TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
Kings Beach, California

January 25, 1995

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman John Upton called the regular January 25, 1995, meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:35 a.m. Vice Chairman Drake DeLanoy led in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLanoy, Mr. Waldie, Dr. Miner, Mr. Sevison, Mr. Heller (present at 9:50 a.m.), Mr. Cole, Ms. Bennett, Mr. Cronk, Mr. Westergard, Ms. Naft, Mr. Bradhurst, Mr. Wynn, Mr. Upton

Member Absent: Ms. Hagedorn, Presidential Appointee (position vacant)

III. PUBLIC INTEREST COMMENTS

Agency Special Projects Attorney Susan Scholley noted that Mr. George Finn was distributing papers relating to the Hellman v. TRPA case.

Chairman Upton thanked the Board members for electing him TRPA Chairman for a two-year term and apologized for leaving the December meeting early. He was looking forward to the next two years.

Mr. Upton welcomed new Board members Miner, Wynn, Heller, and Sevison and noted that Mr. Sevison was just recently appointed by the Placer County Supervisors as their representative to TRPA.

IV. APPROVAL OF AGENDA

Deputy Director Jerry Wells advised that the applicant for the Altwater Trust/Schumacher permit modification (item VII.A.) had requested a continuance to the April Board meeting. Staff requested a continuance to the February meeting of the status report for the Douglas County Community Plan (IX.B.) to give more time for all players to coordinate the report. The Tahoe Basin utility companies would be reporting at the March meeting on the status of sewer and water capacity.

Chairman Upton noted that the Capital Financing Committee was scheduled to meet at the lunch recess.

IV. APPROVAL OF MINUTES

MOTION by Mr. DeLanoy to approve the December 21, 1994, regular meeting minutes. The motion carried unanimously.
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MOTION by Mr. DeLanoy to approve the agenda as amended (continue VII.A. to April and continue IX.B. to February). The motion carried unanimously.

VI. CONSENT CALENDAR

Agency Counsel R. J. Nicolle noted that the Legal Committee recommended approval of the Quinn matter with a change in the date for payment of the second installment from June 1995 to July 1, 1995.

MOTION by Mr. DeLanoy to approve the consent calendar as modified. The motion carried unanimously. (There was one item on the consent calendar: 1. Quinn, Resolution of Enforcement, Washoe County APNs 125-155-01, -02 and -17.)

VII. PROJECT REVIEW

B. Glenbrook Water Cooperative, Inc., New Ozone Water Disinfection Building, Glenbrook Inn Road, Douglas County APN 01-070-24

Chairman Upton outlined the process he wished to follow during the hearing, due to the interest expressed from the public and the amount of information and documents received by the Board members. After a staff presentation, the Board would hear proponents, opponents, rebuttal, and staff wrap up.

Ms. Kathy Canfield, Associate Planner with the Project Review Division, presented a summary of the proposal by the Glenbrook Water Cooperative, Inc. to construct an ozonation facility adjacent to the existing pump station in Glenbrook. Adjacent residents were opposed to the proposal over issues related to alternative sites (construction costs, legal costs/recreational easement, scenic, excavation/groundwater flows) and the backshore. The staff's efforts to get the parties to reach consensus had been unsuccessful. Parties opposed to the project as proposed felt there was a reasonable alternative to the lakeshore site. If the Board agreed with the findings in the staff report, it could approve the project with conditions; if the Board did not agree with the findings, it could choose not to approve the project. If the Board wished additional information, it could request that information.

Executive Director Jim Baetge described the meetings among the parties and explained that staff wished to keep the Board's options open for action. Although staff decided to bring both points of view to the Board without a written recommendation in the staff summary, staff's recommendation was that, if the Board felt it had sufficient information to make the findings, staff would recommend approval of the project at the shorezone. The Board had the option, however, of looking at the evidence presented and deciding differently. The issue was whether TRPA knew enough about the alternative rodeo grounds site to make the findings. Staff did not feel it had sufficient information to make a full finding. The project was designed for the shorezone, and information prepared by the applicant was based on that site, not the rodeo grounds site. Based on the available information, staff's position was that a definite finding could not be made that there was no alternative site. The Board had the option normally of requiring an applicant to do further studies on an alternative site in order to be comfortable in making the findings. The reality was that staff had already sent the
applicant back several times; money and time had been spent looking at the alternative site. The staff needed Board policy direction on whether to require additional studies at additional cost. Staff felt the alternate site had not been sufficiently defined such that a finding could be made that it was a "reasonable" alternative site. Staff did not have sufficient evidence at this time to determine whether a project designed for the rodeo site was or was not a good project. There were problems at both sites on legal, high groundwater, and scenic issues. There were two possible alternatives being looked at; staff knew the design and information on one (shoreszone) and knew part of the information on the other. One real issue was whether the Board saw the impact of one project being different from the other; staff was comfortable that there was not a big difference environmentally between one site and the other.

Ms. Nicolelle noted that, with submittal of additional information on December 22, 1994, the application was deemed complete. The 180 days within which TRPA must act would run on June 20, 1995.

Mr. Baetje explained that Douglas County had already approved the project at the shoreszone site. The staff's recommendation was based, in part, on the Safe Drinking Water Act and deadlines for treating water supplies to Glenbrook. Extensions would likely be granted if requirements of the Act were being pursued diligently. Staff wanted to avoid a stalemate where the Board had nothing to approve, and the staff report was written such that the shoreszone site could be approved if the Board concurred with the findings. If the Board did not agree, it could require the applicants to look at another alternative and do further studies, thus pushing the date out for compliance with the Safe Drinking Water Act.

