TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

South Lake Tahoe City Council Chambers South Lake Tahoe, California

March 23, 1994

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Wayne Chimarusti called the regular March 23, 1994, meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:30 a.m. and asked Vice Chairman John Upton to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLancy, Mr. Waldie, Mr. Kanoff, Mr. Uhler (present at 9:50 a.m. during discussion on agenda item VII.A.), Ms. Lau, Mr. Klein, Ms. Bennett, Mr. Cronk, Mr. Westergard, Ms. Neft, Mr. Bradhurst, Mr. Upton, Mr. Chimarusti

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

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

IV. APPROVAL OF MINUTES

MOTION by Mr. Upton to approve the February 23, 1994, regular meeting minutes as presented. The motion carried unanimously.

V. APPROVAL OF AGENDA

Chairman Chimarusti noted the following changes: 1) the public hearing on the Placer County amendment of the Payless site (VIII H.) was to be continued; 2) the Sheaff appeal (X A.) was to be continued; 3) the Executive Director interviews (XI A.) scheduled for March 24 were to be continued to the April 27 meeting because one of the finalists was unable to be present this month; 4) the Chapter 22 and Chapter 11 public hearings would be considered by the Board sequentially to accommodate requests from some audience members; 5) the draft EIS for the Forest Service East Shore timber harvest (VIII E.) would be taken up after the forest health workshop (IX A.).

MOTION by Ms. Lau to accept the agenda as modified. The motion carried unanimously.

VI. CONSENT CALENDAR

Agency Executive Director Dave Ziegler advised the Board that staff had received a March 21 letter from Mr. Todd Russell, representing Brian and Patricia Smith, adjacent property owners, objecting to the Hyatt Corporation rebuild of Hugo's Restaurant (item I). The letter had not requested the item be removed from the calendar. The Board members had copies of the letter. There was nothing in the letter that caused staff to change its position.
Chairman Chimarusti noted that neither Mr. Russell nor the Smiths were in the audience.

Board member Drake DeLanoy advised he owned property within the 300 foot radius to the proposed project. He would abstain from the vote.

MOTION by Mr. Upton to approve the consent calendar. The motion carried with Mr. DeLanoy abstaining.

(Following are items approved on the consent calendar: 1. Hyatt Corporation, Commercial Restaurant Rebuild and Expansion, 955 Lakeshore, Washoe County APN 127-280-02; and 2. Brockway Springs, Relocation and Extension of Water Intake Line, Special Use Determination Placer County APN 090-250-32)

VII. PROJECT REVIEW

A. Sierra Nevada College, Phase I and Special Use Determination, Washoe County APN 127-040-08

Senior Planner Lyn Barnett presented a brief summary of the project, reminding the Board that it had recently certified an EIS for the project. While the project originally included a parking garage, this part of the proposal would be brought back later to the Board because of concerns with scenic and height impacts. Mr. Barnett distributed a March 23 errata to correct a number of minor items in the staff summary. One of the issues that had arisen in the project’s review concerned affordable housing and the College’s desire to take advantage of affordable housing bonus units in the Plan Area Statement (PAS). The Board several months ago approved a project across the street which was assigned bonus units out of the pool of 90 for this PAS, creating a deficit of 50 bonus units for this project. While not a lot of the 1,600 available bonus units basinwide had been used, there was competition for them in this particular PAS. Before all units could be constructed, the College would have to either transfer in development rights or work out an agreement with the neighbor across the street to obtain his bonus units through sale or otherwise. Or the College could request a PAS amendment to permit more bonus units. Staff favored the latter approach.

Agency Special Projects Attorney Susan Scholley explained that the project across the street was approved utilizing the transfer of 56 bonus units from the Bitterbrush site, although the bonus units were not to be used on the site. The bonus units were assigned in the approval and were under the control of the property owner (Mr. Yehros). Mr. Yehros was to try to put together another project elsewhere using the transferred units.

Mr. Barnett responded to questions on the shuttle service, parking restrictions, and the mitigation options. (Mr. Uhler came into the meeting during this discussion.)

College Chancellor Benjamin Solomon expressed concern that there was no assurance the units could be transferred in. For the last several years, the College had anticipated obtaining the required 90 units. It was clear when the Yehros project was approved that the bonus units would be used for
affordable housing. The project was sold after it received approval, and the new owner assured the College that it would get these units. Now the new owner realized he could sell the units and there was no guarantee they would be retained for affordable units. The College was required to provide a deed restriction on all the housing units, which would severely restrict the rates that could be charged. The College would do this only if the units came in as affordable housing units. The units would no longer be affordable if the College had to purchase the units on the market.

Ms. Scholley did not recall that Bitterbrush ever proposed that its Country Club project would be affordable housing. The bonus units served multiple purposes, one of which was to serve as an incentive to retire or transfer existing development from sensitive lots. It was not appropriate or possible to take the bonus units away from Mr. Yehros or the new owner and give them to the College. The solution was to go back into the Plan Area Statements and find an area where there was no projected need for assigned bonus units and move them to this PAS. There were at least one or two such areas that were assigned bonus units back in 1987, which no longer needed them. It was appropriate now here and in other situations as well to move them around as projects came forward and as conditions changed.

Mr. Barnett explained that the College currently had enough bonus units to build at least one of the dormitories. The other dormitories could be started once the bonus units were transferred in.

Chancellor Solomon agreed with this approach, since the College wished to start one dorm this summer using the units it had.

Mr. Westergard suggested he had no objection to the transfer of units from one PAS to another in this case, but his concern related to the subdivision statutes and the specific provision that related to control of any increased development as a result of approving subdivisions. Making it possible to subdivide by virtue of a transfer of something not originally anticipated flew in the face of specific language of the subdivision ordinance.

Executive Director Dave Ziegler explained that staff would have no objection to construction getting underway using the units already assigned to the project area, with the understanding that PAS amendment would have to be approved prior to building out the entire project. Mr. Ziegler recommended adding an additional sentence to condition 12 at the top of page 13 of the staff summary to read, "This condition shall not prohibit the commencement of construction for use of the assigned 34 bonus units."

Ms. Rochelle Nason, for the League to Save Lake Tahoe and an adjunct instructor at the Sierra Nevada College, spoke in favor of the proposal to reduce student use of automobiles at the College and urged that the Lake Tahoe Community College take similar innovative approaches. The League was concerned that under the Regional Plan development was continuing without adequate measures to handle the resulting VMT problems, particularly in the area of parking. By moving the College activities from the old to this new site, there could be opportunities for additional stream environment zone (SEZ) restoration at the old site.
Mr. Gregg Lien, representing the Tahoe-Truckee Housing Development Corporation, a new entity dedicated to providing opportunities for moderate, low, and affordable housing, suggested the whole idea of bonus units was to present a win-win situation and provided flexibility to deal with the downzoning that occurred with the 1987 Regional Plan. Moderate, low and affordable housing projects required the transfer in of units, and the bonus units were the incentive to make this happen. This project brought into focus the fact that, even though very few of the available Basinwide bonus units (1,600) had been used, there was a problem in this PAS. Instead of piecemealing the transfer of units from one PAS to another as a need arose, he favored creation of a pool of floating units and consideration of these units in a comprehensive manner. As meritorious projects came for review, the units could be assigned to them.

The Board and staff discussed the procedure and lead entity for amending the PAS to assign additional bonus units and the creation of a pool of bonus units.

Mr. Klein commented that the Tahoe Basin Association of Governments (TBAG) would be an appropriate entity to look at the Basinwide pool of bonus units.

Mr. Ziegler suggested that the Board direct staff to initiate a PAS amendment. The downside was that TRPA forfeited the filing fee; the upside was that the College saved the filing fee. A staff-initiated amendment would provide more flexibility and not lock TRPA review into a specific application.

Chairman Chimarusti directed staff to proceed in this manner.

MOTION by Mr. Bradhurst to approve the findings and the finding of no significant environmental effect for the Sierra Nevada College project. The motion carried unanimously.

MOTION by Mr. Bradhurst to approve the Sierra Nevada College project subject to the staff conditions, including the amended condition 12 as stated by staff. The motion carried unanimously.

B. Pinewild Homeowners Association, Temporary Relocation of Existing Buoy Field and Multiple-Use Determination, Douglas County APN 05-211-52

Associate Planner Jim Lawrence presented the staff summary of the proposed relocation of 42 legally existing buoys. The project had received approval from Nevada State Lands, and because of the concern expressed by the Nevada Department of Wildlife regarding recreational access, the relocation was to be temporary. Once the Lake reached level 6225' for a period of six months, the buoys would be relocated to their original location. Mr. Lawrence responded to questions regarding the request for a multiple use determination, the grandfather status of the buoys, and the fact the application did not involve a deviation from location standards. The Code required that any relocation, reconfiguration, or expansion of structures that were nonconforming required Governing Board action; these buoys were nonconforming because of the fish habitat.
MOTION by Mr. Kanoff to make the findings required to approve the proposed Pinewild relocation of buoys. The motion carried unanimously.

