffic/parking

Significant concerns over traffic and parking were raised before the Governing Board. The plaintiffs argue that "no evidence was presented that parking was inadequate," citing to the "unchallenged" Hooks Landing Parking and Traffic Generation Analysis (Exhibit A, page 4). The Parking Analysis concludes that the project's anticipated parking demand of 21 spaces can be met because 9 spaces are available at Commons Beach, 10 spaces at Lot 51, and 2 spaces at the 64 Acre Tract. Although the Parking Analysis was not challenged, its conclusion depends entirely on the assumption that the requisite spaces would actually be available for Hooks Landing patrons.

Evidence was presented to the Governing Board that some of the spaces identified in the Analysis are not available for Hooks Landing patrons. The 2 spaces at the 64-acre tract were eliminated from consideration, reducing the number of spaces potentially available for Hooks Landing to 19. TRPA staff was not confident about the availability of parking at Commons Beach and conditioned the permit on verification of those spaces. Further, testimony revealed that these spaces were already being used for other purposes and it was agreed that the spaces would not be designated for use at Hooks Landing through signage.

Despite the plaintiffs' statements to the contrary, the administrative record demonstrates that project approval would have adverse traffic and parking impacts. The number of parking spaces identified as necessary for the project were not verified as being available. Moreover, testimony revealed that even if the identified spaces were available, there was no guarantee that they would be available exclusively for
Hooks Landing patrons. At the public hearing, there was testimony about the “serious parking shortage” in the area surrounding the pier; the situation was described as “a total disaster.” Board members expressed reservations about approving a project that will generate a significant amount of traffic in an area that is already congested. These concerns, supported by evidence in the administrative record, were reflected in the vote to deny the project.

2. **Sanitation**

Considerations resulting in the Board action to deny the watercraft concession include those relating to sanitation. Members of the Tahoe Marina Lodge Homeowner’s Association (TMLHA) raised significant concerns about this issue before the Board. Pursuant to its lease, TMLHA allows the public to use its pool and tennis courts for a fee. The restrooms located inside the Lodge are only available to those who pay the fee. Another sanitation issue discussed before the Board was the removal of garbage. Board members voiced concern that the proposed project, which included food and beverage sales, would generate a significant amount of refuse.

3. **Other issues**

Although commercial fuel sales were not to be part of the proposed project, fueling of the motorized watercraft would occur on-site. Members of the public and the Governing Board expressed concern about this aspect of the project, given the history of contamination at the site. Other issues discussed before the Board were safety and security at Hooks Landing, given that a watercraft concession will increase the number of people using the pier. Interested parties stated their reservations about the project because the proposed permit did not did not contain conditions to ensure safety and security at the site.

D. **Analysis of the Governing Board actions**

Both Governing Board actions on Hooks Landing will be reviewed to determine whether they are supported by “substantial evidence in light of the whole record.” Because the denial of vested rights contains strong support in the administrative record and is based on proper interpretations of applicable law, a reviewing court will probably find that the standard is satisfied. Given that the administrative record contains significant concerns over traffic/parking and sanitation, among others, the project denial was also reasonable.

To overturn the Governing Board’s action, plaintiffs rely heavily on two facts; that TRPA staff recommended approval of the watercraft concession application, and that the project failed by one vote. However, the staff recommendation was highly conditional. The substantial permit conditions imposed by staff both before and during the Governing Board hearing include:
The applicant is required to obtain a letter from the TCPUD confirming a total of nine parking spaces are available for the proposed concession;

- The applicant is required to submit a revised Parking and Traffic Generation Analysis consistent with the 19 verified parking spaces that will identify certain mitigation measures to be implemented to assure adequate parking;
- The applicant shall submit a plan for an “enforceable Employee Transit Program” that will ensure that the mitigation measures identified in the traffic/parking analysis are followed;
- The applicant demonstrates adequate restroom facilities to support the watercraft concession at Hook’s Landing;
- The applicant agrees to remove garbage from the site to an appropriate location on a daily basis; and
- The applicant will have a one season trial period after which TRPA staff will evaluate the operation of the Hooks Landing watercraft concession and report back to the Governing Board for reconsideration.

In voting to deny the watercraft concession at Hook’s Landing, the TRPA Governing Board manifested its legitimate concern about approving such a highly conditional project. Because so many aspects of the project that had yet to be established to the satisfaction of TRPA staff, the Board was well within its discretion to disagree with staff and vote against the project. “[T]he possibility of reaching an opposite conclusion from the evidence does not prevent the administrative agency’s holding from being supported by substantial evidence.” *Mendenhall v. United States*, 556 F.Supp. 444, 449 (D. Nev. 1982). In this instance, the administrative record contains support for both staff’s recommendation of approval and the Board’s vote of denial. Consequently, the reviewing court will most likely find that the Governing Board’s action to deny the Hooks Landing watercraft concession is supported by substantial evidence.

II. **Approving the settlement may set a questionable precedent**

Notwithstanding its support of the 1999 application, staff is concerned about the precedential effect of allowing disappointed project applicants to use litigation as leverage to overturn Governing Board actions. If a good defense for agency action exists, and absent unusual circumstances, then TRPA should vigorously defend Governing Board decisions.

