TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

South Lake Tahoe City Council Chambers
South Lake Tahoe, California

October 25, 1995

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman John Upton called the regular October 25, 1995, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:35 a.m. and asked Vice Chairman Drake Delany to lead in the Pledge of Allegiance.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. Delany, Mr. Waldie, Dr. Miner, Mr. Sevison, Mr. Ron James (for Nevada Secretary of State Heller), Mr. Cole, Ms. Bennett, Mr. Westergard, Mr. Bradhurst, Ms. Neft, Mr. Neumann, Mr. Upton

Members Absent: Mr. Cronk, Mr. Wynn, Ms. Hagedorn

III. PUBLIC INTEREST COMMENTS

Mr. Upton acknowledged Nevada State Senator and TRPA Oversight Committee Chairman Lawrence Jacobsen in the audience.

Mr. Don Kornreich, an Incline resident, noted that the Finance Committee had earlier in the day recommended approval of TRPA's release of $549,000 in air quality mitigation funds for mitigation projects in Incline. Yesterday Washoe County approved funding for landscaping and other projects. Also the Tahoe Transportation Coalition agreed to develop a statement of work to generate funds for public transportation. He distributed copies of his comments on a Basin impact fee in anticipation of an upcoming meeting in January 1996.

Ms. Kay Bennett expressed appreciation and compliments to Don Kornreich for his focused and successful efforts at getting funding for transportation and other improvements in his community of Incline. The Board members echoed Ms. Bennett's remarks.

Mr. Dick Thomas, representing the 18 agencies of the Tahoe Regreen Project begun on September 1, noted that each Board member had received a packet regarding the program. He asked Board members to review the information which explained in detail the efforts of the group to make Tahoe green, to restore the health of the Basin vegetation, and to lessen the fire danger.

IV. APPROVAL OF MINUTES

MOTION by Mr. Sevison to approve the September 27, 1995, regular meeting minutes as submitted. The motion carried unanimously.

V. APPROVAL OF AGENDA

Deputy Director Jerry Wells asked that the status report on the Areawide Drainage Project at Stateline (agenda item IX B.) be taken up before the lunch
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break to accommodate members of the audience.

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

VI. CONSENT CALENDAR

MOTION by Mr. Sevison to approve items on the Consent Calendar. The motion carried unanimously.

(Following are items approved on the Calendar: 1. Release of Air Quality Mitigation Funds ($549,400) to Washoe County for Four Mitigation Projects; 2. Frederick Apacar, Appeal of IPBS Score, Douglas County APN 03-121-13; 3. Lake Tahoe Shorezone Development Cumulative Impact Analysis, Draft EIS, 30-Day Extension of the Comment Period (extended to December 4, 1995); 4. Tyrobia Forest Stewardship Project, Washoe County APNs 126-080-03, 126-081-04 and 126-130-02.)

VII. PROJECT REVIEW

A. Carlton Caton Brooke, Subdivision of Existing Structure, El Dorado County APN 15-012-27

Associate Planner Jim Allison presented the staff's summary of the proposal to subdivide legally existing structures and to change a use from commercial to residential. In his presentation, Mr. Allison summarized the history dating to 1986 when the building was approved as a boarding school. The current proposal involved replacing the commercial boarding school with a subdivision. Of the 23 units, 15 would be subdivided, and 8 would be banked on site, presumably for transfer at a later time. All subdivision rules for pre-1987 structure applied to this project. The primary issue here related to the staff-recommended condition restricting the rental and sale of the units to low cost prices. The Code required that existing residential low cost housing units not be subdivided unless mitigation was provided on a unit-for-unit basis for the loss of low cost housing. The dormitory units were considered low cost.

Agency Special Projects Attorney Susan Scholley explained that low cost housing, in the Agency's Code, was defined as housing affordable to persons making up to 120 percent of the median income. It included a middle range of income earners. Mitigation could take several forms other than restricting sale or rental rates, including provision for substitute units off-site through new construction or rehabilitation and restriction of existing residential units not currently considered low cost housing. The applicant's representative, Mr. Gregg Lien, had stipulated the units would fall within the low cost housing definition. The Code provided that a dormitory was considered a residential unit and would require a development right. If not classified as affordable housing, it would require an allocation as well, even though it may not have a kitchen.

Mr. Gregg Lien, on behalf of the applicant, spoke in opposition to staff's-recommended conditions (IV.2)(f)iii and (g)) requiring CC&Rs limiting the sale price and/or monthly rental rate for the individual units,
questioning whether the existing condition was low cost housing. Mr. Lien described the property’s location, the unit configuration (200–400 square feet each), the history dating back to when it was a motor lodge and later a Christian boarding school with a central dining hall and dormitory style housing. The units were never rented or sold as rental housing. Mr. Lien distributed photos of the renovated units and explained the intent was to subdivide the 15 units. The units would range from 400 square feet to two-story 1,100 square feet. While the units would now be low cost housing, they were not previously. The intent was these units would be sold to individual owners, who would decide whether they would be rented or available for personal use.

Ms. Scholley noted that the staff-approved CC&R’s would require the units to be residential, not tourist accommodation. The units were not to be available for short-term rental.

The Board members, applicant, and staff discussed low cost housing; monthly rents; whether a condition restricting rates was needed, since the units were so small and would not be able to achieve higher rents; the applicant’s feeling that a cap sent a negative rent control message; the desirability of the units for first home buyers; the applicant’s contention that the project was historically a multi-person dwelling and unaffected by low cost Code provisions.

Mr. Ken Foster, on behalf of the applicant, explained the lot areas for each building were 2,200 square feet surrounded by a common area. The units themselves ranged from 400 to 1,100 square feet. There were utilities to the site and transit within walking distance.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, suggested this was a recreational group facility and low income housing. It was inexpensive group living.

Ms. Monique Urza, speaking for herself, suggested the low cost housing discussion related to the affordable housing issue. The issue of mandating v. allowing affordable housing was on hold now, since it was being considered by a committee of the Board. The expectation was that the committee in December would recommend deferring the mandate on fair share affordable housing while a study or EIR/EIS took place. She did not see imposing a cap on the sale price as being fundamentally different from mandating affordable housing under the ordinance being reconsidered by the committee. There was a distinction between allowing or giving incentives for affordable housing and mandating and imposing a restriction on a private property owner. She felt that Board member Steve Wynn’s position would be that imposition of restraints of this type would open the Board to litigation on a takings argument. The question related to the impact of the restraint being imposed and the Basin’s environment. This had not yet been determined.