MOTION by Mr. Kanoff to approve the Pinewild proposal with conditions as proposed. The motion carried unanimously.

D. Northwood Village, New Multi-Family and Condominium Subdivision, Washoe County APN 124-041-79

Assistant Planner Paul Nielsen advised that staff recommended approval of the project which proposed a 7-unit multi-family subdivision project on a 1.1 acre site. Seven residential units had been torn down and were already transferred to the site from the Lakeview Pizza property in Placer County. The usual procedure was to require a condition that a deed restriction be placed on the sending property. Since the completion of the transfer of the 7 units to the property, Washoe County had issued the property 4 allocations. The project proponent wished to use these 4 allocations and 3 of the 7 transferred units for this project. Four of the existing development rights would remain unutilized at this time.

Special Projects Attorney Susan Scholley explained that the applicant had 1 development right by virtue of the fact the project site was vacant; the other 3 development rights were to be transferred through retirement of 3 additional parcels elsewhere. The 4 Washoe County allocations would be used for these 4 units.

Mr. Westergard objected to having the Board hear the matter, since the applicant had not yet obtained the development rights he wished to transfer to the site. It was premature for the Board to hear and approve the project and then be asked to approve a subdivision. The Board should have a complete package before taking action and making the required subdivision ordinance finding that there was no potential for additional development.

Ms. Scholley suggested it was a chicken and egg situation. If the applicant transferred the development rights to the property before the conditional approval was granted, he was doing so at the risk that he could not use the development rights on the property. They may have to be moved again. It was not unusual to approve the project conditioned on the transfer in of the development rights. Construction could not occur until that had occurred and deeds were recorded retiring the 3 sending parcels. The Board could thus make the finding regarding no increased development potential.

Mr. Paul Kalista, with Basin Strategies and on behalf of the project, advised the applicant had all the development commodities for project approval. The applicant had previously received approval to transfer 7 existing units of development which were subsequently torn down and moved to the subject property. The units could not go back to the sending parcel because they were of a nonconforming density. Subsequent to the transfer, the applicant received 4 allocations from Washoe County, and the project was now being put together in a different fashion, using only 3 of the transferred units of existing development and 4 of the recently awarded allocations. It was common practice and routine to secure TRPA approval conditioned on subsequent
transfer of the required development commodities. The applicant had targeted 3 other individual lots of record to acquire and from which to retire the development rights. It was a question of flexibility and how the units were transferred around.

Mr. Uhler explained that when Placer County approved the removal of the units from the Lakeview Pizza property, it changed the zoning on the parcel to commercial. Residential could not be put back on the parcel, and, in fact, a new facility had already been constructed in the area.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, suggested this type of project was viewed as a manipulation of the rules to evade some of the most fundamental planning principles adopted in 1987. The problem was that too many subdivisions were approved initially, more than the environment could bear. The Regional Plan intended to direct single family housing into the already subdivided areas served by roads and utilities. To take lots appropriate for multi-family development and develop multi-family bonus units into new single family neighborhoods and for those neighborhoods to compete for allocations with the existing subdivided lands was a perversion of the Regional Plan and turned inside out the whole idea of infill of existing subdivisions. Using the condominium exception to get around the subdivision prohibition was a misuse of the exception and the multi-family bonus unit concept. It encouraged development away from providing a diversity of housing opportunities. While she could not say this approval was necessarily illegal under the Regional Plan, she felt that multi-family was not intended to cover six or seven houses.

Mr. Rob Spitzer, attorney for the applicant, explained that under the existing plan and ordinances condominium subdivisions were allowed. When completed, the project would be 7 relatively small free-standing condominium units. The units would have approximately 2,000 square feet of living space and cost $300,000 each. At Incline, this was practically entry level housing. The property was properly zoned and conformed with proposed density, the subdivision ordinance, and the Regional Plan.

Mr. Don Henrichsen, co-applicant, suggested this was affordable housing for the area. The single family detached buildings were the least expensive that could be provided to the community. These would be attractive, landscaped units.

Mr. Chris Plastiris, co-applicant, urged Board approval of the proposed 7 condominiums.

Chairman Chimarusti closed the hearing.

MOTION by Mr. Bradhurst to make the findings in Section B (of staff report) and a finding of no significant environmental effect for construction of the Northwood Village project. The motion carried on the following vote:
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Ayes: Mr. Upton, Mr. Kanoff, Mr. Klein, Ms. Lau, Mr. Uhler, Mr. Bradhurst, Ms. Neft, Mr. DeLanoy, Ms. Bennett, Mr. Cronk
Nays: Mr. Waldie, Westergard, Mr. Chimarusti
Abstain: None
Absent: Ms. Hagedorn

MOTION by Mr. Bradhurst to approve the multi-family dwelling project based on the staff summary and subject to conditions 1 through 13. The motion carried on the following vote:

Ayes: Mr. Upton, Mr. Kanoff, Mr. Klein, Ms. Lau, Mr. Uhler, Mr. Bradhurst, Ms. Neft, Mr. DeLanoy, Ms. Bennett, Mr. Cronk
Nays: Mr. Waldie, Mr. Westergard, Mr. Chimarusti
Abstain: None
Absent: Ms. Hagedorn

MOTION by Mr. Bradhurst to approve the findings contained in Section E (of the staff report) and a finding of no significant environmental effect for the condominium subdivision of the 7 residential units. The motion carried on the same vote as the previous two motions.

Deputy Director Jerry Wells asked that approval of the condominium subdivision of the 7 residential units be subject not only to conditions 14 through 16 as set forth in the staff summary but also condition 3b, which would require the transfer of 3 development rights prior to the subdivision being approved.

Mr. Kaleta concurred with the condition on behalf of the applicant.

MOTION by Mr. Bradhurst to approve the Northwood Village Condominium Subdivision of the 7 residential units based on the staff summary, subject to conditions 14 through 16 listed in the staff summary and condition 3b as stated by staff. The motion carried on the same vote as the previous motions.

C. Garwoods Grill, Multiple-Use Determination, Pier Extension and Temporary Buoy Field, Placer County APN 90-250-32

Associate Planner Jim Lawrence presented the staff summary on the proposal for a 105 foot pier extension to a legally existing, 130 foot public pier and a request for a six-month permit extension to a temporary use permit for a buoy field of 14 buoys. Staff had received two letters of opposition; copies were distributed to Board members.

Mr. Waldie suggested the project was a desirable one and he commended staff and the applicant for working cooperatively on it. He knew of no other application that had had as much public access and interest accommodated as had this one. He appreciated the applicant's concessions.

Mr. Gregg Lien, representing Garwoods Restaurant, thanked staff for its assistance in working through the issues. This was a true model of public/private coordination and would result in scenic, fish habitat, transit, and public access improvements. The applicant would have to come back with a request for a permanent buoy field.
Chairman Chimarusti suggested that Garwoods make an effort to address the concerns expressed by neighboring property owners.

MOTION by Ms. Neft to make the findings for approval of Garwoods including the finding of no significant environmental effect. The motion carried unanimously.

MOTION by Ms. Neft to approve the project and conditions as noted in the staff's summary. The motion carried unanimously.

VIII. PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS

A. Adoption of the Stateline/Ski Run Community Plan and Related Actions as Follows:

a. Certification of the Stateline/Ski Run Community Plan EIS/EIR

b. Adoption of the Stateline/Ski Run Community Plan

c. Amendment of Land Capability Overlays H-16, H-17, and G-17

d. Amendments of Chapters 24, 26 and 30 to Include Community Plan Standards

e. Amendments of PAS 089B for Consistency With the Stateline/Ski Run Community Plan

f. Amendments to Plan Area Statements to Delete PASs 089B and 091

Mr. John Hoole, Chief of Long Range Planning, explained that staff was asking the Board to certify the environmental document mailed two months ago, to adopt the Community Plan (CP) itself, along with the attachments relating to land capability, Chapters 24 and 30, Lakeside Park, and Plan Area Statement changes. The Advisory Planning Commission (APC) supported the planning team's recommendation with the exception of two issues. The first issue involved a parcel near Ski Run Boulevard; the second issue involved banner signs and sign height. The sign issues and anything relating to Chapter 26 were not before the Board for action today but would come back most likely in April. One concern raised by the public related to the adequacy of the environmental document. Staff had concluded that the 1992 Environmental Assessment (EA) and the subsequent EIS responded to all concerns. With regard to the boundary dispute over the 5,000 square foot parcel near Ski Run, staff had not initially included it because it was zoned High Density Residential, not Commercial. The planning team and APC felt this parcel should be included in the CP because it adjoined and was compatible with other Ski Run commercial parcels owned by the same person. This was a Board decision. Other issues related to drainage and environmental thresholds. Staff recommended certification of the EIS, approval of findings and related plan amendments.

