TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD  

South Lake Tahoe City Council Chambers  
December 20, 1996  
South Lake Tahoe, California  

REGULAR MEETING MINUTES  

I. PLEDGE OF ALLEGIANCE  

Chairman John Upton called the regular December 20, 1996, meeting of the  
Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:30  
a.m. and asked Vice Chairman Drake DeLancy to lead in the Pledge of Allegiance  
to the Flag.  

II. ROLL CALL AND DETERMINATION OF QUORUM  

Members Present:  Mr. DeLancy, Mr. Waldie, Mr. Ruben (for Douglas County),  
Mr. Sevison, Mr. Heller, Mr. Kevin Cole, Ms. Bennett,  
Mr. Cronk, Mr. Stewart (for Nevada Department of  
Conservation), Mr. Bradhurst, Mr. Wynn (present at 9:55  
a.m. during item VIII.A.), Mr. Neumann, Mr. Hime (present  
by telephone for portions of the afternoon session),  
Mr. Upton  

Members Absent:  Ms. Neft  

III. PUBLIC INTEREST COMMENTS - There were no public comments.  

IV. APPROVAL OF MINUTES  

MOTION by Mr. DeLancy to approve the November 20, 1996, regular meeting  
minutes as submitted. The motion carried unanimously.  

Ms. Bennett advised the Board that a Certificate of Appreciation on behalf of  
TEAM Tahoe (Tahoe East Area Management) had been prepared for presentation to  
outgoing staff member John Hoole. John had served as the TRPA staff liaison  
to TEAM Tahoe.  

V. APPROVAL OF AGENDA  

Deputy Director Jerry Wells noted that items X.A. and B. (Lakeside Tennis Club  
Estates and Lake Tahoe Cruises, respectively) would be taken up in the late  
afternoon. The finding on fair share commitment to affordable housing (item  
XI.B.) would be taken up in the afternoon. The status report on Incline  
Village water rights (item XI.D.) would be taken up in the afternoon, at the  
request of Mr. Westergard, and item XI.B. (TCORP presentation) would be taken  
up in the morning. The performance evaluation of Agency Counsel and Special  
Projects Attorney (item XII.B.) was to be continued.  

Chairman Upton noted that Board member Rex Hime wanted to participate in the  
Rafter appeal (item IX.A.) and would be patched in by telephone at 2:00 p.m.  
The Lakeside Tennis Club and Lake Tahoe Cruises items would be taken up at  
3:00 and 3:30 p.m., respectively.
TRPA REGULAR MEETING MINUTES DECEMBER 20, 1996

To a question from Mr. Waldie regarding a December 19 letter from attorney Gregg Lien on the Lakeside Tennis Club Estates project, Mr. Wells reminded the Board that in November it had decided not to act on projects that did not have water rights up front. The project proponent was advised a few weeks ago of the necessity to have water rights before the project could be put on the agenda. Staff's understanding was that this project did not have water rights as yet. The applicant would argue that he wanted to be heard anyway and that TRPA could approve a condition requiring later acquisition of water rights. Mr. Wells recommended that the Board defer this decision until the afternoon.

MOTION by Mr. Stewart to approve the agenda as discussed. The motion carried unanimously.

Mr. Wells noted the Nevada Tahoe Regional Planning Agency (NTRPA) was scheduled to meet at 1:15 p.m.; the Local Government, Rules and Retirement Committees were meeting during the lunch break.

VI. CONSENT CALENDAR

MOTION by Mr. Cole to approve the consent calendar.

Mr. Wells noted that staff had received a letter from Douglas County requesting continuance of the Prim Investments Lakeview Office Center (consent item 1). An added condition requiring that the project receive Douglas County approval prior to proceeding would satisfy the County's concern.

The motion carried unanimously.

(Following are items approved on the consent calendar: 1. Prim Investments, Lakeview Office Center, Commercial Rebuild/Expansion, Change in Operation, 224 Kingsbury Grade, Douglas County APN 07-130-06 (approved with conditions as modified); 2. Tahoe Secret Harbor, Inc., Resolution of Enforcement, Carson City Rural Area APN 07-011-23; 3. Resolution Authorizing Release of $346,000 in Placer County Air Quality Mitigation Funds and $140,000 in Washoe County Air Quality Mitigation Funds for TART Maintenance Facility)

VII. MEETING OF THE REGIONAL TRANSPORTATION PLANNING AGENCY (RTPA)

A. Affirmation of the 1992 Regional Transportation Plan/Air Quality Plan (RTP/AQP)

Senior Planner Richard Wiggins advised the Board that adoption of the proposed resolution would address the California requirement that TRPA act every other year on a regional transportation plan. TRPA was currently updating its plan, and the action being requested would give staff more time to come up with the updated plan.

No one wished to comment from the public.

MOTION by Mr. Cronk to adopt RTPA Resolution No. 96-13. The motion carried unanimously.
TRPA REGULAR MEETING MINUTES DECEMBER 20, 1996

VIII. PUBLIC HEARING

A. Presentation of the Recommendations of the 1996 Threshold Evaluation Report, Appendix B Schedule of Implementation

1. Potential Water Quality, Air Quality, Vegetation, Noise, and Fisheries Threshold Amendments (A List)


3. Other Amendments, Programs, and Studies (B and C Lists)

Principal Planner Gordon Barrett presented the Board with an overview of the report (executive summary, chapter and recommendation format, appendix), an overview of Appendix B and the schedule of implementation, the environmental improvement program (EIP), and an overview of the proposed 10-year commercial allocations (conversion of use, allocation and transfer to sensitive lands, and incentives for industrial areas).

Senior Planner Andrew Strain responded to Board member questions about the status of the recreation threshold.

Mr. Bennett spoke on the importance of TRPA’s recognition, definition, and enhancement of the recreation goal and threshold, since they were key to the economic health of the Tahoe Basin. This was important particularly because of access to recreation uses and population pressures from areas outside the Basin.

Executive Director Jim Baetge noted that staff was just completing the draft of an Environmental Improvement Program (EIP); this EIP would serve as the road map for the next several years in the accomplishment of projects that would achieve thresholds. There would be substantial restructuring internally to make this program happen, including some dropping of tasks that did not directly address thresholds. This EIP, which would be presented to the Board in March, would provide a snapshot in time and would include appropriate structural changes.

Chairman Upton asked that the annual work program contain a status report on the EIP projects, where they stood, and what the roadblocks were.

In the Board’s discussion on development allocations, Agency Counsel Rachelle Nicolle advised that the bistate compact did not allow for release of allocations for development if the Board could not make the findings relative to attainment of environmental thresholds.

The Board members discussed the rate of development through the annual allocation process, the impact of development on the environment and thresholds, the annual residential allocation process, and the subdivision of units.
Mr. Barrett described the Proposed Commercial Allocation System (12/11/96) developed over the last six months by a consensus group made up of local jurisdictions, governmental entities, and community participants.

Mr. Sevison asked that the word "or" be inserted between each of the three options in Section VII.B. (Developed Sensitive Lands: Transfers).