Mr. Cole suggested that the affordable housing committee had determined that the decision made last December on affordable housing would stand until it was changed by the Board. Ms. Urza’s characterization of the committee’s direction was not appropriate at this time. He also disagreed that the committee was looking for a full EIR/EIS. The Board had every right to impose
mitigations on a project that it deemed appropriate, including housing conditions.

Executive Director Jim Baezge explained that the local government committee was formed to talk about streamlining as well as affordable housing. The committee was looking at several issues related to the December deadline and how appropriately each local government was dealing with its affordable housing programs. The next committee meeting was scheduled for November 9.

Ms. Scholley noted there was not a constitutional right to a subdivision. She therefore did not think this project raised a constitutional takings concern.

MOTION by Mr. Cole with respect to the Sonoma Pines Subdivision (Carlson Brooke Subdivision of Existing Structures) to make the findings in the staff report for the multi-person dwelling addition project and a finding of no significant effect. The motion carried unanimously.

MOTION by Mr. Cole to approve the multi-person dwelling project based on the conditions in the staff summary. The motion carried unanimously.

MOTION by Mr. Cole to make the findings for subdivision of the multi-person dwelling, including a major use category change from commercial to residential and a finding of no significant environmental effect. The motion carried unanimously.

MOTION by Mr. Cole to approve the subdivision of the multi-person dwelling project, including the use change and subject to conditions as outlined in the staff summary. The motion carried unanimously.

B. Von Oppenheim, New Mooring Buoys, Placer County APN 117-080-60

Associate Planner Jim Allison presented the staff's summary of the proposal to make two existing buoys legal. Prior to making application to TRPA, the Placer County Sheriff identified the buoys as being illegal and required TRPA permits to be acquired. An application was submitted, and staff recommended approval. The buoys were located in marginal fish habitat. The recently issued shoreszone cumulative impact study did not identify the area as having a density problem with shoreszone structures. A new condition (copy distributed to Board members) would require a protection plan should the Tahoe Yellow Cress be established on the site.

Mr. Sevison explained that the Placer County Sheriff's Office had been working with TRPA to get as many of the nonconforming structures conforming. This was the first one of its kind that he knew of.

Mr. Waldie asked that staff provide the Board with a report on the County's enforcement program.

Mr. Delaney suggested that it was important for TRPA to encourage people to bring their illegal buoys into compliance. He suspected that half the buoys in the Lake were illegal. This particular project was an excellent one.
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**MOTION** by Mr. Seivison to make the findings for approval of the Von Oppenheim new mooring buoys. The motion carried unanimously.

**MOTION** by Mr. Seivison to approve the project with the added condition. The motion carried unanimously.

**IX. PLANNING MATTERS**

**B. Status of the Area Wide Drainage Project for the Stateline Douglas**

Senior Planner Carl Hasty reminded the Board that the last status report on this project was in May. He distributed an April 25 staff letter to Mr. Gary Midkiff outlining the status of the situation and issues at that time. Although the Nevada Legislature was considering a bill requiring Douglas County to move forward with the project, the ultimate bill changed the focus to deal primarily with wage issues and construction contracts. Staff had not had any meetings during the summer but did meet on site early in October to discuss design constraints. There was agreement to meet in November to set a schedule or timeline for the Environmental Assessment (EA) process and project design. Once that was in hand, he would be reporting back to the Board or the Chairman on a periodic basis.

Mr. Ron Saunders, representing the Bureau of Water Pollution Control, with NDEP, explained the individual permits with the casinos had expired although they remained in effect. Because of the sensitive Tahoe environment, he agreed that there should be permits. The individual casinos were still monitoring and submitting their data, and there were exceedences of the standards. Although NDEP wanted to see an area wide system, the Department had not figured out a way to force it. NDEP could require the continuation of the individual permits but felt it would be disruptive. NDEP was holding back on individual permits in the hopes that the area wide program would be implemented.

Ms. Bennett asked at the next status report the Board be advised of available tools for NDEP and TRPA to require the plan to be implemented. The area wide plan was a condition of other projects, and TRPA had sent a clear message for a number of years that there needed to be an area wide solution. TRPA had profound responsibilities in terms of meeting environmental thresholds and been more than patient with the participants involved in the process.

Dr. Miner suggested that special attention and corrective planning be given to the identified area where there was a dysfunction. If all the runoff from the core area went into a particular area that was found to be inadequate, there would be a problem with massive flooding. The effort to identify potential hazards was moving in the right direction.

Chairman Upton questioned whether, if the property owners were in agreement as was indicated previously, engineering solutions could be identified so work could start next May.

Mr. Steve Teahara, Executive Director with the Lake Tahoe Gaming Alliance, explained that the legislation (SB12) ultimately adopted by Nevada did not reference any of the initial text which would trigger action by Douglas
County; the bill dealt rather with prevailing wage issues related to construction and maintenance of the project. The Legislature was persuaded that the bill in its original form would have required the County to go forward with a project that may not have been the project that would deal with the issue. The County should not be forced by an act of state legislation to go forward with a project that may not be the one to come forward. The casino properties were tired of getting beat up over this issue when there was no justification for it. The incentive to complete the project was a requirement of the Community Plan and a project of irrevocable commitment. The Community Plan benefits would not be realized until this was done. There was motivation. The process involved some complex, technical issues; there was not lack of diligence on the part of the casino properties.

Mr. Gary Midkiff, on behalf of the participants, noted he had been pursuing the project for a number of years. Participants included the Nevada Department of Transportation, Douglas County, First Interstate Bank, the five major casino properties in the Stateline area, and Park Cattle Company. The plan had not only to treat water from all those properties but also the stream coming from the several hundred acre watershed above. At the last meeting, the group was at the point of agreement on a revised agreement, and the engineers were directed to prepare a final report. One direction was to review the work prepared by each of the individual participants for their own facilities and to ensure that when the drainage came to the common facility there would be adequate capacity and flow. While that review was underway, there was a series of storms last spring with heavy runoff, causing the existing facilities to come close to failure. There was so much runoff over a three-day period of time that when the pipelines and detention ponds were full the water backed up and stayed on one of the fairways for several days. If that had failed, the water would have backed up further in the system and flowed out onto Highway 50. One of the key issues in the design of the system was to separate the storm runoff falling into the Stateline area from the water that flows through the area from the upland undisturbed watershed.

