TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
Kings Beach, California

March 26, 1997

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Drake DeLancay called the regular March 26, 1997, meeting of the
Governing Board of the Tahoe Regional Planning Agency to order at 9:40 a.m. and
asked Mr. Cole to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. Upton, Mr. Waldie, Dr. Miner, Mr. Bloomfield,
Mr. Heller (present at 12:20 during item IX.A.), Mr. Cole,
Ms. Bennett, Mr. Parock, Ms. Neft, Mr. Galloway, Mr. Hime,
Mr. Wynn, Mr. DeLancay

Members Absent: Mr. Cronk, Mr. Neumann

Chairman DeLancay noted that Mr. Rex Bloomfield was sitting in for Placer
County in Mr. Sevison’s absence and Mr. Wayne Perock was sitting in as the
designee for the Director of the Nevada Department of Conservation and Natural
Resources in Mr. Westergard’s absence. Appointment letters had been submitted
for the record.

III. PUBLIC INTEREST COMMENTS

Mr. Donald Konreich, an Incline resident, submitted a March 26, 1997, letter
for the record and commented on insufficient progress in raising funds for
threshold improvements; the 1974 McDonald Smart financial feasibility report;
a three-step process for implementing parking fees in 1998; future imposition
of a Basin impact fee; and the need to look beyond local entities for funding.

Mr. George Toto, an Incline resident and businessman, expressed concern with
the status of a proposed sidewalk/bike path project along Tahoe
Boulevard/Highway 28 in Incline and the difficulty he and others had had in
providing public input. There appeared to be a lack of communication between
public entities and local citizens.

Chairman DeLancay asked Executive Director Jim Baetge to look into the matter.

Washoe County Board member Galloway noted he would be happy to work with staff
on this; he understood there was a divergence of views on this project.

IV. APPROVAL OF MINUTES

Chairman DeLancay noted that staff had distributed a March 24, 1997, memo
making a correction to the vote shown at the top of page 19 of the February
26, 1997, minutes.
TRPA REGULAR MEETING MINUTES MARCH 26, 1997

MOTION by Dr. Miner to approve the February 26, 1997, regular Governing Board minutes as amended. The motion carried with one abstention.

V. APPROVAL OF AGENDA

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

VI. CONSENT CALENDAR

Deputy Director Jerry Wells advised of the following: 1) Staff had distributed a March 25 memo proposing an additional condition regarding hours of operation for item 5 (Hyatt Pier Expansion/Multiple Use Determination). 2) Staff had received a letter from adjoining property owner Joy Dahlgren expressing two concerns regarding item 4 (Eustavi pier expansion) and asked that it be pulled off the consent calendar. Staff felt that the two concerns had been resolved in the staff summary, although not specifically with Ms. Dahlgren. Staff could comment if the Board wished.

Mr. Waldie asked that this item be pulled off the calendar and acted on separately.

Mr. Waldie noted that the Legal Committee had met earlier in the day and considered items 2 and 9 and recommended approval.

Ms. Bennett noted that items 6, 7, 8 and 10-14 were discussed by the Finance Committee and were recommended for approval. The Finance Committee reviewed the management letter and the TRPA financial audit for FY 1995-96 and recommended receipt by the Board.

MOTION by Ms. Neft to approve the consent calendar with the modifications as noted. The motion carried unanimously.

(Following are items approved on the consent calendar: 1. Jorst, Commercial Building, Change in Operation, 576 Lakeshore Boulevard, Washoe County APN 122-128-05; 2. Tholl Fence, Resolution of Enforcement, Washoe County APN 122-111-14; 3. Red Wolf Lakeside Lodge, Pier Expansion/Modification, 7630 North Lake Boulevard, Placer County APN 117-140-08; 5. Hyatt, Pier Expansion/Multiple Use Determination, 995 Lakeshore Boulevard, Washoe County APN 127-280-02 (with conditions as modified); 6. FY 1995-96 TRPA Financial Audit; 7. FY 1995-96 State Transportation Assistance Fund Audit for El Dorado; 8. FY 1995-96 Local Transportation Fund Audits for El Dorado and Placer Counties; 9. Extension of Statute of Limitations, Regarding Governing Board Action, Rifton Appeal, Placer County APN 117-072-08; 10. RTPA Resolution Allocating of FY 1996-97 Local Transportation Funds to South Lake Tahoe ($364,702) for STAGE Operations (No. 97-1); 11. RTPA Resolution Allocating Local Transportation Funds to El Dorado County ($143,947) for Community Transit Services ($142,103 from FY 1996-97 Allocation and $1,844 from Trust Funds) (No. 97-2); 12. RTPA Resolution Allocating FY 1996-97 Local Transportation Funds to Placer County ($337,966) for TART Operations (No. 97-3); 13. Resolution Allocating FY 1996-97 Local Transportation Funds ($53,938) to TRPA (as the RTPA) Planning ($26,969) and Administration ($26,969) of the TDA Program (No. 97-4); 14. Resolution Authorizing TRPA to
TRPA REGULAR MEETING MINUTES MARCH 26, 1997

Enter into an Exchange Agreement With Caltrans for the Release of TRPA's FY 96-97 Allocation of RTTPA Optional Exchange Amounts (No. 97-5)

Lusvardi, Pier Expansion, 450 Gonowabic, Washoe County
APN 123-145-11 (consent calendar item 4)

Mr. Wells noted that the two items of concern expressed by Ms. Dahlgren related to the potential for the pier to extend beyond elevation 6219' and the pier's visual impact from the Dahlgren property.

Associate Planner Jim Lawrence explained that the pier as constructed would be 75 feet long. The pier was in a rocky cove area; and based on a licensed survey map of the area, staff was comfortable that the pier would not extend beyond 6219', which was the TRPA pierhead line. This was also assured with the proposed conditions. The pier would be built in a cove with large boulders, so the first 45 to 50 feet of the pier would not be visible. Only the last 20 feet achieved the elevation for a boat mooring. The pier would not be visible from the highway, and only the last 20 feet would be visible from the Lake. Staff felt there was adequate mitigation for the project.

No one in the audience wished to comment on the project.

MOTION by Mr. Galloway to approve the Lusvardi project as proposed. The motion carried unanimously. (Ms. Neft was out of the room.)

VII. PROJECT REVIEW

A. Lake Country Development, Borelli/Smith Architects, Multiple Family Project and Subdivision, 15 Attached Affordable Housing Units and 23 Detached Units, 669 Village Boulevard, Incline Village, Washoe County APN 129-500-08

Associate Planner Vanessa Mongeon presented a summary of the proposal and distributed copies of letters from neighboring property owners and other interested people. Sixteen of the letters supported the project; 4 were opposed. The Advisory Planning Commission (APC) heard the project on March 12 and unanimously recommended approval. By memo dated March 26, staff recommended a revision to condition 3(x). The project consisted of four components: 1) construction of 23 detached, multi-family dwellings and 15 attached affordable housing units; 2) a subdivision of these 38 units; 3) implementation of a minimum of one acre of SRZ restoration along Third Creek; and 4) subdivision of a 2.5 acre portion of the property for donation to IVGID. The project was consistent with Agency ordinances.