The Board and staff discussed the reasonable alternative finding, construction techniques to address the groundwater characteristics of both sites, and whether TRPA had the option of opposing the water treatment requirement.

Chairman Upton opened the hearing to public testimony at approximately 10:00 a.m. The hearing continued until 11:55 a.m., at which time the Board took up other "time-certain" matters on the agenda. The meeting recessed for a lunch break from 12:20 to 1:40 p.m. and returned to discussion on the Glenbrook matter at approximately 2:00 p.m. The Board's deliberations on Glenbrook lasted until 5:05 p.m.

Following is a listing of the morning's presenters and topics addressed.

Mr. Pete Jensen, president and one of five board members of Glenbrook Water Cooperative, Inc., described the project and explained that the community, non-profit water system served approximately 265 residents in the Glenbrook area. The proposal was before the Board because of an unfunded federal mandate to disinfect Glenbrook's water. Mr. Jensen described the various analyses done for the project over time, and the unacceptability of the meadow site.

Planning consultant Gary Midkiff, representing the Water Cooperative, listed the consultants involved in the project and explained the various water
quality treatment systems that were analyzed in the process. He showed a video of the shorezone and meadow sites looking lakeward and landward and simulations of the constructed project. He described scenic impacts at the shorezone and the rodeo ground sites and described other ozonation facilities constructed in the Kingsbury and Incline areas. In his presentation, Mr. Middick addressed the inability to gain an exemption from the act and also issues relating to soil tests, groundwater, the backshore, scenic impacts, recreational easement in the meadow, control of the site, costs, land use and approvals. He submitted a petition with 164 signatures from persons favoring the pump house site for the ozonation facility. The Cooperative felt that there was no reasonable alternative when considering such issues as timing, cost, use of the land, groundwater disturbance, and dewatering. Mr. Middick responded to Board member questions about timing, the difference in cost estimates for the two sites, the required Army Corps of Engineers approval, vegetation on the shorezone site, staging of materials and parking modifications during construction, and groundwater findings.

Mr. Frank Moffitt, a Glenbrook resident, presented a 1,000 milliliter water sample taken from in front of where the ozonation plant was proposed to be constructed and read his January 19 letter of opposition to the proposal. He suggested that not all residents of Glenbrook favored the project; he urged the Board to deny the application.

Mr. Harvey Whittmore, with the firm of Lionel, Sawyer, and Collins, representing Glenbrook property owner Larry Ruvo, spoke in opposition to the proposal at the shorezone site, suggesting the proponent's presentation had failed to establish that there was no reasonable alternative to the shorezone site. He asserted that the rodeo grounds site was a far superior alternative. Mr. Whittmore discussed the variety of cost estimates for the facility at the shorezone site and at the rodeo grounds site. He also went over the merits of the rodeo grounds site, the recreational easement and litigation, the historic scenic issues, the timelines, the exemptions from regulatory fines, and the unwillingness of the applicants to seriously consider sites other than the shorezone site.

Mr. Wally Robison, director of environmental services with Kleinfelder, a Reno consulting firm, explained his credentials in geological engineering, professional engineering, environmental management, and environmental assessment, and described why he felt the shorezone site was inappropriate for the ozonation facility. His presentation focused on problems with the narrow access road to the site and resulting fire and residential access problems during construction, problems with cutting into the steep embankment and removal of mature aspen and willow trees, problems with construction in the Glenbrook historic district, and poor site conditions (no staging area near the construction site). He pointed out that the rodeo grounds site was level, had easy access, was not in an SEZ (stream environment zone), was not in a scenic corridor, and had sparse vegetation.

Mr. Chris Spadaro, principal engineer and geotechnical engineer with Kleinfelder, spoke in favor of the project at the rodeo grounds site, describing the difference in temporary and permanent groundwater conditions, dewatering needs, and liquefaction risks.
Mr. Mark Hoefer, with JWA Consulting Engineers, described the difference between the Kingsbury ozonation plant and the Glenbrook facility. The Kingsbury project looked at two sites and determined there was no alternative site. This project was unique because an alternative site was being offered for construction. While the lakeshore site was in the backshore and/or SEZ, the alternative rodeo grounds site was presently shown to be outside the SEZ and on level ground. Mr. Hoefer passed around and described before and after photo simulations of both sites.

Mr. Joe Serpa, general engineering division manager with Q & E Construction, described his comparison of construction costs for the shorezone and rodeo sites and explained problems with construction at the shorezone site. Prior to his reading of the staff requirement that hard tools only be used outside the parking area at the shorezone site, his estimate was $105,000 less for construction at the rodeo grounds site. Without using motorized equipment and excavators at the shorezone site, construction was not economically feasible.

Mr. Larry Ruvo, whose residence was near the proposed project site, spoke in opposition to the shorezone location because of safety concerns for children during construction. He also described his efforts to resolve problems and litigation with the Glenbrook board and homeowners and concerns with the lack of analysis of alternative sites.

Ms. Shelly Nahas Turner, whose family owned the beach house 30 feet north of the proposed facility, discussed the historic nature of the structures in the vicinity of the proposed facility and explained that her family was willing to donate the meadow site as an alternative site free of charge to the Cooperative. A total of four buildings, including three storage facilities and a building on blocks, would be removed from the area to reduce the aesthetic congestion. She pointed out that the area had traditionally been used for maintenance-related activities, and her understanding was that those uses allowed in TRPA's recreation zone were all that could be permitted in the rodeo grounds area. She also stated that utility facilities were permitted in this area.

