TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center Kings Beach, California

July 24, 1996

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman John Upton called the regular July 24, 1996, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:35 a.m. and asked Vice Chairman Drake DeLany to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLany, Mr. Waldie, Dr. Miner, Mr. Sevison (present at 9:50 during consent calendar item 7 discussion), Mr. Erquiaga (for Nevada Secretary of State Dean Heller), Mr. Cole, Ms. Bennett, Mr. Westergard, Ms. Neft, Mr. Bradhurst, Mr. Hine, Mr. Wynn, Mr. Upton

Members Absent: Mr. Cronk, Mr. Neumann

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

IV. APPROVAL OF MINUTES

MOTION by Dr. Minor to approve the minutes of the June 26, 1996, regular Governing Board meeting as presented. The motion carried unanimously.

V. APPROVAL OF AGENDA

MOTION by Mr. Cole to approve the July 24, 1996, agenda as proposed. The motion carried unanimously.

VI. CONSENT CALENDAR

Deputy Director Jerry Wells advised the Board that consent calendar item 1 (Expanded Project Area for Tyrolian Village Units 1-5 and Bitterbrush Unit 2 for Purposes of Coverage Relocation) was to be continued at the request of the applicant. Staff had distributed copies of a July 17, 1996, letter from Dan Siegel of the California Attorney General’s office requesting that consent items 7 and 15 be continued to a future date. Mr. Siegel’s concerns were not resolved prior to the meeting. There were letters from noticed property owners on item 7; these issues were resolved with the property owners prior to the meeting. Staff had added a condition to item 15, copies of which were distributed to Board members.

Mr. Westergard questioned the mitigation proposed on Burnt Cedar Beach as a condition of the Lemelson new pier and mooring buoys (item 12) and why the screening of the water treatment facility was not required when the treatment facility was installed.
Mr. Brent Thrams, for the Lemelson project, explained that some of the mitigation measures would correct situations created when Boise Cascade developed the Incline area. The screening would occur, in part, for the recently constructed water treatment plant.

Mr. Westergard asked that staff research why screening was not required in the TRPA approval of the treatment facility.

MOTION by Dr. Miner to approve the consent calendar with the deletion of items 1 (Expanded Project Area for Tyrolian Village Units 1-5 and Bitterbrush Unit 2 for Purposes of Coverage Relocation), 7 (Gordon Lee, New Multi-Family Dwelling and Condominium Subdivision) and 15 (Lodgepole Villas, New Multi-Family Dwellings and Condominium Subdivision). The motion carried with Mr. Westergard and Ms. Bennett voting in opposition to items 8 and 9.


Gordon Lee, New Multi-Family Dwelling and Condominium Subdivision (4 Units), 844 Southwood, Washoe County APN 132-211-06 (consent calendar item 7)

Lodgepole Villas, New Multi-Family Dwellings and Condominium Subdivision (6 Units), 928 Incline Way, Washoe County APN 132-231-14 (consent calendar item 15)

Mr. Dan Siegel, California Deputy Attorney General, explained that certain subdivisions, such as lot and block subdivisions, were prohibited by the Code and the 208 Water Quality Plan due to their negative water quality impacts. Clustered condominiums were clearly permitted. Because of the gray area for single family homes under condominium ownership, the Advisory Planning Commission (APC) and staff were both receptive to discussion and clarification in this area. His concern about items 7 and 15 was less based on the projects themselves but the fact they fell within the gray area, and approval of the projects before clarification was achieved may set a precedent for later actions. He preferred that the projects be continued, even though there was a
chance they may ultimately fall within the permissible area. His second concern related to project 15 which was to use bonus units for de facto single family residences. The purpose of the bonus unit program was to promote affordable housing and clustered, multi-residential development.

Agency Special Projects Attorney Susan Scholley explained the Board's earlier action to permit subdivision of a limited number of bonus units. This provision would run out at the end of 1996 but would be reconsidered by the Board as part of the five-year threshold evaluation. Currently, it was permissible under the Code to subdivide 200 of the 1,600 available bonus units. Fewer than 40 or 50 had been subdivided to date.

Discussion followed on the definition of clustered and multi-family units, impacts of lot and block subdivisions, the requirement for development rights, environmental benefits, ensuring installation and maintenance of BMPs, the need for more clarity in defining subdivision terminology, and the time required to clarify definitions.

Mr. Phil Gilanfarr, proponent for consent calendar items 7 and 15, explained that fewer than 100 bonus units had been used. Bonus units came from retirement of units from developments such as Bitterbrush. The 208 Plan stated that creation of subdivisions on raw land should be avoided, not prohibited. These projects in all cases were clustered development; the only element which changed was ownership of the individual units. He would not favor a postponement because it would mean construction would not occur until 1997. To change the regulations in mid-stream was not fair to the applicants. He would like to participate in any discussions to revise the subdivision provisions of the Code. The Gordon Lee subdivision was viewed as a multi-family project with single ownership. It was similar to other developments in the community. The 2,300 square foot units in the Gordon Lee Subdivision would cost from $420,000 to $450,000. Lodgepole Villas (#15) proposed to use bonus units for construction of 2 affordable housing units. A mitigation fee for the bonus units would be paid into the water quality mitigation fund. Mr. Gilanfarr responded to Board member questions.

Mr. Deon Heffrin, developer for item 7, discussed ownership of the units, the applicant's effort to satisfy staff concerns, the hope that rules would not be changed in mid-stream, and the fact the project complied with the existing Code.

Mr. Siegel noted it would take more than one or two months to modify the Code. His intent in requesting the postponement was not to hold these projects up until the next building season. He was hoping for some clarification without seriously jeopardizing the Lee project. Ultimately there could be some aspects of the project the Board would like to see done differently, such as requirement for maintenance of BMPs by the homeowners association. He had serious concerns with the bonus unit aspects of item 15.