Applicant Jim Borelli noted he had spoken to Board members Bennett, Upton, Galloway, Heller, Bloomfield, Perock, Wynn, Neft, Miner, and Delaney. Summary packets of the project's elements were sent to members Waldie, Cole, Cronk, and Hime. Mr. Borelli summarized the history of the Plan Area Statement amendment requiring certain components to be incorporated into the future project and his work with staff to address all these issues. The Plan Area requirements included one-acre stream zone restoration project, a density of 8 to 8.5 units per acre with a mixture of detached and attached residences, an
on site circulation system, a transit shelter, a will-serve letter from Diamond Peak, a bicycle/pedestrian trail, home mail delivery, and a VMT maintenance program requiring transfer of development rights from sites further away from the downtown than this site. The Plan Area vote in November was 10 to 1; the APC this month was unanimous in favor of the project. Incline Village/Crystal Bay Advisory Board recommended approval, as did the Washoe County Planning Commission. Support had been received from various local entities including the Chamber of Commerce and IVGID, Nevada Senators O'Donnell and Jacobsen, community leaders, the League to Save Lake Tahoe, and others. Mr. Borelli summarized the components of the project, including information on the 23 detached residences to be sold at market rate and the 15 attached residences to meet affordable housing requirements ($84,000 per unit targeted at young professionals and working couples). The applicant had secured the required water rights for the project, and in 90 to 120 days the transfer of necessary rights would be completed. Mr. Borelli described the subdivision process and the proposed stream zone restoration. He distributed and described a handout summarizing TRPA code review criteria and proposed project elements to make the required findings. Mr. Neft had suggested that the proposed SEZ restoration project be set up as an educational program for those wishing to know more about stream zones, erosion control issues, and riparian vegetation. Although he would need to discuss this with IVGID, it was a good suggestion. He had reviewed the proposed conditions with the staff.

Chairman DeLancy advised he had received a March 25, 1997, letter from James Nakada, Chairman of Incline Village GID, endorsing the project.

Mr. Lyn Fetterly, on behalf of the applicant, summarized and responded to some of the objections raised by neighboring property owners at a recent tentative map meeting. These concerns related to the attached units and their particular location, the higher density component (8 units/acre), traffic increases, visual impact of attached units, loss of trees, snow removal, and the proximity of the project to the SEZ. The neighbors would be more comfortable with 23 to 24 detached units; the Plan Area amendment approved by TRPA did not allow this but required the higher density.

Mr. Bob Spitzer, attorney for the project, noted the project had been designed to ensure that all requirements had been met; staff recommended approval, and he urged the Board to concur. He responded to questions regarding affordable housing and TRPA's definition that it was housing that was affordable to a household that earned 80 percent of the median income for Washoe County; this definition was not specific to Incline. That number today was approximately $84,000.

Mr. Donald Kornreich noted that the three members of the seven-member Nevada Tahoe Conservation District who were present at the meeting were all aware of the need to do restoration work on Third Creek. The $717,000 IVGID had currently committed was only one-half of the total project; he was happy to see a developer come in and offer to do some of the additional work. The developer had also done excellent work in the community, and he recommended approval of the project.
Mr. James Nakada, IVGID Chairman and member of the Nevada Tahoe Conservation District, summarized support for the project’s components, particularly the proposed SEZ restoration and property donation. He urged approval.

Mr. Byrne Falke, resident at 650 Village, distributed a photograph of the site and noted he had submitted a March 11 letter expressing concerns about the project. These related to the distance from the project to the center of town, increased traffic, the density figures and affordable housing, the change in the character of the neighborhood caused by the three-story attached units, the increase in rental units when rental units already existed near the Sierra Nevada College campus, whether low-cost housing was needed in the neighborhood, the attached v. detached character being essentially two different projects, and whether this was the best possible use for the parcel.

Mr. Jeff Connors, a resident on Village Boulevard on the opposite corner from the 15 unit portion of the project, expressed concern on behalf of residents of his four-plex on the apartment-style building; this building was out of character with the neighborhood. People buying these units would have incomes substantial enough to own cars; they would not ride the bus. He was not opposed to the 23 units; it was a nice project, and the developer was doing a great job. To stick this apartment-style condominium on the corner was unacceptable to the neighborhood.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, agreed with Mr. Borelli that this project appeared to meet all TRPA’s code requirements and was consistent with the Board’s past action regarding the Plan Area Statement. The League, however, had received a number of inquiries questioning why the League would support a greater density in a place like this, or anywhere. The development rights for construction of this project must come from existing rights on other parcels. The idea of transit-oriented development requirements (8 units/acre) was to encourage the clustering of development into closer places. While this was not the transit-oriented development that one might build if one had a clean slate and a large variety of places from which to choose, the League felt that what was planned was basically consistent with the neighborhood and would have some benefits in terms of increasing fill. In order to evaluate whether the Code was working in this regard, it would be helpful to take a look at where the development rights were coming from. That information was not included in the staff report but would be helpful in determining whether what was supposed to happen was, indeed, happening.

Ms. Monegan responded that the applicants had submitted a list of development rights and existing residential units of use that they had options to purchase. Some were from the South Lake Tahoe area; 15 were from Bitterbrush. There was an aggregate mileage that was to be met.

Ms. Mary Gilanfarr, for the Tahoe Sierra Preservation Council, noted that the project design under review by the Board was one the Board had mandated by previous action based not on economic concerns or even community market forces; the project was tailored to environmental improvements, housing needs, and density considerations. It met the staff requirements up and down the list. While the neighbors would have preferred a different kind of project, the developers had been subjected to perhaps more than any other owner had
been. She urged that the Board recognize the sincerity of the developers' efforts and their desire to put a good project on the ground that provided benefits to the community. She urged approval.

Ms. Kathleen Cane, a resident on Golfers Pass, noted that while she was not directly affected by the large three-story building she was opposed to it for aesthetic reasons, additional traffic congestion, and size. She applauded the builders for the stream conservation proposal and for other community benefits. She favored redesigning the larger building into two to three smaller, free-standing units.

Mr. Lawrence Rotert, a resident at Peep sight Court, expressed concern with increasing the traffic flow at the college and high school on Village. This would be especially hazardous in the winter months with students walking down Village to attend classes. While the need for low cost housing was perhaps present, this site was the wrong location for it.

Mr. Ed Strauss, a Golfer Pass resident, agreed with Mr. Falke and Ms. Cane. In 1960 TRPA allowed 4 units per parcel; now it was considering 8 units per acre - more than what was permitted in 1960. If the Board wanted clustered, closely developed units, it should be done in South Shore, not in Incline. There was no reason for moneyed people on Lakeshore to tear down several houses in order to build one home.

Ms. Mongeon responded that the 8 units per acre requirement was approved as part of the Plan Area Statement amendment and the finding that the project met the transit-oriented development requirement.

Mr. Strauss suggested the 24 units were beautiful but the neighbors would not like to look at a three-story condominium across the street that was rented to minority residents. At the recent neighborhood meeting, it was agreed that the developer should be able to build the 24 homes and not the low cost housing. Low cost housing was not needed.

Ms. Libby Falke, a resident at Village, discussed affordable housing and the concept of social engineering. The residents worked hard, were good citizens, and worked for their homes. With regard to transit-oriented development and the effort to increase bus ridership in the area, this would not occur, because it was impractical for people to take a bus to do daily shopping. An error was made when the original project was turned down; it should be corrected to allow the developers to proceed with their luxury townhouses.

Mr. Borelli responded to neighbor concerns, explaining that the compatibility issues were established in November with the Plan Area Statement amendments. Mr. Borelli addressed affordable housing, transit-oriented criteria, and density requirements. The Board members discussed the affordable housing issue, ownership of all units, density requirements, previous Board action, building height, whether the Board had leeway to modify the project to two story, the consistency of the process, and notice requirements for the November meeting.

Ms. Mongeon explained that the project was properly noticed. Mr. Borelli noted that the staff report for the November Governing Board meeting at which
the Plan Area Statement was heard indicated that all neighbors were noticed prior to the hearing. Several letters from the public were also received that were part of the Board’s packet.

Chairman DeLanoz closed the hearing.