Ms. Teri Jamin, Planning Director for the City of South Lake Tahoe, clarified the APC recommendation to include the parcel off of Ski Run within the CP boundary. On the question of areawide drainage, the CP had always proposed
that each individual project as it came forward would be required to include Best Management Practices (BMPs) onsite and not rely on the areawide drainage measures that were also included as part of the CP. Areawide measures were somewhat demonstration-oriented and were not monitored, since they were not constructed. Lahontan was concerned that the plan not rely totally on areawide drainage. Ms. Jamin also pointed out that the sign issues, which would be coming back in April or May, were not taken up due to disagreement over the way that banners had been regulated and the need for more analysis and research. Although the original CP boundary did not include HDR parcels, the recommended boundary did include five properties currently zoned HDR.

Mr. Jerry Budy, the environmental document consultant, described the earlier Environmental Assessment/Negative Declaration process and the subsequent preparation of an EIR/EIS. The text revisions between the draft and final clarified and addressed the concerns of the commenters. Both this document and the Douglas County CP environmental document could stand on their own. Transportation on both sides of the Stateline were considered in each document. To the concern that the EIS was not specific enough and lacked detail on CP project proposals, Mr. Budy suggested the CP process analyzed what was anticipated to the extent possible without having the project-level detail available. To the suggestion that the project impacts were not identified, the final EIR/EIS included a summary table showing impacts/effects and mitigation measures associated with the CP.

Agency Counsel R. J. Nicolle addressed the suggestion that the CP was illegal since the environmental threshold carrying capacities had not been attained in the Tahoe Basin. Staff disagreed strongly with this. The Regional Plan thresholds were originally designed as long-term goals, and it was never the intent that any one CP, or any one PAS amendment, solve the problems for the entire Tahoe Region. Each CP was to create the incentives to bring the Basin closer to the Regional Plan goals. The CPs, and this one in particular, constituted a massive improvement over the status quo, or doing nothing. The CPs had been analyzed by expert planners and environmental consultants who had determined the following: 1) that they were consistent with, and would not adversely affect the implementation of the Regional Plan; 2) that they would not cause thresholds to be exceeded; and 3) that they met or exceeded the strictest federal, state, or local air quality and water quality standards. The bistate compact, Ordinance 87-8, and the Code findings in Chapters 6, 14, and 33 had been met, as demonstrated in Attachment E (pages 127 through 132 of the packet material). The CPs were part of the Regional Plan and contributed to the attainment of thresholds for the entire Region; they were not responsible for attaining thresholds for the entire Region.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, distributed a March 22 letter from Michael Remy, on behalf of the Committee for Lake Planning, and advised the League joined in the comments. The League opposed adoption of the CP for a variety of reasons. While it was true that no single CP carried the burden of assuring achievement of threshold carrying capacities, it was necessary for TRPA each time it amended the Regional Plan to find that the Regional Plan, as amended, did achieve and maintain the thresholds. The League believed this finding could not be made at this time, in light of the continuing deterioration of Tahoe’s water quality, the far-behind-schedule
program of SEZ restoration, and in light of the continuing increases in traffic. Everyone who participated in the consensus-building workshops understood that there was not a lack of commercial floor space in the Tahoe Basin; in fact, there was an over abundance. It was argued that by allowing certain floor space to be added to the Basin there would be environmental improvements because of the incentives that would help with threshold achievement and maintenance. This was ultimately agreed to by everyone, and Chapter 14 and the water quality plan for the Basin contemplated that, by permitting CPs and additional floor space, the communities would have incentives to do some of the things that needed to be done to attain thresholds. These included stormwater improvements, reduction in Vehicle Miles Traveled (VMT), and stream zone restoration.

Ms. Mason suggested that, unlike the Tahoe City and Douglas County CPs, this CP did not include an irrevocable commitment to areawide drainage systems prior to handing out commercial allocations. Only a partial drainage system was contemplated for the area; the total drainage picture was not adequate, and there was no link between the implementation of the areawide drainage improvements and the allocation of commercial floor space. This was a fatal deficiency in the plan. Areawide drainage systems did not substitute for BMPs but served as a backup to BMPs. Currently, the stormwater system for the City of South Lake Tahoe was years behind the implementation schedule that was to take place when the Embassy Suites project was approved. The League’s primary objection to the plan was that it included no firm commitment to the implementation of even the deficient stormwater measures that the plan contemplated. In determining that threshold carrying capacities could be achieved and maintained, the Regional Plan relied in part on improvements that would come through the CP process, such as areawide drainage systems. If the systems were not being implemented in the manner envisioned when the Regional Plan and the 208 water quality plan were adopted, creating new problems through new commercial development only made the situation worse and undermined the reliance of the Regional Plan and the 208 plan on the improvements that were projected at the time it was decided the plans were adequate.

Ms. Mason suggested the CP did not do enough to reduce VMT but rather increased it and relied on a reduction in growth of VMT. The League did not consider this an adequate approach to threshold achievement and maintenance. The VMT issues for this plan were inextricably bound up with the VMT issues for the Douglas County CP. There should be a parking program to ameliorate the VMT effects and a stronger commitment to transit. For these reasons and others set forth previously, the League opposed this CP and urged the Board, if it was inclined to adopt it, to consider imposing a schedule on the City of South Lake Tahoe for the achievement of its stormwater goals and not releasing commercial allocations so long as the schedule was not adhered to.

Ms. Jamin explained that the City was doing both areawide drainage and on-site BMPs. Chapters 4 and 7 of the CP contained a complete drainage program that addressed all of the runoff within CP boundaries. The areas that were acquired in the Wildwood area were already improved and would connect with the SEZ restoration area on the opposite side of U.S. 50 down to Ski Run Marina.
There also was a Stateline program running along Pine Boulevard parallel to U.S. 50 (Drainage Basin B). The plan included a schedule and funding sources for all these drainage projects. Acquisition and funding of Drainage Basin B were tied to release of bonds with respect to the Ski Run Hotel project. The date in the report was 1995, the same date that commercial square footage was anticipated to be available through the CP process. The Drainage Basin outside the boundary (Basin A1) did not have specific funding sources and was not tied to a schedule, because it was on Forest Service land. Basin A2 was tied in to both the Loop Road and the Park Avenue projects and would be moving forward in conjunction with those two projects. This also was an areawide basin.

Mr. DeLanoy suggested that the League's comments here were similar to those voiced earlier regarding cumulative impacts. He questioned whether there was in the plan sufficient factual information to overcome the thrust of the League's claims in court. On the same subject, Mr. Waldie questioned whether Mr. Remy's claim that the EIS/EIR was defective and would not pass scrutiny was without foundation.

Ms. Nicolle responded that the Agency did bite off some hefty thresholds. If the issue was whether the CP put TRPA toward the direction of attaining those thresholds regionwide, she felt the CP did. The thrust of the earlier lawsuit by Mr. Remy and the League looked at the regionwide issues, suggesting that because all the regional issues had not been solved, the CP should not be adopted. She was of the opinion that the CP provided substantial evidence that the Board was moving in the right direction of attaining and maintaining the thresholds. She had worked with EISs and EIRs for many entities and had never seen such thorough and detailed analyses as those she had seen here. She supported the staff position and felt there was adequate evidence in the record to support a decision to certify the EIS. In any environmental litigation, the courts were creative in coming up with new standards which did not exist prior to the litigation. This was always the risk in any challenge. The EIS process in the Code and Compact had not had a lot of litigation to establish its parameters, but given the framework of CEQA and NEPA, which would be used to interpret TRPA's environmental process, she recommended support of the staff position.

Ms. Lau suggested she was particularly concerned with Mr. Remy's claim that the final EIR/EIS failed to comply with CEQA and the Compact because its analysis of environmental impacts and the corresponding mitigation measures was inadequate.

Ms. Nicolle responded that many of the challenges to CP documents asked for more specifics, the project on-the-ground detail to demonstrate there would be no problems. The staff’s analysis was at a "land use" analysis, which evaluated theoretical land uses to an adequate level. Any particular project built would need to be reanalyzed when more specifics were available. There potentially could be no end of demand for detail at the land use level. The EIR/EIS was adequate for a "land use" decision document.