Mr. Milton Sharp, consulting engineer in Reno, explained he had been involved in Tahoe development issues since the mid-60s and was the project engineer for development of Glenbrook Units 2 and 3. He explained the results of his analysis of the cost estimates done by design engineers HDR on the lakefront and rodeo sites. The lakefront costs increased with each new estimate because of a realization of difficulties in building at that location. The rodeo grounds site costs were increased accordingly. He felt that the proponents had overstated rodeo grounds site and piping costs and had understated the cost of the huge concrete vault to be put underground at the lakefront. In July 1993, he concluded that cost was not a valid reason to reject the rodeo grounds site as a reasonable alternative and that, through the design process, the Cooperative had never given serious consideration to or evaluation of a reasonable alternative site.

At approximately 11:55 a.m., the Board moved to the following time-certain items on the agenda.
IX. PLANNING MATTERS

A. Annual Report by Caltrans and Nevada Department of Transportation on Treatment of Tahoe Basin Highways During Winter Months

Senior Planner Mike Solt explained this report to the Board was required by the 208 Plan, the Goals and Policies, and the Code of Ordinances. The report was to address the rate, distribution, and amount of salt used on Basin highways during the winter. Salt and abrasives could have potential adverse impacts on vegetation, air and water quality, and soil erosion. Treatment of roadways, however, was critical to keep them safe for visitors to and residents of the Region. The Nevada Department of Transportation (NDOT) and Caltrans had been appearing before the Board for the last six years. The reporting today covered the 1993-1994 winter season, some information on the current season, and the latest technology in the field of highway treatment.

Mr. Ernie Rinde, Chief of Maintenance for District 3 Caltrans, advised that Caltrans last year used 1,100 tons of salt and 15,000 tons of sand for the accumulation of 235 inches of snow. To date, 290 inches of snow had fallen, and Caltrans had used 700 tons of salt and 9,000 tons of sand. Last year, 45 tons of the alternatives C7 (potassium acetate), 80 tons of magnesium chloride and 1 ton of CMA were also used. Salt was spread at the rate of 100 to 300 tons per lane mile and sand at a rate of 500 to 1,000 tons per lane mile. Caltrans had completed two gutter paving and rock slope stabilization projects in the Basin last year for a cost of $1,297,000. Forty to 50 percent of the sand was picked up by sweepers. This sand was collected, taken to a yard, and disposed of or given to contractors for use in utility trenches as backfill. There likely was very little salt in this material.

Mr. Rick Nelson, District Engineer for NDOT, explained that last winter NDOT used approximately 1,000 tons of salt on Tahoe Basin roads and a little over 5,000 tons of sand. Salt use was down 500 tons from the previous winter; salt was applied at a rate of 25 tons per lane mile. Mr. Nelson explained the progress made in the pursuit of recommendations set out in the Assembly Bill 482 report, including completion of five remote road-weather information stations on the Mt. Rose Highway and work on ten remote weather stations on S.R. 28 and U.S. 50. NDOT was in the process of completing thermal mapping of approximately 140 miles of roadways (including Basin roads) to identify warm and cold spots throughout Nevada. This, coupled with the weather stations, would allow finetuning in locating appropriate spots for application of chemicals and abrasives. Swedish and Finnish technology and strategies for salt reduction were being used, where appropriate, throughout the State. Mr. Nelson noted that the fourth international symposium on snow and ice control may be held in Reno during the summer of 1996. Since 1989 with the first report to the TRPA Board, NDOT and Caltrans staffs had been cooperating in studies on alternate deicers and were working under cooperative agreements, particularly in the Reno area. NDOT also coordinated activities informally with Washoe County in the Incline area and was working on making the weather-roadway information available to other local governments. Mr. Nelson invited Board members and the public to Reno to look at the control center for the road-weather information system.
Chairman Upton thanked Caltrans and NDOT for the report and for the efforts to advance the state of the art in this area. Both entities had taken a leadership position in their jurisdictions and internationally as well.

(Chairman Upton welcomed Mr. Heller to the Board. Mr. Heller had come into the meeting shortly after commencement of discussion on the Glenbrook matter and was not present for Mr. Upton's introduction of new Board members.)

XIII. RESOLUTIONS

C. Resolutions for Former TRPA Board Members Wayne Chimarusti, Bruce Kanoff, Bob Pruett, and Cheryl Lau

Chairman Upton noted that he had engraved plaques and signed Resolution Nos. 95-1 and 95-2 commending Bob Pruett and Cheryl Lau, respectively, for their service to the Basin while on the TRPA Board. Neither Mr. Pruett nor Ms. Lau could be present for the presentation. He presented the plaque and read Resolution No. 95-3 thanking Wayne Chimarusti for his service to TRPA as a member and two-year chairman.

MOTION by Mr. Severson to adopt Resolution No. 95-3 thanking Wayne Chimarusti for his participation on the Board and for his leadership as Chairman during 1993 and 1994. The motion carried unanimously.

Mr. Chimarusti thanked the Board and wished the new Board members well.

The meeting recessed from 12:20 to 1:40 p.m. Chairman Upton noted that the Capital Financing Committee was meeting during the lunch break.