Mr. Midkiff presented more details on the specific drainage patterns, pipelines and underground utilities. NDOT was now inventorying the encroachment permits for all the different utilities to determine depth and location. This was what had been holding up the process for the last several months. What had been committed to staff was a meeting in the next few weeks to go over final direction to scope the environmental document (EA required by the Community Plan) and to set a scope for completion of the EA and commencement of the project. The goal was to begin construction during the 1996 building season. All of Harrah's on-site work had been completed; all of Harvey's work, with the exception of a force main pump station was completed; approximately one-third of the Horizon work had been completed and was awaiting common collection specifics at the back of the property; Caesar's had completed its design and was awaiting a determination on the point of discharge. Each property was standing by to do on-site work as soon as staff was satisfied that all the work would fit together to support the common system. The agreement referred to in the legislation had not been executed, although there were verbal commitments from all the parties. He would be meeting with all the parties in the next few weeks to get execution of agreements to proceed with the EA. The agreement was not signed because without final design and engineering there were no final budget numbers. He
was hoping for at least a verbal agreement in the next 30 days on the next steps in the process. There may be a preliminary signed agreement before proceeding with the EA, but he could not commit to that.

Mr. Gerry DeYoung, Harrah's Chief Engineer, explained the properties were trying to resolve the issue. Capacity and design issues were being addressed on an almost weekly basis. Harrah's had spent additional money on surveys and wanted to assure the Board that everyone was working together to solve the very complex problems. Harrah's was committed to getting the system in place.

While recognizing the participants' commitments, Mr. Westergard urged that the Board not be asked to make concessions for project approvals contingent on the areawide plan going forward. He was not sure that the timeframe had been established in the first instance and that it would be met in the second instance.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted that it had been 22 years since the need for the project was first recognized and promised to the Board in conjunction with the approval of the structure now housing Caesars. It had been nine years since the project's need was reaffirmed and promised as part of the approval process for Edgewood golf course modifications. It was now two years since approval of the Douglas County Community Plan, at which time the Park Cattle Company representative indicated the parties were on the verge of signing an agreement. NDEP could require individual permits; and the fear was that if NDEP cracked down and required individual systems to go in the areawide system would be hampered, a system which for 22 years had been recognized as the system that was really needed. The Nevada committee to oversee the activities of TRPA recommended a bill with a deadline. When that bill came up before Assembly committees, the committee expressed strong feelings in favor, but when the bill came back out of the legislative process it was completely transformed to give some wage relief to the parties to make it less expensive. The deadline was omitted. The matter was now back before the Board. The League urged the Board to look at Chapter 9 of the Code, entitled Remedial Action Plan. It was a chapter that had not been used since its 1986 adoption, and its purpose was to require preparation, implementation, and compliance with a mandatory action plan to correct environmental degradation. TRPA's enforcement powers permitted setting of specific deadline dates and a penalty should there not be compliance.

Because of the hour, Chairman Upton suggested that this item be taken up again after the lunch break because of the time certain item at 11:30 a.m.

B. Building and Erosion Control Awards Presentation

Awards Coordinator Pam Drum noted that there were nine different categories of awards this year. The judges for the residential, commercial, and multi-family categories included Dick Munday, Tahoe City architect; Bill Weston, Resource Conservation Districts and Tahoe Conservancy; Sue Rae Irelan, private environmental consultant; Bruce Bork, Sun Basin Landscape and Nursery; and Brian Shinault, South Lake Tahoe architect. The residential properties were judged on site planning, landscaping and architectural design, and Best Management Practices (BMPs). The judges for the erosion control and restoration projects included Troy Alexander, Engineering Tech for El Dorado
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County; Bob Kingman, Tahoe Conservancy; Mark Hoefer, JWA Consulting Engineers; Joe Rumann, professional engineer; and Catherine MacDonald, California State Parks. The projects were judged on overall design, effectiveness, ease of maintenance, and visual quality. There were between 25 and 30 nominations this year.

The following award winners were each presented with a framed photograph of their project and asked to make comments:

BUILDING AND EROSION CONTROL AWARDS

Multi-Family Modification Owners John and Katherine Haslop, 950 Dana Court, Incline Village, Washoe County
Borelli Smith, Architects
Orlando Enterprises, Contractors
Mountain Engineering

New Multi-Family Tahoe Pines Apartments, 3431 Spruce, South Lake Tahoe
A California Limited Partnership represented by John Misby
McGuire, Batough & Fong, Inc., Architects
Elvis/Pearson Development, Inc., Contractors
Haen Engineering

Commercial Modification Holiday Inn Express, Owner Charles McDermid, South Lake Tahoe
Jensen-Klein, Architects
Robinson Construction, Contractors
Tahoe Engineering
Sunbasin Landscape & Nursery, Landscaping

Commercial Reconstruction Lone Eagle Grill, Owner Hyatt Regency Lake Tahoe, Washoe County
Lundahl & Associates, Architects
Clark & Sullivan, Contractors
Pyramid Engineers and Land Surveyors

Residential Modification Owners Bob and Barbara Horney, 2019 Mandan Street, El Dorado County
Bob and Barbara Horney, Landscaping
Rick Medeiros, Contractor
Gregory Cook, Engineer

New Single Family Owner David Wallin, 6710 Springs Court, Placer County
Dick Munday, Architect
Galletto Construction, Contractor
Tim Daniels, Landscaping
Rocky Woods, Engineer
Erosion Control
Brockway Hot Springs Estates, Owner Brockway Springs Partners, Placer County
Sagan Design Group Architect
Sagan Design Group C.M.I., Al Pombo, Inc. Contractors
Perennial Nursery & Landscape
Gary Furumoto, Gary Davis, Engineering

Recreation
Kings Beach Lakefront Enhancement Project, Placer County
California Tahoe Conservancy
Glanville and Associates, Architect
BRCO Constructors, Inc., Contractors
JWA Consulting Engineers

Stream Environment Zone Restoration
Dunlap Street/Tahoe Valley, South Lake Tahoe
California Tahoe Conservancy
Tahoe Resource Conservation District, U.S. Natural Resource Conservation Service, Sierra Landscape & Irrigation, Western Botanical Services, C.B. Ebright Co., California State Parks

The Board members complimented and thanked all participants and award winners.

The meeting recessed for a lunch break from 12:15 to 1:30 p.m. Ms. Neft was absent after lunch.