Board member Wynn noted he would not oppose the project; he commented that a remark from the audience about affordable housing and minorities was an unfortunate choice of words. The record should reflect that the Board distinguished itself from that sort of comment. He was present in May when the project was rejected; it was bad planning. There was a lot of bending to get it to fit; it did not. The Board amended the plan as part of a whole program with some very intelligent developers who came forward with the kind of mitigation the Board had been encouraging. Incentives should be considered for mitigation which provided environmental improvements in the Basin. The developers did exactly that with the stream restoration and coordination with IVDID. This project was before the Board today because of the proposed mitigation. Density had been increased and not in consistency with the environment in the neighborhood. He did not know how this would be affordable housing in the true sense of the word. It likely would not be increasing ridership on the busses. It would be helpful if time could be rolled back so that the original project could be built without the higher density units. This would take the concerns away from the neighbors and give the developer what he wanted. The Board could admit what it was really doing, i.e. introducing flexibility - not because of the plan amendment approved in November but because of the good mitigation. He asked whether the Board had the legal ability to modify the project by deleting the higher density units.

Agency Counsel Rachelle Nicolle responded that at this point the Board would have to reagendaize the project for another meeting to amend the Plan Area Statement to approve the lower density. The previously approved Plan Area amendment mandated the proposed density.

Deputy Director Jerry Wells noted that this Plan Area Statement set not only a maximum density but also a minimum density.

Mr. Bloomfield suggested it was good to encourage use of public transportation and development of affordable housing. The Board, however, had to be realistic in reviewing the project. Whether it was affordable housing or expensive homes, 90 percent of the trips generated would be by car. The affordable housing component would not provide that much extra ridership on public transit. The lesser density would have less of an impact on the area, and he would prefer to see that move ahead. If the Board was concerned about providing affordable housing, perhaps it could consider requiring 10 to 20 percent of the detached dwellings to be affordable housing.

Mr. Upton explained that the Local Government Committee had been struggling with the need for a whole range of housing in every community in the Tahoe Basin. This was driven more by the fundamental economics of land use and available parcels than by things that could be done from a planning standpoint. This particular project, even in its most affordable elements, would not create a trashy situation in the community in any way. He urged the Board to proceed with what had been presented. The Board, in his opinion,
made the right policy decision in requiring the project to come back in its present form. The problem he was dealing with in looking at the entire Tahoe Basin perspective was that if the Board did not do what it could to have a range of housing in every community the issue would come down to where that housing demand would go. He knew it would go in his jurisdiction of El Dorado County and South Lake Tahoe, or to Placer County and out of the Basin in Carson, Reno, or Douglas County. This would result in additional trips to and from the Basin because people could not afford to live in the Basin. This particular housing was not affordable housing in the sense of apartments in South Lake Tahoe, but it was certainly more affordable than a lot of the other housing in Incline. He did not see it as a detriment to the neighborhood. He would like to see the project built as proposed. The applicants had done a 100 percent kind of job in terms of their creativity and they were to be commended for it.

Ms. Bennett agreed with Mr. Upton's comments. The issue of fair share of housing had been addressed by the Tahoe Basin Association of Governments and the Local Government Committee. The issue of diversified housing had been a strong and contentious issue with the counties surrounding the Lake. She applauded this project because, finally, she believed that Incline and Washoe County could point to an excellent project and a reasonable attempt to meet what was their fair share. As a member of the Tahoe Transportation District Board she was optimistic about transit in the Basin; Incline Village had done an excellent job in doing its fair share for transit. She could see this expanding. As a member of the Nevada Tahoe Conservation District, she applauded the resource management portions of this project. Mr. Borelli and his associates deserved a medal for the numbers of hoops they had jumped through on this project. She supported the project as presented.

Mr. Cole noted that South Lake Tahoe dealt with affordable housing and did not like issues being forced onto it. Selling of these units at $145 per square foot for a one-bedroom apartment was not really affordable. He was concerned with forcing a developer to add affordable housing, instead of providing enough incentives that it was done voluntarily. In his opinion this project would not increase use of public transit. People who could afford an $84,000 one-bedroom apartment would not be taking the bus to town to buy groceries. He would not oppose this project or one that did not include the 15 units.

Mr. Galloway noted there was a recently issued report showing that Incline Village was doing better than it had been thought on affordable housing. He did not personally think the high density was necessary for this particular project. He was concerned for the sake of the developer, property rights, and due process that if the Board rescheduled this project, it could get bogged down. There was not unanimity on whether the high density requirement could be deleted. He was not sure how the matter would end up if it were not acted on in this form. One possibility was to approve the project as proposed but set the timing such that it allowed development of the 23 units while later consideration could be given to reduce density.

Ms. Nicolle responded there was no problem with phasing conditions on permits. She reiterated the history of this project and the 1994 amendment to the Code requiring specific findings to be made in the addition of multi-family uses to a Plan Area Statement. The concern was that new subdivisions not be permitted
out in forested areas. One finding required that if multi-family uses were being added to a Plan Area Statement the affected parcel needed to be suitable for transit-oriented development. Factors to be considered included but were not limited to areas that had transit and neighborhood services within a 10-minute walk, good pedestrian/bike connections, opportunities for residential in-fill at densities greater than 8 units per acre or for in-fill with mixed uses and adequate public facilities. When the Plan Area amendment came to the Board originally, the Board was concerned that the transit-oriented development findings could not be made and that the density therefore be increased. There was a mixed historical record here. On the one hand there were findings saying density was not sufficient to make the Plan Area Statement amendment finding, and on the other hand the Board was now discussing reducing the density. There were litigation risks here with the findings, not so much from the developer but potentially from environmental groups. The transit-oriented development standards added to the Code in 1994 stemmed from settlement of litigation brought by environmental groups against the Douglas County Community Plan.

Mr. Hime suggested that phasing of the project would maintain the opportunity to accomplish the in-fill finding and would give time for future deliberation on other options. It seemed that this kind of argument could be well presented and serve the Board and community well in the future.

Mr. Waldie concurred with Mr. Wynn’s statement on the inappropriate remarks made by a member of the audience on minorities. He was jolted by the remark and he was pleased Mr. Wynn had addressed it. He wished to associate himself with Mr. Wynn’s condemnation of the remarks.

Mr. DeLanoy suggested that, to accomplish both the environmental and the neighborhood concerns, affordable housing be done in a piece-meal way. Objections had been raised about height and density. Perhaps there were other ways of addressing this if there were a phased approval of the project.

Mr. Upton suggested the Board approve the project as brought forward. If the Board wished to discuss the policy question relating to this Plan Area, it could bring the matter back next month for a decision on whether the issue would be revisited. In the meantime, the applicant could proceed with the project, doing SEZ restoration first. He did not think that a one-month delay would get in the way of financing. This would give more time for input, while allowing the applicant to proceed.

Chairman Deloney asked if Mr. Upton would like to put this in the form of a motion.

Mr. Upton concurred that this was his motion.

Ms. Bennett expressed concern about the lack of resolve on the part of the Governing Board. One of the Board’s proudest moments occurred last month when the Board stood up for what it felt were some significant principles regarding Tahoe’s clarity. She was deeply concerned about having put the applicant through months of hard work and effort and then at the last minute changing direction. The affordable housing issue would not go away. Everyone had to assume a certain share of it. All the California counties had as had Carson
City. Here was an excellent project, and it was unfortunate that the Board was losing its resolve.

Mr. Galloway indicated he would support Mr. Upton's motion if it included the various motions outlined in the staff's report. The Board's action would not change anything. In regard to whether this project could be changed at a later date because it could still be considered a transit-oriented project without the higher density, the Board made a difficult and close call when the matter was first heard. Those who were on the Board now were not necessarily bound to make the call the same way as the previous Board. The Board would not be saying that transit-oriented development was not needed, but rather revisiting the call. This was not a broad policy change but rather a look at a specific project.

Mr. Wynn suggested Mr. Upton's approach was an intelligent one. It was clear there was a serious question about transit-oriented development here. What was clear was that a number of Board members were impressed by certain mitigations. It was clear that, as set forth in the record, affordable housing as a mitigation measure was a major factor in the approval of this project - whether it was transit-oriented or not. He would like to approve the project today but revisit the question of density.