Mr. Cole asked that the staff, the working group, and the Board look at a way to convert Tourist Accommodation Units (TAUs) to commercial floor area for highest and best use. This conversion rate currently did not exist. In the Basin, there were a number of old, deteriorating motels which would continue to deteriorate because there was no ability to convert them to the highest and best use - which may be something other than a motel. These old motel units were not being torn down because there was no way to retain a development potential.

The Board and staff discussed the difficulties the working group had had in determining a conversion rate; the pitfalls of eliminating motel uses (as an example) in favor of other, currently more popular uses; possible options for such conversions to occur; market forces for permitting such conversions; and permitting the conversions based on the level of environmental improvements.

Mr. Baetge suggested addressing this conversion in the context of the Special Projects portion of the EIP. This would require looking at mitigation and potential environmental improvements that went beyond a specific project.

Chairman Upton asked that the record specifically note the TAU conversion discussion and the Board’s willingness to open the door to the opportunity for conversions to occur.

Mr. Sevison suggested there may be a way to allow for conversions through a banking system, such as the one currently administered by the California Tahoe Conservancy. This would provide a way to document the financial value of the tourist accommodation units and to relate that value to purchase of commercial square footage.

Mr. Bradhurst questioned the staff reasoning in proposing that future commercial allocations of the 400,000 square feet be based on the past trends, since Washoe County had 62,000 square feet of commercial to allocate but a demand well in excess of 300,000 square feet. He also questioned how and by whom the ranking of environmental improvements would be determined as justification for release of a remaining 50,000 square feet of commercial. He was also concerned with allocating 150,000 square feet and 100 bonus units for special projects, because it precluded assignment of square footage to the smaller mom-and-pop-type projects in areas where redevelopment was not occurring. This was true, for example, in Crystal Bay. Some areas would simply not qualify for major special projects. He questioned whether projects using the $20 million from the recently passed Question 12 in Nevada would qualify as special projects under the public-private partnership program.

Mr. Barrett responded that the working group had decided to stay within the previous environmental documentation which addressed allocation of 400,000 square feet of commercial. The timing and distribution in the next ten years
would be different, however, from the preceding ten years and would more likely be based on the market and not on adoption of the Community Plans. The commercial allocation working group would monitor the progress of the process and make recommendations to the Governing Board. The ranking could be based on dollars spent for improvements, environmental performance, number of projects completed, and other options. The intent was to reward local jurisdictions for environmental improvements. With regard to allocation of floor area to smaller commercial projects, while this was not prohibited, the edge was being given to bigger projects. This was the group’s decision because of the possibility of more significant environmental improvements. The $20 million in Nevada was a funding source, not a specific project. The intent was for developers to facilitate public improvements as part of their private project proposals.

No one wished to speak during the public hearing.

Chairman Upton complimented the group on the progress that had been made in designing the program. He looked forward to the EIP document.

B. Draft EIS for the Lake Tahoe Shorezone Development Cumulative Impact Analysis

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

XI. PLANNING MATTERS

E. Tahoe Coalition of Recreation Providers (TCORP) Uniform Signage Program

Senior Planner Andrew noted that the Board in October had requested a presentation on the status of the uniform outdoor recreation access signage program. This request came as a result of the discussion on the outdoor recreation threshold. California Tahoe Conservancy representatives Ray Lacey and Jamie Goldstein and consultant Jay Knisp had worked extensively on the program that would assist the public in finding the outdoor recreation sites off the beaten track. TRPA in its recreation threshold was encouraging access to high quality undeveloped lands.

Mr. Ray Lacey, chairman of TCORP, noted the reason for the program was to standardize recreational signage throughout the entire Basin. Although Tahoe did function as one destination resort for the recreational public, historically the local jurisdictions addressed signage in their own fashion. Mr. Lacey presented slides showing existing signs at Tahoe and elsewhere, international symbols, and hand sketches of proposed signs.

Board member suggestions included light lettering on a dark background, easily legible and uncluttered signs for people driving by at some speed, a common shape, and specific location markers on the standard sign.

Mr. Lacey noted that Placer County’s Resort Association wanted to implement a program this year and the Conservancy had recently given grants to the Tahoe Rim Trail and the Tahoe City FUD for bike and pedestrian trail access signs.
South Lake Tahoe had also expressed an interest in a pilot project at El Dorado Beach. The program had a lot of momentum.

C. Determination on Beaches (Be) Soil Map Unit Study

Senior Joe Pepi noted this was only a technical presentation to the Board, and no changes were being proposed at this time to the Bailey land capability system, to the Code of Ordinances, or to the mapping of the Be (beaches) map unit. The areas addressed in the report were all within the boundaries of Be soils (1B unit and sensitive) and had been so since the original mapping was done 25 years ago. The report was presented for clarification purposes only. The Advisory Planning Commission (APC) considered this issue and asked for continuance of the matter until there could be a public hearing. Staff was proposing no changes; if they were proposed, public hearings would be held. The study entitled "Criteria for Identification of the Be Soil Map Unit" (December 1, 1996) was prepared by Randall L. Moory, Consulting Marine Scientist, and Dr. Lynn Moody, Consulting Soil Scientist. It was prepared in response to land capability challenges and concerns by the staff about the Be map unit definition. In staff's opinion, the current definition was overly simplistic and did not clearly identify all the land forms included in the Be map unit.

Mr. Randall Moory explained his intent in the report was to investigate whether the mapped Be soil unit should be differentiated and to establish criteria for future identification of the soil unit. He showed slides of the four areas studied in the field: Baldwin Beach, Tahoe Meadows, Incline, and Tahoe Vista. He discussed the methodology used in his analysis and described the four pertinent land forms (younger barrier beaches, older barrier beaches, lakeshore sand dunes, and lakeshore strands).

Dr. Lynn Moody described the soil characteristics of each of the four land forms and with Mr. Moory and Executive Director Jim Bastge responded to Board member questions on soil characteristics, impacts from development, stability, erodibility, permeability, response to nutrient loading, and interaction with the waters of Lake Tahoe.

Mr. Lew Feldman, appearing on behalf of the Raftons, noted the Be presentation was inspired by the Rafton land capability challenge to be discussed later in the day. What was before the Board was a prelude to what was to come later in the meeting. The appellants were frustrated in their efforts to process their land capability challenge under well- and long-understood rules. Their land capability challenge was continued so a new study could be conducted and new criteria introduced - criteria that conflicted with conventional wisdom. This was not fair. What the Board had just heard in the presentation was very simplistic. The purpose of the APC discussion was to recommend adoption of the technical criteria. The APC did not make that recommendation, because the members felt the impacts of that action would be far-reaching and would require a public hearing first, perhaps an environmental document. He was now in the necessary position of telling the Board members why they should disregard the information they had heard. He would raise these concerns in the afternoon discussion.
TRPA REGULAR MEETING MINUTES DECEMBER 20, 1996

Chairman Upton recessed the meeting for a lunch break from 11:55 a.m. to 1:30 p.m. (Mr. Westergard was present for the Nevada Department of Conservation for the afternoon session.)