B. Status of the Area-wide Drainage Project for the Stateline Douglas (continued)

Mr. Teshara noted how frustrating it was to get this project going. Those who were not engineers dealing with the plans and doing the analyses did not have direct control. The Board had adopted a Community Plan and set standards and requirements for the drainage project, and that was TRPA’s responsibility. He did not think it was productive to think of applying new rules or Chapter 9. There were elements of the project that had regulatory penalties for those who did not participate. The process was moving forward. In addition to completion of a project, the group was actually creating the Stateline Stormwater Association to come up with a long-term agreement forever to maintain and operate that project. Simply building the project was not sufficient. The agreement need to be a long-term one.

Mr. Midkiff suggested that the characterization that nothing was happening was not accurate. It was important for the Board to understand this. A lot of money had been spent by the individual properties in the Stateline area. Harrah’s had spent $1/2 million in the last three years, and each of the others had done this in the past years or was prepared to do so in the next year or so as the package came together. Once the golf course stormwater storage capacity problem was recognised, an expanded wetland was reviewed by staff and was now under construction. Mr. Midkiff presented more details about the specific plan and other ongoing efforts.
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Chairman Upton asked that staff prepare an estimate of what remained to be done and when it would be accomplished so that there would not need to be these periodic lengthy discussions at the meetings.

Mr. Mickiff responded that he had committed to meeting with Mr. Hasty and other staff over the next two, to three weeks to set a schedule and a scoping process leading to construction. He could have a proposed schedule to the Board at the January meeting.

Chairman Upton asked that this matter and discussion of the timeline be placed on the January Board agenda.

III. PUBLIC HEARING AND ADOPTION OF ORDINANCES, RESOLUTIONS, AND PLANS

A. Amendment of Subsection 4.3.A of Chapter 4, Project Review and Exempt Activities, to Add Salvage Tree Removal on Project Areas of 20 Acres or Less

Environmental Compliance Chief Steve Chilton summarized the proposed amendments, noting that the APC had recommended approval as had the North Tahoe Fire Protection District, the California State Board of Forestry, the regional fire chiefs, and the Forest Health Consensus Group. The proposed amendment would require pre-operation field inspection by TRPA with the property owner, a forester, and in California a representative from Lahontan. The amendment would provide substantial environmental protections as would the proposed Tahoe Basin Tree Removal Permit for salvage on 20 acres or less. The permit also contained strict slash disposal requirements. Mr. Chilton presented more details on the current and proposed permit process and regulations and described the current condition of tree mortality in the Basin. He responded to Board member questions about stream crossings, involvement of the North Tahoe Conservation District, properties identified as having problems, percentage of dead and dying trees, provisions of current MOUs with state forestry departments, and the current summary sheet for the public on what to do with individual tree problems.

Mr. Don Kornreich, a participant in Incline's defensible space program, described the effectiveness of the helicopter tree salvage operations in Incline. The amendments made a lot of sense.

MOTION by Dr. Miner to make the findings to adopt the ordinance amending Chapter 4 to add salvage tree removal on project areas of 20 acres or less. The motion carried unanimously.

MOTION by Dr. Miner to adopt Ordinance No. 95-9 as proposed.

Chairman Upton read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended of the Tahoe Regional Planning Agency; Amending Chapter 4 of the Code of Ordinances Relating to Exempt Activities; and Providing for Other Matters Properly Relating Thereto.

The motion carried unanimously.
B. Amendment of Plan Area Statement 013, Watson Creek (Conservation) to Add Local Public Health and Safety Facilities as Permissible Use

Associate Planner Coleen Shade explained that the requested amendment came about as the result of a temporary permit granted in September 1993 for a pump house. One of the conditions of the temporary permit was that the applicant process an amendment to the PAS to allow the special use so it would be permanent and not temporary.

No one wished to comment in the public hearing. Chairman Upton closed the hearing.

Agency Counsel R. J. Nicolle advised the Board that she had just learned from Board member Larry Sevison that he had a possible conflict of interest on this item. His vote was necessary for this item due to the number of California members present. The matter should be continued to next month.

Chairman Upton directed that the matter be placed on the November consent calendar for action; the public hearing had already been held.

C. Amendment of Plan Area Statement 044, Fairway; Plan Area 945, Incline Village Commercial (Commercial/Public Service); and Plan Area 046, Incline Village Residential (Residential)

Associate Planner Coleen Shade presented staff's summary and distributed a land use map of the areas in question and an explanatory sheet on mixed uses and transit-oriented development (TOD). Staff's recommendation was to amend the permissible use list in PAS 045 to allow single family dwellings with two special policies. One stated that there had to be joint or shared walls and the other required that one of the mixed uses be residential. The proposed Community Plan supported mixed uses. The concept of TOD related to vertically and horizontally oriented development. Traffic analyses showed that vertical development had a lower VMT rate. As an added incentive, staff proposed allowing bonus development units for vertical development (a residential use above a commercial use). The APC voted 16 to 1 in favor of the staff recommendation.

Mr. Gregg Lien, on behalf of the affected property owner, complimented staff for its proposal, suggesting it gave incentives and also assisted in achieving VMT thresholds. He asked that the Board include an additional incentive by allowing 25 percent of the housing to be affordable housing. He was concerned with the allocation situation. His client had four residential allocations and was required to submit an application by the end of the year to Washoe County to preserve these rights. The problem was he wanted to do a mixed-use development (commercial in front and residential in the back) but needed to have a commercial floor area allocation. This would be possible with the adoption of a Community Plan, which had not yet occurred. He urged the Board to approve this amendment today but noted there could be a problem if there was no available commercial floor allocations in the next few months.

Mr. Westergard asked if this amendment would make possible the two-step subdivision process for approval of a condominium.
Agency Special Projects Attorney Susan Scholley explained this step was a precursor to the two-step process and would lay the groundwork for proposing a subdivision of a post-1987 project. The amendment would expand the area in which subdivisions could occur beyond that which were in existence in July 1987. The land area available for development was not being changed, nor would it change the annual rate of growth or total regional potential growth.

Mr. Westergard suggested this could increase the development potential and flew in the face of the prohibition on future subdivisions.

Mr. Phil Gilanfarr, Incline architect, suggested that many areas in the Plan Area Statements (PASs) were borderline properties between residential and commercial uses. The parcel’s development potential was not being changed. He asked staff and Board to initiate a change to Special Policy #5 for PAS 045 that would allow 25 percent of the project area to be affordable housing. Policy #5 should also be changed so that shared common walls were "preferred," not required. He asked that Policy #6 be amended to allow use of residential bonus units when affordable housing was incorporated as part of the project.