Executive Director Jim Baetge explained that there was an issue of timing. The applicant would have to bring in a Plan Area Statement amendment, along with a project modification. This would require a fairly substantial amount of staff work. He cautioned that there was to be a major work load before the Board over the next couple of months. This was not a minor item that could be dealt with in a short timeframe.

Mr. Wells explained that the applicant could come in with a plan revision for the project at any time.

Mr. Borelli asked if the Board was suggesting that he pay another $970 to go through the whole process, when all that was needed was a simple modification.

Mr. Baetge explained that such a modification would require a Plan Area Statement amendment review, a hearing before the Advisory Planning Commission, and the Board. Because this would involve a project modification, he urged that it be an applicant-initiated amendment following the established procedure.

Mr. Upton suggested there was no point in the applicant paying fees and coming back if the feeling of the Board after discussing the policy question was that it had made the right policy decision. He asked that the Local Government Committee meet in the next month to go over this. Findings had been made that local jurisdictions on a county-by-county basis were meeting their fair share requirement. Programs were in place so those findings could be made. He would like the Local Government Committee to make a recommendation to the Board. The Board needed to decide what its feelings were on transit-oriented development and how it related to this Plan Area. If the Board wished to look at it in a different way, then it was up to the applicant to decide whether he wanted to phase the project or to seek further Board action.
Mr. Wells explained that the Board had adopted a resolution setting filing fees; the Board could waive the fees.

Dr. Miner explained he would support a motion for approval. The developer had done his homework and had conformed to the Board’s direction. Future fees for a plan modification, should one be pursued, should be waived. If the Board approved this, the applicant had the right to go forward with a complete project or to come back with a modification. The whole issue of social engineering should be reviewed Board periodically as things changed.

**MOTION** by Mr. Upton to make the findings for the Lake Country Estates project contained in the staff summary and a finding of no significant environmental effect for the construction of the project. The motion carried unanimously.

**MOTION** by Mr. Upton to approve the 38 unit multi-family dwelling project based on staff summary and subject to conditions 1 through 9. The motion carried unanimously.

**MOTION** by Mr. Upton to make the findings in the staff report and a finding of no significant environmental effect for the condominium subdivision of the 38 residential units and the subdivision of the 2.5 acre portion of the parcel. The motion carried unanimously.

**MOTION** by Mr. Upton to approve the condominium subdivision of the 38 residential units and the subdivision of the 2.5 acre portion of the parcel based on staff’s summary and subject to conditions 1 through 13 in the staff summary. The motion carried unanimously.

Executive Director Jim Baetge acknowledged the Board’s desire to schedule a meeting of the Local Government Committee to discuss the issues further.

IX. APPEALS

A. Tonnemacher, Appeal of Executive Director Decision Regarding Denial of a Residential Addition Application Based on: 1) Prohibition of Additional Development Within the 100 Year Flood Plain; and 2) Ineligibility of the Parcel for a Second Residence, 575 Village Boulevard, Washoe County APN 124-093-30

Legal Committee member Waldie noted there were two issues relating to this item that came to the Committee earlier in the day. One was the scope of the appeal filed by Mr. Tonnemacher. Staff concluded that a number of issues within the appeal were non-appealable because of various legal constraints regarding timeliness. Those were set forth in the packet material. The Legal Committee concluded that staff was correct, that those items in the appeal were not appealable. There should therefore be an agreement on the part of the Board that the Legal Committee was correct before the presentation was concluded. The two items on the appeal that were considered appealable by staff and Agency Counsel were set forth in the packet material (p.154 and p.155). On those two items, staff recommendation was accepted by the Legal Committee, with the net result being that the appeal by Mr. Tonnemacher was limited to two issues. On those two issues, the Committee recommended the appeal not be approved, that the appeal be denied. The action was unanimous.
Ms. Melissa Joyce, Associate Planner, noted the application came to staff in February 1996; it was denied in May 1996 on the basis that it proposed an addition in the 100 year flood plain as mapped by the Corps of Engineers. Staff also determined that the proposed addition constituted a secondary residence and did not meet the definition of an accessory structure. Staff requested that Mr. Tonnemacher submit a letter by a qualified civil engineer that would demonstrate the proposed addition would fall outside the 100 year flood plain. The letter submitted from Mr. Beyer concluded the addition would fall outside the 100 year flood plain because of some recontouring and grading that had occurred on the property without a TRPA permit. Staff had asked Mr. Tonnemacher and Mr. Beyer to determine whether the addition would be out of the flood plain if the grading had not occurred. A January 10, 1997, letter from Mr. Beyer relied on the assumption that the storm that occurred in January this year constituted a 100-year event and that if the parcel had not flooded in that event it would not flood during a 100-year event. The U.S. Geological Survey had determined that the January 1997 event on the Third Creek Watershed constituted a five-year event. Staff could therefore not accept the January 10 letter and recommended that Mr. Tonnemacher submit another analysis; he had declined to do so. The flood plain issue was never resolved. Ms. Joyce responded to Board member questions about the flows on Third Creek and the Army Corps and U.S.G.S. mapped location of the site on Third Creek, not Wood Creek. The FEMA maps may have been mismarked and were prepared earlier in time than the Corps maps prepared in 1991. Staff relied on the Corps maps. The TRPA Compliance staff determined that the grading occurred on the site some time between May and July of 1996.

Appellant Dan Tonnemacher noted he understood he was limited to the two issues as described by Mr. Waldie, although he did not agree with it. He suggested there were similarities between his situation and that of the previous applicant, Mr. Borelli. He had not received the staff summary as discussed by the Legal Committee, nor staff's determination that the January storm was a five-year event. He did not agree and had records from U.S.G.S. indicating it was a 70-97 year event. Though he was promised all the packet information ahead of the meeting, he had not received it. He had gone to the post office yesterday afternoon and the agenda was not there.

Ms. Frame, clerk to the Board, noted that an agenda for this meeting and the staff summary were mailed to Mr. Tonnemacher on Wednesday, March 19, 1997.

Mr. Tonnemacher concurred his property was on Third Creek, although his files contained an Army Corps of Engineer map which identified the creek as Incline Creek. Nonetheless the property was on Third Creek, as was the Borelli project. The west part of Third Creek as it crossed his property had the potential of being restored; 25 years ago it was put in a culvert and paved over with 12,500 feet of commercial coverage. The building had since fallen down, and he had worked with TRPA staff to build a single family residence last year. The residence was completed, along with revegetation and erosion control and removal of 12,000 square feet of asphalt. This past year, he asked to build an addition to the residence. Contrary to what was in the packet material, he had not asked for a second unit. The two items which he could appeal were staff's determination the property was in a flood plain and staff's determination that he was building two units. He previously agreed to have a professional engineer do two reports by letter, both of which concluded
the addition would not fall in a flood plain of the creek in a 100-year event. Contrary to what was indicated by the Corps, in a 100-year event, more water would come down the creek than could be handled by the 3-foot culvert and it would overflow at its headwall. No one disagreed with that. However, when the culvert overflowed in the supposed 100-year event, the water would flow across the property down to the same place it exited the culvert now and would continue down the stream channel in the same manner as when the culvert was installed 25 years ago. The concern with additional development in a flood plain had been addressed by a Nevada engineer. The second letter from the engineer addressed the torrential rain event of last January. Many felt it was a 100-year event. A U.S.G.S. data sheet faxed to him by TRPA staff showed the result of U.S.G.S. readings for flood/peak of record comparisons for various stations around the Basin. The Period of Record column indicated that the January event was a 70-97 year event. He was not told until today that this was a 5-year event. That was ludicrous. In the recent storm, the water never left the culvert or came anywhere near the residence or the proposed addition.

Mr. Waldie questioned whether the Period of Record figures of "70-97" shown on Mr. Tonnemacher's U.S.G.S. handout referred to the rating of the January storm event.