Outgoing Washoe County Board member Steve Bradhurst introduced Jim Galloway, the recently elected Commissioner who would likely be the new representative to the TRPA Governing Board. Mr. Galloway's district included Incline Village and Crystal Bay. Jim was a business owner in the Reno area and had a PhD from Stanford.

Mr. Galloway noted he had received 75 percent of the vote in the Incline area. He had a PhD in Applied Physics and was a member of an electrical engineering group. He was pleased to be in attendance in the audience and to have been able to work with Steve Bradhurst.

XI. PLANNING MATTERS (continued)

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

Local Government Committee member Kevin Cole summarized the recommendation of committee that the findings be made by the Board that the local jurisdictions had demonstrated their commitment to provide affordable housing and should be given a further year to demonstrate a continued commitment.

Ms. Bennett noted that she had dissented in the recommendation.

Chairman Upton noted that the group had met frequently over the last year to discuss commitments to affordable housing by the local governments. The committee would meet again in January to look at the proportional numbers for housing by jurisdiction based on employment and housing balances. The upcoming year would see more work on interjurisdictional cooperation, ride-share programs, regulatory changes, and other options.

MOTION by Mr. Bradhurst to make the finding that the jurisdictions have each demonstrated a commitment to assume their fair share responsibility to provide low and very low income housing until December 31, 1997. The motion carried with Ms. Bennett voting in opposition. (Members present: Ruben, Heller, Sevison, Westergard, Cronk, Wynn, Upton, Cole, DeLanoy, Bennett, Waldie, Bradhurst)

Mr. Bradhurst reported that the Nevada Tahoe Regional Planning Agency (NTRPA), which had met briefly at 1:15 p.m., had reappointed Steve Wynn as the at-large member. This was his third one-year term.

Chairman Upton thanked Mr. Wynn for the time and thoughtful participation he had given to TRPA matters. It was a pleasure working with him.

Mr. Wynn commented he had made friends on the Board, and the process made him feel close to the Lake. He hoped the Board would continue to work effectively on the tricky and complex questions that would come up.
XII. ADMINISTRATIVE MATTERS

C. Amendment of Personnel Procedures Manual to Implement Authorization of Voluntary Internal Revenue Code Section 457 or Other Similar Type Program; Authorization to Contract With 457 Plan Provider

Rules Committee Chairman Bradhurst advised that the Committee recommended amendment of Policy 3.7 to authorize a voluntary 457 plan for staff members. This was be at no cost to TRPA and would benefit the employees.

MOTION by Mr. Bradhurst to adopt Resolution No. 96-17 authorizing the Executive Director to execute a contract with a 457 plan provider. The motion carried unanimously.

A. Election of TRPA Chairman and Vice Chairman for Two-Year Terms (1997-1998)

MOTION by Mr. Cole to appoint Drake DeLancy as TRPA Chairman. The motion carried unanimously.

MOTION by Mr. Cronk to nominate Larry Sevison as TRPA Vice Chairman. The motion carried unanimously.

Chairman Upton commented on his two-year term as Chairman. The two years had passed quickly and were a source of personal pride. It had been an honor to work with the members of the Board. Significant projects that had come forth in the past few years included Heavenly, Park Avenue, Ski Run and STFUD. Progress had also been made on the Coordinated Transit System, the shoresone, the environmental thresholds and the EIP proposal. There were also a viable capital finance program, a legislative packet, the lake lapper bus system, and a more active Transportation District. TRPA's work as facilitator for projects to achieve funding, partnerships, and project implementation was very positive. Progress in the Cascade Watershed was a good example of this facilitation. The passage of both the bond acts in California and Nevada was positive. The performance audit now underway would serve as a means of identifying needs in the Agency's processes. He thanked the Board, the committee chairs, and the staff and noted that, in addition to remaining on the Board as a representative from El Dorado County, he would be picking up increased duties as the first vice president of the California State Association of Counties.

XI. PLANNING MATTERS

D. Status Report on Incline Village Water Rights

Mr. Dan St. John, Incline Village General Improvement District (IVGID), updated the Board on the initial November presentation regarding the District's water management plan and efforts to address the Nevada State Engineer's concerns about current diversion of water rights from Lake Tahoe. The State Engineer had advised the District that its usage had exceeded its current water rights allocation. Mr. St. John distributed a copy of and highlighted a synopsis of the complete plan given to the District's Board of Trustees earlier in the month. His presentation addressed demand factors,
projected service connections, system losses, water demand projections, long-term water projects, water demand short-term projections, and summary and conclusions. He responded to Board member question.

Mr. Mike Turnipseed, Nevada State Engineer, explained he was responsible for allocation, adjudication, and distribution of all waters in Nevada, with the exception of the Colorado River. He had sent a letter in October to IVGID advising the District that it had overpumped its allocation for 1994 and 1995. There was not an unlimited supply of water in the Tahoe Basin. Tahoe was the only basin in the State where appropriations were set by law. The Nevada/California bistate water compact provided for 11,000 Acre Feet (AF) in Nevada. Prior to this week, IVGID had an allocation for 3,905 AF. Although he had this week signed permits changing a portion of that water from the old Crystal Bay point of diversion to Incline Village, this water was to be applied to specific lots in the Crystal Bay service area.

Mr. Turnipseed explained he had met with IVGID personnel early in November to discuss the District’s options as expressed by Mr. St. John, and it appeared the District was willing to meet the problem head on and to set reasonable goals. The State Engineer would track how well the goals would be met. Unaccounted losses had been high whether due to leakage, theft, or people on line with no meters. The District had a pretty good handle on the difference between what was being served and what had already been committed. Most of Nevada’s allocated water was used; the largest amount not being used was owned by the U.S. Forest Service, and he doubted this would be for sale. The District had filed to transfer 250 AF on a temporary basis from the Kingsbury General Improvement District to the IVGID point of diversion; this would cover whatever overages there were, if those overages projected themselves into 1996. For whatever reason, water use increased substantially throughout all of Nevada for April, May and June of 1996 over what it was in 1995. As far as purchases of water rights, people needed to be careful in this area because there were laws in Nevada regarding beneficial use being the limit and extent of water rights. There were also abandonment statutes and forfeiture statutes which required use or loss of the rights. There was not a large pot of water out there available for purchase. Some of the rights in Basin were on tributary streams and were not transferable to the Lake, for the reason that some streams flowed during April, May, and June only. A water right could not become a year-around right from the Lake if it was on a tributary stream that ran for only three months.

Engineer Roy C. Hampson, former Executive Officer of Lahontan in California, commended the Board for putting the water supply issue on the table. In the long run, the most important issue in terms of approval of projects would be the availability of water. This was recognized by both States in the early 1970s. Nevada was much more sophisticated and open in dealing with water matters than California. There was only a fraction of water available on both sides of the stateline to build out the subdivided lots that existed. Lahontan staff completed a report in the late 1970s on the availability of water. While the short-term limits on development may have been sewer capacity, the real long-term limiting factor was water supply.
XIII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee Report - no action

1. Receipt of November Financial Statement and Check Register - no action

2. Revisions to FY 1996-97 Operating Budget - no action

3. North Stateline Beautification Project Cooperative Funding Agreement - no action

B. Legal Committee Report -

1. Recommendation on Performance Evaluation of Agency Counsel and Special Projects Attorney - continued

C. Capital Financing Committee Report - no report

D. Retirement and Rules Committee Joint Report - previously addressed in agenda item XII.C.

E. Shorezone Policy Committee Report

Committee Chairman Roland Westergard noted that the committee would be adhering to the deadlines that were established earlier.