Ms. Scholley explained that TRPA staff would review the CC&R's to ensure that maintenance of BMPs, residential use limitations, and parking areas were addressed.
Mr. Alan Fleming, owner of the proposed Lodgepole Villas (item 15), explained he had paid $30,000 for the bonus units. There were a lot of available bonus units that would never be used, the money used to purchase bonus units would be put into environmental improvements. He anticipated taking a $50,000 loss in the building of the two affordable housing units.

**MOTION** by Mr. Hime to approve the Gordon Lee new multi-family dwelling and condominium subdivision (item 7). The motion carried with Mr. Westergard voting in opposition.

**MOTION** by Mr. Hime to approve the Lodgepole Villas multi-family dwellings and condominium subdivision (item 15) with the added staff condition. The motion carried with Mr. Wynn and Mr. Westergard voting in opposition.

**VII. APPEAL**

A. Yetter, Appeal of Executive Director Decision Denying Transfer of Existing Residential Unit, City of South Lake Tahoe, El Dorado County APN 23-182-31

Prior to the staff presentation by Senior Planner Paul Pettersen, Chairman Upton noted that, because of the MOU between TRPA and the City of South Lake Tahoe, the Yetter matter was coming to TRPA for action, even though the City had already spent considerable time researching the historical facts of the property and had ultimately approved the Yetter proposal. He would like to avoid having the TRPA Governing Board now spend even more time reviewing the same material that the City had reviewed.

Ms. Scholley explained that, while the MOU did not delegate such determinations to the City, it did provide for the City to take action before TRPA on these types of projects. TRPA’s review was de novo and did not rely on the City Council’s finding of facts. Looking at the matter de novo, the TRPA staff did not feel there was evidence to support the finding that there was a legally existing unit on the Yetter property prior to 1965. The MOU did not delegate the authority on behalf of TRPA to review transfers of existing development. The Executive Director reviewed the matter and determined that the findings could not be made. That decision was being appealed.

Mr. DeLaney suggested that this should have come to the Legal Committee for a hearing so that sworn testimony could be given by the participants.

Mr. Cole explained that in the initial review at the City level there were no criteria available to evaluate the matter under the MOU. The City established criteria for review of the situation, because there was no way of conclusively proving that the unit did or did not exist prior to 1965. The City did not revise an existing procedure, as suggested in the TRPA staff report, but rather established a procedure for the review. The City took testimony from neighbors and previous owners of the property in an effort to determine the status of the unit in the past. Although there was a variety of pieces of evidence that could lead one to believe that the unit was not present prior to 1965, nothing was conclusive. After reviewing all the testimony and spending considerable staff and attorney time on the matter, the City found in favor of the Yetters.
Mr. Waldie noted that, based solely on the staff summary, he would agree with the staff's finding that the unit was not legally established prior to 1965. TRPA had, however, delegated the responsibility of fact finding to the City; if the Board disagreed with the findings, it should alter the MOU. Otherwise, great deference should be given to the City's findings. Only extraordinary evidence should be able to overturn the City's finding.

Chairman Upton suggested that the Board may wish to avoid a new hearing on the matter and accept the City's findings on the matter. He would prefer to end the issue and accept the City's action.

Deputy Director Jerry Wills reminded the Board that the MOU was not a delegation MOU but rather a cooperative MOU to streamline the process to allow the City to act first. It did not delegate the review authority to the City.

After more discussion, Chairman Upton asked that staff and the appellant present their positions on the Yetter matter.

Mr. Dale Sare, attorney for the appellants, explained that he was present under the existing rules to appeal Executive Director Jim Baetge's decision. Mr. Baetge's decision overturned the City's findings; he would not like to see the decision turned over to the TRPA Legal Committee.

More discussion followed on the appeal procedure, its similarity to an appellate court proceeding, the MOU, the history of the application, the City's findings, and the changes which had occurred over time to the appeal procedure.

Using an overhead projector, Senior Planner Paul Petterson presented the staff recommendation and the facts reviewed by staff which led to a recommendation that the appeal be denied. The information in staff's records indicated that the unit was not legally constructed by 1965.

Mr. Dale Sare, for the appellant, described the appeal procedure, the exhibits he had submitted, the history of the construction on the site, the affidavits by neighbors, confusion over terminology (home, single family dwelling, house), and sewer units.

Mr. Bob Hedley, on behalf of the appellant, noted that since 1990 the building was considered an illegal duplex. To make it legal, he had to prove it was built prior to 1965. That was what started the whole process and review by the City and TRPA.

The Board continued to discuss the history of the site, the status of the property in the eyes of public service providers (sewer, power, tax assessor), the affidavits of neighbors, the documentary evidence reviewed by staff, and the City's findings.

Ms. Scholley responded to Mr. Sare's presentation and described treatment of the property by various public utility entities, including Sierra Pacific Power, South Tahoe PUD, and the Assessor. Ms. Scholley also described the City's effort to identify and recognize "granny units" as a part of its affordable housing program.
MOTION by Mr. Erquiaga to grant the Yetter appeal. The motion carried on the following vote:

Ayes: Mr. Cole, Mr. Wynn, Mr. Sevison, Mr. Bradhurst, Ms. Neft, Ms. Bennett, Mr. Erquiaga, Dr. Miner, Mr. Hime, Mr. Upton

Nays: Mr. Waldie, Mr. DeLanoy, Mr. Westergard

Abstain: None

Absent: Mr. Cronk

Ms. Scholley advised the Board that members of the audience who had questions concerning the Rempfer group facility (consent calendar item 6) but who had not raised the issue when the consent calendar was being discussed had withdrawn their request to comment. The vote on the consent calendar stood.

The meeting recessed for a lunch break from 12:30 to 1:45 p.m. Mr. Wynn was not present for the afternoon session.