VIII. PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS


Agency Counsel R. J. Nicolle presented a summary of the proposed APC-recommended amendments regarding APC review of projects for which an EIS had been prepared, required testimony before the APC, and APC member votes being non-binding for their appointing agency. After review of the amendments, the Rules Committee decided to have a full public hearing before the Board. The requirement for APC review could potentially add an extra 30 days to a project's review time; applicants would have to get their information organized sooner if the APC became more involved in the review process. The advantage would be that issues could be worked through by staff at the APC level prior to Board review.

Mr. Wynn spoke in favor of facilitating the process and not providing a roadblock for the applicant. Streamlining the process, not complicating it was a good goal, so long as the Board was not abdicating its responsibility. He wanted to be sure the Board was streamlining the process, not simply empowering another committee. He was interested in expediting the process for the public.
Mr. Upton suggested that if the Board wished to accelerate the process the Board could consider having the APC serve as a more traditional planning commission where issues were resolved and acted on by the APC and other matters could come to the Governing Board on the consent calendar. The Board would specifically deal only with those items involving unresolved controversy. Cutting the process off at the APC level so there was no need for the second Board level review was a worthwhile consideration.

Mr. Cronk suggested if the system was working there was no reason to change it. The APC was an invaluable entity for the Board and had more technical expertise than was present on the Board. He was, however, concerned that the Board was creating another hurdle or changing the rules to correct what might be a problem one percent of the time.

Ms. Nicolle explained that the APC’s concern was that matters were coming to the Board with substantive, major issues that had not been aired at the APC level. An example of a process that worked well was the Tahoe City urban improvement project which had extensive review by APC at the EIS and at the project review level. Many concerns were resolved through APC discussion and input. One example of a project that would have benefitted more from APC input was the east shore timber harvest project which received public testimony that was not heard at the APC level. The APC did not generally hear projects; the amendment would give the APC power to request permission to review projects for which an EIS was prepared.

Ms. Bennett spoke in support of the amendments and the importance of the Commission’s recommendations. At the local government level, it was important that information coming to the Planning Commission be the same as that presented to the board; consistency was important. She favored a strengthening of the APC.

Mr. Bradhurst suggested that he would have liked to have had recommendations from the APC on such projects as the one discussed by the Board at the morning’s session (Glenbrook ozonation facility), and he questioned whether an expansion of duties beyond just the EIS was worth discussing. Should the APC also review projects for which an EA (Environmental Assessment) was prepared?

Mr. Severson suggested that staff served as the technical review group for projects coming to the Board. He had no problem with expanding what went to the APC if it was warranted due to the technical nature, but the Board’s deliberations were de novo hearings. The Board did not need the exact same discussion as the APC. Issues did surface often between the APC and Board meetings; that was a normal part of the process and was not wrong. If there were some items on which the APC wanted input, that was acceptable. There was no way in advance of a hearing to know what issues would arise.

Mr. Waldie suggested that a required hearing before the APC would create a burden from a cost point of view for the applicant. The additional hearing would also have an impact on the staff. It appeared the intent was to give the APC more status, and he felt that status could be obtained if the APC rejected applications because the Commission was not satisfied with the presentation. The Board did not need to mandate the type of presentation to
be made to the APC by the applicants. He saw no reason to add more burdens in the Basin to the regulatory mechanisms already in existence.

Mr. Cole suggested the APC's responsibility was to review issues from a technical point to determine whether an EIR complied with required criteria. The Board made the decision based not only on that information but also the additional decisions placed at the Board level which were sometimes subjective and often policy related. Although it was appropriate for the Board to send some issues to the APC, he was concerned with delegation of responsibility to the APC and a resulting potential for conflict between the two bodies. He did not feel the Board was precluded from sending issues to the APC for input now.

Mr. Dick Hudgett, APC lay member from Nevada, explained the APC did not seek some of the Board's authority. The APC was a very concentrated technical body assigned the task of ensuring project compliance with the Code. The Commission's actions were purely advisory and provided a nuts-and-bolts look at issues. The applicants were to be helped by the APC, and APC review could greatly reduce time spent by the Board on difficult issues.

Mr. Upton suggested this matter go back to the APC and Rules Committee for more input and discussion.

Mr. Cole asked for more information on situations where the APC involvement had worked successfully and where it had not.

Mr. Sevion suggested to the Board that the TRPA APC was not like the typical planning commission. The APC was a technical advisory committee dealing with specific issues. The TRPA Board was really the equivalent of a traditional local planning commission, but at an elevated level. Board members dealt with the political input and issues. This should not change.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, suggested that the east shore timber project was a problem because it was brought to the APC in violation of the Code. The final EIS, including the response to comments, was not completed before the APC hearing. Had the existing code been complied with, the unresolved issues would not have arisen. The existing regulations were adequate.

APC Vice Chairman Bob Jepsen noted that the APC had unanimously recommended approval of the proposed amendments. If the Board was not comfortable with them, he urged the Board to define more specifically what the role of the APC was to be.

Chairman Upton directed that this matter be taken up once again by the APC and the Rules Committee.
VII. PROJECT REVIEW (continued)

B. Glenbrook Water Cooperative, Inc., New Ozone Water Disinfection Building, Glenbrook Inn Road, Douglas County APN 01-070-24

Mr. Upton asked for additional public testimony on the Glenbrook project. This would be followed by proponent and opponent response and staff comments.

Mr. Ken Alexander, a resident at Power House Road in Glenbrook, commented on the alternative sites analyzed by the Water Cooperative Board in the effort to locate a site for the ozonation facility. Costs and aesthetics were considered, and the existing pump house was the logical location for the facility. The meadow was not the best site, and he would oppose it.