This consideration is particular relevant here where almost one year has elapsed since the Governing Board denied the project. Section 5.23 of the TRPA Rules of Procedure allows TRPA to accept applications for the same or substantially similar projects 12 months after final agency action denying an application. The final agency action for the Hooks Landing watercraft concessions project occurred at the July, 1999, Governing Board meeting. In two months TRPA will be able accept an application for a project such as that set forth in the proposed settlement. If plaintiffs choose to file such an application, the Governing Board can then determine if circumstances have changed sufficient to approve the project. The plaintiffs should not be able to circumvent the proscribed time period through litigation.

JLM/
May 16, 2000

AGENDA ITEM NO. XIII.B.1.
III. Conclusion and required action

The TRPA Legal Division recommends that the Governing Board reject the proposed settlement. The risk of an adverse outcome in litigation is relatively small because the Governing Board’s denial of vested rights and denial of the watercraft concession project are supported by the administrative record. Additionally, approving the settlement will set a questionable precedent. Therefore, although the proposed resolution will provide the public with additional recreational opportunities and increased access to Lake Tahoe, the Legal Division recommends against the settlement.

To deny the proposed settlement, as recommended, the Rules of Procedure require a motion to approve the settlement, which motion should fail. (To approve the settlement, a 5/9 vote is required – five in the affirmative from California).

If you have any questions regarding this matter, please contact John Marshall or Jordan Kahn at (775) 588-4547.
March 10, 2000

Hand-Delivered

John Marshall, Esq.
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

Re:  Kearns, et al v. TRPA

Dear John:

The purpose of this letter is to discuss the issues bearing on Michael Kearns' and Rhonda Gramanz' ("Petitioners") writ of mandamus, and to suggest a resolution to the litigation.

Facts

Petitioners' writ seeks redress from the Governing Board's denial of their appeal of the Executive Director's vested rights determination and the Board's denial of Petitioner's new project application. Since you know the historical background of the Kearns family's use of the pier, we will not discuss it in detail here. Suffice it to say, it is well documented the Kearns family operated a water-oriented outdoor recreation concession and commercial fuel sales business at the Tahoe Marina Pier since 1961 under permits from TRPA, CTRPA, and Placer County, which were part of larger permits allowing redevelopment of the Tahoe Marina property in 1970. The redevelopment was conditioned upon guaranteed public access to the pier and related recreational facilities. The original Placer County conditional use permit ("CUP"), along with the Tahoe Marina Lodge Homeowner's Association's (the "Association") Conditions, Covenants and Restrictions ("CC&Rs") limit private use of the property and mandate public access to its recreation facilities, the pier and the Lake.

On July 28, 1999, the Governing Board denied Petitioners' appeal based on the Executive Director's finding the uses were discontinued for more than one year. Petitioners' application for a new permit was also denied, despite a supermajority vote in favor of the
application,\textsuperscript{1} based on the untenable position parking was inadequate to service the uses. In essence, the Board’s action denies public access to the pier and privatizes its use for the benefit of the Tahoe Marina Lodge Homeowners’ Association.

Public Access

A critical factor for your consideration is public access. Public access and public use was the key factor in TRPA’s and Placer County’s original approval of the Tahoe Marina Lodge and pier redevelopment, and it is undisputed that provisions guaranteeing public access and use were expressly provided for in the CUP and the Association’s CC&Rs.\textsuperscript{2} Public access easements were recorded and recreation concessions and fuel sales were granted to allow for public recreation opportunities. However, despite the clear intention of TRPA and Placer County to provide for public use, the Association has, and is, deliberately obstructing public access and is attempting to privatize the beach and pier by posting “no parking” and “no trespassing” signs, erecting fences, and charging excessive fees for use of public recreational facilities. Petitioners, on the other hand, are committed to enhancing Lake-access opportunities, which are becoming increasingly rare, and have agreed to cooperate with TCPUD and the Placer County to establish a bike trail along the Lake shore.

It is clearly in the public interest, as recognized in the Tahoe City Community Plan, the Tahoe Marina Lodge Homeowner’s Association’s CC&Rs, and Placer County’s CUP, to provide public access to the pier, Lake and related recreational opportunities. Petitioners’ project guarantees such public access and use and, unquestionably, serves the greater public good.

Scope of Judicial Review

As you are well aware, when a court reviews a final adjudicatory decision of TRPA to disapprove a project, the scope of judicial inquiry extends only to whether there was prejudicial abuse of discretion. Gov. C. § 66801, Art. VI(j)(5). Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the

\textsuperscript{1} The vote was five Nevada and four California votes for approval, and 4 votes against, with one California vote abstaining

\textsuperscript{2} The Association admitted as much at the Governing Board meeting.
decision of the agency was not supported by substantial evidence in light of the whole record. *Id.* We believe the Governing Board’s denial of the vested rights appeal and the new project application was unsupported by any evidence, not to mention substantial evidence.