Deputy Director Jerry Wells explained that the Shorezone Policy Committee would be meeting January 9, 1997. There would be a recommendation to extend the comment period on the Shorezone EIS, given the level of public input on the personal water craft issue and limited staff resources to handle the competing tasks in-house. Once the comment period closed on the environmental document, staff would be responding to all the comments.

Mr. Wynn suggested that, if modification of the regulations could not be considered in time for the 1997 boating season and not until after the close of the review period and response to comments, he would not favor an extension of the comment period.

Mr. Wells noted that the close of the comment period was January 31, 1997. TRPA at that point would respond to all comments and prepare a Final EIS to support whatever regulations would be adopted. The FEIS would be brought to the Board for certification, at which point the Board could adopt the regulations. These would take effect in 60 days. Staff had received three full binders of comments on just the personal water craft issue. Consensus had not been reached on all the issues, including scenic and personal water craft issues. At best, regulations would take effect in May or June of 1997. His concern was making sure that whatever the Committee recommended on January 9 could be supported by the environmental documentation.

Mr. Wynn asked if it was possible to separate the massive review of all the shorezone issues from the simpler personal water craft issue.
Mr. Wells explained that this was a difficult question; the personal water craft issue may require an environmental assessment. He had brought up this question earlier in the process, and the decision was not to separate out this one issue.

Mr. Wynn suggested this decision may be revisited. This was one narrow issue based on narrow facts as a part of the record. Based on those specific narrow facts, this may need to be revisited, and regulations may be published prior to the more extensive review of other shorezone regulations.

Chairman Upton asked if there could be interim regulations put in place that would not trigger other environmental documentation. This would allow an orderly process to go forth on the rest of the shorezone issues.

Committee Chairman Westergard suggested that the discussion of a continuance should in no way be interpreted as an extension on the December 31 deadline for completing the personal water craft record. That deadline stood.

Mr. Wynn noted there had been separate hearings on this one issue, and specific information had been submitted about water pollution, air pollution, and other factors. The Governing Board Committee had received these facts as a part of the official record. It was the Committee's understanding that information or supplemental information to be submitted by the public or the personal water craft industry would come to TRPA prior to December 31. That record would be the basis of the deliberations on that narrow issue, come January 9. This would be reported to the Governing Board.

Chairman Upton acknowledged that December 31, 1996, was the last time for submittal of comments on personal water craft.

F. Local Government Committee Report - taken up in item XI.B.

G. Performance Audit Committee - no report

(Rex Hime was patched into the meeting by telephone.)

IX. APPEALS

A. Rafterton, Appeal of Executive Director Determination Regarding Land Capability, Placer County APN 117-072-08

Senior Planner Joe Pepi summarized staff's recommendation for denial of the appeal on the Rafterton land capability challenge. Staff recommended no changes to the Bailey land capability system, or Code changes, or any changes to the maps. The area was mapped as Be in the early 1970s and had always been a part of the 1B classification. The Rafterton parcel was two-thirds within the Be soil type and one-third in capability class 5. A staff verification completed in June 1995 specifically verified this finding. This Be land form was extremely dynamic, was highly erodible by wind and wave action, and, because of the soil's coarse texture, had a high rate of transfer of any materials on its surface directly into the Lake. Because the parcel was adjacent to the Lake, and because of its soil characteristics, any runoff generated on the parcel went into the ground and soil directly and quickly into the Lake without
treatment. Mr. Pepi used a wall display to explain the physical characteristics of the parcel and responded to Board member questions about the delineation of the level 1B and 6 capability areas.

Executive Director Jim Baetge noted the Be soils were set forth in the 1972 Regional Plan; this was reconfirmed in 1987 with the updated Regional Plan. Not only was the property susceptible to erosion, there would be no filtration from the soil to the Lake from whatever development occurred on the site. There was no confusion in staff's mind regarding the sensitivity of these soils in view of this and other similar applications which were coming forward. The problem arose with differences and major disagreements between the professionals hired by the applicants and those on staff. In line with past situations, the staff hired an independent professional to take a look at the Be soils; that was what was presented in the morning session. That independent review again confirmed this was critical soil. It was important for the Board to recognize that what it did in this case had direct implications beyond this site.

Agency Counsel Rachelle Nicolle noted that the appeal before the Board was whether the Be classification was the correct soil classification. To grant the appeal, the Board would have to find that the soil was not Be.

Discussion followed between the staff and the Board members on location of the line on the site dividing the 1B and 6 soils, the physical characteristics of the site and of the soil, the differences between the experts' opinions, the implications of granting the appeal, field work conducted by experts in the field, and the fact the Board members were being asked to resolve differences between disagreeing experts. Mr. Pepi showed slides of the site and distributed soil samples to Board members.

Mr. Lew Feldman, attorney for the Raftons, explained this process started in the fall of 1994 with an application to redevelop a 1.75 acre parcel. The intent was to use existing coverage, to add some units for a total of 22 units, to install BMPs and low-flow plumbing fixtures, and to increase the environmental protection that existed today. The Raftons were told they could not do anything because they were in a stream zone. The Raftons were told the groundwater was high; in fact, the groundwater was several feet below the surface. The applicants were told the site was a barrier beach; in fact it was not a barrier beach. The applicants were told they should be subject to a moratorium as a result of the Community Plan process and should not be able to process a land capability challenge until a future date. It had been one hurdle after another and was now a question of the battle of the experts. In his mind, there was a question of what the experts did and did not study. The Raftons would have been prepared to participate in a third party independent expert study of the capability challenge; it was a good idea, but it did not happen. Instead, a broadbrush study was done under the guise of preparing for this appeal. The people who conducted the study never took a soil sample from the dune area in question, and thus no third party expert opinion on the land capability question before the Board was prepared. Mr. Feldman used a wall display and the slides to show the differences between staff's and the applicant's positions and responded to Board member questions about the physical characteristics of the site.
TRPA REGULAR MEETING MINUTES DECEMBER 20, 1996

Mr. Feldman explained that under Article 11.2 of the Agency’s rules appeals filed by the 15th of the month were to be heard at the following meeting. The appeal was filed in August and should have been heard in September. The Executive Director continued the matter from September to October, and in October there were not enough Board members present to do anything; he therefore agreed to a delay.

Mr. Cronk noted that Mr. Feldman had concurred with a continuance from the October meeting because he did not think he had the votes to get the appeal approved. He objected to Mr. Feldman’s remarks in this regard, because he knew of at least one occasion where Mr. Feldman wanted to hold off on Board action because he did not think he had sufficient Board votes to grant the appeal.