VIII. PLANNING MATTERS

A. Consideration of Preferred Alternative for 1996 Threshold Evaluation

Principal Planner Gordon Barrett described the results of informal meetings with affected entities and interest groups on a consensus approach to future commercial and residential allocations. He presented the tentative square footages for commercial allocations both inside and outside the Community Plans and for special projects, noting that the exact numbers had not yet been finalized.

Mr. Sevison suggested that square footage for industrial and storage uses be pulled out of the commercial numbers and treated separately.

Mr. Westergard questioned the proposal to develop special criteria for coverage transfers to sensitive lands, particularly in view of TRPA's basic effort not to develop these areas. It didn't make sense to ask the two states and Congress to support sensitive land acquisition programs when TRPA was developing programs to develop sensitive lands. There was a basic inconsistency here. What were the environmental benefits?

Chairman Upton suggested that there were individual situations where coverage could not be removed from sensitive areas but it could be improved. It would need to be looked at on a case-by-case basis.

Mr. Barrett suggested that these transfers could occur only if the resulting coverage provided some significant environmental improvement. Mr. Barrett responded to questions about the timing of the commercial allocation and the level of Board or staff involvement in distribution of allocations.

Mr. Bradhurst questioned the ability for smaller projects to compete with bigger projects for commercial square footage. Some portion of the allocation should be set aside for small businesses. There was also a question of banking coverage not used by a jurisdiction for future use by that or another jurisdiction.
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(Mr. Hime left the meeting at 2:00 p.m.)

Dr. Miner questioned the assignment of commercial square footage to unadopted Community Plan areas, such as Round Hill. Round Hill did not have an initial square footage allocation to start with. There may be potential projects in areas like this, but they may have trouble getting commercial coverage because they were starting with a zero base. This was especially of concern when other areas with assigned coverage may not need coverage.

Chairman Upton suggested that staff do some research on potential demand for coverage for future projects and also determine which parcels in the Basin could take additional coverage. This would give some indication whether the Board should reserve coverage for these situations.

Mr. Waldie questioned the reason for the proposal to include a potential for more than 400,000 square feet of commercial.

Mr. Barrett responded that there would be checks to see if additional coverage over the 400,000 would be possible. Documentation to exceed that number would be required. This was an important feature for some of the members of the working group.

Mr. Barrett summarized the residential allocation concepts and the focus on a constant growth pattern. The proposal was for 300 residential allocations per year for the next five years to be distributed much the same way as they were today. The program would promote environmental improvements, transfers from sensitive lands, and MOU compliance and would be linked to the IPES system and water quality improvements. The one criteria the group was struggling with was the extent to which the BMP retrofit of existing development would be included in the program. The idea was to get local jurisdictions involved in assisting with solving existing problems. This would be a good accomplishment for the next five years. Under the current proposal, local jurisdictions would continue to administer allocations, and unused allocations in the next five years would go to a pool for redistribution to other jurisdictions as needed. The idea was to show continuity and consistency and minor adjustments for the next five years. The next meeting of the commercial and residential allocation groups was scheduled for August 1.

Ms. Bennett spoke in favor of the BMP retrofit program for residential properties and urged that the working group include representatives from the Nevada Tahoe Conservation District or the Natural Resource Conservation Service. These groups were involved in these activities on a daily basis.

With regard to the commercial allocation concept, Ms. Bennett asked that the commercial concept do more than "encourage" transit, particularly given the next 10-year increase in visitor demand from populations outside the Basin.

Mr. Cole expressed concern with the future years' residential allocation concepts and the potential sense of instability related to the supply. A sense of instability in allocations created a false demand and resultant poor housing. If there were a threat that the flow would be interrupted, the result would be a glut of poorly designed and built homes. It had occurred before. There needed to be some way to recognize the need for a consistent flow, unless there were some way to anticipate exceeded parameters. With
regard to the BMP retrofit program for residential, it appeared the local jurisdictions were being further saddled with responsibility of insuring such retrofits took place. This implied that if local jurisdictions did not accomplish BMP retrofits their allocations could be jeopardized. Responsibility for BMP retrofit was TRPA’s job. For a new home to be built, the property owner had to find a way to ensure that the neighbors upgraded their properties first. This was a problem, and there needed to be a way to encourage implementation that was positive and not negative.

Ms. Bennett urged that the local governments take on a facilitating role to encourage BMP retrofit programs. Local government participation was critical to this effort.

Chairman Upton agreed and suggested that there be incentives for the property owner in the retrofit program, rather than work burdens. As to information needed relative to allocation rates, staff should look at the different jurisdictions, the number of buildable and eligible parcels v. the current allocation rates and the buildout rate. There should be a balance between the buildout rate in the different jurisdictions. Related to that was the fact that the buildout rate had been changed in the Nevada counties by lowering the IPES line. The equation needed to be "renormal" for the California counties, since lowering of the IPES line was not occurring in a timely manner in California.

Referencing the planning period for commercial and the residential allocations, Dr. Miner suggested that there be a commitment for five years in both areas so that there would not be the rush to get allocations. This would allow beneficial projects to be created as opposed to rushed allocations and rushed building because of fear of losing an opportunity. There needed to be a longer-term vision and commitment to the public. This would foster better projects. The mitigation package could then be structured so that there would be a real benefit from the projects.

Mr. Steve Teshara, a member of the commercial allocation working group, commented on Mr. Waldie’s concern regarding the potential for increases in commercial square footage beyond 400,000 square feet. The intent here was to focus on upgrading the commercial infrastructure and getting the accompanying environmental benefits. There was a need to release the energy of the private sector and investment potential for redevelopment projects, projects within Community Plans, and limited projects outside Community Plans, such as neighborhood-serving commercial. There needed to be incentives for upgrade in areas that now were stagnant. The intent was to provide incentives for upgrading and rehabilitation. The Board would have an opportunity to judge whether environmental benefits associated with a proposed project were adequate.