Substantial evidence is defined as “relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” *Johnson Controls, Inc. v. California Fair employment and Housing Commission* (1990) 218 Cal. App. 3d 517, 532. The question for the court will be whether, with all contrary evidence disregarded, there was substantial evidence in the record to support the Board’s findings. *David Kikkert & Associates, Inc. v. Director Dept. of Professional and Vocational Standards* (1970) 6 Cal. App. 3d 112, 115-16. We do not believe there was.

**New Project Application**

The application for a new project was for six personal watercraft, one parasailing boat, eight single kayaks, eight double kayaks, four paddle boats, three rental sail boats, four rental power boats, one fishing charter, and three canoes. Such uses are a permissible under the Tahoe City Community Plan and the TRPA Code of Ordinances. (§§51.2, 51.4.)

The Governing Board’s denial of the new permit was based on incorrect reasoning and the unmeritorious position that 21 parking spaces was insufficient for the number of watercraft. To the contrary, the proposed parking is not only consistent with the Tahoe City Community Plan, but also TRPA’s own policies, and is adequate to service the project.³

³ Despite the Association’s representations to the contrary, the ten parking spaces on Lot 51 are not available to the general public at large, but are reserved for the exclusive use of those members of the public using the pier and recreational facilities. The Deed Granting Easements, recorded by Sierra Pacific, the property owner, specifically grants: (a) An exclusive easement to the owners of units at Tahoe Marina Lodge and their guests and renters for the parking of 20 automobiles on lots 50 and 51; and (b) An exclusive easement to members of the public, other than those in (a) above, for the parking of 10 automobiles on lots 50 and 51 within the parking spaces constructed or to be constructed as shown on Exhibit “A” while using the pier and recreational facilities situated on lot 50. (Emphasis added.)
Petitioners submitted a Parking and Traffic Generation Analysis ("Parking Analysis") for the project, which stated the project required a total of 21 parking spaces for the uses proposed (the number of watercraft). The Parking Analysis required certain mitigation measures to be taken by Petitioners to assure adequate parking. Staff considered all but 2 parking spaces verified, and agreed to allow the permit to issue on the condition Petitioners locate 2 additional spaces or reduce their inventory so that only 19 spaces are needed. It is noteworthy, the Parking Analysis was not controverted by any expert and no one opposed the foundation or conclusions of the Parking Analysis.

Staff supported the new application, and there was no opposition to the application, only a request by the Association for certain conditions of approval. Critically, the Governing Board made no findings that parking was insufficient, and therefore its denial of the application was a prejudicial abuse of discretion. See Whitman v. Board of Supervisors, 88 Cal. App. 3d 397; J.L. Thomas, Inc. v. County of Los Angeles (1991) 232 Cal. App. 3d 916; San Bernardino Valley Audubon Soc., Inc. v. San Bernardino County (1984) 155 Cal. App. 3d 738.

The parking discussion at the Governing Board meeting focused on whether there were a sufficient number of parking spaces to serve the project. No evidence was presented that parking was inadequate. The Association "suggested" there may be insufficient parking, but offered no evidence to support this suggestion. On the other hand, substantial evidence was presented establishing the project was properly parked, including without limitation evidence that (i) the project operated historically with the similar parking, (ii) 10 parking spaces are dedicated in Lot 51 for users of the pier and recreational areas, (iii) parking is available at Commons Beach, (iv) many of the project's patrons arrive by means of non-motorized travel (biking, walking) or public transit, and (v) 21 parking spaces are adequate to serve the project according to the uncontroverted Parking Analysis.

The Board did discuss the sanitation, security, and restroom elements of the project. Adequate restrooms and sanitation were made project conditions, and the Board felt security would naturally improve once a commercial operator with a stake in the pier was present. Accordingly, the record reveals the only reason the project was denied was the unsubstantiated assertion that the project was underparked.

The parking discussion by the Board centered around Jerry Waldie and Mike Harper. Mr. Waldie was the only Board member to express serious reservations about the project's
parking. He stated his belief it was poor planning to approve a use that adds to the need for parking and displaces persons previously using existing spaces. Mr. Waldie felt there was a need to assure parking was dedicated to the new use before approving the permit.

In response to a question from Mr. Waldie, Lyn Barnett advised there existed no threshold standards for parking, but the project’s parking did have to comply with the community plan. Mr. Barnett further noted the project did not create any new parking spaces, but only reallocated existing spaces, and stated staff did not consider parking to be a limiting factor for the project.