Mr. Upton suggested that the commitments and outlines in the plan were as realistic as TRPA could make based on what was known now and what control TRPA
had now. The future project would provide the opportunity for getting down to the higher level of specificity.

Ms. Nicolle concurred with this characterization.

Ms. Mary Gilanfarr, for the Tahoe Sierra Preservation Council, suggested this was a marvelous moment at the end of many years of community action with strong cooperation of TRPA and others to make something good happen. The CP process was a response to thresholds; it was the opportunity for local people at every level to get together to set a vision, standards and outlines for use to create something that would make things happen in the degraded urban environments. Without CPs and adopted standards and clearly visible guidelines, people could not be induced to invest money or to have any degree of security that they could make economic improvements in CP areas. In the past two years, many organizations had formed coalitions to join in partnership to solve problems in the areas of drainage, scenic improvements, water quality, and urban improvement. It was sad that the League and its adjunct organizations were attempting to bring in last minute fear of lawyers. This was about planning, not attorneys and litigation. It was time to move forward to end the paper shuffle and start the on-the-ground process. If there needed to be more safeguards as projects came forward, that was the appropriate time to do so. The Preservation Council had participated in meetings of many CPs and had actively supported the adoption of every CP that had come forward to the Board – not because every paragraph was perfect but because they represented a process that was dynamic and community-motivated for improvements. She congratulated the participants and urged the Board to approve the plan and future CPs.

Mr. Ed McCarthy, chairman of the South Lake Tahoe Stateline/Ski Run Community Plan team, suggested the past three planning years had been long ones. With regard to the League's position, it was important to realize that the entire community was not embraced with the benefit of being able to regenerate itself under the CP. Only narrow, short geographical locations had been given the opportunity for change within the CP. That was all that was permitted. He encouraged a broader approach to this in the future. As to the issue of drainage, it was not possible to speak to a regional cure when the parameters were so shrunken. If one were going to address basinwide drainage, one had to work on the whole Basin. The CP had only a limited potential, and money for improvements had to come from the regeneration of the community.

Mr. Steve Teshara, member of the Douglas County CP team and non-voting chairman/facilitator, thanked TRPA, the City, and the planning team for their cooperation in working with the Douglas County CP to coordinate and integrate the two plans. With respect to some of the issues raised, he found the arguments about the CP process and thresholds to be in opposition to one another. Where there was support for Meyers and Tahoe City CPs, there was not support for California/Stateline and Douglas County. If the CP process was not achieving thresholds, then none of the CPs were good. There appeared to be some selective persecution here. The plans did represent progress; and although they perhaps did not get to threshold attainment in every area, they were substantially better than the current situation. Mr. Remy's letter was somewhat offensive in that, after many years of a planning process, a lawyer
could complain about the adequacy of EIR documents among other things and the Board was expected to be afraid of the criticism and the potential legal actions. He hoped the Board was not intimidated by what he personally viewed as boiler plate complaints. Setting this against years of work in the community in partnership was in his mind difficult to reconcile. He hoped the Board would proceed today, since Douglas County was anxious to move forward in partnership with the City.

Ms. Mason, for the League to Save Lake Tahoe, responded to comments from Ms. Gilanfarr and Teshara and the suggestion the League had come in at the last minute with objections not raised earlier. She had articles going back years showing that the disputes over the Douglas County CP had not changed. She could also show a long history of the League’s work on behalf of stormwater improvements and what it had done to get erosion control and stormwater funding into the Basin and to get plans for additional stormwater treatment into all the plans that were adopted. The proposed schedule in the CP was just a wish list. The League was concerned there was no firm commitment that linked release of commercial allocations to creation of the stormwater drainage system, including the A basins into which the Park Avenue stormwater, among others, would be running. The League wanted to see a firm link between the incentives of the CP and the stormwater system. Of particular concern was Table 1 at the end of Chapter 4. The League would not object to this CP if it did not have serious objections to its environmental ramifications and its failure to do what a CP was supposed to do.

Mr. Kevin Cole, Mayor for the City of South Lake Tahoe, suggested the planning process had been going on for well over four years. The status quo was not achieving attainment of thresholds. The status quo would never achieve thresholds. This CP had been combed over in minute detail with the intention of creating tremendous benefits for the local community environmentally and economically. A healthy economy was necessary to pay for environmental improvements. It was also true that there were a number of water quality projects that were well behind schedule. The redevelopment project was anticipated to address many water quality concerns and it was expected that the Ski Run hotel project would be the first of the redevelopment projects to be built. As a result many of the water quality projects were tied to that particular project. That project fell on hard times and, as a result, many of the projects were behind schedule. However, the completion of the projects was still tied to the Ski Run project, and it was looking more and more optimistic for this project.

Chairman Chimarusti closed the public hearing.

Ms. Jamin explained the requirements for SEZ restoration and water quality improvements (areawide drainage system) set forth in Table 1 (Community Plan Component Matrix) and the timing of the requirements in relation to release of incentives.

Mr. Klein noted that the requirement for the Ski Run SEZ restoration and for the StateLine areawide drainage system was shown as occurring both as a part of the SEZ Restoration Measures and as Water Quality Areawide Drainage System Measures. One showed them as requirements which had to occur before
incentives could be released, the other did not. The requirement was covered.

Ms. Jamin suggested that the footnote covering implementation of CIPs as necessary prior to release of incentives could be reiterated in both columns of the matrix on Table 1.

Ms. Bennett suggested it was unfortunate that this plan which was the result of years of effort and hard work by many had the potential of being held hostage over a question of achievement of overall thresholds for the lake. She questioned whether this CP could carry its own weight in terms of impacts and mitigation.

Ms. Jamin responded that the targets that were presented as a part of the CP met the pro-rata share of thresholds for which the CP was responsible.

Mr. Uhler commented that Placer County was currently defending itself against a lawsuit brought by the law firm of Remy and Thomas. He had seen letters similar to the one submitted today. The County had been contacted on two other occasions and may be facing two other lawsuits brought by the firm. While not wishing to cast aspersions on their work, he was sure it was excellent, it was his experience the firm was more than willing to write this kind of letter for anyone willing to pay them. The letter had had the desired effect by causing a lot of questions on the part of the Board members. He was surprised at the number of questions that had arisen because of the letter amongst those who had been involved in the process and who he felt should be comfortable on the issues. Based on his experience at Placer County, this was a standard tactic by this law firm.

Mr. Waldie advised he had had experience with the Remy and Thomas firm also, and his evaluation of the firm's ethics, morality, and professional standards was precisely 180 degrees different from Mr. Uhler's assessment. To suggest that they were other than ethical was not becoming.

Mr. Ziegler explained that the parcel off of Ski Run that the APC wanted included was 5,000 square feet in size. The staff initially felt there was a problem with the findings and recommended it not be included. The planning team and APC felt that, based on land use and planning considerations, it should be included. Given the small size of the parcel (less than 1/4 acre), staff would be willing to stand aside and go with the APC recommendation, if that was the City's and Board's desire. Procedurally, legal staff had concerns about environmental documentation, and he wanted to assure that there was adequate evidence in the record to support the action. The lunch break would provide time for staff to discuss with the EIS consultant inclusion of the parcel.

(The meeting recessed for a lunch break from 12:05 to 1:35 p.m.)

Agency Legal Counsel R.J. Nicolle distributed a one-page addendum to the EIS. The addendum deleted any inconsistent references regarding Area 9. Staff had gone through the EIS to see if there were any areas that would be problematic in making the finding that there was substantial evidence in the record to
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support the Board's decision. The EIS consultant was comfortable with the proposed changes (three).

MOTION by Mr. Klein to certify the revised Final EIR/EIS for Stateline/Ski Run Community Plan, including the sheet distributed by staff on modifications to the EIR/EIS regarding inclusion in the CP boundary of Parcel (index number 9).

Ms. Nelson, for the League to Save Lake Tahoe, asked if the CP included Ms. Bennett's request that Table 1 be revised to include the R-3 footnote under 5.1 (Stateline areawide drainage system) and under 5.3 (Ski Run areawide drainage system).

Ms. Nicolle suggested that staff had no problem with this if the Board wished to include this change.

The motion carried unanimously. (Members present: Lau, Uhler, Bradhurst, Neft, DeLany, Waldie, Cronk, Westergard, Upton, Kanoff, Klein, Chimarusti. Members absent: Hagedorn, Bennett)

MOTION by Mr. Klein to adopt the findings including those necessary for inclusion of Area 9.