Ms. Bennett and Mr. Cole spoke in favor of the incentives but acknowledged that Mr. Gilanfarr’s requests were not on the agenda for action this month.

Mr. Bradhurst questioned staff’s recommendation that the units be attached and have common walls when the trip table showed that condominiums generated fewer vehicle trips than detached single family residential units. By eliminating the requirement that units be attached, property owners would have greater flexibility at less cost.

Transportation Planner Richard Wiggins cautioned the Board not to read too much into the complexity of the figures in the proposed Trip Table. They were for the benefit of the applicant in preparing a traffic analysis and ultimately for the determination on the air quality mitigation funds.

Ms. Shade explained the results of studies on TOD developments relating to attached walls, vertical v. horizontal uses, and traffic generation.

Mr. Bradhurst suggested the focus should be on mixed uses rather than vertical v. horizontal or attached v. detached units.

Mr. Gilanfarr questioned whether horizontal units generated more traffic than vertical units. The units and commercial floor area were still the same. The Trip Table documented that such may not be the case. Often an attached structure with a common wall generated a large sum of money to construct, especially in a vertical design. A vertically oriented development had much more of a scenic impact than a horizontal development. He requested the Board support submittal of a Plan Area amendment to the next available meeting to consider the additional incentive of affordable housing. He favored approval of this amendment with the changes he proposed to special policies 5 and 6.

Ms. Nicolle explained staff would not necessarily oppose the proposal but would need to consider it under an additional application.
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Mr. Lien asked if the last line of Special Policy #6 should be reworded to read, "be a commercial residential use, such as ground floor retail, with residential above." He concurred with Mr. Gilanfarr's concept of vertically v. horizontally mixed uses.

Chairman Upton closed the public hearing.

In response to Mr. Lien's suggestion, Ms. Shade noted that the last line in Policy #6 was written properly.

MOTION by Mr. Bradhurst to make the findings to adopt the ordinance amending Plan Area Statements 044 and 045. The motion carried with Mr. Westergard voting in opposition.

MOTION by Mr. Cole to adopt Ordinance No. 95-10 as proposed by the staff. The motion carried with Mr. Westergard voting in opposition.

(See Item C. below for more on this item.)

D. Update of the Trip Table as Required in Subsection 93.2.H of Chapter 93, Traffic and Air Quality Mitigation Program

Senior Transportation Planner Richard Wiggins described the purpose of the revised trip table and its link to the land uses established in the Code. The Code required periodic updating of the trip table. The table was updated in 1987 based on information from the 1991 edition of the Institute of Traffic Engineers Trip Generation Manual. Mr. Wiggins explained how the table applied to employee rates and/or floor area and the effect of high vehicle rates for uses which were not listed in the previous table.

No one wished to comment in the public hearing.

MOTION by Dr. Minner to adopt Resolution No. 95-17 adopting the October 17 Trip Table. The motion carried unanimously.

C. Amendment of Plan Area Statement 044, Fairway; Plan Area 945, Incline Village Commercial (Commercial/Public Service); and Plan Area 046, Incline Village Residential (Residential) (continued)

Noting that the reading had not occurred when the Board acted, Chairman Upton read the ordinance by title into the record.

Ms. Nicolle also noted that the added paragraph on the second page of the ordinance should read, in part, "(pp) Exhibit A and F..."
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The motion for adoption of Ordinance No. 95-10 carried with Mr. Westergard voting in opposition.

E. Draft Supplement to the South Lake Tahoe Redevelopment Project No. 1 EIS/EIR (Embassy Vacation Resorts)

Mr. Rick Angelocci, Chief of Project Review, noted the public comment period started September 6 and would close November 4. Staff’s practice was to hold a public hearing before both the APC and the Board during this comment period. This was a supplemental document to a previous EIS certified by the Board.

Mr. Tim Levin, representing the KOAR Group, the proponent for the Embassy portion of the project, summarized the physical characteristics of the project, noting that this project was essentially approved in 1989 as Redevelopment Project No. 1. The project consisted of the area of land shown on the wall display but also the existing Embassy Suites project near Stateline. In a sense this was a modification to an existing, approved project. The elements included the relocated McDonald’s, the Embassy Vacation Resort, the remodeled marina area, the relocated Chevron Gas Station, and a 230 stall parking structure and additional time share units with commercial uses across the highway. The project proposed 210 two-bedroom, two-bath timeshare units (186 in the large six-story high building on the lake side of the highway and 24 across the highway). Coverage was reduced from the 1989 proposal, there were fewer VMTs, and a greater water quality benefit.

Mr. Levin described the five phases of project construction and explained that 45 percent of the public priority benefits (water quality improvements, wetlands, Lake access) would come with the first phase. He answered Board member questions about proposed public access to the Lake, architectural design, phasing of the retirement of units in exchange for the timeshare units, and assignment of property to respective owners upon completion of escrow early next year. Construction was to be commenced next spring.

Ms. Judith Von Klug, Redevelopment Manager for the City, explained the process of assuring the funding for the water quality and other benefits with the first phase of construction on the project, the bonding situation, the proposal to retire old motel units in exchange for timeshare units on a 1-1/2:1 ratio; and how lock-off units would work.

Ms. Adrienne Graham, with EIIP Associates, the environmental consultants, commented on the content of the environmental document, the mitigation measures, the comparison of the former proposal and the new project, visual quality and traffic issues. With the exception of traffic, all impacts would be mitigated to a less-than-significant level and there were no issues that could not be mitigated to compliance with TRPA thresholds.

Agency Special Projects Attorney Susan Scholley noted that as part of this supplemental EIS and as part of the new project there would be Code amendments to Chapter 15 to deal with the fact the project was going from a traditional hotel to a timeshare, residential design project with lock-off units. Staff felt all proposed amendments were consistent with the policies in the Regional Plan. There was also a 1989 redevelopment agreement between the City, the California Attorney General, the League to Save Lake Tahoe, and TRPA relating to redevelopment project #1. The parties would be bringing to the Board an
amended agreement along with the project. The agreement would track the changes from the earlier project. Ms. Scholley explained the concept of lock-off units.

Ms. Monique Urza, from the public, asked if there had been any analysis of the number of additional employees that would be created by the project and where the employees would be housed.

Mr. Cole, the Redevelopment Chairman for the City, responded that because of State law a redevelopment project had to have a 20 percent set-aside for low cost housing. There was a recognition that the purpose for redevelopment was to maximize the land use so there could potentially be a greater number of employees because of increased business potential. South Lake Tahoe created a housing authority several years ago to address this and there were developers in the City actively working to fulfill that need and provide affordable housing. One of the building awards given this morning was to one of those projects.