Mr. Tonnemacher responded that he did not know this but the data appeared to indicate that.

Mr. Waldie suggested that the U.S.G.S. figures likely referred to the period that U.S.G.S. records had been kept for Third Creek, i.e. 1970 to 1997. This likely was not a 70- to 97-year flood event; Mr. Tonnemacher's understanding was incorrect.

Mr. Tonnemacher summarized three different design modifications submittals to prove to staff that the building was an addition, not a second unit.

Mr. Wells explained that the Code did not allow additional development in a flood plain. Staff had advised Mr. Tonnemacher that before redesigning to meet the requirement for a single unit the flood plain issue should be resolved.

Ms. Joyce explained that in 1995 the entire parcel was in the flood plain and, in staff's opinion, the permit for the single family dwelling was issued in error.

Mr. Tonnemacher suggested the two parcels below him were built in the last ten years with TRPA approval. Both were in the flood plain and were approved with no floodplain determination. It would not be right for TRPA to allow building of a house with no additions to be made to it. If a licensed engineer said this addition was not in the flood plain and would not affect public health and safety, he should be permitted to proceed. This property was next to Third Creek, the same creek that ran by the Borelli property (previous agenda item); there was the same potential for good stream restoration. He did not understand why he was having to appeal the staff's decision and he urged the Board to allow him to work with the staff to find a solution that would improve the site.
Mr. Baetge explained that this item had been ongoing for quite some time. Former Board Chairman John Upton had volunteered previously to meet with staff and Mr. Tonnemacher two to three times to reach resolution.

Mr. Upton explained he had met three separate times to achieve resolution. His opinion on the matter was that the only similarity between this and the Borelli project was that it was on the same creek. The facts before the Board showed the storm in January was a five-year storm. He had looked at the project this morning, and the creek was half full on a sunny day off the runoff that occurred from a cold night. He would agree the creek would overflow if there were a significant event. There was a real stormwater management problem here. The second unit v. addition issue became more apparent after his visit to the site this morning. An addition that was the same size as the existing house was more than an addition; it was more likely a second residential unit in a single family neighborhood. His personal view was that the appeal should be denied and that there was a real stormwater management and grading problem on the site that needed to be resolved. Staff and Mr. Tonnemacher needed to sit down and get that resolved. Mr. Tonnemacher needed to hear from the Board that he needed to finish his construction project. Part of that was to get the stormwater situation resolved.

Dr. Miner suggested the plans clearly showed the intention to build a second residence; the unit was not attached, even though Mr. Tonnemacher had indicated he had architectural renderings showing the unit was attached. It was premature to consider this application any further. He supported staff's recommendation. The permit for grading was to remove the hard coverage, not to unearth the culvert. The issue should be resolved before Mr. Tonnemacher came back with any kind of an addition.

Chairman DeLancy asked if anyone in the audience wished to speak. There were no hands raised.

Ms. Joyce explained the permit situation and how the residence was built in the first place. The FEMA maps for the area were somewhat out of date and did not show Mr. Tonnemacher's parcel in the flood plain. The Corps maps done in 1981 showed the property in the flood plain. It was possible that if the FEMA maps were relied on at the time the structures in the area were reviewed the sites were not shown in the flood plain. When Mr. Tonnemacher's plans were reviewed, he had submitted an appeal application for a new residence, which was delayed because there was not a buildable IPES score on the parcel. He appealed the non-buildable IPES score on his parcel. In order to resolve the appeal, staff tried to rush out the dwelling permit. Mr. Tonnemacher agreed to drop the appeal if staff met his deadline for the permit. Since the appeal process was time-consuming, staff did its best to meet the deadline.

(Mr. Heller came into the meeting at 12:20 p.m.)

Ms. Joyce explained that the security had not been returned on the new single family dwelling. Mr. Tonnemacher had a grading permit issued prior to the new single family dwelling, but it specifically limited grading to asphalt removal on the site. There was nothing that allowed exposure of the culvert. TRPA had specific prohibitions on grading in a 100 year flood plain. The grading permit involved a bond and final inspection. That had not occurred either.

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MR. COLE suggested that before anything could be done, two things needed to be cleared up first. He did not think the Board should move on to a third issue.

On the matter of the flood plain, MR. TONNEMACHER commented on the fact the staff suggested the 100-year flood plain was missed because of short timing. His application for the residence was in TRPA for over a year and a half. It was completely approved with everything ready to go pending the successful outcome of the IPES challenge. He had a non-buildable IPES score, which he challenged successfully. Consequently, TRPA had plenty of time to look at this; it was not a factor. He had a Corps map that showed the two properties downslope from him in the flood plain of Incline Creek.

MS. JOYCE responded that the application for the new single family dwelling came in on May 8, 1995. It was put on hold until the IPES issue was resolved, which was in July of 1995.

**MOTION** by Dr. Miner to grant the Tonnemacher appeal. The motion failed because all Board members voted in opposition.

Board member Rex Hime noted this would be his last meeting as a member of the Board. He had enjoyed immensely working with each of the Board members to preserve Tahoe. The transition to the new appointee was going very smoothly; his replacement was in the audience today. Ms. Mara Bresnich would be the new California Assembly Speaker appointee to the Board. Her professional skills and background qualified her for the Board, and she reflected the kind of competent appointments that the Speaker of the State's Assembly was making.

Chairman Delancy recessed the meeting for a lunch break from 12:25 to 1:50 p.m. The Capital Financing Committee met during the lunch break.

(Members present after lunch: Bloomfield, Galloway, Neft, Bennett, Waldie, Heller, Dpton, Perock, Cole, Wynn, Delancy; members absent: Hime, Cronk, Miner)

**VIII. PUBLIC HEARING**

A. Discussion on Amendments to Implement the Environmental Improvement Program (EIP) (No Action)

B. Amendment of Chapter 6 (Findings Required) to Ensure Additional Recreation Capacity (No Action)

C. Amendment of Chapter 20 (Land Coverge Standards), Chapter 55 (Development Standards in the Backshore), and Chapter 74 (Remedial Vegetation Management) to Include Standards for Management of Stream Environment Zone and Backshore Vegetation (No Action)

D. Amendment of Chapter 93 (Traffic and Air Quality Mitigation Program) to Make Adjustments to the Fees (No Action)

Principal Planner Gordon Barrett explained that agenda items A-D addressed a series of amendments staff was recommending for the "A" List, a set of recommended revisions to the Regional Plan package, including amendments to the Environmental Threshold Carrying Capacities, the Goals and Policies and
the Code of Ordinances. Mr. Barrett distributed and briefly walked the Board members through the tentative April AFC agenda listing numerous work tasks and planning topics to be reviewed in the coming months.

Mr. Barrett summarized agenda item VIII.B. and the proposed amendments to Chapter 6 (Findings) to add a non-recreation project finding to ensure additional resource capacities remained available to meet the recreation goals and policies of the Regional Plan. Mr. Barrett presented more information on the 25,000 PAOT target (Persons At One Time, a design measure for recreation capacity), the number of recreation projects/PAOTs that had been issued over the past five years, and the importance of reserving headroom or capacity for recreation. The concern was that capacity would be used up for residential, commercial and other projects. The AFC felt the concept of making the finding was not an issue; how this measurement was made was an issue needing more work. Staff would bring more information to the AFC next month so the finding could be quantified. This finding would relate to all non-recreation projects, from a single family deck addition to a project like the Borelli project reviewed earlier in the meeting. The intent was that the finding not be a burden placed on each application.

Mr. Galloway suggested it was too early to be amending findings. If the Agency did not know how much water, as an example, was needed for completion of the targets, it was premature to be amending findings. There should be more definition and more numbers by area for water, sewer and other pertinent elements.

Mr. Barrett responded to Board member questions, noting that the AFC had agreed with the concept but wanted a better measurement system.

