TRPA
GOVERNING BOARD
PACKETS

DECEMBER
1985

DEC 85 GB

TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, December 18, 1985, commencing at 9:30 a.m., at the TRPA office, 195 U.S. Highway 50, Round Hill, Zephyr Cove, Nevada, the Governing Body of the Tahoe Regional Planning Agency will conduct its regular meeting. The agenda for said meeting is attached to and made a part of this notice.

NOTICE IS FURTHER GIVEN that on Wednesday, December 18, 1985, commencing at 8:30 a.m. in the same location, the Finance Committee of said agency will meet to discuss the following: 1) a penalty schedule; 2) receipt of the November financial statement; 3) changes in administrative procedures on overtime, vacation and leave without pay; 4) the status of the TRPA retirement system; 5) the environmental education consultant contract; 6) remodeling for new Governing Board meeting room; 7) South Lake Tahoe and Placer County applications for State Transit Assitance (STA) funds; and 8) other.

NOTICE IS FURTHER GIVEN that on Wednesday, December 18, 1985, commencing at 9:00 a.m. in the same location, the Litigation Committee will meet in open session and in closed session to confer with counsel on the following: 1) Spear, et al. v. TRPA et al and Hiring of Other Counsel in Spear et al v. TRPA, et al.; 2) State of California/ League to Save Lake Tahoe v. TRPA; 3) State of California v. TRPA, et al. and Sierra Club v. TRPA, et al. (Dillingham Cases); 4) Tahoe Sierra Preservation Council v. TRPA et al (Eastern District of California and District of Nevada); 5) Glenbrook Properties, et al. v. TRPA et al.; 6) a penalty schedule; and 7) other.

NOTICE IS FURTHER GIVEN that at the conclusion of the Wednesday, December 18, 1985 regular meeting, the Rules and Regulations Committee will meet to discuss revision of the Agency's Rules and Regulations of Practice and Procedure and the Administrative and Fiscal Procedures Manual.

Date: December 7, 1985

By: W. A. Morgan
William A. Morgan
Executive Director
Tahoe Regional Planning Agency

NOTE Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 195 U.S. Highway 50
Round Hill, Zephyr Cove, Nevada

NOTE: December 18, 1985
9:30 a.m.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV SPECIAL REPORT

Tahoe-Transportation District (TTD) Status Report

V PUBLIC HEARING AND ORDINANCE FIRST READING

To Consider Adoption of an Ordinance Defining Legal Action as That Phrase Is Used in Article VI(p) of the Tahoe Regional Planning Compact

VI PLANNING MATTERS

A. Status Report on the Consensus-Building Process

B. Status of Preparation of an Interim Plan for Implementation in 1986

C. Other

VII LITIGATION

A. Consideration of and Decision on the Following:

1. State of California/League to Save Lake Tahoe v. TRPA

2. Tahoe Sierra Preservation Council v. TRPA, et al. (Eastern District of California and District of Nevada)

3. Spear, et al. v. TRPA, et al.

4. State of California v. TRPA, et al. and Sierra Club v. TRPA, et al. (Dillingham Cases)

B. Closed Session to Confer on the Following:

1. State of California/League to Save Lake Tahoe v. TRPA

2. Tahoe Sierra Preservation Council v. TRPA, et al. (Eastern District of California and District of Nevada)

3. Spear, et al. v. TRPA

4. State of California v. TRPA, et al. and Sierra Club v. TRPA, et al. (Dillingham Cases)

VIII ADMINISTRATIVE MATTERS

A. Retention of Other Counsel for Spear, et al. v. TRPA, et al.

1. Executive Session

B. Executive Session

C. Finance Committee Report and Recommendations

D. Other

IX RESOLUTIONS

A. Resolution Amending Sections of the Administrative and Fiscal Procedures Manual Relating to Vacation and Overtime for Staff Members and Adding a New Section on Leave Without Pay

B. Resolution Adopting Penalty Schedule

C. Resolution Approving Placer County's Request for State Transportation Assistance Funds

D. Resolution Approving South Lake Tahoe's Request for State Transportation Assistance Funds

E. Other

X REPORTS

A. Executive Director

1. Projects Approved at Staff Level

2. Status Report on Exemption Requests in Regional Plan Suit

3. Other

B. Legal Counsel

C. Governing Body Members

D. Public Interest Comments

XI CORRESPONDENCE

XII PENDING MATTERS

XIII ADJOURNMENT

Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

- Article III(g) Public Law 96-551

TAHOE REGIONAL PLANNING AGENCY

ORDINANCE NO. 85-

AN ORDINANCE RELATING TO ARTICLE VI(p) OF THE TAHOE REGIONAL PLANNING COMPACT, AS AMENDED; INTERPRETING THE PHRASE "SUBJECT OF A LEGAL ACTION WHICH DELAYS OR RENDERS IMPOSSIBLE THE DILIGENT PURSUIT OF THAT PROJECT", AS THAT PHRASE IS USED IN ARTICLE VI(p); AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Body of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings.