Ms. Von Klug explained that 20 percent of the new project's real estate tax would go to the redevelopment agency for affordable housing. To date the agency had established 38 new affordable housing units in the City leveraging the 20 percent of the real estate tax set-aside. These units would be maintained as official affordable housing, which meant the rents were set based on family income; the rents were guaranteed to stay in proportion to the income; and the properties would be maintained to high standards. The properties would be deed restricted for 30 years. The project would generate close to $1 million in real estate tax and $200,000 annually into the affordable housing fund. This assured that a community remained balanced, that things beneficial to the community would not happen without things happening to benefit members of the community as well.

Mr. Angelocci noted that the comment period on the environmental document would close November 4. Staff would forward comments to the consultant for preparation of the final supplement. If not too extensive, the matter would come back to the Board and APC in December for certification.

F. Lake Tahoe Shorezone Development Cumulative Impact Analysis, Draft EIS

Associate Planner Coleen Shade noted that the comment period begun on September 6 had been extended by earlier Board action to December 4. One comment had been received at the October 11 public hearing before the Advisory Planning Commission. Chapter 1 set forth the goal of the document to reevaluate location standards based on fisheries and to look at cumulative impacts around the whole Lake. Chapter 2 discussed alternatives; Chapter 3 described the current situation of each threshold in the shorezone; Chapter 4 contained impacts and mitigation; and Chapter 5 listed contributors. (Ms. Shade thanked Principal Planner Gordon Barrett for taking over on the process while she was on maternity leave.) The document had been in progress since May of 1993, and comments would be taken until December 4. The forums for discussion of the document included the Governing Board Shorezone Policy Committee chaired by Member Westergard and a Shorezone Partnership Committee, made up of historically interested public and private groups and consultants.
This latter group would be looking at policies recommended by the Board committee. The Partnership Committee would meet November 13 at TRPA. The document contained an analysis of four alternatives; staff had intentionally not recommended one preferred alternative, because the final alternative may be a mixture of alternatives. All impacts, however, had been analyzed.

Mr. Waldie complimented staff for its work on the document. He questioned whether the "doomsday" provision and the Placer County littoral parcel issue would be resolved by the Board in this process.

Ms. Shade responded that Chapter 54 required that existing structures that did not meet scenic standards, had navigational impacts, inhibited littoral processes, or impacted recreational activities would have to be found in compliance, be modified to eliminate the impact, or be removed. The document did contain a scenic analysis showing the areas where there were problems and where structures needed to be removed. Further work was needed to get to specific properties. The littoral parcel situation involved a determination on whether upland property owners had a legal right to the piers which extended off of county property on the shoreline. This occurred in all jurisdictions with the exception of Washoe County and Carson City.

Mr. Baetge explained that the Board could address these issues. The question was how far the Committee and Board wanted to go with this, since there was a discussion that everything would be done by early in 1996. Would it be a quick fix or a complete analysis of the regulatory process.

Mr. Waldie explained that he simply wanted these issues addressed. He did not want to adopt a shoreszone policy and leave these issues unresolved. His concern was assuring as much public access to the Lake as possible and making sure that piers and buoys were under some control. He preferred these issues to ultimately be handled at the staff level.

Chairman Upton explained that he had received comments on the economics of mitigation as it related to scenic issues. He did not want to create economics that would not work and thereby have nothing happen. He preferred to work from the standpoint of incentives instead of penalties.

The Board members discussed the upcoming committee schedule and decided that the Shoreszone Policy Committee would meet on Tuesday, November 14 in the morning. (The Board later decided that the Core Policy Statement Committee would meet 8-10 a.m. on November 14. The Shoreszone Policy Committee would meet 10 a.m. to 12 noon November 14. See page 21 of these minutes.)

Chairman Upton closed the public hearing.

G. Amendment of Subsection 78.3.A of Chapter 78, Wildlife Resources

Associate Planner Coleen Shade noted this was a cleanup amendment.

There were no public comments. The hearing was closed.

MOTION by Dr. Miner to make the findings to approve the ordinance as proposed. The motion carried unanimously.
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Chairman Upton read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency; Amending Chapter 78 of the Code of Ordinances Relating to Wildlife Disturbance Zones; and Providing for Other Matters Properly Relating Thereto.

MOTION by Dr. Miner to adopt Ordinance No. 95-11. The motion carried unanimously.

Mr. Cole questioned staff on the scientific basis for determining disturbance zones for goshawk, osprey, and peregrines and how it was determined that use of the term "diameter" instead of "radius" was a mistake. He wanted to assure the recommended change was based on scientific study.

Ms. Shade explained the initial research was done on several forests with different canopy characteristics. The disturbance or nesting territory in denser areas was smaller. A larger area was needed in the Eastern Sierra where the canopy was sparser. Research showed for goshawk that from 300 to 1,500 acres was the nesting territory. Using radius to measure for goshawk brought the size of the nesting zone to 500 acres. Birds did not, however, fly in circles, and the radius of 1/2 mile (500 acres) was used by staff as a base. Staff mapped a 500 acre polygon for goshawks, for example, because they followed drainages.

H. Amendment of Chapter 4, Project Review and Exempt Activities, to Adopt Residential Delegation MOU With Washoe County

Deputy Director Jerry Wells explained this was the first residential delegation MOU in Nevada. It would delegate to Washoe County the review of all new single and multiple-family residential applications as well as the review of residential modifications and additions. Washoe County Board of Commissioners approved this on October 24, and the APC recommended approval this month.

Mr. Phil Gilanfarr, on his own behalf, noted he represented the Washoe County Industrial Relations Committee (the Building Department Division). The community supported the MOU as a user friendly approach. He questioned whether there should be a hold harmless clause to protect Washoe County officials who were regulating TRPA ordinance on behalf of TRPA. He was concerned with the learning curve and possible Code interpretation differences between the county and TRPA. He did not want the county staff to be held responsible for this.

Mr. Wells noted legal staff was working with Washoe County on a side agreement outside the MOU to deal with the indemnification issue. The other counties had not requested such an agreement.

Chairman Upton asked for a more considered analysis from staff on whether this was advisable.

Agency Counsel Nicolle explained that the initial county request was for TRPA to indemnify the county for TRPA's negligence. She had agreed but only if the
county would indemnify TRPA for the county's negligence. This would insure there was an equal balance. She had no problem with it.