Mr. Kerry Miller, South Lake Tahoe City Manager, advised that the City had a program in conjunction with the Chamber of Commerce to support "commercial investment zone projects," the idea being to jump-start development in Community Plan areas. As far as tax incentives, the City did not have enabling authority in that area, except in the area of business licenses.
Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted that one of Executive Director Jim Baetge's major projects had been to get funding for BMP retrofit programs through a special Tahoe revolving fund that was separate from the states' other funds. With regard to the allocations, the League felt there were some excellent concepts. Some could potentially be harmful but the details needed to be worked out. Hopefully the group would be bringing back more finished products. The Community Plan (CP) process as originally envisioned projected CPs to be adopted a few years after adoption of the Regional Plan, and 400,000 square feet of commercial would be put into CPs. The thought was that, at the end of the first ten years of the Regional Plan, the CPs would have a track record, and benefits could be evaluated. Because of the delays, the CPs had no track record. The League objected to an additional 300,000 left over from the first 10 years and an added 400,000 - totaling 700,000 square feet with no checkpoints. The League wanted to ensure that promised environmental benefits would occur. The establishment of a track record for accomplishment of the benefits needed to be in place. The League felt it was prudent to withhold 200,000 square feet from release until the existing allocations had been distributed.

B. Status Report on Coordinated Transit System (CTS)

Mr. Dick Powers, Executive Director of the South Shore TMA, presented the Board with an update on the success of the South Shore trolley. From June 22 through July 22, 20,937 people had ridden the Nifty-Fifty Trolley, a 50.7 percent increase over last year's ridership of 13,895 for the same period. The daily average was 675 passengers a day. Mr. Powers presented more statistics on the trolley, noting the program was very successful. With regard to the CTS, the MOU signed in December 1995 set forth defined participation levels for four projects and set out five phases of implementation. At the completion of the five phases the system would be operating and would achieve the objectives of the CTS. Mr. Powers described the specific tasks in each of the five phases and distributed an executive summary of the project, its budget, and anticipated contributions to the program.

Mr. Steve Teshara, chair of the Tahoe Transportation Coalition and of the Board of Directors of the South Shore TMA, described legislative activities and the assistance provided by strategist Dan Potash. For purposes of federal and other funding, CTS could be packaged as a transportation or as an environmental project; it was both. In terms of appropriations, environmental projects were more likely to receive funding in Washington. Mr. Teshara described the status of the $2.1/2 million request through EPA's.

Mr. Powers distributed and described promotional materials funded by a marketing grant through Caltrans. These materials described North Shore and South Shore transit opportunities, the lake lapper and all the different public and private transit programs.

C. Discussion on Basin Impact Fee

Agency Counsel R. J. Nicolle noted there had been in the past a lot of support for the concept of a Basin impact fee at Tahoe to obtain funds to handle impacts created by day-users. One of the staff's tasks at this time was to
seek federal funding for an update of the 1974 feasibility study called Tahoe Regional Plan Implementation: Financial Feasibility. Attorney Rick Combs, Counsel for the Nevada Legislative Oversight Committee, had concluded in his analysis that Basin impact fees would be appropriate through the Tahoe Transportation District (TTD), if both California and Nevada amended Article IX of the bistate Compact. The TTD was prohibited from imposing a tax or assessing a cost against people or vehicles entering or leaving the Region. Article IX could be amended by the states without Congressional approval. Drafting of an amendment to Article IX would need to specifically clarify that additional powers were not being given to TRPA but only to the TTD. The safest route was to have both states and Congress approve the amendment. Drafting of the amendment would have to be carefully done. At this point in time, as a part of the 1996 legislative packet, Executive Director Jim Baetge was seeking $100,000 in federal funding to update the information in the 1974 report so that all the various funding alternatives could be evaluated. Funding had not yet been obtained for the update. Mr. Baetge’s position was that TRPA’s position would be much stronger if all alternatives were studied, rather than just one.

Chairman Upton noted that there may be an opportunity to fund the update out of ISTEA reauthorization. This should be a target item.

With regard to TRPA bringing a declaratory relief action to answer questions regarding Compact amendments, Ms. Nicolle explained that she would have to find a procedure to file such action, since she did not know what was available. Generally, there needed to be a case and controversy to get a court action. She, as a representative of TRPA, may not be seen as the proper party to be arguing on behalf of the Tahoe Transportation District.

Chairman Upton asked how complicated an amendment or interpretation of the Compact by the two states would be. The Nevada legislature would be in session in 1997, and it might be possible to draft clarifying bills for consideration by the two legislatures. If it was done right, this may be sufficient and a step closer to federal funding or funding through either the California audit or Nevada Oversight Committee processes.

Ms. Nicolle responded that this was possible. This year, TRPA staff was involved in assisting the TTD with proposed Article IX Compact amendments related to TTD board membership. There was precedent for assisting the TTD in this area. Staff could put this in the work program at the Board’s direction.

Mr. Waldie questioned whether the Board had taken a position in favor of a Basin impact fee. If not, this should be the first order of business.

Deputy Director Wells explained that this was the purpose of the update to the 1974 report - to find out what options were available and for the Board to give staff direction on an approach.

Mr. Waldie suggested that lawsuits to settle legal issues were premature without an updated feasibility study. The updated study may conclude they were not feasible. Lawsuits would then have been a waste of time and money. Implicit in the question of the feasibility study was whether TRPA believed a Basin impact fee was a solution to the financial problems of the Tahoe Basin.
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and whether the Board was willing to spend money to determine whether it should proceed in that direction. He would like clarification on this through Board action on a future agenda.

Mr. Bruguia suggested that at this point the question was how to fast-track funding for the feasibility study. The idea of a Basin impact fee was not new. The question was how to get the update moving so that the information was available to make the decision. Were there alternatives to the federal funding of the update?