Mr. Baetge explained that no Board action was being requested today. A lot of complex, detailed issues would be brought to the Board in the next few months. All staff was seeking today was a feeling from the Board that work was progressing in the right direction. Based on the discussion, he felt that what staff was proposing was agreeable.

Senior Carl Hasty addressed agenda item VIII.A. and summarized the concepts of the proposed new Code chapter which would implement the Environmental Improvement Program. He explained the intent of the chapter, the criteria for linked project status, and potential candidate projects. Mr. Hasty handed out graphic displays to show how several parcels could be linked to provide environmental benefits in the processing of project applications. The intent was to involve more than one stakeholder and multiple properties to accomplish goals. Mr. Hasty explained how the linked project process would work.

Mr. Galloway suggested that under this proposal he would not want a property owner to be curtailed from doing what previously he may have been able to do. He wanted to ensure that inadvertently the new Code chapter was not reducing what someone could have been able to do previously.

Mr. Hasty responded that the Hyatt project, as an example, which was reviewed a few months ago, would previously have been dealt with based on the merits of the single parcel alone. Through negotiation with the applicant and other stakeholders and property owners in the area, the Agency was able to look
beyond the single parcel to achieve more environmental improvements and restoration. The intent was not to prevent a property owner from doing what the Code would currently permit.

Mr. Waldie asked if the applicant under this proposal would be allowed to do what he otherwise could not do now. Would the linked project status give a property owner something not previously given?

Mr. Hasty explained the linked project status would provide additional staff time and commitment to facilitate projects happening. Applicants would not necessarily be moved ahead of others, but resources would be made available in the review process to see good things happen.

Mr. Baetge described the Safeway proposal in Kings Beach as an example of a linked project. If Safeway had stayed strictly within its boundaries in its proposal, there would have been problems achieving what it wanted to do because of wetlands and parking problems. By bringing in several players, including the golf course and Caltrans, a more comprehensive project was being put together using public and private monies, the end result being more environmental benefits and Safeway being able to do what it wanted to do. The same was true for the Neeks relocation project in South Lake Tahoe.

Mr. Galloway suggested this appeared to be a net gain for the lake.

Mr. Cole suggested that environmental improvements were not so site specific as a quarter acre. A larger project to address wetlands and a larger portion of the watershed would provide more benefits to a larger area. This could allow a project proponent to do something he could not do now, but the end result was addressing a larger area and more environmental improvements.

Ms. Neft expressed encouragement by this approach and complimented staff for creatively thinking beyond the box. Good things would happen with this approach.

Ms. Bennett questioned the ability to use mitigation funds in this process.

Mr. Hasty explained that this was one of the available sources of monies for County projects. This was all part of the mix in looking at these projects. There were a number of funding sources that could be brought to bear.

Mr. Hasty addressed agenda item VIII.C., retention of SHZ vegetation and a remedial vegetation management program. Staff would be proposing amendments for the Board’s future consideration.

Mr. Galloway questioned the proposed treatment of non-naturally occurring vegetation. In general people agreed on this, but he was concerned with whether the pre-Comstock forest was one that would survive in today’s climate. What era was being talked about?

Mr. Hasty responded with information on vegetation type, fuels reduction, meadow and forest management, and maintaining diversity. The intent was to look at a natural landscape and to determine whether vegetation was appropriate for survival without human intervention.
Mr. Galloway suggested that he preferred "naturally occurring vegetation" to "native vegetation." Reworking to refer to "a type of vegetation that would survive on its own without human intervention in a natural setting" would be more appropriate.

Mr. Hasty responded he would work on revising this section. The intent was to get away from conversion of SEZ vegetation into ornamentals but not to preclude management plans, revegetation plans.

Associate Planner Bridget Cornell summarized agenda item VIII.D. and the proposed updating of the traffic and air quality program. Currently, a fee was assessed for daily vehicle trip ends (DVTE) generated by a project. The discussion today related to a recommendation on an update of the fee and how the mitigation fee itself was developed. It was based on the cost of improvements necessary to offset the increase in vehicle trips. Staff was currently updating the Regional Transportation/Air Quality Plan for Board consideration this summer. Ms. Cornell responded to Board member questions.

E. Amendment of Plan Area Statement 066, Zephyr Cove, to Delete Special Area #1 and Related Provisions

Principal Planner Gordon Barrett noted this was a clean-up amendment relating to the Forest Service recent acquisition of a portion of the Dreyfus Estate near Zephyr Cove. It would eliminate a special area that would have permitted multi-residential development. Findings could be made, and the APC recommended approval.

No one wished to speak during the public hearing.

MOTION by Mr. Upton to make the findings required to amend Plan Area Statement 066 as proposed. The motion carried unanimously. (Mr. Wynn was out of the room.)

MOTION by Mr. Upton to adopt Ordinance No. 97-2.

Chairman DeLancy read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending the Plan Area Statement 066, Zephyr Cove, to Delete Special Area #1 and Related Provisions for Additional Density and Uses; and Providing for Other Matters Properly Relating Thereto

The motion carried unanimously. (Mr. Wynn was out of the room.)

F. Amendment of the Stateline/Ski Run Community Plan to Add Personal Services as a Permissible Use in the Stateline Pedestrian Land Use District and Amendments to the Tourist Accommodation Bonus Unit Program and the Commercial Floor Area Allocation Program

There was no staff presentation or audience comments.
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MOTION by Mr. Upton to make the findings to approve the amendments to the Community Plan as proposed. The motion carried unanimously. (Mr. Wynn was out of the room.)

MOTION by Mr. Upton to adopt Ordinance No. 97-3.

Chairman DeLano 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 the Stateline/Ski Run Community Plan, as Amended, Relating to Permissible Uses and Bonus Unit and Allocation Programs; and Providing for Other Matters Properly Relating Thereto

The motion carried unanimously. (Mr. Wynn was out of the room.)

X. PLANNING MATTERS

A. Resolution Requesting Assistance from Affected Public Agencies in Resolving Issues Related to Motorized Watercraft and MTBE

Principal Planner Gordon Barrett reminded the Board that in February staff was directed to bring forward a resolution requesting assistance dealing with the watercraft issues from EPA, the California State Water Resources Control Board, and the Nevada Department of Conservation and Natural Resources (with copies to the California EPA, California Resources Agency, the Lahontan Water Quality Control Board, and the Water Management Division of EPA). In February, the Board also requested a feasibility report on implementation of a watercraft registration and inspection and maintenance program (I&M). Staff was requesting action today on the resolution requesting assistance in funding for and participation in studies to control emissions and discharges and partnership programs to meet TRPA thresholds and applicable federal and state standards. The Tribune today contained an article about a suit brought against EPA by the Earth Island Institute contending that delay of watercraft regulations over a 10-year period was unacceptable and that only 4-cycle engines should be allowed in motorized watercraft. Staff was going to be putting together a steering committee of public agencies and private participants to get studies in motion to get answers on some of the still outstanding questions.

Mr. John Fagan, on behalf of the National Marine Manufacturers Association, referred to the Board's direction for a June ordinance adoption to ban two-stroke, carbureted engines. In view of the importance of scientific study in these matters, the Association at this stage would like to participate and offer its expertise through Mr. Stubblefield or Mr. Steve Diamond. One issue related to the June action involved an opportunity for rescinding the proposed ban depending on the scientific data. He requested clarification of which issues were of concern; he believed it was emissions of hydrocarbons. Clarification would make his clients more receptive to his recommendation that they become involved with the studies and offer expertise on hydrocarbon impacts on water quality at Lake Tahoe. Financial participation by his clients would depend on which way the Board was headed.
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If the scope of studies was to be limited to hydrocarbon emissions and presumably a limited budget, he would recommend to his clients they assist not only with someone like Mr. Stubblefield but also come up with money. He could make no representations on that at this time, but he did wish to cooperate, not to litigate.