Mr. Harper thereafter disagreed with Mr. Waldie, stating it is TRPA’s policy to encourage public transit by providing parking disincentives. In this regard, Mr. Harper stated, in summary, that:

- TRPA’s policy requires that the Board not add new parking spaces, but rather encourage people to use alternative parking

- Adding more parking runs counter to TRPA’s policy and philosophy

- The project’s parking is exactly the type of use TRPA wants—shared use of parking

- The Board should get away from the old attitude that all uses need dedicated spaces

- While the Association suggested the 10 parking spaces in Lot 51 might get full and the public might start using private parking spaces, no such evidence was presented

- The evidence presented showed the public has historically used these spaces for this type of concession at this location, and the Board should not overlook this historical fact

- There is an argument parking at his location is now being underutilized because no concession is now operating there
In recommending approval of the project, staff made the following proposed findings, among others:

- The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies.
- 21 parking spaces were adequate to serve the project, as conditioned, and the project will no adversely affect the Transportation Element of the Regional Plan.
- The project will have no significant effect on the environment.
- The project is consistent with the Tahoe City Community Plan.
- The project complies with the shorezone tolerance district standards.
- The project is consistent with TRPA’s 20-year targets for outdoor recreation.
- The project will not adversely impact littoral processes, fish spawning, backshore stability, or on-shore wildlife habitats.
- There are sufficient accessory facilities to accommodate the project, as conditioned.

The findings requirement serves to guide the administrative body to draw legally relevant subconclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions. Topanga Assn. For A Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 516. None of these findings were disputed by any evidence presented to the Board, and the Board made absolutely no new findings overriding those proposed by staff, as required by its own rules of procedure and California law. See TRPA Rules of Procedure, Art. V, §5.21; Whitman v. Board of Supervisors (1979) 88 Cal. App. 3d 397.
In *Whitman*, the court held a decision of a board contrary to the express recommendation of its planning commission constitutes a rejection of the planning commission’s proposed findings, and it “was incumbent upon the Board to revise the staff’s proposed findings, either through modification or addition, so that the findings supported the Board's decision on the appeal.” *Whitman*, 88 Cal. App. 3d at 416-17; *See also J.L. Thomas, Inc.*, 232 Cal. App. 3d at 926-27 (board made no findings on issue of whether CUP could be denied due to business' ongoing violations of county code, and reviewing court could not rely on such ground to uphold denial of permit); *San Bernardino Valley*, 155 Cal. App. 3d at 751-52 (where record disclosed that discussion of feasible alternative sites took place at hearings, board of supervisors was required to make specific findings regarding the alternative site locations mentioned in the EIR, and its failure to do so rendered its findings legally inadequate).

Here, the Board made no findings that the project’s parking was insufficient. It could not be based on the evidence presented. Accordingly, the Governing Board denied the application for a new permit without making legally-required findings and without evidentiary support. Such actions are an prejudicial abuse of discretion. *See Whitman*, 88 Cal. App. 3d at 416-17; *J.L. Thomas, Inc.*, 232 Cal. App. 3d at 926-27; *San Bernardino Valley*, 155 Cal. App. 3d at 751-52.

Interestingly, staff found the project is consistent with and will not adversely affect implementation of TRPA’s Goals and Policies. However, the Board’s denial of the project for lack of dedicated parking directly contravenes the Agency’s policy of encouraging shared parking and public transportation. Further, the project is consistent with the Tahoe City Community Plan, which allows the proposed uses and seeks use of all appropriate opportunities to increase public access to Lake Tahoe and the recreational opportunities. The project will, as staff found, increase public access to recreation on Lake Tahoe. Regrettably, the Governing Board’s action denies public access in contravention to the Community Plan and the CUP.

The decision of the Board to deny the application for a new permit was not supported by any evidence, not to mention substantial evidence, in light of the whole record. *See San Bernardino Valley*, 155 Cal. App. 3d at 752 (no substantial evidence supported board’s determination that proposed development was consistent with general plan where planning staff recommended denial of the project because of inconsistency with the plan). The decision should be reversed as a prejudicial abuse of discretion by the court.
Vested Rights Appeal

The right to continue a nonconforming use is forfeited if discontinued for one year or more. The TRPA Code does not define “discontinuance.” However, staff correctly pointed out an intent to abandon a nonconforming use is not required to establish discontinuance, given the prescribed time limit. *League to Save Lake Tahoe v. Crystal Enterprises* (9th Cir. 1979) 685 F.2d 1142, 1146. However, the Ninth Circuit also stated that interpretation of TRPA land use ordinances is a question of federal law, and since no federal zoning law exists, state court interpretations must be relied upon for guidance. *League to Save Lake Tahoe v. Crystal Enterprises* (9th Cir. 1979) 685 F.2d 1142, 1144. Because TRPA is subject to the jurisdiction of the court of the state where the property affected is situated, Gov. C. § 66801; *League to Save Lake Tahoe v. Tahoe Regional Planning Agency* (1980) 105 Cal. App. 3d 394, 398-99, the land use ordinance in the present matter is subject to interpretation under California law. In this case, a voluntary act of relinquishment must be established by TRPA for Petitioners to lose their vested rights. *See City of Fontana v. Atkinson* (1963) 212 Cal. App. 2d 499, 507 (discontinuance of nonconforming use must be a voluntary act of relinquishment, which is not met if operations are suspended to make repairs required by law). This legal criteria has not been met.