Mr. Charles Snyder, a Yerington Court resident in Glenbrook, spoke on the extensive studies done over the years to evaluate alternate sites. The costs of the shoreszone site were not known in 1991 for certain because there were no designs done. If the historic site in the lakeshore area was so historic, the pump house should not have been constructed there in the first place.

Mr. Gordon Tefly, a Glenbrook resident, suggested that relocating the pumping station to the meadow would require a lot of trenching to the meadow and back to the lakeshore houses and additional cost. Moving the pumping station would increase the value of the Ruvo residence by providing an unobstructed lake view from the house; this was a major reason for the opposition. The aspen trees in the area of the shoreszone had a short remaining life, because they were so large and so old.

Mr. Mark Gunderson, representing the Glenbrook Water Cooperative, Inc., described the member groups of the Cooperative, the need to have the pumping station and ozonation facility co-located, the analysis of various alternatives in the selection of the shoreszone site, the $1 million plus to move the pump station to the meadow site, disagreements among the parties over costs of the two sites, and the terms of the recreational easement that allowed for utility lines and not structures.

Professional registered engineer Lynn Orphan, manager of the water and wastewater division of Kennedy/Jenks Consultants, explained her company’s work in design of water and wastewater treatment plants and described her firm’s work and resulting recommendation in 1993 on three alternative sites for the facility. The treatment plant at the pump station was proposed because it was less expensive to build at that location and less visible. Ms. Orphan presented statistics on facility costs for Kingsbury ($1.4 million), Incline ($2.1 million), Edgewood ($1.6 million), Zephyr ($1.9 million). The $1.5 - $2 million estimate for the Glenbrook facility was logical. Ms. Orphan discussed access, traffic impacts during construction, and plant capacity. She went over the anticipated increased costs of construction at the rodeo grounds.

Mr. Hugh Ezzell, with the geotechnical engineering firm of Penobella Associates, a firm hired by the Glenbrook Water Cooperative, Inc., described the soil and hydrologic characteristics of the two sites and the difference in groundwater situations and resulting excavation and dewatering requirements.
Mr. Gary Midkiff summarized the Cooperative's position, briefly addressing the simulations, scenic impacts, legal issues relating to the recreational easement, costs, evaluation of alternatives, safety and fire access during construction, and groundwater on the two sites. In his opinion, there were no reasonable alternatives that did not present the same problems. Mr. Midkiff responded to questions regarding dewatering, building size, water lines and, treatment, and potential for fines and penalties should deadlines not be met.

Mr. Harvey Whittemore summarized the opponent's position on the lakeside proposal, suggesting that the opponent's information was without merit. He specifically addressed the 1991 decision and commitment to the lakeshore site, cost estimates for the work, the ability to develop the rodeo grounds site horizontally with a lower building, the ability to install utility services in the recreational easement, the arbitration provision in the deed, condemnation issues and costs, designation of the rodeo grounds site as land capability class 5 and potential for high groundwater, and the burden of the applicant to provide sufficient information for the Board to make the required finding relating to reasonable alternative site. In his opinion, all the studies showed that there was a reasonable alternative to the shorezone site and there was no necessity for the facility at the shorezone site.

Mr. Chris Spandau, with Kleinfelder and in opposition to the shorezone site, discussed the cost estimates and the team method used to develop them. He specifically addressed the data collection for and test results of the two sites in relation to groundwater, excavation, water, soil types, and drainage.

Mr. Joe Serpa, Q and D Construction, commented on cost estimates and construction methods for the two sites.

After questions and answers among Board members, presenters, and staff on various points raised in the testimony, Chairman Upton closed the hearing.

Ms. Nicolle asked the Board to focus on the disputed issue - the finding that there was "no reasonable alternative" to the lakeshore site, a required finding to approve the project at the lakeshore location. The term "reasonable" was defined generally as fit, appropriate to the end in view, rational, sensible, moderate, and not excessive. The Board could take into consideration time, cost, social, technological and environmental factors. The staff report listed six possible bases and reasons under which the finding could be made. Other findings needed to be made as well.

The individual Board members disclosed correspondence and personal contacts they had from project proponents and opponents.

Mr. Cole noted he had received a packet of information from Lionel, Sawyer and Collins, dated January 13, 1995, at his place of business and also a January 19, 1995, letter from Frank Moffitt. He said all the information in the packet was covered in the hearing.

Mr. Bradhurst noted he had received a letter from Mr. Don Carrano listing eight concerns. He also received a call from Mr. Whittemore, as well as from a Mr. Bill Prezant. He had told both of them that he wished to hear their
comments at the Board meeting and did not wish to discuss the issues ahead of time. They honored that request.

Mr. DeLanoy advised he had received a similar letter from Mr. Don Carrano and one from an old classmate, Gordon Harris. He also talked with Mr. Whittemore and Mrs. Fritzi Huntington. He said all the information he received had been covered in the hearing.

Mr. Wynn noted he had received the same letters as other Board members. Although he and Mr. Ruvo had been friends for 27 years, Mr. Ruvo had completely avoided discussing the matter with him. He was not contacted by Mr. Whittemore. Mr. Ruvo was chief executive officer of a company that supplied wine, liquor and beer to virtually every licensed outlet in Nevada, several of which were operated by Mr. Wynn's company. He did not feel there was anything about his relationship with Mr. Ruvo's company in a professional or private way that affected his decision on this particular issue.