Ms. Nicolle advised that Chapter 14 of the Code required the Board make a finding that this Area 9 was an area where commercial uses were either concentrated or should be concentrated, that the parcel was served by adequate transit and highway access, that the use of the parcel was consistent with the VMT reduction goals, that the use of the parcel would encourage concentration of commercial development and discourage strip development, and that the parcel size was adequate to meet the needs for additional commercial development.

Mr. Klein asked that these findings be included in the motion. The motion carried unanimously. (Members present: Lau, Uhler, Bradhurst, Neft, DeLany, Waldie, Cronk, Westergard, Upton, Kanoff, Klein, Chimarusti. Members absent: Hagedorn, Bennett)

MOTION by Mr. Klein to adopt the technical amendments to implement the Community Plan as listed in the staff report and including the inclusion of Area 9 and the change to Table 1, Chapter 4, to include the R-3 designations as discussed. (Putting the same designation in item 5 that was in item 2).

Ms. Scholley asked that Section 2 of the ordinance be amended to read, "Section 6.10 of Ordinance No. 87-9, as amended, is hereby further amended to add subparagraph (28) as follows: (28) Stateline/Ski Run Community Plan, February, 1994, as amended by Attachment G, dated March 1, 1994, except that the provisions for substitute sign standards shall not be effective and therefore Chapter 26 of the TRPA Code shall continue to apply within the Community Plan boundaries." This would make it clear that TRPA was not adopting the sign rules that were still contained within the document.

(Ms. Bennett came into the meeting during Ms. Scholley's comments.)
Mr. Klein agreed to this addition. The motion carried unanimously. (Ms. Hagedorn was absent.)

Chairman Chimarusti read the ordinance by title:

"An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency, as Amended; Adopting the Stateline/Ski Run Community Plan; Amending Plan Area Statements 089B and 091 and the Overlay Maps Relating to the Stateline/Ski Run Community Plan; Amending Related Land Capability Overlay Maps; Amending Chapters 24 and 30 to Provide Substitute Standards; and Providing for Other Matters Properly Relating Thereto."

MOTION by Mr. Klein to adopt Ordinance No. 94-2. The motion carried unanimously. (Ms. Hagedorn was absent.)

IX. PLANNING MATTERS

A. Forest Health Workshop

Mr. Steve Chilton, Chief of the Compliance Division, distributed a revised agenda for the day’s discussion.

Mr. John Christopherson, with the University of Nevada Cooperative Extension and member of the forest health group, discussed the consensus process used by the group over the last year and a half, the groundrules agreed to by the group early on, the benefits of the process, and the work by facilitators Steve Lewis and Mike Havorkamp.

Mr. Chilton spoke on the depth of knowledge and the range of experience of the participants. Those involved included representatives from the logging industry; federal, state and local agencies; environmental groups; a regional fire chiefs association; college professors; forest-products industry representatives; and citizens. The monthly meetings were well attended and included guest speakers who talked on forest evolution and the desired future conditions of the forest. Mr. Chilton discussed the consensus group’s mission, the desired forest condition, future amendments to the TRPA Goals and Policies, and consistency with the Code of Ordinances.

Mr. Christopherson discussed the numerous committees assigned to specific functions between monthly meetings. These functions included, in part, the drafting of the mission statement, the defining of forest types, an education committee, and a library committee. Committee recommendations were presented, discussed, modified, and approved by the full consensus group.

Mr. John Swanson, with the Lake Tahoe Basin Management Unit of the U.S. Forest Service, spoke in support of the consensus effort. The Forest Service had attended every meeting because it allowed a good exchange of a wide variety of ideas and concerns about forest health. The Forest Service was using as a starting point the "Desired Future Conditions of the Lake Tahoe Basin Forest Ecosystem" document drafted by the group in its planning of the East Shore timber harvest project. The Forest Service felt the forest health consensus
effort was very important, and the process provided a good mechanism for working on the health of the Tahoe Basin forest.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, also spoke in support of the process as being a good tool to share ideas and to work together on the issues. While there were still some questions about implementation, the one disappointment with the effort was that it had moved slowly. The group had been meeting since October 1992, and there were still unresolved issues over implementation of certain types of forest projects. The process was a good one; progress had been made in refining mutual goals; unfortunately, the process had not come far enough to avoid significant conflict on future projects.

In conclusion, Mr. Chilton summarized the current work of the group, ordinance amendments, the hope for a field trip this summer. Mr. Chilton responded to Board member questions on public input, the complexity of the issues, the need for outside funding to address fire danger and eco-system management, periodic feedback to the Board, and similar efforts in other areas.

Chairman Chimarusti thanked the consensus group for its efforts.

VIII. PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS

B. Amendment of Chapter 22 Height Standards, Addition of Subsection 22.4.D Additional Height for Special Height Districts, to Create Special Height Districts Which Would be Permitted Additional Building Height and Related Amendments to Section 22.2, Definitions, to Define View Enhancements of Lake Tahoe and Other Scenic Resources, and Related Amendment of the City of South Lake Tahoe Redevelopment Demonstration Plan Development Standards

Senior Planner Andrew Strain presented a summary of the Redevelopment Agency-initiated amendment, the specific language proposal, the findings and conclusions of the environmental assessment, and the handling of inconsistencies between the Redevelopment Demonstration Plan amendment and the Regional Plan.

Mr. Waldie questioned whether the Code had a percentage number for the amount of parking and primary commercial uses permitted in the same structure. Could, say, 5% of the structure be commercial parking and 95% commercial uses? Was there anything in the definitions that would permit such a building to be classified as a vehicle storage and parking use?

Mr. Strain responded that in this case the building would not be classified as a vehicle storage and parking use, although it was possible to have two primary uses within one building. Staff would look into this further.

Mr. Uhler questioned the possible conflict between Section 22.4.D(1)(c) requiring that projects in the special height district utilize transit/pedestrian-oriented development facilities and limited parking and Section 22.4.D(3)(c) limiting additional height to buildings in which the primary use was, in part, tourist accommodation and vehicle storage and
parking.

Mr. Strain explained that vehicle storage and parking were allowed uses that could gain height above what was allowed today. It was hoped over time that the method of arriving at the high intensity use area of the Stateline casino core would not be the single occupant automobile. Limited parking was one of the methods that was used to encourage use of transit.

Mr. Waldis questioned what protection against abuse the Code contained relative to multiple primary uses within qualifying buildings.

Mr. Klein noted that the ordinance amendment would not itself generate a project. The Park Avenue project, which would take advantage of the ordinance amendment, would be coming to the TRPA Board for review and approval. It was the only possible project at this time that could take advantage of the special height district provision.

Mr. Ziegler suggested that the height package was being suggested for a tourist area, and staff wanted to ensure there would not be abuse down the road. He did not feel anyone was intending to abuse the provisions but staff just wanted to cover all bases.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, suggested the proposal before the Board raised the question if what was project specific and what was a plan. This was an amendment designed to accommodate a particular project, and it was a project with very little detail other than simulations. The League viewed this as a piecemeal approval. While the League did not necessarily oppose the ultimate approval at Park Avenue, since it was an area crying out for redevelopment, the League strongly opposed a Regional Plan amendment to change the Scenic Quality Improvement Program (SQIP) and the way in which scenic thresholds were treated on the basis that a particular project would not be financially feasible without the amendments. There was no evidence to support the claim that the project was not financially feasible if not given the extra height. A better process would see a consensus type of process with parameters for a specific type of project to be considered. She would prefer to look at a project that would not block the sun angle and that complied with the existing Code and SQIP. She urged the Board not to act today but to defer the matter until consideration of the Park Avenue project.

Mr. Richard Shaw, consultant for the South Lake Tahoe Redevelopment Agency, discussed applications of the amendment. The amendment was not project specific but rather a program level amendment that would apply throughout the Basin in creation of special height districts upon the meeting of specific conditions. At the current moment, there was only one geographic location in which it could apply. In addition to the Park Avenue area, the amendment also would address property on the Lake side of Highway 50 and lands on the mountain side of Highway 50 which were not considered part of the Park Avenue project. On solar access, he had worked closely with staff on the apparent inconsistency, and there were ways to address this in the design of buildings during the project-specific phase of the project. Mr. Shaw also addressed height provisions in relation to topography and building design.
Mr. Dennis Crabb, legal counsel for the South Lake Tahoe Redevelopment Agency, spoke in support of the project. To get to this point, the project proponents and Redevelopment Agency had spent several hundred thousand dollars. Taking in the overall redevelopment program, several million had been spent getting to this point. It was not possible to move further without the assurances now being requested. He had sat through every economic analysis and evaluation of the plan and could assure the Board that the project was not economically feasible without the amendment. Two sets of consultants had advised the Redevelopment Agency that it was not possible to build the project within the constraints of the existing Code. The TRPA plan and the City’s plan assumed that certain things would be accomplished in the Tahoe Basin (intermodal transit center, a gondola from Heavenly Valley, a realignment of Park Avenue, public plazas, upgrading of the Stateline scenic quality, and redevelopment). Without the Board’s action today, none of this would happen.