Staff acknowledged this “voluntary relinquishment” test in its report, but failed to address it. A distinction must be drawn between an “intent to abandon” and a “voluntary relinquishment.” Why does TRPA recognize that discontinuance for reasons beyond an applicant’s control, *i.e.* natural calamity, cannot be counted toward the period of discontinuance. The answer is because the applicant did not “voluntarily relinquish” the nonconforming use during such a period. Similarly, when a person discontinues a nonconforming use to comply with government-mandated repairs (or upgrades), such period of discontinuance may not be counted toward the prescribed time limit. *See Atkinson.* Here, the record is clear that Petitioners began their efforts to upgrade the USTs in the summer of 1996, which should end any period of discontinuance.

Further, since Petitioners’ operation was seasonal, this time period should not be counted. This is consistent with the issuance by the Board of the Horizon concessions permits, where one year is calculated as two summer seasons.

Since staff supported the new application for recreation concessions, and we believe the denial of that permit was prejudicial, as discussed above, we will not, for the sake of brevity, further discuss recreation concessions in the context of the vested rights argument.
Proposed Resolution

It is certainly in the public interest, as recognized by staff, and in the Tahoe City Community Plan, the Tahoe Marina Lodge Homeowner’s Association’s CC&Rs, and Placer County’s CUP, to provide public access to the pier, Lake and related recreational opportunities. The Petitioners’ proposed use will assure such access. While we believe the law and equities favor their argument that they did not voluntarily discontinued their historic uses, Petitioner’s understand the economic realities of litigation and of losing another summer season. While Petitioners are optimistic concerning the merits of their position, Petitioners are prepared to dismiss the action in exchange for a new permit allowing a project incorporating a further reduction of inventory. To do so will address Commissioner Waldie’s concerns and at the same time guarantee the public Lake access.

Accordingly, Petitioners propose to reduce their inventory by one (1) rental power boat and three (3) rental sailboats, and operate with the following inventory:

<table>
<thead>
<tr>
<th>Commons Beach:</th>
<th>Pier:</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 single kayaks</td>
<td>6 individual watercraft</td>
</tr>
<tr>
<td>8 double kayaks</td>
<td>3 rental power boats</td>
</tr>
<tr>
<td>4 pedal boats</td>
<td>1 fishing charter</td>
</tr>
<tr>
<td>3 canoes</td>
<td>1 parasailing boat</td>
</tr>
<tr>
<td></td>
<td>Packaged food and beverage</td>
</tr>
</tbody>
</table>

According to Gordon Shaw, P.E., of Leigh, Scott & Cleary, Inc., Petitioners’ parking consultant, 17 parking spaces are adequate to service these uses. Such an accommodation will assure the project is adequately parked, and remain subject to the above-described conditions of approval.

Thank you for your consideration this settlement proposal. We look forward to answering any questions you or your staff may have and very much appreciate your willingness to work cooperatively toward a fair and equitable resolution.
We would be pleased to meet with you at your convenience to discuss this matter further and look forward to presenting this offer to the Legal Committee for their consideration.

Sincerely,

[Signature]

By: [Signature]
Lewis S. Feldman

LSF/ac

cc: Clients
MEMORANDUM

May 15, 2000

To: TRPA Governing Board
From: TRPA staff
Subject: Amending the Personnel Policy Manual to Provide for the Legal Defense and Indemnification of Agency Employees and Advisory Planning Commission/Governing Board Members

The Governing Board directed staff to bring forward a policy outlining the circumstances under which TRPA will defend and/or indemnify an employee. Nevada and California take similar, but not identical, approaches to this issue. Nevada has two separate statutes, N.R.S. § 41.0349 for indemnification and N.R.S. § 41.0339 for the duty to defend, while California combines them into a single statute, Cal Gov. Code. § 825. These three statutes are attached to this memo.

After consideration, the TRPA staff endorses an adoption of the language similar to the two Nevada statutes into the TRPA personnel policy manual. In both states, a public employee must be defended and indemnified when he or she is sued for injury arising from acts or omissions within the “scope” of employment. Staff finds the Nevada approach preferable in that it considers the duty to defend and the duty to indemnify separately in more straightforward language.

The California statute has generated a significant amount of precedent while the Nevada statutes have not. Given the almost identical language, California case law will likely be used in interpreting the Nevada statutes. The only substantial difference between the approaches is the timeframe in which the employee must request a defense or indemnification. In California, the request must be made not less than 10 days before trial, while in Nevada the employee must furnish the official attorney with the legal document commencing action within 15 days after service. TRPA staff endorses the Nevada approach with the amount of time doubled because, although the Agency needs substantial notice to provide an adequate defense, Nevada’s time limit may be too strict.

JK/
May 15, 2000
The following sections are proposed to be added to Section I: Employment of the TRPA personnel policy manual:

1.18 Duty to Defend

TRPA shall provide for the defense, including the defense of cross-claims and counterclaims, of any present or former TRPA employee, Governing Board or Advisory Planning Commission member in any civil action brought against that person based on any alleged act or omission relating to his or her public duties or employment if:

1. Within 30 days after service of a copy of the summons and complaint or other legal document commencing the action, the person submits a written request for defense to the Agency Counsel; and
2. The Agency has determined that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

In non-civil actions not covered by this section, the Agency may determine the appropriateness of defending the present or former employee, Governing Board or Advisory Planning Commission member on a case-by-case basis using the criteria set forth above.