Mr. Baetge reminded the Board of the Safe Drinking Water Act compliance requirement. To have a motion denying the project application outright meant there would be no pending project in any form that would deal with meeting the Safe Drinking Water Act standards. Rather than a straight denial of the project, if the Board were leaning in that direction, the Board had the option of continuing the item and asking for more information.

The Board members questioned the staff and expressed opinions on findings, a motion, liability, the technical data regarding water treatment options, TRPA's role in the decision making process, concerns with outright rejection, the definition of a straw vote, and the alternative site.

Special Projects Attorney Susan Scholley explained that a straw vote could be for a simple motion to approve the project; it was not binding, and it was not considered "Board action."

MOTION by Mr. Wynn that the Board take a straw vote on approval of the ozonation project as proposed. The straw vote failed on the following:

Ayes: Mr. Westergard, Mr. Cole, Mr. Waldie, Dr. Minor, Mr. Upton
Nays: Mr. Wynn, Mr. Revison, Mr. Bradhurst, Ms. Heft, Ms. Bennett, Mr. Heller, Mr. Cronk, Mr. DeLanoy
Abstain: None
Absent: Ms. Hagedorn

Mr. Mikkif requested a continuance of the project to address whether there was a stream zone, to determine the status of the rodeo grounds site, and to work with staff on what amounted to a land capability challenge. He waived the 180 day rule, the time during which TRPA was required to take action.

Mr. Upton asked that the arbitration terms of the original deed be researched, as well as the deed language stating that no uses other than General Forest uses authorized by TRPA were permitted.

Ms. Bennett questioned the continuance and expressed concern that it would only bring more hours of testimony and disagreement among the parties.
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MOTION by Mr. Sevison to continue the Glenbrook Water Cooperative ozonation facility matter. The motion carried on the following vote:

Ayes:  Mr. Cole, Mr. Wynn, Mr. Sevison, Mr. Bradhurst, Ms. Neft, 
       Mr. Heller, Dr. Miner, Mr. DeLanoy, Mr. Westergard, Mr. Upton
Nays:  Ms. Bennett, Mr. Waldie, Mr. Cronk
Abstain:  None
Absent:  Ms. Hagedorn

Mr. Wynn urged that if and when the matter came back to the Board there be focused discussion on whether there was an alternative site.

Mr. Upton suggested that one issue to be addressed was whether there was an optional technology that would greatly lower the impact of the whole concept.

(Mr. Heller and Mr. Cronk left the meeting at 5:05 p.m.)

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

B. Legal Committee

2. Modification of Walshaw v. TRPA Settlement Agreement

Agency Special Projects Attorney Susan Scholley explained that the vote on the agreement would require a 5/9 vote with 5 California votes required for approval. The agreement related to banking of tourist accommodation units, and the affected property was in California.

Mr. Upton noted that the Legal Committee had taken the matter up earlier in the day, and the recommendation was to accept the settlement as modified.

MOTION by Ms. Neft to approve the settlement agreement brought forward by the Legal Committee. The motion carried on the following vote:

Ayes:  Mr. Wynn, Mr. Sevison, Mr. Bradhurst, Ms. Neft, Ms. Bennett, 
       Mr. Waldie, Dr. Miner, Mr. DeLanoy, Mr. Cole, Mr. Upton
Nays:  Mr. Westergard
Abstain:  None
Absent:  Ms. Hagedorn, Mr. Heller, Mr. Cronk

VIII. PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS

A. Amendment of Chapter 4, Project Review and Exempt Activities, to Amend Delegation MOU With the City of South Lake Tahoe Relating to Residential Activities

Chairman Upton noted that there was sufficient written material on this item to obviate the need for a staff presentation. He opened the public hearing.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted that the League did not oppose the MOU but suggested that the reporting on existing MOUs was not adequate for anyone to follow up on what was occurring under the
agreements. She hoped more detailed reports would be provided on this and other MOUs. While the occurrence of errors were pointed out in the reports, it was unclear what they were, which were serious, and what properties they related to.

Deputy Director Jerry Wells explained that staff audited the MOU review activities on a quarterly basis and reported to the Board on an annual basis. If the League wished more specific status detail, it was a matter of record with the Compliance Division, and staff would be happy to share that information. Permit violations along with the permitting activity were handled by the local jurisdiction. Action taken by the city or county was equivalent to TRPA action; final appeal was to TRPA if problems could not be resolved at the local level. TRPA staff would not know of an unresolved complaint unless the local government so advised TRPA. Normally local governments could resolve the issues. The audit involved review of the permit process and field inspection process on a random 10 percent sampling basis. Delegation MOUs, which have been in effect since the early '90s have worked effectively. The delegation MOU in South Lake Tahoe, as an example, permitted the City to hire more inspectors and to have a better ability to find violations. TRPA, on the other hand, had five staff people to cover the entire Tahoe Basin. The City Council and TRPA Advisory Planning Commission (APC) recommended approval of the MOU and ordinance.

Chairman Upton read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending Chapter 4 of the Tahoe Regional Planning Agency Code of Ordinances Relating to Exempt Activities; Amending a Memorandum of Understanding With the City of South Lake Tahoe to Exempt Certain Residential Activities From TRPA Review; and Providing for Other Matters Properly Relating Thereto

MOTION by Mr. Wynn to approve the findings, the MOU, and Ordinance No. 95-1. The motion carried unanimously.