Mr. Dwight Steele, chairman of the League to Save Lake Tahoe's Transportation Committee and a founding member of the Transportation Coalition, described efforts by many entities to get a proposed amendment of Article IX to address membership of the TTD board, the TTD responsibilities, and deletion of language from the Compact prohibiting any charge assessed against people entering or leaving the Basin. He understood that the Nevada Oversight Committee rejected that portion of the amendment. If that was the case, the Nevada legislature would most likely oppose it. That may or may not be an irreversible decision, but for the time being getting that language out of the Compact was dead, likely for two years. He had been an advocate for more than 20 years of a Basin user fee to fund a no-fare regional bus system and to charge automobiles for the damage done to the environment. A good portion of the 1974 report concluded that a Basin user fee was feasible and practical. As early as 1979 even Caltrans supported the idea. By the 1980s, the idea went into the doldrums. By the late 80s, the idea was revived in part by the R/UDAT (Regional/Urban Design Assistance Team) conference and formation of the Transportation Coalition. A number of good things had happened in the transit area through cooperation among the Coalition, the TMAs, TRPA and others. There still needed to be operational money, a source of funds beyond what could reasonably be expected in the next few years. The suggestion was that discussions of a toll road at the six entrances to the Basin or an Emerald Bay toll road be halted and that parking fees be looked at more seriously. He urged the Board to establish parking as a priority for staff to move ahead rapidly on. This had not been a high priority because of other staff work assignments. Mr. Steele complimented Steve Teshara, Dick Powers, Jim Baetge, Stan Hansen, and Rochelle Nason - all of whom had worked on the CTS program and had against all odds gotten money out of Washington. They had all done a terrific job. Mr. Steele responded to Board member questions about whether the fee should exempt local residents and apply only to visitors, whether his proposal would require approval by 2/3 of the voters, whether parking fees were considered a tax, and areas in the Basin where parking fees were charged.

Environmental Information Coordinator Pam Drum advised the Board that when the Nevada Oversight Committee adopted its 22 recommendations to take to the full Nevada Legislature in 1997 it urged by letter from the Committee that TRPA seek federal funding in the amount of $100,000 to update the 1974 report by McDonald & Smart. The Committee endorsed the language in the federal legislative packet; it did not endorse the idea of a Basin impact or user fee.

Mr. Don Kornreich, Incline Village resident, agreed that a study should look at all sources of major revenue. Big dollars were needed soon if degradation of air and water quality was to be stopped. He did not feel optimistic about getting the $100,000. An update of the study was needed; it looked at the
issues involving raising money in great detail and, surprisingly, suggested that a parking fee system was likely the best way to raise money. The Basin impact fee should be dropped, because the Nevada Legislative Oversight Committee was not receptive to it or to charging people coming into the Basin. Attorney Combs raised some legal points regarding regulation based on public health and safety and parking fee applicability to local residents. He would like to be included in discussions on addressing these issues. He urged the Board to drop the Basin impact fee terminology in favor of a parking fee system. Within seven years of implementation, $10 to $15 million per year could be raised, based on the fact that only 60 percent of private vehicles coming into the Basin would pay the fee. The other 40 percent were commercial trips, public transit users, or passing through. He suggested no fee be charged during the six month shoulder seasons because the number of visitors was low during that time and overhead was high. The system should be started by 2000 because if current trends continued ten years from now it may be too late for the environment and for TRPA's future effectiveness. The majority of TRPA's time should be spent on projects that addressed air and water quality, not on projects related to commercial and housing developments. Long-term benefits to the quality of life and to the economy were related to the environment. TRPA above all others was charged with that responsibility. TRPA should move as quickly as possible on a revenue-generation program such as a parking fee system and, in the interim, look to the communities to raise money to get environmental improvements underway.

Ms. Patricia Ronald, a member of the League's Transportation Committee and a founding member of the Coalition, thanked Don Kornreich, Dwight Steele, and the League for their leadership in the Basin user fee discussions in the past. The Coordinated Transit System needed funding, and she urged the Board to consider the future environment of the Lake over short-term inconveniences.

Chairman Upton suggested there needed to be an analysis on Compact issues related to parking fees and issues raised in Mr. Combs' report. He questioned the status of the parking management program and suggested implementation of test cases to see how and if it would work. The goal would be to see what propensity there was for people to utilize parking areas.

Dr. Miner suggested that there needed to be a better handle on new revenue generation. The Board should perhaps focus on impact fees to generate money for an updated study on potential revenue. He could see many challenges and unanswered questions on the universal application of parking fees. The issue of revenue should be addressed head on.

Mr. Bradhurst questioned the status of the $100,000 federal funding request. Was it possible for local governments to use their impact fee monies to fund the study?

Mr. Wells responded that staff would have to report back to the Board on the status of the request. The Shoreszone Study was the only study authorized by the Code to be funded by mitigation fees. Mitigation funds were designed for project implementation and not studies. This could be revisited.

Mr. Bradhurst suggested this was something that should be looked at again. After listening to the testimony, it was clear that there needed to be an
update on the effort to get $100,000 in federal funding. If the Board knew where that request was now, maybe some of the members could help with the endeavor. If all affected jurisdictions, including the states, the two transportation departments, EPA, and the Forest Service could each put up $5,000, the private sector may be willing to throw in the remaining amount to get the study completed. At a minimum, the effort should be jump-started at the local level. Updating the study was the first step.

Mr. Waldie suggested there still was not consensus to undertake the effort, whether Basin impact fees or a parking system. If the Nevada Legislature was hesitant, if the California Legislature had not been asked, and the local representatives on the Board were reluctant to support either set of fees - these should be addressed first prior to doing a study on how to do it. As a matter of political honesty, the Compact should be amended if TRPA was going to seek the kinds of fees that had been discussed.