1.19 Indemnification

In any civil action brought against any present or former TRPA employee, Governing Board or Advisory Planning Commission member, in which a judgment is entered against the defendant based on any act or omission relating to his public duty or employment, TRPA shall indemnify him or her unless:

1. The person failed to submit a timely request for defense;
2. The person failed to cooperate in good faith in the defense of the action;
3. The act or omission of the person was not within the scope of his public duty or employment; or
4. The act or omission of the person was wanton or malicious.

If you have any questions about this matter, please contact John Marshall or Jordan Kahn at (775) 588-4547.

Attachments
The official attorney shall provide for the defense, including the defense of cross-claims and counterclaims, of any present or former officer or employee of the state or a political subdivision, immune contractor or state legislator in any civil action brought against that person based on any alleged act or omission relating to his public duties or employment if:
1. Within 15 days after service of a copy of the summons and complaint or other legal document commencing the action, he submits a written request for defense:
   (a) To the official attorney; or
   (b) If the officer, employee or immune contractor has an administrative superior, to the administrator of his agency and the official attorney; and
2. The official attorney has determined that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

(Added to NRS by 1979, 1733; A 1987, 541)

END OF DOCUMENT
N.R.S. 41.0349

NEVADA REVISED STATUTES
TITLE 3. REMEDIES; SPECIAL ACTIONS AND PROCEEDINGS
CHAPTER 41. ACTIONS AND PROCEEDINGS IN PARTICULAR CASES CONCERNING PERSONS
LIABILITY OF AND ACTIONS AGAINST THIS STATE, ITS AGENCIES AND POLITICAL
SUBDIVISIONS
VERDICT, JUDGMENT, DAMAGES AND INDEMNIFICATION
COPR. © The text of the Nevada Revised Statutes appearing in this database was produced from data provided by the Nevada Legislative Counsel Bureau and is subject to a claim of copyright by the State of Nevada.

Current through 1999 Regular Session of the 70th Legislature

N.R.S. 41.0349 Indemnification of present or former public officer, employee, immune contractor or legislator.

In any civil action brought against any present or former officer, employee, immune contractor, member of a board or commission of the state or a political subdivision or state legislator, in which a judgment is entered against the defendant based on any act or omission relating to his public duty or employment, the state or political subdivision shall indemnify him unless:
1. The person failed to submit a timely request for defense;
2. The person failed to cooperate in good faith in the defense of the action;
3. The act or omission of the person was not within the scope of his public duty or employment; or
4. The act or omission of the person was wanton or malicious.

(Added to NRS by 1979, 1735; A 1987, 543)

<General Materials (GM) - References, Annotations, or Tables>

N. R. S. 41.0349
NV ST 41.0349
END OF DOCUMENT

Copr. (C) West 2000 No Claim to Orig. U.S. Govt. Works
directly related to the officer's death, if the officer was slain while in the line of duty. Nothing in this section shall preclude any action from being brought against the estate of the peace officer.

(Added by Stats. 1958, c. 555 (A.B. 1590), § 2.)

Historical and Statutory Notes

1958 Legislation

Section 1 of Stats. 1958, c. 555, provides:

"This act shall be known and may be cited as the "Charles Lazarette Peace Officer Widows and Widowers Protection Act.""

Library References

Legal Jurisprudences

Cal Jur 3d Law Enf 0 § 67.

Article 4

INDEMNIFICATION OF PUBLIC EMPLOYEES

Section 825. Defense by public entity; payments of judgments, compromises or settlements; punitive damages; memorandum of understanding; elected officials; tortious influencing of judicial actions

§ 825. Defense by public entity; payments of judgments, compromises or settlements; punitive damages; memorandum of understanding; elected officials; tortious influencing of judicial actions

(a) Except as otherwise provided in this section, if an employee or former employee of a public entity requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity and the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

If the public entity conducts the defense of an employee or former employee against any claim or action with his or her reasonable good-faith cooperation, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed. However, where the public entity conducted the defense pursuant to an agreement with the employee or former employee reserving the rights of the public entity not to pay the judgment, compromise, or settlement until it is established that the injury arose out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the public entity is required to pay the judgment, compromise, or settlement only if it is established that the injury arose out of an act or omission occurring in the scope of his or her employment as an employee of the public entity.

Nothing in this section authorizes a public entity to pay that part of a claim or judgment that is for punitive or exemplary damages.

(b) Notwithstanding subdivision (a) or any other provision of law, a public entity * * * is authorized to pay that part of a judgment that is for punitive or exemplary damages if the governing body of that public entity, acting in its sole discretion except in cases involving an entity of the state government, finds all of the following:

(1) The judgment is based on an act or omission of an employee or former employee acting within the course and scope of his or her employment as an employee of the public entity.

(2) At the time of the act giving rise to the liability, the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent best interests of the public entity.

(3) Payment of the claim or judgment would be in the best interests of the public entity.