B. Amendment of Plan Area Statement Boundaries Between Plan Area 045 (Incline Village Commercial) and Plan Area 046 (Incline Village Residential) to Add Washoe County APNs 127-021-03 and -04 to Plan Area 046

Mr. Gregg Lien, on behalf of the applicant, noted that staff and APC had recommended approval of the amendment. He questioned whether any of the Board members had concerns about a future project which could follow the amendment, since he did not want the property downzoned if there were outstanding reservations.

Mr. Westergard noted he had no problem with the Plan Area amendment, but he could not assure Mr. Lien he would vote for a project which proposed the two-stage subdivision process. This previously had been a concern for him.

Mr. Cole expressed concern with the affordable housing issues and disappointment the parcel would be precluded from that use in the future by
this action. It was not within the Board's authority, apparently, to delegate the land for affordable housing even though it was an ideal parcel for that use. The intended project would result in an increased demand for service workers in the area and increased demand for affordable housing in Incline Village. From his perspective, this would place an even greater responsibility on Incline to deal with its affordable housing needs in the future.

Mr. Wynn noted his objection to TRPA's involvement, as an environmental agency, in social engineering and affordable housing issues. The idea that TRPA was being used to execute such plans was straining its mission and applying a complicating element to its programs to take care of Lake Tahoe. He would object in the future when this issue came up.

Ms. Bennett explained that TRPA as a planning agency needed to address all levels of housing, and affordable housing was an appropriate concern for TRPA and for any jurisdiction with property in the Tahoe Basin. She would also be bringing this up in the future when the issue was raised. Carson City housed many people who worked in the Basin, and while Carson was strained to provide affordable housing for those people, it accepted the need as its responsibility - as did the City of South Lake Tahoe. She urged all entities to do the same.

Chairman Upton noted there was a process in place which would give local jurisdictions until December 1995 to fish or cut bait on this issue.

Mr. Cole acknowledged this would come up again; the issue of housing and certainly the issue of affordable housing was directly related to environmental issues in the Tahoe Basin. This would be demonstrated in subsequent discussions. It was not a separate issue and not exclusively social engineering. It really had significant impacts, and TRPA, as a planning agency, could not ignore them.

Ms. Scholley noted that staff had distributed a January 13 letter from Paula Pellerin opposing the amendment. The action was on this Plan Area Statement amendment and was not granting conceptual approval or consideration of any project.

**MOTION** by Mr. Sevison to make the findings to approve the Plan Area Statement boundary amendment between PAS 045 and 046 as proposed. The motion carried unanimously.

**MOTION** by Mr. Sevison to adopt the implementing Ordinance No. 95-2.

Mr. Upton 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 as Amended; Amending Plan Area Boundaries Between Plan Area 045 Incline Village Commercial and Plan area 046 Incline Village Residential; and Providing for Other Matters Properly Relating Thereeto.
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The motion carried unanimously.

IX. PLANNING MATTERS


Chairman Upton noted the information on this agenda item was in the packet.

D. Resolution Adopting Procedures for Distributing Reserved Residential Allocations to Parcels Below IPES Line and Exempting Douglas County

Agency Special Projects Attorney Susan Scholley noted the resolution set forth a procedure similar to the one used for the last two years for distribution of allocations to parcels below the IPES line.

Since no one wished to comment, Chairman Upton closed the hearing.

MOTION by Mr. DeLanoy to approve Resolution No. 95-4 adopting procedures for distribution of residential allocations to parcels below the IPES line. The motion carried unanimously.

X. ADMINISTRATIVE MATTERS

Chairman Upton distributed a memo outlining his proposed committee assignments. He had not proposed to change the Shorezone Committee membership (Waldie, Westergard, Bradhurst, Cole), because the membership was set only a few months ago. He set up the committees so that there would be a local and a non-local from each state on each committee. Three further changes included Mr. Sevison instead of Mr. Cole on Legal, Mr. Cole instead of Mr. Sevison on Finance, and Mr. Cole instead of Mr. Waldie as chairman of Capital Financing.

Mr. Sevison and Mr. Wynn asked to be included on the Shorezone Committee.

Chairman Upton noted that the Shorezone Committee meeting scheduled for 2:00 after this meeting was rescheduled for 10 a.m. Thursday, February 2, at the TRPA office. He agreed with adding Mr. Sevison and Mr. Wynn to the committee.

Mr. Cole explained that since the work of the Shorezone Committee was to be completed in a matter of months with a recommendation to the full Board the Committee decided not to have a chairman.

Agency Counsel R. J. Nicolle suggested that, since the Shorezone Committee membership was created by resolution, it was appropriate that the addition of two new members be affirmed by resolution. Otherwise the two new members could participate.

MOTION by Mr. Bradhurst to approve the committee memberships as amended and discussed.
TRPA REGULAR MEETING MINUTES, JANUARY 25, 1995

Chairman Upton noted that Mr. Wynn’s and Mr. Sevison’s appointment to the Shorezone Committee would be formalized by resolution in February.

The motion carried unanimously.

Following are committee appointments:

**Finance:** Wynn, Neft, Cole, Heller, Bennett (chair)
**Legal:** Miner, Cronk, Sevison, Waldie, DeLany (chair)
**Rules:** DeLany, Neft, Sevison, Hagedorn, Bradhurst (chair)
**Capital Financing:** Westergard, Miner, Cronk, Waldie, Cole (chair)
**Retirement:** Miner, Sevison, Solt, Baetge, Neft (chair)
**Shorezone Policy:** Westergard, Waldie, Bradhurst, Cole, Wynn*, Sevison*

*to be formalized by resolution at February 22 Board meeting.