Chairman Upton suggested that if the earlier study focused on parking fees as the best alternative then perhaps that portion of the study could be refined, as opposed to looking at a broader study and legislative revisions.

Mr. Severson suggested TRPA not do anything that would camouflage the issues. He also agreed that the locals should assist in the funding of the study. The study had to be the first ingredient, and for TRPA to vote on whether it supported parking or a Basin impact fee was insane without some basis. He did not feel the groundwork was present to make that determination. If the Basin impact fee was the best tool to solve major problems in the Basin, it should be the approach taken. TRPA had to do what it thought was best, regardless of what it had been told so far. Otherwise, TRPA was wasting its time. TRPA would then have some basis to go to the two states and Federal Government to get the additional funding needed to solve the identified problems. In his experience, parking fees did not generate a lot of money. TRPA was a long way from even taking a tiny bite out of the problem.

Mr. Bricquiaga suggested that if the study was the approach taken by TRPA the study should determine specifically how much money would be generated by a parking program and how much by a Basin impact fee. This would then be followed by a determination on whether to vote for it or not. It appeared that nothing was done with the 1974 study. The numbers and the dollars to be generated by such fees should be included in the study if the two legislatures were going to support them.

Ms. Nason, for the League to Save Lake Tahoe, noted that parking management had a great deal to do with traffic and transit encouragement, whether it brought in revenue or not. There were forms of parking management that cost money, forms that were revenue neutral, and forms that were income producing. In 1992, TRPA adopted a Regional Transportation Plan that called for the study of parking management techniques, including a provision calling for the imposition of fees in all public parking areas. TRPA had required parking as a part of the airport master plan, and there were already two studies underway on parking management for CTS in the South Shore and on Highway 28. The studies were focused on how to change parking rules in order to facilitate transit and protect the environment. A part of each study was the study of revenues and whether the systems would pay for themselves. The studies would
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determine whether this was a potential revenue producer. As far as legislation was concerned, Sacramento and Reno had parking fees. There was no reason why there could not be such fees at Lake Tahoe. TRPA had mandated them in the past. From a legal standpoint, there was nothing in the Compact that prohibited parking management, including parking fees. This was a plan that TRPA had already adopted. The League felt that parking management plans should be adopted if they had positive benefits - even if they were completely revenue neutral.

In speaking for her constituency, Ms. Bennett felt it would be more acceptable to the public to pay a fee coming into the Basin knowing it would help the environment than it would be to pay a parking fee. The issues were different. She would be interested in seeing the numerical outcome of a study on the issues. To put emphasis entirely on a parking fee system as the source of driving revenue to do environmental improvements was unrealistic.

Mr. Waldie noted that Article IX of the Compact did not deal with TRPA’s powers but with the powers of the TTD Board. If a Basin impact or parking fee were charged, it would be done by the TTD, not TRPA. The amendment of Article IX dealt only with the powers of the TTD, not the powers of TRPA. If such fees were an exercise of the powers of TRPA, it was not covered under Article IX, since it dealt only with the TTD Board. Where in the Compact would TRPA’s authority in this area be found? If it was elsewhere than in Article IX, then the Compact would have to be amended. Was there a prohibition on the TRPA Board imposing an impact fee? There clearly was on the TTD Board. If there was not, then a big step would be out of the way. The reason this was relevant was that if $100,000 would be spent for a study, the study ought to be authorized and financed by the TTD, not the TRPA. If TRPA did not have the power to do that which the study was seeking to authorize, then TRPA ought not to fund it. He did not disagree that TRPA had the power to manage parking, but to raise the funds everyone agreed were necessary was the question.

Ms. Nason responded that one of the two studies was already done; the other one was under contract by TRPA. These were EISs on parking management programs that were being put in place simply for environmental protection and not as some type of revenue generation. If revenue generation became the purpose down the road, the situation might be different.

Mr. Wells suggested to the Board that, based on the discussion, staff would bring to the Board in August a report on the status of the request for $100,000 at the federal level and what other options were being looked at.

Mr. Ezquiaga asked that staff’s report recommend drop-dead dates and options if federal funding was not forthcoming.

Mr. Westergard suggested that the Board needed to pursue the question of where the authority and jurisdiction rested for raising funds. He thought there was a specific prohibition on TRPA’s having any taxing power. If that was the case, certainly a Compact amendment was called for. The Board needed to distinguish the authority of the Board from the TTD.

Mr. Waldie asked if this subject matter had also been considered by the TTD Board.
Chairman Upton responded that the TTD had only considered language altering its membership.

Ms. Nicolle explained that the McDonald & Smart report did evaluate costs of collection and revenue generation. If it were updated, it would provide statistics necessary to do a real analysis of cost-benefit ratios of various alternatives.

VIII. PLANNING MATTERS

E. Presentation by Sacramento Municipal Utility District (SMUD) on Light Rail in the Highway 50 Corridor

Associate Planner Bridget Cornell introduced Mr. Al Bulf, rail transit planner, who would be making a presentation on sample services of a light rail connection between the Sacramento area and the Tahoe Region.

Mr. Bulf described the efforts by a coalition of representatives from SMUD, Siemens Transportation Systems, El Dorado County, Folsom, Placerville, and private developers to put together a light rail system west of the Tahoe Basin. Using a wall map, Mr. Bulf described the routing of the proposed light rail from Sacramento to Placerville past Cameron Park and El Dorado Hills. Other studies were going on for commuter rail north from Sacramento to Redding and the upgrading of the Highway 80 rail corridor from 30 mph to 80 mph. UP representatives had indicated that in the Highway 80 corridor alone, the intent was to run 40 freight trains and 20 passenger trains. Sacramento would be the hub. With this particular plan, the proposal was for the rail line to jump from one ridge to another as the line progressed into the Tahoe Basin.