Chairman Chimarusti closed the public hearing.

MOTION by Mr. Klein to make a finding of no significant effect based on the Final Environmental Assessment (February 25, 1994).

Mr. Ziegler suggested that, to respond to Member Waldie’s and Member Uhler’s comments, Section 22.4.D(3) (c) be amended to read, “The additional height is limited to buildings in which the primary use is tourist accommodation, transit stations and terminals, and/or vehicle storage and parking. These buildings may also contain primary commercial uses, other than vehicle storage and parking, provided such other commercial uses are not the dominant use of the building. Vehicle storage and parking buildings...” Mr. Ziegler explained that the intent here was that other commercial uses would not in any event be the dominant use of the building. The buildings which qualified (which could include vehicle storage and parking buildings) may include other primary commercial uses as long as they did not dominate.

Discussion followed on how this amendment could be interpreted and applied.

(The Board took a brief recess.)

Mr. Ziegler suggested that, after consulting with the stakeholders, he wished to further amend his language to read, in part, “These buildings may also contain primary commercial uses, provided that commercial uses other than vehicle parking and storage may not occupy more than 50% of the building’s floor area.”

Mr. Klein reiterated his motion to approve the findings with the amended language. The motion carried unanimously. (Members present: Uhler, Bradhurst, Neft, DeLanoy, Bennett, Cronk, Westergard, Upton, Klein, Lau, Chimarusti. Members absent: Waldie, Kanoff, Hagedorn)

Mr. Klein read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency; Amending Chapter 22 of the Code of Ordinances Relating to Additional Height for Certain Redevelopment
Projects; Amending the Regional Plan by Amending the South Lake Tahoe Demonstration Redevelopment Plan, and Providing for Other Matters Properly Relating Thereto.

MOTION by Mr. Klein to adopt Ordinance No. 94-3. The ordinance carried unanimously. (Members present: Uhler, Bradhurst, Neff, DeLanyo, Bennett, Cronk, Westergard, Upton, Klein, Lau, Chimarusti. Members absent: Waldis, Kanoff, Hagedorn)

F. Amendment of Chapter 11 Relating to the Deadline for Transferring Commercial Floor Area From Commercial Foundations

Agency Special Projects Attorney Susan Scholley summarized the proposed amendment to extend the deadline for transferring banked commercial floor area from July 27, 1994, to July 27, 1996, for the holder of remaining commercial floor area from the Kjer foundation on Kingsbury Grade. Staff recommended approval of the two-year extension of the deadline with the condition that the commercial floor area be subject to current regional and local air quality and transportation mitigation requirements. Ms. Scholley presented more details on the history of Chapter 11, old foundations, the restrictions on banking and transferring of commercial floor area and land coverage, and this particular site on Kingsbury Grade. The request here related to 32,000 square feet of commercial floor area that was earmarked for the Park Avenue project in South Lake Tahoe. Her primary concern here was renegotiation of earlier extensions without an appropriate concession and dealing with the impact of perpetuating for another two years what was originally going to be a short-term exemption from the Regional Plan. Because the Kjer foundation was approved in 1980, was in Nevada, and was less than three acres, it was the only commercial foundation which was approved without having to pay air or water quality mitigation fees at the time it was approved. All other commercial foundations would have been subject to either TRPA or CFRPA air and water quality mitigation fees. The condition staff recommended on the additional two-year extension would be that it be granted but the exemption from air quality and transportation mitigation fees be lost. The floor area was still exempt from the current commercial floor area allocation, which was still a major concession on the Agency’s part.

Mr. Gary Midkiff, representing the property owner, suggested that if the South Lake Tahoe CP had been adopted according to the initial time schedule the requested extension would not have been necessary. The floor area was committed to the extent it could be to the Park Avenue project. This floor area was a key component to the major improvements in the Park Avenue area. There was about $1 million tied up in the floor area, and the proponent’s share of the Park Avenue project to date exceeded $180,000. The project proponent, when he got to the point of bringing the project to the point of development in the next year, would be expected to pay between $1.6 and $2 million in developer fees to help pay for water quality improvements and transportation/pedestrian improvements. Excess coverage mitigation fees could exceed $1/2 million. Tacking on the $60,000-$80,000 for air and transportation mitigation fees substantially increased the costs, and he asked that the Board recognize the proponent’s already substantial investment and not require any further exactions. The property owner could have dispensed the available

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floor area in numerous increments, scattered all over the community. Focusing it, however, in the Park Avenue project was more beneficial. He knew of numerous people who would be willing to buy increments as small as 500 square feet of floor area.

The Board members discussed the earlier agreements, the timing on adoption of the CP, the two previous exemptions granted to the property owner, planning v. legal considerations on the renegotiation of the extension, the fact the fees on the 32,000 square feet would be $60,000 - $65,000, the applicant’s business decision to hold on to the floor space, the requirement under the earlier extension that the receiving areas for the floor area be in a CP area, the fact the floor area could be used prior to adoption of the CP, and the use of the $65,000.

Mr. Lew Feldman, representing the Park Avenue proponents, one of whom was the holder of the 30,000 square feet of commercial floor area, commented he was surprised that the owner was doing everything he was asked to and he was being assessed a punitive penalty of $65,000. This was not the kind of message that needed to be sent to a community that was reeling from several economically depressed years. The proponent was trying to do what TRPA wanted him to do. There was no loss because of the time that had elapsed and no harm to the Agency. He urged a more constructive approach.

Since no one else wished to comment, Chairman Chimarusti closed the public hearing.

**MOTION** by Mr. Klein to approve the findings to amend Chapter 11 without inclusion of the proposed mitigation fees. The motion failed on the following vote:

**Ayes:** Mr. Bradhurst, Mr. Cronk, Mr. Upton, Mr. Kanoff, Mr. Klein, Mr. Uhler

**Nays:** Ms. Neft, Mr. DeLancy, Mr. Waldie, Ms. Bennett, Mr. Westergard, Ms. Lau, Mr. Chimarusti

**Abstain:** None

**Absent:** Ms. Hagedorn

**MOTION** by Ms. Lau to make a finding of no significant effect and findings required by Chapter 6 and Ordinance 87-8 to amend Chapter 11, including the condition requiring payment of the fees as recommended by Agency legal staff. The motion carried unanimously.

Chairman Chimarusti read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency; Amending Chapter 11 of the Code of Ordinances Relating to the Transfer of Commercial Floor Area and Providing for Other Matters Properly Relating Thereto.

**MOTION** by Mr. Klein to adopt Ordinance No. 94-4. The motion carried unanimously.
Senior Planner Lyn Barnett presented the staff summary on the EIS for the timber harvest proposal on approximately 10,000 acres of land on the east side of Lake Tahoe. The 60-day EIS comment period would end in April, and four alternatives were assessed in the document. Mr. Barnett summarized the four alternatives.

Mr. John Swanson, from the U.S. Forest Service, explained the project was an extensive one, covering 8,000 acres within a 10,000 acre analysis area. The objectives were to improve forest health, to reduce future insect mortality to more natural levels, to reduce the potential for a large disastrous wildfire, and to move the forest along the East Shore towards the desired future condition. Mr. Swanson presented information on techniques to be used and explained that between 35 million and 40 million board feet of dead, dying and overstocked trees would be removed. Eighty-five to 97 percent of the work would be done by helicopter, the remainder by tractor logging methods. Somewhere between 150 to 1,000 acres per year would be burned using prescribed fire. In late May after a decision by the forest supervisor the final EIS would be published. At that time the Forest Service would be coming to TRPA for a project permit. While the Forest Service could start implementing the project this coming July, more likely it would not start until July 1995 because of environmental review regulations.

(Ms. Lau and Ms. Bennett left the meeting at 5:00 p.m.)

Ms. Rochelle Nason, for the League to Save Lake Tahoe, commented on the extent of the project and the fact it had attracted the attention of national groups as well as the League. TRPA would be hearing from the Sierra Club, the Wilderness Society, probably the Natural Resources Defense Council, and others. There was concern among those who had reviewed the document about retention of older and larger trees and watershed protection. While the document contained much of the language from the forest health consensus effort, the League wanted to ensure that the project implemented the recommendations in a way that the consensus group would approve.