Mr. Feldman noted that in October he had reserved the right to make the presentation being made today. Article 11.4 of the Agency’s rules provides that arguments and bases for appeals which were not included in the appellant’s statement of appeal or in the staff’s position paper were not to be raised or considered by the Board. The reason he wanted to proceed in September was that a study had been commissioned which he had no knowledge of and was not asked to participate in. He felt it would have been appropriate and right to have had the appeal heard before the study was done. That was the basis for his objection. Historically land capability was based on steepness, near-surface groundwater, stream proximity, and drainage. Typically slope and water on the site created the opportunity for erosion and opportunity for nutrients getting to the Lake. Those conditions did not exist on this site. The site was a gently sloping, nearly flat site that had no near-surface groundwater and was well drained. These were used by Dr. Bailey to classify land capability. Today, the Board was exposed to a new rule that suggested that if a soil was well drained it might contaminate the Lake. This was an unfair ball game, and he could not respond to rules that evolved during the pendency of the appeal. The site had been developed for about 50 years and there was no evidence of erosion around the existing structures, although there had been movement of some materials from out of the Lake onto the site because of prevailing winds. Mr. Feldman responded to Board member questions about percolation, the proposed development plan, and location of structures and units.

Ms. Nicolle explained that because the information provided by the independent expert was consistent with the staff’s original report and response to the appeal there was no procedural error in accepting the testimony as valid. All issues brought up in the process were brought up in staff’s response to the appeal in October.

Mr. Feldman disagreed, suggesting that the criteria presented today about porosity being evidence of low capability had never been proposed prior to the issuance of the Moody/Moory report.

Mr. Sid Davis, on behalf of the appellant, explained he had done work in the Basin since 1979, particularly in the North Shore area. He responded to Board member questions; used overhead projections, displays and photographs; and described in detail the previously studied Kings Beach sand sheet, the technical information about the characteristics of the soils, the site and the
boundary line between soil types, definitions of pertinent soil types and hydrologic groups, wave runup areas, erodibility of the soils, and results of the analysis of pits dug on the Rafton site. The lot was not a sensitive lot under the Bailey land capability system. He could see the darkness of the soil when the backhoe pits were dug. Mr. Pepi chose not to recognize this as being other than a Be soils indicator.

Mr. Feldman explained that Mr. John Rogers, who had done all the field work for Dr. Bailey in 1974 and had drawn up the Be map, had accompanied Mr. Davis in the soil investigation. He concurred in the finding that the soil boundary should be drawn at 634'; the land in question was in fact class 7.

Mr. Feldman introduced Ms. Leslie Burnside, a soil scientist with Resource Concepts, and explained she had done a soils analysis of pits dug on a contiguous property. She had observed the same dark horizon and organic matter and had come to the same independent conclusion that the land form was class 7, not sensitive, and high capability.

Ms. Burnside used a photograph to locate the soil pits she had studied and described her technical findings. These were the same as Mr. Davis' findings on the Rafton parcel. It was her opinion that the delineation between the 1B and Class 7 soils should be drawn at the 634' elevation line.

Mr. Rafton described the previous activities on the site since his purchase in 1959. These included rental cottages, marina activities, retail facilities on the pier, and boat and water ski rentals. Because the 45- to 55-year old cottages were not adequate to meet today's tourist demands, he filed an application two years ago to redevelop the site and had responded to all roadblocks that had been put in his path. The latest objection was erodibility. He had never seen erodibility on the site, and there would be no adverse impact on the Lake with the proposed plan. He urged the Board to cease the delaying tactics and to allow the plan to proceed. The plan met the Code's criteria, would enhance the beauty of the area, would increase use and enjoyment of the tourist area, and would increase the economic well-being of a depressed Tahoe area.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, commented not on the particular property but on the pertinent policy issues raised in the appeal. The Board was being asked to adopt an extremely narrow interpretation of what constituted a Be soil and to do so in the face of evidence presented in the morning session that Be soils were sensitive lands whose development could lead to damage to the Lake. The League urged the Board not to adopt such an interpretation but to uphold the Executive Director's determination. On the suggestion that staff was putting up roadblocks, the League had worked with staff over the last several years and felt that staff bent over backwards to get applicants what they wanted. There was no way to allow this to go forward so that it was consistent with the obligation to protect Lake Tahoe. Under current rules, what was on the site could be refurbished and upgraded at any time. If the Board adopted the consensus-based threshold review recommendations, it would also become possible for the applicant to transfer in development rights provided there was no environmental damage. There would need to be a requirement for restoration of equivalent soils in another area. The only impact on the applicant would be that he would have to design any future project based on the existing footprints. This would assure that Lake
Tahoe was protected and there would not be new disturbance on relatively undisturbed, undeveloped land. The League urged the Board to concur with the staff’s carefully researched recommendation and to look at the policy issue involved with the interpretation. Regardless of what happened with this appeal, the Be soil issue was an extremely important one that must be revisited. Ms. Nason responded to questions regarding Mr. Rafton’s current development options.

Mr. Harold Singer, Executive Officer of the California Lahontan Regional Water Quality Control Board, urged the Board to view this appeal based on its policy implications. The Board was being asked to consider a modification of a soil classification where the Code established that a Be (beach) soil was considered class IB land. There may be good grounds to reevaluate from a planning and policy standpoint the sensitivity of Be soils back off the beach. Such a review would have broad implications and should be based on good technical review. The Board was being asked, however, at this point to accept the argument and apply it to a project-specific situation, without the thorough and warranted environmental review that it required. Lahontan asked the Board to look at the issue from the broader perspective. If there were good grounds to reevaluate the Be soils off the beach, the Board was urged to do it in a planning sense and not in a project-specific sense.

There was extensive discussion between Mr. Feldman, Mr. Rafton, the consultants, the Board members, and staff on environmental issues, the consequences of development, the Code requirements regarding Be soils, the definition of Be soils and what specifically was before the Board, holding off on action to conduct a definitive soils study of the overall area, the differing positions of the experts, the land capability challenge procedure currently in effect, and the Be analysis done by Mr. Moory and Dr. Moody.

Chairman Upton closed the hearing.

MOTION by Mr. Wynn to grant the Rafton appeal.

Mr. Sevison suggested it was appropriate to evaluate this whole region, because of the effect of the Board’s action on the many similar properties in the area. He urged there be an overall analysis of the entire area.

The motion failed on the following vote:

Ayes: Mr. Sevison, Mr. Hime, Mr. Cole, Mr. Upton
Nays: Mr. Wynn, Mr. Bradhurst, Ms. Bennett, Mr. Waldie, Mr. Heller, Mr. Cronk, Mr. Ruben, Mr. Delaney, Mr. Westergard
Abstain: None
Absent: Ms. Neft

Mr. Wynn noted that the appeal had failed and the Executive Director decision remained.

Chairman Upton asked that the matter come back in January based on the large number of issues raised in the discussion and the number of people affected by it. It was clear to him that there was no clear yes or no answer in this case.
Mr. Hime asked if it was appropriate that Mr. Sevison’s request for more study be put in the form of a motion.

Mr. Upton suggested that, given the hour and the clear consensus of the Board that something needed to be done, staff think about the matter and come back with a proposal - rather than have the Board try to come up with a course of action now.