B. Resolution Approving Amendment of Filing Fee Schedule

Finance Committee Chairman Kay Bennett advised that the Finance Committee recommended acceptance of the increase in filing fees which, basically, reflected the CPI.

Mr. Wells noted that, in addition to the CPI adjustment, the schedule included new fees for categories not previously listed and the lowering of some fees based on actual processing time. Mr. Wells responded to Board questions about the driveway paving fee and the need to coordinate TRPA and local government fees on processing driveway paving applications as part of the BMP priority program. In the past numerous applications for driveway paving within one subdivision were treated as one application. This kept the fee down.

Mr. Upton agreed with this and encouraged a user friendly approach.

**MOTION** by Mr. Sevison to adopt Resolution No. 95-5 amending the filing fee schedule (effective February 1, 1995). The motion carried unanimously.

C. Quarterly Status Report on Work program Priority Milestones - in the packet material, no discussion

D. Status Report on IPES and Land Capability Determinations - in the packet material, no discussion

E. Discussion on Proposed TRPA-Related Legislation in Nevada

Executive Director Jim Baetge reminded the Board that the Nevada Committee to Oversee the Activities of TRPA put out a report containing 22 recommendations. These were now in legislative form and would be heard by the Assembly Governmental Affairs Committee each morning this week. TRPA staff would be attending and providing information. The $20 million bond issue was coming up Thursday morning, January 26. Although TRPA did not have a lobbyist, staff was planning on attending the meetings to answer questions. He did not anticipate any problems.
Ms. Bennett thanked staff for keeping her and other Board members apprised of legislative hearing schedules.

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

1. Report on Committee Meeting

2. Receipt of December Financial Statement and Check Register

MOTION by Ms. Bennett to accept the December financial statement and check register as recommended by the Committee. The motion carried unanimously.

Ms. Bennett advised that the Committee also heard a report on the status of project securities and noted that TRPA held approximately $5.2 million in mitigation funds. The Committee was looking for ways to get that money spent for projects on the ground.

B. Legal Committee

1. Report on Committee Meeting

Legal Committee Chairman DeLancy reported on the early morning meeting and the discussion on the Walshaw matter, the Quinn enforcement matter, the Homewood enforcement action, and the Bitterbrush matter.

C. Capital Financing Committee

1. Report on Committee Meeting

Mr. Upton noted there were several meetings in the last month and the Committee would be meeting on Friday at 11:00 a.m. to finalize the legislative package for the Washington trip in February. Appointments were being set now with the Nevada and California congressional delegations.

D. Rules Committee

1. Report on Committee Meeting

Rules Committee Chairman Waldie noted the Committee had not met for a while.

E. Shorezone Policy Committee

1. Report on Committee Meeting

Mr. Upton reminded the members that the Committee was going to meet at 10:00 a.m. on February 2 at TRPA.

XII. REPORTS

A. Executive Director
TRPA REGULAR MEETING MINUTES JANUARY 25, 1995

1. Monthly Status Report

Mr. Baetge advised that he was close to having a Nevada and California author for the resolutions favoring an around-the-lake bike/pedestrian facility. Mr. Lyn Hatrick in Nevada and, hopefully, Tim Leslie in California would be sponsors. Caltrans had volunteered to pay for a bicycle planner to assist TRPA for three months in putting together a bike plan. He was working on having a bikeway incorporated into the Highway 28 overlay improvements from Incline to Spooner but was not sure how successful the effort would be. The $5 million for the project was not adequate to include a bikeway, and NDOT did not want to delay the project because of ongoing pavement deterioration. Once the project was completed, it would be difficult to come back later for road widening to accommodate a bike path. The improvements project would be coming to the Board in February or March.

Ms. Bennett asked that when the overlay project was presented to the Board there also be an opportunity to discuss related issues.

(Mr. Severson left the meeting at 6:15 p.m.)

2. Notice of Circulation, STPUD, Future Facilities Connection Plan Draft EIR/EIS - in the packet material

3. Discussion on Future Retreat to Update Work Program and Three-Year Strategic Plan (July 1995-June 1998) - see below

B. Agency Counsel

1. Monthly Status Report

Agency Counsel R. J. Nicolle noted that Mr. George Finn had earlier in the day served all Board members in the Hellman v. TRPA case. The earlier attempt at service was defective.

Ms. Nicolle reported on the following cases: Stack v. TRPA, TSPC v. TRPA, Peterson v. TRPA, and TRPA v. Schumacher and Williamson.

(Ms. Bennett left the meeting at 6:15 p.m.)

Mr. Upton advised he would discuss the retreat with Executive Director Jim Baetge. The purpose of the retreat was to set priorities for the future.

C. Governing Board Members - no reports

XIII. RESOLUTIONS

A. Urging U.S. Postal Service Initiation of Home Mail Delivery Throughout the Tahoe Region

B. In Support of Transportation Restructuring Principles for Smaller Northern California Counties
TRPA REGULAR MEETING MINUTES JANUARY 25, 1995

MOTION by Dr. Miner to adopt the Postal Service Resolution No. 95-6 and the Transportation Restructuring Resolution No. 95-7 as proposed. The motion carried unanimously.

XIV. ADJOURNMENT - The meeting adjourned at 6:20 p.m.

Respectfully submitted,

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 (702) 588-4547. In addition, written materials submitted at the meeting are available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.

These minutes were approved as presented on February 22, 1995.