Mr. Cole urged the Washoe County staff to discuss this with South Lake Tahoe staff. Although there initially was a similar concern at the City, the level of communication and training between the City and TRPA had improved to the point where people understood more of what was going on. The risk of the interpretation problems had diminished significantly.

Mr. Bradhurst noted this was a side issue. The county had an aggressive risk management office. Any contract that came to the Commission was carefully scrutinized.

Mr. Gilanfarr asked that the MOU be changed so that TRPA's Project Review Conformance Checklist and Procedural Guidelines would be utilized as a basis for review and not a requirement.

Mr. Wells explained that this checklist was drafted to ensure the making of the Article Vg findings in the Compact. It also ensured that all applicable Code provisions were looked at in the review of the application. The guideline set forth the procedure for transfer of mitigation funds and other similar administrative details. The document was not adopted by the Board and was flexible. With the other MOUs staff worked with local staffs to make sure everything was working efficiently.

Mr. Gilanfarr questioned whether it was customary as set forth on the last page of the MOU that TRPA written approval was required if the duties set forth in the MOU were subcontracted by the County to someone else.

Mr. Wells explained this had occurred in the City of South Lake Tahoe, where the City contracted with a private party to do a portion of the review. If a jurisdiction was going to contract with someone else to do the work set forth in the MOU, TRPA wanted to know who it was and that they were qualified to complete the task.

Mr. Gilanfarr expressed concern with the timelines for TRPA review of projects, since consultants never knew how long it would take to get an approval. The MOU would not initially cure that problem because site assessments and coverage transfers were not covered in the MOU. He hoped these duties could be phased in over the next six months to a year. Overall, he supported the MOU.

Mr. Bradhurst explained that the Washoe County Commission would be putting resources into this MOU and would be hiring an additional plan checker at Incline to focus on these MOU responsibilities. This would cut back on movement of plans from Incline down to Reno. There also would be planning and zoning people at the Lake on a regular weekly basis to expedite the plans. The County planned to move aggressively on this. He hoped that, after the first building season and quality control checks by TRPA, the County could take on site assessments and coverage transfers. On another matter, Mr. Bradhurst noted that the earliest the TRPA Board could act on the Washoe County Community Plan was April 1996. He was surprised to learn that 20 percent of all building permits processed in the unincorporated portion of
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Washoe County came from the Incline Village/Crystal Bay area.

Ms. Mary Gilanfarr, Executive Director with the Tahoe Sierra Preservation Council, thanked the Board for the MOU. She was encouraged to hear the commitment to make it truly a one-stop shop with coverage transfers and site assessments ultimately being taken over by the County. This would make it easier for the applicant and represented a new direction for the Board and TRPA staff. It focused the Agency’s efforts on long range planning and less on the permit process.

Mr. Wells explained that everyone had agreed to start out with the standard MOU for one building season to see how it went. The learning curve was high. Staff was not recommending at this time to move site assessment or coverage transfers over at this point. Staff hoped this would happen in the future.

Mr. Cole complimented Mr. Bradhurst on the MOU. South Lake Tahoe had had one in effect for a while and recognized that this was one step in the process. The City’s goals to take on more responsibility were similar, but the City was having to reevaluate its resources as it related to assuming additional tasks. The City was moving cautiously. So far, the general public had very much appreciated the steps that had been made. It worked well from the standpoint of serving the public. He encouraged Douglas County to consider it.

Mr. Upton agreed noting that the revenue from filing fees went along with the MOU. The mitigation fees went to TRPA for disbursement to the counties.

MOTION by Mr. Bradhurst to make the findings to adopt the ordinance authorizing the residential MOU with Washoe County. The motion carried unanimously.

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; Adopting a Memorandum of Understanding With Washoe County to Exempt Certain Residential Activities from TRPA Review; and Providing for Other Matters Properly Relating Thereto.

MOTION by Mr. Bradhurst to adopt Ordinance No. 95-23. The motion carried unanimously.

I. Amendment of Articles II and V of the Rules of Procedure Regarding Time Limit on Reapplication and Motions for reconsideration

Committee Chairman Bradhurst explained the Committee’s recommendation for approval. The motion to reconsider required the same vote as the motion to which it related. A motion to reconsider could be made by any Board member but no later than the next meeting after the matter being reconsidered was acted on. Should a matter be reconsidered, it could be considered at the same meeting provided it was on the agenda and was renoticed.

No one wished to comment in the hearing.
MOTION by Mr. Savison to approve the proposed amendment to Articles II and V of the Rules of Procedure. The motion carried unanimously.

MOTION by Mr. DeLanoy to adopt Resolution No. 95-18 implementing the amendment to Articles II and V. The motion carried unanimously.

I. Amendment of Article XI of the Rules of Procedure to Clarify Appeal Procedures

Mr. Bradhurst noted that the Committee had recommended approval of the cleanup amendment.

Agency Special Projects Attorney Susan Scholley explained that the Board was being asked to readopt Article XI to clarify the record regarding the appeals procedure. Staff discovered that the record on the adoption of the current version of Article XI used for the past four years was muddy. Staff recommended readoption of the article to clarify the record.

No one wished to comment in the public hearing.

MOTION by Dr. Miner to adopt Resolution No. 95-19 clarifying the record on Article XI of the Rules of Procedure. The motion carried unanimously.

IX. PLANNING MATTERS

C. Status Report on Forest Health Consensus Group Recommendations

Chief of the Environmental Compliance Division Steve Chilton explained that the group had been recognized internationally at the fifth annual/biannual U.S./Mexico Symposium on Partnerships for Sustainable Forest Eco-System Management a year ago, by a joint Nevada legislative resolution in 1995, and had greatly influenced forest management in the Tahoe Region, as evidenced by the continuing East Shore project along with forest health projects on public and private lands and the North Shore eco-system management project. The packet material contained a four-part newspaper series. The group recently reviewed and forwarded comments on a proposal by the California Board of Forestry to amend the California rules and had also been involved in drafting language in the TRPA code amendment adopted today. The group did extensive review of Code Chapter 71 pertaining to forest management and would have proposed changes in the coming months. Mr. Chilton summarized some of the amendments currently being reviewed on forest health managing techniques and responded to Board member questions.

Ms. Bennett asked that the Board in some way recognize the participants to the Forest Health Consensus Group, much as was done for the building award winners. The Group’s work was so significant in meeting TRPA’s goals. She favored having a letter written to the members or some special recognition at an upcoming Board meeting.