(Mr. Hime stayed on the telephone for the next item.)

X. PROJECT REVIEW

B. Lake Tahoe Cruises, Temporary Use Permit, Tour Boat Operation, Timber Cover Marina, 3411 Lake Tahoe Boulevard, City of South Lake Tahoe, El Dorado County APN 27-090-01

Mr. Cole advised that the South Lake Tahoe Zoning Administrator conducted a hearing on this request on December 18 and granted approval based on 13 specific conditions. These conditions would most likely address many of the concerns expressed by the public on this application.

Associate Planner Jim Lawrence presented a brief summary of staff’s recommendation for approval of the Tahoe Queen’s proposal to operate for 30 days at Timber Cove Marina with the possibility of one 30-day extension. One condition of approval was that all patrons of the Tahoe Queen would be bused to the site to minimize parking and traffic impacts. The proposal was for two daily cruises to Emerald Bay and a daily ski shuttle to High and Dry Marina (not one mid-week shuttle to High and Dry as set forth in the staff summary). The applicant was pursuing use of fueling and umpout facilities at Timber Cove Marina, and not at High and Dry as set forth in the staff summary. Staff did not have a problem with either location so long as all necessary approvals were obtained and there was adequate documentation to show the ability to handle the operation. A December 19 memo from staff set forth a revised condition C.2 regarding fueling and sewage disposal at a TRPA-approved site. Douglas County also submitted a December 17 letter (copy distributed) expressing a concern over increasing the use of Harvey’s parking facilities for the Tahoe Queen parking. Because of the requirement for the Queen to bus patrons to the site, the Tahoe Queen had entered into an agreement with Harvey’s for off-site parking spaces. Douglas County wanted first to see a parking analysis and also possible County approval prior to the operation. A new condition C.6 would require that prior to commencement of operation the Tahoe Queen would provide evidence that all local permits or authorizations had been obtained for off-site parking locations. With regard to concerns about lake access and the potential for substrate disturbance, the elevation at the end of Timber Cove pier was 6218’ to 6219’. The Lake’s current water level was 6227.94’, which gave about 9 to 10 feet of water depth. The Queen’s draft was 4-4-1/2 feet, and staff felt there was sufficient depth to accommodate the boat for the duration of the temporary permit. Staff had received a FAX from the California State Lands Commission asking that the middle paragraph on page 6 of staff’s 12/04/96 summary be modified to read, 'The California State Lands Commission has indicated to the project proponent that the Commission has some concerns with regard to temporary operation from a location other than the Ski Run Marina. The project proponent has indicated
that they will attempt to address those concerns. The project proponent will need an authorization from the Commission in the form of a new lease or an amendment to an existing lease." TRPA conditions stated that the applicant would need to obtain authorization from California State Lands Commission prior to operation.

Mr. Cole read seven of the Zoning Administrator's proposed conditions. These related to adequacy of pumpout facilities, the stability of the pier, use of the High and Dry pumpout facilities, the scenic impacts of the bus operation, requirement for a parking monitoring plan, and marketing plans and ticket sales.

Mr. Lawrence noted that a letter of objection to TRPA from adjacent property owner Harry Brock raised concerns with enforcement of permit conditions and specifically the requirement that all patrons be shuttled to the site. TRPA had a condition as did the City that all patrons be shuttled to the site. The City's conditions also addressed marketing and ticket sales. He distributed a December 20 letter to the Governing Board from the Lahontan Regional Water Quality Control Board and noted that staff had not had time to review it.

Mr. Mike Dill, with Aspen Environmental Services on behalf of the applicant, noted that Lake Tahoe Cruises had operated on Lake Tahoe for 24 years. In 1983 a full EIS was done for the operation and the Timber Cove location was analyzed. Although Tahoe Cruises had a pending application for a permanent operation, the matter before the Board was for a temporary use at this time. Mr. Dill presented specific information on parking, sewage disposal, and lake access. Parking for the patrons would be at the Harvey's Casino Resort with customers shuttled to the site. There would be a monitoring program, and tickets would be issued only on the buses. Sewage disposal would be at the Homewood High and Dry Marina in a TRPA-approved facility. A sewage disposal plan was also pending before the South Tahoe PUD. Mr. Dill distributed a will-serve letter from STPUD, a parking analysis of Harvey's Resort, and letters of support for the project. There was adequate depth at the end of the pier for the Tahoe Queen. He concurred with staff's analysis and with the proposed conditions.

Mr. Joe Thieman, president and operator of Lake Tahoe Cruises, explained earlier operations at the Timber Cove Marina with a 350-passenger boat. There were no parking problems previously. The Timber Cove site was surrounded by commercial; there were only seven homes in the neighborhood. Of all possible locations for the boat operation, this would have the least impact on private residences. The Queen was relocating because its lease at Ski Run was not being renewed. There were no options other than to relocate to the Timber Cove pier.

Mr. Roy Hampson, a professional engineer speaking on behalf of the Bal Bijou homeowners and Lakeside Yacht and Harbor Club, introduced attorney Treva Hearne, who distributed a December 19 comment letter and spoke on the environmental and public comment requirements. Her comments also addressed the need for more time for review and the insufficiency of the environmental documentation regarding parking impacts, required approvals, public agency expressions of concern, sewage disposal, potential enforcement problems with sewage disposal, and lack of environmental analysis on the increased trips.
Mr. Hampson noted there was no STFUD will-serve letter. The site was not approved for a temporary permit, since a major land owner at Timber Cove Marina was State Lands Commission. The official position as stated in a Commission letter noted that application submittal and approval were required prior to operation. Mr. Hampson also addressed the safety of the pier in its current condition, the timing of the City's decision and the letter of support from the City, CEQA and Lahontan permit requirements.

Agency Counsel Rachelle Nicolle explained to the Board that TRPA was not bound by CEQA requirements but rather had its own environmental documentation process as set forth in Chapter 6 of the Code of Ordinances and in the Rules of Procedure. Staff had determined that all impacts could be mitigated.

Mr. Dill noted that the Queen would be posting a $25,000 bond to ensure compliance with the conditions. One condition was to obtain other agency permits for the use. The Tahoe Queen had submitted an application to the California State Lands Commission, and Commission attorney Jim Fry noted by phone today that the Commission would continue to work with the Queen to authorize use of the Queen at the Timber Cove Resort.

Mr. Nat Sinclair, a South Lake Tahoe resident, endorsed the Lake Tahoe Queen operation. These were not TRPA issues; they were State Lands issues. He felt TRPA had the authority to mandate that the Queen stay at its present location at Ski Run until the problems could be resolved.