Mr. Duane Whitelaw, Forest Chief for North Tahoe Fire District, commented that the risk of catastrophic wildfire in the Tahoe Basin was very real, either starting in the populated areas and moving to the ridge or in the other direction. Projects such as the East Shore project, specifically alternative 4, would do a lot to reduce the risk of wildland fire. It also served to complement efforts that the communities had made around the Basin in the area of fuel reduction and defensible space.

Mr. Steve Frady, with the Nevada Division of Forestry, suggested his Division concurred with the findings of the EIS. The East Shore project would be of major benefit to forest health in reducing fire danger and in reducing insect infestation.

Mr. Hank Weston, California Department of Forestry for Placer County, advised this project was supported as a model in a coordinated resource management
plan. These were the types of programs that CDF tried to undertake on the west side. He urged Board support of the project which could serve as a model for other similar efforts throughout the Basin.

The Board took no action.

C. Adoption of Chapter 97, Trip Reduction Ordinance

Assistant Planner Bridget Mahern reminded the Board that the public hearing on this item was held at the February Board meeting and the required findings were made as well. The staff was requesting adoption of the ordinance this month with some minor editorial modifications and changes to reflect the Board's February discussion.

Mr. Chimarusti read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency, Adopting Chapter 97 of the Code of Ordinances Relating to the Employer-Based Trip Reduction Program; and Providing for Other Matters Properly Relating Thereeto

MOTION by Mr. Upton to adopt Ordinance No. 94-5. The motion carried unanimously. (Members present: DeLanoy, Waldie, Cronk, Westergard, Upton, Kanoff, Klein, Uhler, Bradhurst, Neft, Chimarusti)

D. Amendment of Chapter 91 Regarding Oxygenated Fuels

Assistant Planner Bridget Mahern explained this ordinance amendment stemmed from the 1991 threshold evaluation report and was an air quality control measure in the 1992 Regional Transportation/Air Quality Plan. Oxygenated fuels burned more efficiently and reduced carbon monoxide emissions from fuels. Both Placer and El Dorado Counties were required to comply by virtue of the California Clean Air Act requirement that only oxygenated fuels be sold in the winter months. The Federal Clean Air Act also required moderate non-attainment areas to sell only oxygenated fuels in the winter. Currently this requirement was being met throughout the Region, and the ordinance amendment would require that only oxygenated fuels be sold in the Basin from November 1 through January 31.

Since there were no public comments, Chairman Chimarusti closed the hearing.

MOTION by Mr. Upton to make the findings to amend Chapter 91 as outlined. The motion carried unanimously.

Mr. Chimarusti read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency; Amending Chapter 91 of the Code of Ordinances Relating to Oxy-Fuels and Providing for Other Matters Properly Relating Thereeto.
MOTION by Mr. Upton to adopt Ordinance No. 94-6 amending Chapter 91. The motion carried unanimously.

G. Amendment of Plan Area Statement Boundary Between Plan Areas 045, Incline Village Commercial, and 046, Incline Village Residential, to Move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046

Senior Planner Andrew Strain presented the staff summary of an applicant-initiated amendment to move a Plan Area Statement boundary to include a commercial parcel in a residential PAS. The applicant proposed eventually to develop a 4-unit project and convert to condominiums. Single family uses were not permitted in the commercial Plan Area. Washoe County zoning permitted the desired residential use on the property. Staff recommended adoption of the amendment as proposed, and the APC recommended favorably as well.

Since no one from the public wished to comment, the hearing was closed.

MOTION by Mr. Cronk to make the finding of no significant effect based on the staff report for the amendment to Plan Areas 045 and 046 as described. The motion carried on the following vote:

Ayes: Mr. DeLanoy, Mr. Cronk, Mr. Westergard, Mr. Upton, Mr. Kanoff, Mr. Klein, Mr. Uhler, Mr. Bradhurst, Ms. Neft, Mr. Chimarusti

Nays: Mr. Waldie

Abstain: None

Absent: Ms. Hagedorn, Ms. Lau, Ms. Bennett

Mr. Westergard advised he would vote in favor of the amendment but in opposition to a future conversion to condominiums. Mr. Chimarusti indicated he would do the same.

MOTION by Mr. Cronk to make the findings required by Chapter 6 based on the staff report. The motion carried with Mr. Waldie voting in opposition.

MOTION by Mr. Cronk to adopt Ordinance No. 94-7.

Mr. Chimarusti read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency, as Amended; Amending Plan Area Boundaries Between Plan Area 045, Incline Village, Commercial, and Plan Area 046, Incline Village Residential; and Providing for Other Matters Properly Relating Thereto.

The motion carried with Mr. Waldie voting in opposition.

IX. PLANNING MATTERS
C. Determination of Available Sewer Capacity and Determination to Authorize Release of 1994 Allocation in the South Tahoe Public Utility District (STPUD) Service Area

Agency Special Projects Attorney Susan Scholley presented the staff summary, explaining that currently on paper the STPUD sewer plant was out of sewer capacity for residential uses, public service uses, and for private recreation uses. The District’s proposal was to reprogram or move sewer capacity into the residential and public service capacities to permit the release of the 1994 residential allocations in the STPUD service area. The source of that capacity was as follows: 34 sewer units from remitted, unused residential projects; remitted capacity from the Redevelopment Agency (150 sewer units); remitted public recreation capacity (209); and unused commercial sewer capacity (91 units). Staff recommended approval of the reprogramming and the authorization to release 116 allocations for 1994, subject to the condition that the borrowing from the public recreation reserve was paid back from any future remitted capacity or from any future increases in the plant’s capacity. STPUD was currently in the process of preparing an EIS for a facilities plan which would recalculate the capacity of the STPUD plant. If the plan was approved, there would be additional capacity at the sewer plant, and TRPA would not be going through this reprogramming process every year. If the plan was not approved, STPUD would continue to expend its capacity in the various established categories. Ms. Scholley presented more information on the source of the reprogrammed capacities and responded to Board member questions on the facility plan’s intent to increase capacity by recalculating the method used to divide up uses, the repayment of capacity, and future equity arguments. Ms. Scholley explained that staff had made clear to STPUD that the Board’s action was in no way a commitment to approve the facilities plan.

Mr. Westergard asked that the District look at establishing and committing to a priority list for remaining, limited capacities with various alternatives, including rejection of the facilities plan, the status quo, and increased capacities. This would give the Board an ability to view impacts of current actions on future commitments. Establishment of those priorities as soon as possible would be a good idea, because he was not as confident as some on increasing the plant’s capacity.

Mr. Dale Sare, general counsel for the STPUD, advised the Board there was a signed agreement between the California Attorney General, the League to Save Lake Tahoe, and STPUD facilitating staff’s recommendation. The facility plan would address the real capacity and not just paper capacity. While the District was actually at two-thirds capacity, paper capacity showed nothing was left. The facilities plan would clarify this and would show there was excess capacity. As part of its facilities plan, the District was considering a priority list as suggested by Mr. Westergard. The entire plan would be patterned after TRPA’s plan and priorities.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, asked that the facilities plan address not just averages and mixed uses but also the ability to take care of peak capacities, what the town would produce on a rainy New Year’s Eve. Spills occurred at times like this when there was maximum usage. Based on the agreement entered into by the League, she was
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satisfied there were additional environmental protections and did not oppose
the proposed Board action.

Chairman Chimarusti closed the public hearing.

MOTION by Mr. Klein to make a finding of no significant environmental effect
and findings required by Chapter 6 for the reprogramming of commercial and
recreational sewer units for the STPUD. The motion carried unanimously.

MOTION by Mr. Klein to move the reprogramming of 484 sewer units to
residential use (380 sewer units) and public service use (104 sewer units),
conditioned on the written commitment of STPUD to repay the recreational
reserve 209 sewer units from any future remittances to the District or from
any future increases in plant capacity, whichever occurs first, and the
release of the 1994 residential allocations to the STPUD service area of El
Dorado County (78 allocations) and the City of South Lake Tahoe (38
allocations). The motion carried unanimously.

(Chairman Chimarusti recognized former Board member Joe Houghteling in the
audience.)

B. Workshop on Subdivision Provisions

Referencing the packet material, Agency Special Projects Attorney Susan
Scholley presented the staff summary and reviewed for the Board the theory and
practice of subdivision policies and ordinances. It was her understanding the
matter would be coming back to the Board for a more thorough discussion in
April.

(Mr. Upton asked for a copy of Ms. Scholley’s outline so he could prepare a
position paper. Ms. Scholley agreed.)

Ms. Nason, for the League to Save Lake Tahoe, disagreed with Ms. Scholley’s
characterization of the policy behind the subdivision prohibition and
suggested it was much broader than what was stated. She would go into this
issue, as well as the secondary residence issue, when the matter came back to
the Board in April. What was obvious was the poor drafting of the subdivision
provisions, specifically in the sections regarding multi-family,
multi-residential, and multiple family.