Three tunnels would be needed, the first going under Highway 50 east of Placerville, the second near Camino, and the third on an alignment with Pony Express Trail. A series of bridges on the ridges would bring the line to the Tahoe Basin crossing Echo Summit near Little Norway. The line would then go into Christmas Valley and down into an alignment with Highway 50 near the airport. The line would run in front of the casinos and eventually on toward Carson City through a bore tunnel under the mountain range. Mr. Bulf presented a video of light rail systems in Europe and, upon its conclusion, responded to Board member questions.

IX. ADMINISTRATIVE MATTERS

A. TRPA Performance Audit

1. Discussion of Request for Proposal

Chairman Upton advised the Board that the committee had issued an RFP for the audit. California Senator Tim Leslie had advised him that the State Audit Agency needed legislative authorization if it was going to conduct the audit. This would not be given until August 2. The State Audit Agency would proceed ahead with the work as if they were going to get the approval, but they needed seven to ten additional days of time.

Deputy Director Jerry Wells noted that Board agreement was needed on the Committee’s suggestion that the receipt and opening of bids be extended to
August 20 at 4:00 p.m. Although he had received calls of interest from private firms, he had not heard from either the California or the Nevada legislative audit offices.

Chairman Upton suggested that readvertising was not necessary and those who had been sent the RFP or who called about the advertisement be advised that there was an extension on the time for submittal of bids.

Mr. Waldie questioned whether there was a conflict of interest for firms representing clients in a private capacity before staff or the Board to submit bids to do the performance audit. This would appear to be a conflict of interest. A policy on this should be considered and established.

Agency Legal Counsel R. J. Nicolle explained there were various conflict of interest laws that might apply. This question may need to be explored under the California or Nevada law, if proposals were submitted by attorneys.

Mr. Sevison suggested that in the areas where Agency counsel perceived a possible conflict the pertinent bidders should be contacted and advised that submittal may be inappropriate. There was not time in the schedule to take a formal action by the Board. He would be satisfied dealing with the question in that fashion.

Ms. Nicolle suggested this would have to be looked at on a case-by-case basis. One attorney having a conflict would disqualify an entire law firm. There were different rules for private industry, and she would look at the submittals individually.

Mr. Bradhurst commented that, based on Senator Leslie's comments last month, there might also be a performance audit of the Governing Board. It would be helpful to see if what the Board was doing was what it was supposed to be doing. Washoe County had found it very beneficial to have a complete audit of all its planning operations. He did not feel that the staff could be separated from the Governing Board.

Chairman Upton requested that the name of that firm be given to the staff.

Mr. Cole commented that the performance audit conducted of the City's operation in 1994 was a very positive experience. The end result was that the City became a lot more tuned into being customer friendly and to addressing problems. It was a good overall experience.

Mr. Westergard expressed concern that additional notice be given in newspapers if the date for submittal was being changed from what had been published. He felt that notice should be given again.

Mr. Wells noted that the cost to advertise came close to $1,000. Because of the budget impact, staff would hope to avoid readvertising. Staff would contact all those who had expressed an interest to advise of the extended closing date and would look at submittals on a case-by-case basis for potential conflict of interest problems.
Ms. Nicolle advised that the Fiscal Procedures Manual did allow TRPA to
deivate from the standard bidding process for professional services. While
she would have preferred to have stayed within the realm of the established
bidding process, Ms. Nicolle indicated that TRPA was not required to
readvertise. The ad required that those wishing to bid would need to contact
TRPA for an informational packet. Firms could not necessarily bid without
writing for the information. As long as TRPA maintained a standard bid
opening date for all proposals, it was being fair to everyone.

Mr. Wells indicated that the RFP was broad enough, although not specific to
the APC or Governing Board, to provide for an analysis of the Agency as a
whole. When working out the scope of work with the contractor, there could be
something about an audit of the Board.

Chairman Upton commented he was satisfied that all prospective bidders would
be advised of the change in the submittal dates. Everyone would be fairly and
uniformly informed of the change. The rest of the schedule would be followed.

The Board continued to discuss dates for submittal and decided that the bids
would be received by 4:00 p.m., August 20. Bids would be opened at 4:01 p.m.,
August 20 by Chairman Upton. The Committee would meet August 21 at 1:00 p.m.,
at the TRPA office to go over the bids and select which consultants would be
interviewed by the Committee at 9:00 a.m. on August 23. The Board would make
the selection on August 28.

B. Quarterly Status Report on 1995-96 Work Program Priority Milestones

Deputy Director Jerry Wells noted the material in the packet was a status of
the Agency’s work program through the last six months of the fiscal year. No
Board action was necessary.

C. Appointment of Board Member to Fill Vacancy on Finance Committee

MOTION by Dr. Miner to approve the Chairman Upton’s appointment of Rex Hime to
the Finance Committee. The motion carried unanimously.

X. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee Report

1. Receipt of June Financial Statement and Check Register

2. Disbursement of Abandoned Securities ($3,050)

3. Placer County’s Request to Use Water Quality Mitigation Funds
to Pave Unpaved Roads

Finance Committee Chairman Kay Bennett reported on the three items taken up
earlier in the day by the Finance Committee. The committee recommended
receipt of the statement and check register and approval to use abandoned
securities for a boat mooring, to purchase tracer tree marking paint, and to
offset staff cost to administer the abandoned securities program. Placer
County’s request to use water quality funds to pave roads was to be continued

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for submittal of more information by staff. Mr. Wells noted that staff may
not have the information available in time for the August Board meeting; staff
would bring the Placer County request back to the Finance Committee as soon as
more details were available.

MOTION by Ms. Bennett to receive the financial statement and check register
and to approve the recommended uses for the abandoned securities. The motion
carried unanimously.