As used in this subdivision with respect to an entity of state government, "a decision of the governing body" means the approval of the Legislature for payment of that part of a judgment that is for punitive damages or exemplary damages, upon recommendation of the appointing power of the employee or former employee, based upon the finding by the Legislature and the appointing authority of the existence

Additions or changes indicated by underline; deletions by asterisks

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§ 825

of the three conditions for payment of a punitive or exemplary damages claim. The provisions of subdivision (a) of Section 825.6 shall apply to the payment of any claim pursuant to this subdivision.

The discovery of the assets of a public entity and the introduction of evidence of the assets of a public entity shall not be permitted in an action in which it is alleged that a public employee is liable for punitive or exemplary damages.

The possibility that a public entity may pay that part of a judgment that is for punitive damages shall not be disclosed in any trial in which it is alleged that a public employee is liable for punitive or exemplary damages, and that disclosure shall be grounds for a mistrial.

(c) Except as provided in subdivision (d), if the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 19 (commencing with Section 3550) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(d) The subject of payment of punitive damages pursuant to this section or any other provision of law shall not be a subject of meet and confer under the provisions of Chapter 19 (commencing with Section 3550) of Division 4 of Title 1, or pursuant to any other law or authority.

(e) Nothing in this section shall affect the provisions of Section 818 prohibiting the award of punitive damages against a public entity. This section shall not be construed as a waiver of a public entity's immunity from liability for punitive damages under Section 1981, 1985, or 1986 of Title 42 of the United States Code.

(1) Except as provided in paragraph (2), a public entity shall not pay a judgment, compromise, or settlement arising from a claim or action against an elected official, if the claim or action is based on conduct by the elected official by way of tortiously interfering or attempting to interfere in, or by way of tortiously influencing or attempting to influence the outcome of, any judicial action or proceeding for the benefit of a particular party by contacting the trial judge or any commissioner, court-appointed arbitrator, court-appointed mediator, or court-appointed special referee assigned to the matter, or the court clerk, bailiff, or marshal after an action has been filed, unless he or she was counsel of record acting lawfully within the scope of his or her employment on behalf of that party. Notwithstanding Section 825.6, if a public entity or the defense of an elected official against such a claim or action and the elected official is found liable by the trier of fact, the court shall order the elected official to pay to the public entity the cost of that defense.

(2) If an elected official is held liable for monetary damages in the action, the plaintiff shall first seek recovery of the judgment against the assets of the elected official. If the elected official's assets are insufficient to satisfy the total judgment, as determined by the court, the public entity may pay the deficiency if the public entity is authorized by law to pay that judgment.

(3) To the extent the public entity pays any portion of the judgment or is entitled to reimbursement of defense costs pursuant to paragraph (2), the public entity shall pursue all available creditor's remedies against the elected official, including garnishment, until that party has fully reimbursed the public entity.

(4) This subdivision shall not apply to any criminal or civil enforcement action brought in the name of the people of the State of California by an elected district attorney, city attorney, or attorney general.

(Amended by Stats.1995, c. 799 (A.B.1851), § 1.)

Historical and Statutory Notes

1995 Legislation

The 1995 amendment recites subd. (6), which had read:

"(6) Notwithstanding subdivision (a) or any other provisions of law, a public entity, other than the state as defined in Section 900.6, is authorized to pay that part of a judgment that is for punitive or exemplary damages if the governing body of that public entity, acting in its sole discretion, finds all of the following:

"(1) The judgment is based on an act or omission of an employee or former employee acting within the course and scope of his or her employment as an employee of the public entity.

"(2) At the time of the act giving rise to the liability, the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent best interests of the public entity.

"(3) Payment of the claim or judgment would be in the best interest of the public entity.

"The discovery of the assets of a public entity and the introduction of evidence of the assets of a public entity shall not be disclosed in any trial in which it is alleged that a public employee is liable for punitive or exemplary damages.

"The possibility that a public entity may pay that part of a judgment that is for punitive damages shall not be disclosed in any trial in which it is alleged that a public employee is liable for punitive or exemplary damages, and that disclosure shall be grounds for a mistrial."

Additions or changes indicated by underline; deletions by asterisks

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TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 00-____

RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY
ADDING POLICIES 1.18 AND 1.19 TO THE
TAHOE REGIONAL PLANNING AGENCY PERSONNEL POLICY MANUAL

WHEREAS, the proposed additions to the Tahoe Regional Planning Agency (TRPA) Personnel Policy Manual are necessary and desirable to promote, and are reasonably related to the public health, safety and general welfare of the Tahoe Region; and

WHEREAS, the proposed additions comply in all respects, procedural and substantive, with the Tahoe Regional Planning Compact, the Regional Plan, ordinances and rules of TRPA, and are necessary to effectuate and implement same; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, that the Tahoe Regional Planning Agency Personnel Policy Manual, Policies 1.18 and 1.19 be added as per Exhibits "A" and "B" attached hereto and incorporated hereby.