Mr. Dick Glasson, on behalf of Travel Systems, the owner and operator of the M.S. Dixie tour boat at Zephyr Cove, expressed support for businesses operating tours on the Lake if they were clean operations. He had examined the documents in this case, and Travel Systems was of the opinion that due to the limited nature of storage availability for sewage on the Tahoe Queen and the fact there were no pumpout facilities onsite at Timber Cove, there should be daily pumpout and documented proof that the Queen was emptying its bilge. Otherwise the temptation to do otherwise was too great. This was not clearly addressed in the conditions.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted the environmental documentation was legally inadequately. The analysis regarding CEQA was incorrect; TRPA was obligated in applying Article 7 of the Compact to apply the strictest of environmental standards and could not fall below the standards of CEQA or NEPA. The concern here was the piecemealing of a project where there was an effort to create a fait accompli with operation at Timber Cove without an adequate environmental analysis of the impacts. On the subject of timing, TRPA was being asked to treat this as an emergency because the Tahoe Queen had not addressed what was an obvious situation for a very long time. She did not feel the supposed business emergency justified going forward with legally inadequate documentation. The League's major concern with the conditions related to condition E and potential water quality impacts of tour boats dredging up the Lake bottom. The concern was not with the 4-foot draft of the boat but with the impact on the Lake bottom of the boat's operation. This needed more scrutiny. Condition E requiring that the Tahoe Queen notify TRPA of disturbance of the substrate was feeble and needed more assurance that members of the TRPA Compliance staff could board the boat on a random basis to verify whether disturbance of the Lake bottom was
occurring. The League urged the Board to turn down the request because it needed more adequate documentation.

Mr. Merle Lyons, vice president/general manager of Lake Tahoe Cruises, spoke on behalf of the 125 to 150 employees and urged the Board to approve the proposal. He also noted that sewage could not be pumped out of the Tahoe Queen; it had to be sucked out by pump.

Mr. Craig McCabe, vice president of Hornblower Dining Yachts, advised that he had an agreement to operate from Ski Run Marina and would be applying to do so at a 500-passenger level commencing this spring or summer. His operation was the largest dining cruise operation in the western United States.

Mr. John Glab, a professional civil and traffic engineer, explained he had been retained to supplement the efforts of Mr. Hampson in presenting facts in opposition to the proposal. References to traffic in the EA were incorrect and did not meet the Code requirements. The project had the potential for significant impacts on traffic, safety, and parking. Mr. Glab presented specific information on the configuration of traffic movements in the area, problems with parking and turning movements, circulation problems for the large shuttle buses, potential navigational hazards in operating the Tahoe Queen at the Timber Cove pier, discrepancies in the consultant report, and land coverage problems. Documentation for the proposal was insufficient.

Mr. Bob Hassett, with the Timber Cove Marina, spoke in favor of the proposal. He felt the Tahoe Queen was a great asset to the Tahoe area, and the Board should recognize that it was a recreational opportunity important to the economy. Timber Cove now was under-utilized and he supported the Queen’s relocation to the site.

The Board members discussed the authority of the Board to act on the project, the status of environmental documentation and TRPA requirements, Lahontan concerns regarding sewage and pumpout proposals, the current appeal of the City’s decision, using previous environmental documentation for this temporary operation, and the conditions of approval.

Mr. Keith Ruben commented on the Douglas County letter and concern with the level of documentation and treatment of this applicant - particularly in view of the strict requirements for documentation placed on other applicants. The County was concerned with parking problems and traffic; this project would generate both. Most likely the proposal would require a full blown traffic study in Douglas County. He was also concerned about the impact of additional parking in California because there would be fewer parking spaces available for the public at Harvey’s. Douglas County had many concerns with the proposal specifically related to traffic and parking; these could be overcome with more analysis.

In making the motion, Mr. Cronk noted that he was relying on legal staff’s advice on the adequacy of environmental documents, on the fact this was a temporary and not a permanent permit, and on the strength of the conditions.
MOTION by Mr. Cronk to make the findings for the temporary operation of the Tahoe Queen at the Timber Cove Marina. The motion failed on the following vote:

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

(Mr. Hime's telephone had become disconnected during the discussion and prior to the vote. Mr. Hime was brought back to the meeting by speaker phone.)

MOTION restated by Mr. Cronk to make the findings for the temporary operation of the Tahoe Queen at the Timber Cove Marina. The motion failed on the following vote:

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

A. Lakeside Tennis Club Estates, New Multi-Family, Subdivision and Special Use Determination, 977 Tahoe Boulevard, Incline Village, Washoe County APN 127-030-23 and 24

(Rex Hime was present by phone for a portion of the following item; he was not present for the vote.)

Deputy Director Jerry Wells asked the Board if it wished to hear the project. As noted earlier in the meeting, there was discussion in November whether the Board would hear projects that did not have water rights. His latest understanding was that this project did not have water rights to bring to the table today. The staff summary and recommendation were based on the project having water rights. Absent those, the Board would have to determine if the findings could still be made.

Mr. Waldie suggested there be some indication from Board members through a straw vote if it would be willing to see a project be approved without water rights on the condition that nothing could be done until those were obtained.

Mr. Phil Gilanfarr, on behalf of the proposal, explained the eleventh hour situation caused by potential loss of the ability to use bonus units. He had tried to diligently pursue retirement of the Bitterbrush units in Incline and had rights as an incentive to do this to make the project work. The ability to use those units expired the end of December. He requested that the ability to use and subdivide bonus units be extended into 1997. He was given a document from attorney Mr. Tom Hall that provided the option to purchase a 16.5 Acre Foot allocation. There were also potential water rights associated with the 15 to 21 Bitterbrush units being transferred to the site. TVGID had not made a determination whether those rights were calculated into the counts of current water usage. He had the option to hold 16.5 AF. He would
agree to the condition that prior to condition acknowledgement the permittee demonstrate there was either an adequate water supply with existing rights recognized under the Nevada law or adequate water rights were furnished with the development in accordance with the Code.

Mr. Westergard noted that having an agreement from someone that water rights could be purchased or leased did not mean they were available. The process had to be followed and it was subject to judgment and protest. He had been raising the issue of water rights problems for the last 15 years.

Mr. Gilanfarr suggested it did not make sense to purchase water rights at $9,000 to $12,000 an acre foot without a preliminary or conditional project approval. His application was submitted in December 1995 but did not go forward because of problems with the seller. There were 116 bonus units remaining at Country Club Villas that were an incentive to Bitterbrush to retire units. The project would further reduce between 15 and 21 units at Bitterbrush. With that, there was a generation of another 150 to 210 bonus units. He wished at a minimum to be allowed to hold in queue the right to subdivide at least 116 bonus units sitting at Country Club Villas.

Mr. Wells noted that a Code amendment would be required to extend the bonus units. It could not be done today because it had not been noticed.

Mr. Dan St. John, director of engineering for the Incline Village GID, noted this situation was not the applicant's doing. The situation had arisen in September and was a fairly new situation and therefore a surprise to the applicant.

Mr. Westergard noted he would abstain on a straw vote because he had previously stated his position on these issues. The basis for his continuing "no" vote was a concern with whether or not these projects increased development potential. Now the Board was considering extending the multi-step process to five steps from the earlier two-step process to make subdivisions happen when it was in direct violation of the Code.

Ms. Bennett noted she concurred with Mr. Westergard's concerns.

Mr. Cole explained he had no problem dealing with the project based on a condition requiring purchase of water rights. He did have other serious concerns about the project for other reasons.