On the issue of the level of cooperation of Mr. Fagan's experts on these matters, Mr. Galloway referred to a March letter from Mr. Del Principe of the California Department of Boating and Waterways. Mr. Del Principe after communication with Mr. Fagan was under the impression that TRPA's action related specifically to personal watercraft, when the Board's action actually related to a ban on a particular engine.

Mr. Fagan explained that the response from the Department of Waterways was based upon correspondence drafted prior to the Board's February action.

Mr. Galloway noted that he assumed there would be ongoing communication with the Department; Mr. Del Principe's understanding of the Board's action was not accurate. The Board's action related to a particular type of engine.

Mr. Fagan read Mr. Del Principe's March 17 letter regarding TRPA's proposal to ban personal watercraft from Lake Tahoe and expressing concern with unreasonable prohibition of boating on navigable waterways and the Department's intent to protect boaters' rights to responsibly recreate on public waters.

Mr. Waldie questioned staff's understanding of the Board's direction in February, as set forth in the minutes, for preparation of necessary environmental documentation and potential future ordinances governing the use of personal watercraft or other motorized watercraft.

Executive Director Jim Baetge responded that the Board's direction at the last meeting was acknowledgement of a series of impacts that needed to be studied in relation to what was happening on Lake Tahoe in terms of watercraft. Staff was working to put a group together to decide whether scientific data could be developed to address the pertinent issues. He had a problem with restricting that study only to hydrocarbons, or only to MTBE, or to only something else. The direction to staff was to look at all of the impacts.

Mr. Waldie and Ms. Neft concurred that this was their understanding as well.

Mr. Fagan asked that the Board come up with a laundry list of items to be studied in the scientific studies.

Mr. Waldie responded that Mr. Fagan's participation to the extent it was extended was solely up to him and not to the Board. It should be given to the staff in preparing for its presentation to the Board. He was certain staff would welcome any offer of assistance.

Mr. Baetge concurred and explained staff was trying to put a working group together and clearly would like to have involvement of the industry. This would deal with research, how it would be put together, was it addressing the right issues and other matters.

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Mr. Waldie asked Mr. Fagan if his request today was that the research be limited to a defined channel that might meet the needs of his client.

Mr. Fagan responded that it was to clarify how many bars there were and how high those bars were. He would like a reasonable set of bars. He was not asking that the bars be set today but that there be further clarification as to some of the specific concerns. The target was a moving one that had gone from noise to safety to emissions. With emissions, there were the sub-issues of emissions from two-stroke engines and the percentage of hydrocarbons going into the water. This clearly was the trigger issue.

Mr. Waldie recommended to Mr. Fagan and his clients that they not be constrained by any definition of what should be considered. Anything that had relevance to the responsibility and direction given to staff to come up with an ordinance to regulate the items discussed in February would be of assistance. He was not willing today to change any of the instructions given at the last hearing.

Mr. Fagan asked for clearer definition of the "scientific data." He did not want to handcuff the Board and in that regard was recommending strenuously to his clients that they get involved in the scientific studies so that litigation could be averted. That to him was good advice.

(Mr. Wynn came back into the room at 2:55 p.m.)

Ms. Neft noted her concern was noise and safety. She did not know if there was or was not scientific evidence in this area, but she wanted them addressed.

Mr. Baetge suggested that between the draft document given to the Board in February summarizing all of the issues and what the Board acted on there was clear direction on what was to be looked at. He was not confused at all. Within that, however, there were areas where assistance would be needed. For instance, on the noise issue there was discussion about establishing a standard. That may be an area where Mr. Fagan could be involved. The MTBE issue was another issue. There were a whole series of issues that they could provide assistance on.

Mr. Wynn suggested that since the adversarial overtones had been removed on these issues he felt he could state that in his discussions with Seado, Seado's solution to the complaints it had received was to deal with noise and water pollution concurrently. Seado would adopt Orbital fuel injection technology, possibly for 1999. This would eliminate the problems of discharge of unburned fuel. Seado had been working on this for a while. In order to make this product truly environmentally and socially acceptable, Seado recognized that it had to quiet the engines down and was doing a full research job to accomplish it. All TRPA's time spent on this matter had brought it to a head. The manufacturers were fully aware of the task ahead of them to remove potential criticisms. The best thing the Board could do was to draft a clear-cut regulation prohibiting two-stroke engines on the Lake two years from now. There also needed to be an extensive public information campaign, including posting of notices at launching locations, advising of future regulations prohibiting two-stroke engines.
After more discussion on fuels, toxicity, research, combustion efficiency of engines, and the Board’s previous action, Agency Counsel Rachelle Nicolle reminded the Board that the relevant matters on the agenda for the day’s discussion related to the resolution requesting other agency assistance and feasibility of implementing an inspection, maintenance and certification program.

Mr. Fagan asked that the proposed resolution be modified in the second paragraph to read that TRPA in the last six months had been "conducting public hearings on the impacts of motorized watercraft...", not that TRPA had spent the last six months researching the impacts of motorized watercraft..." He asked that the third paragraph be modified to read that "TRPA had prepared a draft report identifying significant and potentially significant/possible water quality and air quality impacts..." The record in his opinion was devoid of any scientific evidence that there were significant water quality impacts.

Mr. Wynn objected to Mr. Fagan’s request since the Shoresone Committee’s work with scientific experts and presentation was research.

Mr. Fagan asked that the fourth paragraph be modified to read that "Whereas TRPA has held a public hearing on the effects of motorized watercraft on Lake Tahoe..." His purpose in raising the objections was to tighten the resolution up because it was not as accurate as it could be. Mr. Fagan noted he had distributed a February 25 letter from Congressman John Doolittle on personal watercraft. Mr. Fagan indicated he wanted to cooperate but would keep his options open. He would recommend to his clients that they become involved with the studies and that they participate. In the event the ordinance was enacted in its current form, he would recommend a tolling of any statute of limitations and seek a tolling agreement so that scientific studies could be pursued.

Mr. Robert Galvin, rear commodore with the South Tahoe Yacht Club, asked if the resolutions that had come out were targeted specifically at two-cycle engines and personal watercraft and whether they would affect any other style of boats on Lake Tahoe.

Mr. Galloway responded that the Board’s action regarding carbureted, two-cycle engines applied to all boats. The tuneup and maintenance requirement would apply to all engines.

Mr. Galvin advised that the South Tahoe Yacht Club had formed a committee of other yacht and boating clubs; they would plan on attending the June Board meeting and advise of their actions.

MOTION by Mr. Wynn to adopt Resolution No. 97-4 as proposed by staff. The motion carried unanimously. (Members present: Wynn, Bloomfield, Galloway, Neft, Bennett, Waldie, Heller, Upton, Perock, Cole, Delaney)
B. Report on Feasibility of Implementing an Inspection and Maintenance (I&M) Certification Program

Associate Planner Jon Paul Kiel reported to the Board on feasibility of implementing an I&M program by August 1997. The intent of such a program was to tune engines to the elevation in which they operated so that they would run cleaner and thereby reduce air and water quality impacts from emissions. The feasibility report in the packet materials was not for Board action today.

Mr. Galloway noted that staff had concluded such a program could not be implemented prior to August 1; staff had not indicated when such a program could be implemented.

Mr. Kiel explained that staff had recommended such a program be pursued further through the Shorezone Partnership Committee and the Local Government Committee, with a target date of June 1, 1999, to coincide with the date for phase-out of two-stroke engines. The speed with which such a program could be implemented depended on availability of resources. The most critical factor in this effort was the need to amend California and Nevada state laws.

Mr. Galloway suggested there could be some avenues open short of state action. The Board was now simply receiving the report and not taking action; he would like staff to work with the committee to see if something could be put into effect for the 1998 boating season.

Mr. Wells noted this would be taken up with the Shorezone Partnership Committee in mid-April.