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency on May 24, 2000, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Larry Sevison
Governing Board Chairman
EXHIBIT A

Policy No. 1.18 -- Duty to Defend

TRPA shall provide for the defense, including the defense of cross-claims and counterclaims, of any present or former TRPA employee, Governing Board or Advisory Planning Commission member in any civil action brought against that person based on any alleged act or omission relating to his or her public duties or employment if:

1. Within 30 days after service of a copy of the summons and complaint or other legal document commencing the action, the person submits a written request for defense to the Agency Counsel; and

2. The Agency has determined that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

In non-civil actions not covered by this section, the Agency may determine the appropriateness of defending the present or former employee, Governing Board or Advisory Planning Commission member on a case-by-case basis using the criteria set forth above.
Policy No. 1.19 – Indemnification

In any civil action brought against any present or former TRPA employee, Governing Board or Advisory Planning Commission member, in which a judgment is entered against the defendant based on any act or omission relating to his public duty or employment, TRPA shall indemnify him or her unless:

1. The person failed to submit a timely request for defense;
2. The person failed to cooperate in good faith in the defense of the action;
3. The act or omission of the person was not within the scope of his public duty or employment; or
4. The act or omission of the person was wanton or malicious.
MEMORANDUM

May 18, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Status Report on Project Applications

Project Review Applications: The following applications are currently under review by the Project Review Division and have been complete for more than 120 days:

<table>
<thead>
<tr>
<th>APN/County</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Date Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>94-090-10/PL</td>
<td>Lakehouse</td>
<td>Fish Habitat Verification</td>
<td>12-01-99</td>
</tr>
<tr>
<td>03-191-03/DG</td>
<td>Ledbetter</td>
<td>Fish Habitat Verification</td>
<td>12-13-99</td>
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</tbody>
</table>

Due to the loss of two staff members, including the lead shorezone planner, from the Project Review Division these applications have not been reviewed. Fish Habitat Verifications require extensive staff training which has not been completed. The Division expects to have at least one staff member fully trained to perform fish habitat verifications within the next month.

Action on this project has been delayed until a site visit can be conducted, on this upper Kingsbury Grade project. Staff anticipates being able to site visit this property in the near future and that action will be taken on this application prior to next months GB meeting.

01-040-31/DG    | Leising     | SFD Rebuild                | 12/29/99      |
This project requires notice to surrounding property owners. Notice has been given and action on the project is expected prior to this months GB meeting.

07-050-08/DG    | Villalobos  | New SFD                    | 12/30/99      |
Staff has had difficulty determining the allowed coverage on this property due to a recent boundary line adjustment which altered the parcel size. Staff is currently working with the applicant to resolve this issue and anticipated that action will occur prior to next months GB meeting.

/pn

AGENDA ITEM XIII.A.1.
Status Report on Project Applications
May 15, 2000
Page Two

<table>
<thead>
<tr>
<th>APN/County</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>122-162-09/WA</td>
<td>Lowe</td>
<td>Boat ramp/pier conversion</td>
<td>12-30-99</td>
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</table>

This project involves the conversion of a boat ramp to a pier which is not addressed clearly by the TRPA Code. Staff is currently working cooperatively with the applicant to resolve this issue. The anticipated action date on this project is unknown.

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<thead>
<tr>
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</thead>
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<tr>
<td>34-070-11/EL</td>
<td>Tahoe Paradise</td>
<td>Golf Course Modification</td>
<td>12-16-99</td>
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</tbody>
</table>

This project involves the modification of several residential structures of which one burned down. Staff is working to verify the unit which burned down prior to taking action on the project. Staff expects to take action on this project prior to this month’s GB meeting.

<table>
<thead>
<tr>
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<th>Application Type</th>
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</thead>
<tbody>
<tr>
<td>32-313-14/EL</td>
<td>City of South Lake Tahoe</td>
<td>CFA Banking</td>
<td>1/11/2000</td>
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</tbody>
</table>

Staff has had difficulty finding old files associated with this property which is important to the determination of verifying commercial floor area.

<table>
<thead>
<tr>
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<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>85-180-09/PL</td>
<td>Shea</td>
<td>Secondary residence</td>
<td>01/10/2000</td>
</tr>
</tbody>
</table>

This project required notice to surrounding property owners. During the notice period, staff received comments from an adjacent property owner expressing concern about the project. With the applicant’s concurrence, staff has delayed action on this project in order to allow the applicants and their neighbors to resolve the issue.

**Land Capability and IPES Applications:** The Long Range Planning Division will provide a status report on land capability and IPES applications to the Governing Board at the May meeting.

**Compliance Division:** There are no applications that will exceed a review time of 120 days.
MEMORANDUM

May 15, 2000

To: TRPA Governing Board

From: Jerry Wells, Acting Executive Director

Subject: Notice of Circulation, 64-Acre Tract Environmental Document (TRPA DEIS, NEPA DEIS, and CEQA DEIR)

This notice is to inform all GB members that the 64-Acre Tract Intermodal Transit Center, CEQA Draft Environmental Impact Report (EIR), NEPA Draft Environmental Impact Statement (EIS), TRPA Draft Environmental Impact Statement (EIS) is available for official review on May 17, 2000. All GB members will be sent a copy of the Draft EIR/EIS/EIS for review in a separate mailing.

A full presentation will be made to the APC and Governing Board during the June 2000 meetings. Public comment will be welcomed at that time.