X. ADMINISTRATIVE MATTERS

A. Executive Director Vacancy

Executive Director Dave Ziegler noted that this item was noticed for 8:30
a.m. Thursday, March 24 and could not be taken up prior to that. He would,
however, give a status report on it under his report item (XIII. A.)

Mr. Chimarusti noted that there would be no interviews as originally agendaed
this month. It was not possible to get all three final candidates to this
meeting, so interviews were tentatively scheduled for April 27.
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B. Designation of Acting Executive Director

Mr. Chimarusti suggested that it may be three months before a new Executive Director was on board, and he favored appointment of an acting Director.

Mr. Ziegler recommended that Deputy Director Jerry Wells be appointed to fill this position, and that, based on Agency policy, he be compensated for the appointment. Agency Counsel had recommended that setting of the appropriate salary be handled by Board resolution in April.

Mr. Chimarusti asked that the Finance Committee take this up at its April meeting and prepare a recommendation for Board consideration.

MOTION by Mr. Cronk to appoint Jerry Wells as Acting Executive Director with the salary to be determined by resolution at the April meeting. The motion carried unanimously.

C. Follow-Up Report on Effectiveness of Timber Harvest Amendments - in the packet material

D. Filling Vacancy on the Rules Committee

Chairman Chimarusti recommended that Jane Hagedorn, who had been sitting on the Rules Committee as a de facto member, become an official Committee member.

MOTION to appoint Jane Hagedorn to the Rules Committee carried unanimously.

E. Amendment of Washoe County Community Planning Team

Senior Planner Andrew Strain advised that the changes to the team would provide for the filling of one vacancy from the Crystal Bay GID area, would appoint Mr. Kornreich to the team, and would appoint Sheri Woods as the representative from the Incline Village Chamber of Commerce.

MOTION by Mr. Bradhurst to approve the new Washoe County planning team membership list. The motion carried unanimously.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

1. Receipt of February Financial Statement and Check Register

Finance Committee member Joanne Neft advised that the Committee voted to recommend receipt of the February financial statement and check register.

MOTION by Mr. Kanoff to accept the statement and register as recommended. The motion carried unanimously.

Mr. Kanoff explained that the Committee also discussed dated securities and had reviewed a handout addressing the status of abandoned securities. A Code amendment allowing pursuit of abandoned securities would be addressed at a
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later Committee and Board meeting.

Legal Committee

1. Modification/Affirmation of Settlement Agreement, Vennard v. TRPA, Washoe County

Committee Chairman DeLanoy advised that Mr. Vennard had two requests which the Legal Committee granted. One was that the money he was paying as a fine or mitigation be applied to expedite the fish habitat study. The other related to the disposition of the pier after completion of the shorezone cumulative study and ordinance amendments.

Agency Counsel Rachelle Nicolle explained that the Committee agreed that it would urge the Board after adopting the shorezone cumulative impact study and pertinent ordinance amendments, assuming a pier would be legal, to legalize the existing Vennard pier.

MOTION by Mr. DeLanoy to approve the modified settlement agreement in the Vennard matter. The motion carried with Mr. Westergard voting in opposition.

Mr. Westergard explained that he had had some reservations during the Legal Committee discussions on this and wished to cast a no vote.

C. Capital Financing Committee

Mr. Upton explained that the Tahoe Basin Association of Governments discussed a capital financing package at noon and was on a one-month time frame in its effort to have a unified program to carry back to Washington. TBAG would be trying to meet on March 30 with Capital Finance Committee members Waldie and Upton, the League, and the Conservancy to coordinate the capital financing efforts for federal funding.

D. Rules Committee

Committee Chairman Jerry Waldie advised that the Committee first discussed the voting and quorum procedures for the Advisory Planning Commission (APC). The APC was having a difficult time getting a quorum for its meetings, and when a quorum was present, it was often difficult to comply with the required voting patterns. The Rules Committee was considering reducing the APC quorum to those present or to those who were appointed (because of the current vacancies) and that there no longer be required a state-by-state balance. The Committee decided to refer the matter to the APC for its reaction. Second, the Committee discussed an annual update requirement of Board member financial statements and also with whom the financial statements needed to be filed. The Committee asked as a first step to have Agency Counsel provide a legal opinion on this issue; if this was not satisfactory, the Rules Committee would take up the legal opinion and come up with a recommendation to the Board whether a filing should be made with the Secretary of State as well as TRPA. It was the general view of the Legal Committee that filing the statement with TRPA was sufficient.
XIII. REPORTS

A. Executive Director


3. Status Report on Nevada Legislative Interim Committee on TRPA (SJR 7)

Mr. Ziegler advised that Nevada Oversight would be meeting April 18. Staff did not have an agenda as yet. Mr. Fred Welden, the Committee staff person, suggested that it would be best for the TRPA Board to wait until after that meeting before responding to any recommendations. At the April 18 meeting, staff would be reporting on trend data, factors affecting water quality, land coverage transfers, 1991 threshold evaluation commitments, and forest health.

Mr. Ziegler explained that the staff had no further information to report on the Knowles bill (A.R. 1991). The bill apparently had not come out of the Natural Resources Committee.

4. Monthly Status Report

As a final comment at his last meeting, Mr. Ziegler thanked the Board members for their support of him and of staff. He appreciated Board member concerns for Lake Tahoe and its quality. He expressed thanks particularly to Jerry Wells, Susan Scholley, Rachelle Nicolle, Julie Frame, Pam Drum, Rick Angelocci, and John Hoole, and to all the other staff members. He had some regrets about leaving - particularly the loss of continuity, leaving unfinished projects behind. The parking management ordinance/program, which he had been working on, was coming along well. He felt confident that his successor would be able to accomplish some new things and take the Agency to a new level in the area of change as a positive thing.

Mr. Ziegler advised the Board that the Executive Director Selection Committee met last Wednesday and selected three candidates for Board interviews. They were Alan Pendleton, an attorney from San Francisco, presently Executive Director with the Bay Conservation and Development Commission; Jim Baetge, an engineer from Fair Oaks, currently in private practice and formerly the Executive Officer with the California State Water Resources Control Board; and Ron Short, former planning director of Phoenix, Arizona and now planning director of Chino Hills, California.

Mr. Ziegler expressed thanks for all the nice compliments he had received regarding his work for the Agency. He had been overwhelmed by the feedback and was not totally sure it was deserved. Nevertheless, he appreciated it very much. He hoped that, in looking back, the Board would say that "Zig did okay."
B. Agency Counsel

Agency Counsel R. J. Nicolle advised that staff was still adjusting to the loss of former Counsel Gary Owen. There was a very nice memorial service for Gary on March 12, 1994, and many were able to attend. With regard to other matters, Ms. Nicolle advised she was admitted to practice in the Nevada Federal Court in both the Schumacher cases in association with Tom Susich (Gary Owen's firm). The Schumacher I case was scheduled for a September 1994 trial. Susan Scholley and she had taken the Tahoe Sierra Preservation Council case in house (Ninth Circuit Court of Appeals, May 9). Due to her experience and background with the Agency, Susan would be lead speaker. The summary judgment on the Sultum matter was extended for final filing for March 28. TRPA filed a code enforcement action against Deborah Chase; she had answered and cross-claimed against the City of South Lake Tahoe.

C. Governing Board Members

Mr. Uhler commented he had enjoyed his first meeting.

III. PUBLIC INTEREST COMMENTS

Ms. Rochelle Mason, for the League to Save Lake Tahoe, advised that one of the League members was boating on the Lake over the weekend and noticed a massive sewage spill a quarter of a mile in length and several feet in depth. The Coast Guard confirmed it was a vessel sewage spill. There were few vessels on the Lake capable of emitting a spill that size, so it would not be too difficult to find the perpetrator. The League had raised the issue of tour boats before, their maintenance, practices and procedures. The League had had problems in the past with aggressive follow-up to reported problems. In this instance, the spill was reported to the Coast Guard, to TRPA, and to Lahontan and she urged aggressive follow-up by whatever entity was responsible.

Chairman Wells asked Mr. Wells to report back to the Board on who was following up on this matter.

Mr. Upton commented that TRAG was sponsoring a conference on Thursday, April 28. He hoped that the agenda for the April meeting was light so that Board members could attend the conference.

XIV. ADJOURNMENT - The meeting adjourned at 5:35 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, documents submitted at the meeting are available for review at the TRPA office 308 Dorla Court, Elks Point, Nevada.

These minutes were approved as presented on 4/27/94. -30-