Mr. Chilton especially asked to thank the University of Nevada Reno Extension Service for their assistance with professional facilitators and use of the GIS system for mapping.

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Chairman Upton asked staff to come back with some suggestions for how this group could be recognized by the Board. The overall largest thing that people in the Basin were concerned with was fire. Through the ongoing efforts of the many groups, the regulations were becoming more user friendly, and programs were underway. He especially complimented Steve Chilton for his knowledge on forest health issues for his special efforts in this area.

X. ADMINISTRATIVE MATTERS

B. Resolution Establishing the Core Statement of Policy Committee and Appointing the Membership

Chairman Upton proposed Board members Miner, DeLanoy, Wynn, Upton, Cole, and Waldie for the committee.

Mr. Waldie suggested the committee was gender heavy.

Ms. Bennett volunteered to participate on the committee.

MOTION by Dr. Miner to adopt Resolution No. 95-20 establishing Core Policy Committee membership as members Miner, DeLanoy, Wynn, Upton, Cole, Waldie, and Bennett and setting forth the committee’s function. The motion carried unanimously.

The Board members discussed the timing of a meeting and decided that the Core Policy Statement Committee would meet on Tuesday, November 14 from 8:00 a.m. to 10:00 a.m. at TRPA. (The Shorezone Policy Committee would meet Tuesday, November 14 from 10:00 a.m. to 12:00 noon.)

A. Performance Evaluation of Executive Director

Executive Director commented that he would prefer to visit with the Board members individually to discuss a range of issues. He would be setting up appointments with them on a one-to-one basis. After those visits, the Board could decide what to do.

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

1. Report on Committee meeting.

Ms. Bennett reported on the earlier committee meeting to discuss abandoned security holdings, a possible policy for use of trolleys outside the Basin, the financial statement and check register, and release of $1/2 million to Washoe County for mitigation projects.

2. Receipt of September Financial Statement and Check Register

MOTION by Ms. Bennett to receive the check register and statement for September. The motion carried unanimously.
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B. Legal Committee

1. Report on Committee Meeting

Committee Chairman Drake DeLany reported on the committee’s discussion.

2. Post-Bankruptcy Amendment of Newton v. TRPA Settlement

Ms. Scholley explained the Legal Committee wanted to make a counter offer on this matter to Mr. Merrill, who had the property in escrow. In lieu of what staff had recommended, the Committee offered a two-year BMP retrofit schedule with the caveat that 75 percent of the BMPs would be implemented in the first year and 25 percent in the second year. In the alternative, the Committee voted to leave it at the 50 percent first year and 50 percent second year conditioned on the payment of an additional water quality mitigation fee of $15,000. This was similar to what was done in this litigation when there was a delay in the BMP plan. Mr. Merrill elected the 75/25 percent option and would post a replacement bond for the existing $150,000 bond. When staff had reviewed and approved the BMP retrofit plan, the bond would be adjusted to reflect 110 percent of the cost of BMP retrofit. The cost could go up or down. Mr. Merrill was hoping to exchange the property for other Forest Service properties. That was why the settlement was being restructured. She recommended authorizing legal staff and Executive Director to prepare the amended stipulation with the 75/25 option for signing.

MOTION by Mr. DeLany to approve the request regarding Newton v. TRPA as outlined by legal counsel. The motion carried unanimously.

D. Rules Committee Report (see bottom of page 19 and page 20)

C. Capital Financing Committee Meeting

Mr. Bastge noted the Committee had not met but everyone was in agreement with the legislative and funding packet for printing.

XII. REPORTS

A. Executive Director

1. Monthly Status Report

Mr. Bastge reported on the following: 1) the Nevada Legislative Oversight Committee meeting scheduled on October 26. Staff would be presenting a background of TRPA’s activities related to the last session and to the partnership efforts. 2) Next Friday staff had a meeting with California Finance and Resources Agency to discuss TRPA’s next year budget. The outlook was not very bright. 3) The California Tahoe license plate program was successful and signed up more than 5,000 people. 4) The Bijou/Al Tahoe Community Plan RIR/18S comment period would end December 4. 5) The North Shore Community Plans would be out in circulation in a week.
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3. Status Report on Requested Amendments to Chapter 22

Mr. Wells reminded the Board that in September Mr. Rauben Hills under the
Public Comment portion of the agenda requested the staff proceed with the work
plan task calling for amendment of small addition height regulations.
Although this was in the work program, it had not yet been done due to limited
staff resources. The Project Review staff had agreed to start the amendment
process over the winter months so that an amendment would be effective for the
1996 building season. The task would be moved up in the schedule.

Mr. Baetge noted that the work plan would also need to be modified due to the
work required as part of the Core Policy Committee assignments.

B. Agency Counsel Monthly Status Report

Ms. Nicolle noted that legal staff had been very busy in the last month with
depositions and discovery. She highlighted the following: Hellman v. TRPA,
Suitum v. TRPA, TRPA v. Barbieri, Brian Stack v. TRPA and Fallen Leaf Lake.
This was the third case that Mr. Stack had filed against TRPA.

Mr. Cole asked if there was some way for the Agency to prevent the filing of
frivolous or harassing lawsuits. He was concerned with the amount of staff
time needed to handle such cases. Unless there was reason to believe that
there was merit to the case, he felt that the cases should be thrown out.

Ms. Nicolle noted that TRPA could take action after three frivolous lawsuits.
Mr. Stack’s first lawsuit was not frivolous because he had standing in that
case and a permit. He had no standing in the second one.

Mr. DeLancy noted there was a rule in the Nevada and federal courts which
allowed for sanctions against a person or attorney for claims without
reasonable basis. He did not know if this existed in California. If a person
were particularly vexatious, it was appropriate to seek sanctions from the
court. These would be monetary sanctions in the form of what was being spent
for legal costs and time.

Ms. Scholley reported to the Board on the status of the Tahoe Sierra
Preservation Council (TSPC) case.

Ms. Scholley advised that she had recently attended the environmental law
section conference of the California State Bar and discovered to her surprise
that the term "BMP" (Best Management Practice) was a term which a lot of
people used. This came up in the context of "grazing BMPs," "forest
management BMPs." Tahoe’s problems were not unique and were shared with other
communities.
C. Governing Board Members - No reports

XII. ADJOURNMENT - The meeting adjourned at 5:45 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 tape may call for an appointment at (702) 568-4547. In addition, written documents submitted at the meeting are on file in the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.

These minutes were approved as presented on Nov. 15, 1995.