Mr. Waldie asked that it be clear that this I&M program was not the same as that which the Shorezone subcommittee had recommended. The Shorezone Policy Committee made no recommendations at all on this subject. The previous speaker, Mr. Galvin, seemed to think they were lumped together. It should be made very clear they were not lumped together at all. This was a totally separate program from the one which addressed emissions, noise and disturbance to the fragile environment caused by two-stroke motorized watercraft. While he had no problem with the request of the report, he would not want it considered in connection with the other issues.

Mr. Galloway and other Board members agreed and noted the first issue was to deal with a particular type of engine, which was far dirtier than other types of engines. This program addressed the separate issue of getting all engines to work as best they could. Assuring all engines were tuned properly was a big program; gains would be big if it could be accomplished, and it was worth pursuing.

More discussion followed on the results of hearings, a proactive approach on getting cleaner engines, the complexity of implementing an I&M program, and who would be working on this further.

Mr. Upton suggested that it was in the best interest of those operating on the Lake to have boats tuned as efficiently as possible. For Basin residents with boats, this was a logical approach. Getting visitors with boats from outside the Basin to meet the same requirement was more complex and would create
additional impact and difficulty on local businesses. Staff had provided a
very thoughtful report, and the Board needed to determine whether through more
discussion with the Partnership group and others there were reasonable pieces
that could be done.

Mr. Kiel reiterated staff's recommendation to pursue this further with the
Partnership committee and the Local Government Committee. The Shorezone EIS
did indicate that an I&M program was one of the host of mitigation measures to
reduce impacts to water quality from motorized watercraft. It was his
understanding after discussions with the California Department of Boating and
Waterways and the Nevada Division of Wildlife that any regulations that
affected pollution control must be passed by the state, not local governments.
Local governments were required to defer to the states on new boating
regulations regarding time of day, speed, and pollution control. TRPA could
also adopt such regulations; the question was enforcement.

Executive Director Jim Baetge advised the Board that the Shorezone Partnership
Committee was spending three days in a retreat to deal with many still
remaining issues; this was one of them. The matter would likely come back to
the Shorezone Policy Committee.

Mr. Waldie suggested that this I&M program was getting to be a big item and it
was going to occupy the space set aside to address the pollution problem.
TRPA was getting distracted. TRPA should resolve what was on its plate before
taking on this other program.

Mr. Baetge noted that TRPA was looking at all of the mitigation for the
shoreszone as set forth in the EIS. One of the choices in that process was to
pick mitigation measures. One choice could be not to do the I&M program, or
to delay it. The Board had to consider this and other measures because they
were identified in the EIS.

C. South "Y" Intersection Study

Associate Transportation Planner Jim Allison noted that no action was expected
today on this item; it was a report only on a study of the South Y
intersection undertaken mainly at the request of South Lake Tahoe. Improvements to this intersection were a part of the HIP program. The study
examined existing conditions and recommended solutions to improve traffic
flow. Mr. Allison presented more details on the recommendations and responded
to questions.

No action was taken by the Board.

XI. ADMINISTRATIVE MATTERS

A. Appointment of Bistate Lay Member to the Advisory Planning
Commission

Deputy Directory Jerry Wells explained the reappointment of the representative
from the Natural Resource Conservation Service to the APC. This position was
established by an MOU with TRPA; the term would expire the end of this month.
If reappointed, his term would run through March 1999.
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MOTION by Ms. Neft to appoint Mr. Thompson to another two-year term as a bistate lay member on the APC. The motion carried unanimously.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee Report
   1. Receipt of January and February Financial Statements and Check Registers
   2. Revisions to FY 1996-97 Operating Budget

MOTION by Finance Committee Chairman Bennett to receive the statement and register and the FY 1996-97 operating budget revisions, as recommended by the Finance Committee. The motion carried unanimously.

B. Legal Committee Report

Mr. Waldie noted he had reported on two of the three items already. The third item was the request to extend statute of limitations on the appeal in the Rafton matter. Mr. Rafton's time to take his rejection of appeal to court had expired. The Committee recommended extending the statute of limitations another six months because negotiations were underway to resolve the matter.

MOTION by Mr. Upton to approve the extension of the statute of limitations in the Rafton matter. The motion carried unanimously.

(This item was also approved earlier on the consent calendar as item 9.)

C. Capital Financing Committee Report

Mr. Upton advised the Committee met at noon and had a draft in place on the legislative packet for 1997. Staff had direction to complete it. The other item of discussion related to the Presidential summit, and the committee would be working in the next week to bring together the participants. It looked like early July was the most likely time for the visit, though it was not confirmed. The level of state involvement was unclear at this point.

G. Performance Audit Committee Report

MOTION by Ms. Neft to dissolve the Performance Audit Committee. The motion carried unanimously.

XIII. REPORTS

A. Executive Director Monthly Status Report

Mr. Bastge noted that staff had previously suggested having an off-site retreat with the Governing Board. Because of all the programs underway, it was difficult to schedule this. He would set up individual meetings with Board members in April to discuss any concerns and to get guidance from them on some of the ongoing issues. If there were no objections, he would proceed with that approach.
Chairman DeLanoy urged Board members to meet with Jim Baetge individually to give him guidance. He asked all Board members to read the EIP to become familiar with it.

1. Status Report on Project Applications

Mr. Baetge reminded the Board that TRPA was required to act on project applications within 120 days of receipt. This stemmed from the last California budget cycle. Staff was doing well on this. For the first time, however, there was a memo in the packet itemizing projects that may go over 120 days. These were applications brought in during the winter months. Because the sites were inaccessible due to snow, site inspections were not possible - thus the delay in review and action.

B. Legal Division Monthly Status Report

Agency Counsel Rachelle Nicolle reported to the Board on the Suitum v. TRPA oral arguments before the Supreme Court. Attorney Richard Lazarus and U.S. Deputy Solicitor General Larry Wallace spoke on TRPA’s behalf.

Agency Special Projects Attorney Susan Scholley responded to Board member questions on the hearing, explaining that the questions at the argument were directed primarily at the procedural ripeness issue.

Ms. Nicolle updated the Board on TRPA v. Barbieri, Cook v. TRPA, and Ms. Scholley reported on the status of TSPC v. TRPA. She also noted that the three remaining billboards in the Tahoe Region were removed as part of a litigation settlement worked out by Agency Counsel Gary Owen. This was part of a settlement worked out on a suit filed in 1985.

C. Governing Board Members

Mr. Waldie asked that the Board members acknowledge former Board member Rex Hime for his service to the Agency. Of particular note was the grace with which Rex introduced his successor.

Mr. Galloway explained recent efforts to find a parking area for people riding transit to areas along Highway 28; it was difficult to get people to ride transit if there was no place to park their cars. He asked staff to consider this further in its transportation planning efforts and to see if it was possible to promote a special kind of public parking that was on an all-day, pay basis only. This would reduce VMT.

Ms. Bennett updated the Board on TEAM Tahoe, which met two weeks ago. The group had received the first draft of the corridor management plan. On the issue of parking on Highway 28, she thanked staff and Mr. Galloway in their efforts to get parking on the Fonderosa Ranch site. It was her understanding that this would not occur this year. Work was ongoing to come up with some form of parking management, public transit, or shuttle along the highway.
Mr. Upton echoed Mr. Waldie's comments on Mr. Hime's service to the Board. He also asked for a resolution for Bob Harris, who was retiring as Forest Supervisor with the Lake Tahoe Basin Management Unit. Bob had been a tremendous partner for TRPA.

XIV. ADJOURNMENT - The meeting adjourned at 4:05 p.m.

Respectfully submitted,

[Signature]

Julie D. Frame
Clerk to the Governing Board

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (702) 588-4547. In addition, written materials submitted at the meeting are available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.

These minutes were approved as presented on April 23, 1997.