Agency Counsel Rachelle Nicolle advised that the right to subdivide units created using bonus units expired as of December 31, 1996. Mr. Gilanfarr anticipated building and subdividing bonus units. He would have to redesign the project if it were not acted on in its current form.

Chairman Upton directed that the project be heard and acted on.

Associate Planner Paul Nielsen presented the staff summary and corrected a statement made by Mr. Gilanfarr. The application was submitted November 26, 1996. Staff would have liked to have spent more time on the application but was trying to facilitate the applicant's request to get the project before the Board before the prohibition went into effect to subdivide bonus units. The
applicant had agreed to redesign the project in line with the conditions of approval. Mr. Nielsen presented more information on the proposal to use the bonus units. Staff recommended that 21 existing Bitterbrush units be transferred down to the property and that 12 residential allocations that had already been issued to the property be used, that the 116 bonus units on reserve for the Country Club Villas projects be allowed used for this project, and that the applicant buy the remaining required number of bonus unit points to match up with the 12 allocations. The basis for this recommendation related to the potential for use of 91 percent of the allowed VMT target for the Community Plan. Credit could be given for existing VMTs for the residential units existing at Bitterbrush. The more units being transferred, the fewer VMTs would be associated with the project.

Mr. Severson asked if there was a way to act on the project but to hold in abeyance action on the bonus units.

Ms. Nicolle responded that the proposal was to transfer the bonus units to the project, to get an approval, and then to subdivide the approved units. The bonus units could not be subdivided after December 31, 1996, unless the Board, as an option, chose to bring the matter up as part of the 1996 Threshold Evaluation.

Mr. Nielsen explained that the applicant was willing to support the staff's recommended condition on use of bonus units provided he in the future would be allowed to substitute 6 of the existing residential units with 6 more allocations and 6 development rights - at a staff level, provided staff found there was sufficient mitigation for the VMT associated with the allocations. Mr. Nielsen read amendments to proposed conditions as follows: 1) condition 3.a.9 amended to read, in part, "Integration of common area facilities, to the greatest extent feasible, such as passive recreation areas, mailboxes (required home mail delivery) and pedestrian..."; 2) new condition 3.a.11 to read, "Sidewalks and landscaping along Highway 28 frontage consistent with the standards of the Incline Village Community Plan or confirmation that the applicant is participating in an assessment district to fund that improvement." Mr. Nielsen responded to Board member questions about the proposed conditions regarding project redesign to eliminate a lot and block design in favor of a clustered and/or attached unit design, location of roads and driveways, SEZ impacts, and the fact the site was in a preferred affordable housing area.

Mr. Phil Gilanfarr, on behalf of the proposal, reminded the Board of its earlier approvals of single family detached units and expressed concern about being pushed to the end of the agenda at the end of the day when not all Nevada Board members were present. He concurred with staff's report and the adjustments on bonus units. The project would take out the remaining potential for Bitterbrush development and proposed 33 units on 8 acres v. 124 multi-family units that could be developed. A multi-family plan could build to 70 percent coverage. The plan was to cover 27 percent. To the concern that this was an affordable housing area, the county's preliminary report showed that no new units were needed in the Incline portion of Washoe County, since the existing units accommodated the employee base. The existing units did, however, need to be redeveloped. The question was whether there was a resulting condemnation of property by the requirement for the property owner.
to develop affordable housing. The Community Plan standards suggested that single family dwelling was the only allowed use in the residential category. All other residential uses (multi-family, residential housing, affordable housing) were special uses. The Plan Area team members recognized that single family residential units were needed in the Plan Area to create a balance so that all the affordable housing was not crammed into one spot. There were already dormitories at Sierra Nevada College, 330 rental units at the Racquet Club, 60 alleged timeshare units, a hotel, a few residential units, and some small condominiums. Adding 33 residential units added a balance and a mix to the Plan Area.

Mr. Dan St. John, from IVGISD, noted that the District did have a difference of opinion on an easement that at one time was proposed to serve the site from the south. The property was adjacent to the IVGISD tennis complex and recreation center in Incline Park. He was encouraged the the project no longer proposed to use the easement. The District was likely going to pursue a quiet title complaint to resolve the easement issue, since the District did not feel that the project proponent had a right to use the easement.

Ms. Bennett noted that because of this there was only one ingress/egress point to the project.

Mr. Bradhurst acknowledged earlier concerns expressed by Board members regarding the multi-step process, affordable housing, and access and the fact that the affordable housing report was not yet available.

MOTION by Mr. Bradhurst to make the findings to approve the Lakeside Tennis Club Estates as modified by staff’s recommendation. The motion failed on the following vote:

Ayes: Mr. Heller, Mr. Cronk, Mr. Ruben, Mr. DeLanoy, Mr. Sevison, Mr. Bradhurst, Mr. Upton
Mays: Ms. Bennett, Mr. Waldie, Mr. Westergard, Mr. Cole
Abstain: None
Absent: Mr. Hime, Ms. Neft, Mr. Wynn

XI. PLANNING MATTERS (continued)

A. Lowering the IPES Line for 1997

Agency Special Projects Attorney Susan Scholley noted that it would take 90 days for the Board’s action to lower the IPES line to take effect because of a requirement of the California State Water Resources Control Board. Action to lower the line at this meeting would mean the new numbers would take effect in March 1997. She presented a very brief summary of the proposal, noting that a recalculation of the numbers would move the line in Douglas County down to 572 (not 646 as set forth in the packet materials) and 539 in Washoe County. These were the new eligible scores.

Ms. Mary Gilanfarr, for the Tahoe Sierra Preservation Council, noted she was pleased the line was moving in Nevada but expressed concern and protested the fact that the line was not moving this year in California. TRPA had created two classes of citizens in the Tahoe Basin - those with rights and those
without. The Council protested this strongly and believed there were mechanisms by which the formula could be adjusted in Placer and El Dorado Counties. She urged the Board to direct staff to take measures to move the line in California.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted she did not have legal objections to lowering the IPES line as recommended but felt that year after year the Douglas County IPES line was dropped. The years since the promise of the Stateline drainage system continued to pass; this was the 28th anniversary of the original promise. The League urged the Board to direct staff to put this on the agenda for January and to ask, in particular, that the applicants of the rezoning at Stateline be asked to be present to report as they had promised. The League intended to prepare a Plan Area Statement amendment application requesting that TRPA rezone the golf course back to recreation if the promise was not fulfilled.

Chairman Upton directed that this matter be placed on the January Board agenda.

MOTION by Mr. Severson to move the IPES line as recommended (the eligible score in Douglas County would be 672 and in Washoe County 539). The motion carried unanimously. (Resolution Nos. 96-19 and 96-18, respectively)

XIV. REPORTS

C. Governing Board Members

Mr. Cronk noted that the people of Lake Tahoe had been well served by the service on the Board of outgoing members Steve Bradhurst, from Washoe County, and Kevin Cole, from the City of South Lake Tahoe.

XV ADJOURNMENT - The meeting adjourned at 7:25 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 presented at the meeting are available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.

These minutes were approved as submitted on January 22, 1997.