(Mr. Erquiaga left the meeting.)

B. Legal Committee Report - no meeting

C. Capital Financing Committee Report

Committee Chairman Kevin Cole explained that preparation of the 1997
legislative packet was underway. There was positive feedback on the 1996
packet and suggestions for improvements to focus on getting funding for three
specific goals in the near term and identifying long-term goals. There was an
update at the meeting on 1996 legislative action, including information on CTS
funding, as well as the fact that Burton-Santini funds were not forthcoming
as hoped for.

Ms. Rochelle Mason, for the League to Save Lake Tahoe, advised that Lake Tahoe
had $10 million in Proposition 204 on the California ballot this fall, solely
for water quality. Also, the relevant committees in the House and Senate had
approved the Corps of Engineers to begin work here at Tahoe. The House
approved $400,000; the Senate approved $500,000. It looked like the Army
Corps would be taking a very active role in water quality protection in the
Basin.

Chairman Upton asked that staff prepare a resolution of support for California
Proposition 204 for consideration by the Governing Board. This was a $975
million bond on the Bay Delta. The entire Regional Caucus of Rural Counties
worked with the Resources Agency to generate $15 million for watersheds out of
the $975 million. The fact that an additional $10 million was generated for
this particular watershed was a remarkable accomplishment. He also supported
Board consideration of a resolution of support for the $20 million Question 12
on the Nevada ballot.

Finance Chairman Cole updated the Board on the possibility of a federal summit
in early September and a potential visit from President Clinton in August. A
summit would help to focus federal attention on Tahoe.

D. Rules Committee Report - no meeting

E. Shorezone Policy Committee Report

Committee Chairman Westergard reported on the July 23 meeting and the
Committee's discussion on the public trust doctrine and its implications in
both states. The group heard a status report on the points of consensus
achieved by the Shorezone Partnership Committee. The Policy Committee was
reassured that the Partnership's efforts were on schedule.
Committee members Waldie and Severson noted that the Partnership Committee was making good progress. Keys issues still remaining included scenic and fisheries.

P. Local Government Committee Report

Mr. Upton noted that the Committee met on July 22. Surveys were out on employee transportation and related issues. Of the 27,600 employees in the Tahoe Basin, the top 100 employers had 15,000 of the 27,600 employees. The casinos accounted for 10,000 of the 15,000 employees. Staff would work through Steve Teshara, of the Lake Tahoe Gaming Alliance, to come up with a consistent methodology for reporting related statistics. The matter would be coming to the Board in September.

G. Performance Audit Committee Report

The report was previously given. Chairman Upton asked that the August 23 interviews of prospective consultants start at 9:00 a.m. at TRPA.

Dr. Miner asked that the final selection of a consultant come to the full Governing Board. The Committee would be making a recommendation.

XI. REPORTS

A. Executive Director Monthly Status Report

Deputy Director Jerry Wells noted that Executive Director Jim Baetge was on a two-week vacation. He had apologized to the Board for the short notice. Jim would be returning August 5.

Chairman Upton advised that he had urged Jim to take the time he needed for a good vacation.

Chairman Upton advised that California Senator Barbara Boxer would be visiting Tahoe the morning of August 14. Her visit was being coordinated with the Forest Service, the League and others.

Mr. Waldie asked that the Board members be sent information about Senator Boxer’s visit.

B. Legal Division Monthly Status Report

Agency Counsel R. J. Nicolle reported that the Hellman v. TRPA case had been dismissed. The Ninth Circuit Court of Appeals denied the writ requesting a reevaluation by Hellman. At this point, the case was dead.

Ms. Nicolle also reported on the status of Suitum v. TRPA, a stream environment zone takings case. The outside counsel who handled the case for TRPA was successful in getting the case dismissed at the trial level. The decision was appealed to the Ninth Circuit Court of Appeals, which upheld the dismissal. The Suitums intend to file a writ of certiorari with the Supreme Court; the writ was due in mid-August.
In TRPA v. Barbieri, Ms. Nicolle advised she had filed a summary judgment motion. Counsel was awaiting a ruling on the motion, and a pre-trial hearing was scheduled for August 26.

The Legal Division had spent a great deal of time assisting the Dreyfus Olympic Group, Forest Service, and Bureau of Land Management acquisition of a large piece of property adjacent to Zephyr Cove. Closing was scheduled today, and the results would be a major expansion of the Zephyr Cove Resort northwards and of the Forest Service tract southward. TRPA had gotten involved in the negotiation of property values because the Forest Service had required TRPA’s input in order to finalize the sale.

C. Governing Board Members

On the subject of a federal visit to Tahoe in August, Steve Bradhurst reported that an invitation was sent to EPA Director Carol Browner and to Secretary of the Interior Babbitt to come to Reno to sign a water quality agreement involving the State of Nevada and the Pyramid Lake Tribe. This would be occurring the week of August 16 and may coincide with a potential visit by President Clinton. The Tribe was supposedly dragging its feet on the signing but would advise in the next week if it would sign. The Washoe Commissioners, as well as the two cities, had agreed to sign.

Kay Bennett reported that the contract for the scenic byway corridor management study for Highway 28 had been awarded to EDAW and Leigh, Scott and McClary. The report should be finished in September. This was all part of the All American Highways designation.

Don Miner thanked R. J. Nicolle for her extra effort in facilitating the Dreyfus land swap and other staff members who had participated in the planning needed in the conceptual planning for a project involving the Round Hill Mall. It was important for staff to be involved early on so the tone could be set to facilitate some of the major projects that would bring in major benefits in the way of mitigation.

XII. ADJOURNMENT - The meeting adjourned at 5:35 p.m.

Respectfully submitted,

Julie D. Frame
Clerk to the Governing Board

These minutes were taped in their entirety. Anyone wishing to listen to the tapes may call (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 submitted on August 28, 1996.