1.10 The Tahoe Regional Planning Compact was amended, effective December 19, 1980, to prescribe the duration of an approval, license, certificate or permit issued by the Agency. The Governing Body of said Agency finds that this ordinance is necessary to interpret the phrase "subject of a legal action which delays or renders impossible the diligent pursuit of that project" as used in Article VI(p) of said Compact, as amended, in order that said provision is properly implemented and applied.

1.20 This ordinance is adopted pursuant to the Tahoe Regional Planning Compact, as amended, is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Tahoe Region, complies in all respects, procedural and substantive, with said Compact and the rules and regulations of said Agency, and is necessary to effectuate and implement the same.

1.30 By virtue of the nature and purpose of the provisions of this ordinance, and the effect and application of said provisions themselves, this ordinance will not have a significant effect on the environment of the Tahoe Region and is thus exempt from the requirement of preparation of an environmental impact statement pursuant to Article VII of the Tahoe Regional Planning Compact, as amended.

Section 2.00 Definitions.

2.10 "Subject of a legal action."

An approval, license, certificate, permit, project or activity shall be considered the subject of a legal action under Article VI(p) of the Compact, as amended, when the validity or propriety of said approval, license, certificate, permit, project, activity, or the title to the real

property involved, is the basis, or one of the bases, for a bona fide, adversarial proceeding in a court of competent jurisdiction.

2.20 "Delays or Renders Impossible the Diligent Pursuit of that Project."

In order to constitute delay or impossibility, under Article VI(p) of the Compact, as amended, the legal action must affirmatively prohibit or restrict construction or pursuit of the approval, license, certificate, permit, project, or activity, including but not limited to: temporary restraining orders, preliminary or final injunctions.

Section 3.00 Determination of Extension.

An application to TRPA for an extension of an approval, license, certificate or permit under Article VI(p) of the Compact, as amended, must be made before the original expiration date of the approval, license, certificate or permit, or within one year of commencement of the delay or impossibility as defined by subsection 2.20 above, whichever is later. The Executive Director shall determine if an extension is warranted and the length of the extension. The Executive Director's determination may be appealed by the applicant to the Governing Board by filing a request for appeal no later fifteen days after the notice of the Executive Director's decision. On the appeal, a project vote (Article III(g)(2)) shall be required to grant or lengthen an extension.

Section 4.00 Three Year Limitation.

Any period of delay or impossibilty which occurred prior to December 19, 1980 shall not be counted.

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

(702) 588-4547

MEMORANDUM

December 10, 1985

To: The TRPA Governing Board

From: William A. Morgan, Executive Director

Subject: Status Report on Consensus-Building Process

As of this date, December 10, the consensus-building group is still working on the several issues relating to commercial development. Since the last Governing Board meeting, during which we reported on the idea of doing intensive community plans which would provide more flexibility in development, we have been working on related issues. These include the possibility of regulation of total commercial development and/or rate of development, land coverage for commercial, height requirements, and special rules for community plans. Several innovative ideas have been suggested and are still under consideration.

On December 4, the group heard a series of presentations on the status of accomplishments by several small ad hoc groups and staff teams who have been working on: 1) the rating system for use with the Individual Parcel Evaluation System (IPES); 2) transfer of development programs; 3) capital improvement program for water quality; 4) transportation improvements; and 5) monitoring. Considerable progress is being made in all these areas which will eventually be expected to be incorporated in the Regional Plan.

Before the Governing Board meeting on the 18th, the consensus-building participants will have met two more times. I will provide a further status report at that time.

WAM:jf
12/10/85

AGENDA ITEM VI A.

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

(702) 588-4547

MEMORANDUM

December 10, 1985

To: The TRPA Governing Board

From: William A. Morgan, Executive Director

Subject: Status Report on Preparation of an Interim Plan for Implementation in 1986

The consensus-building group has had no time to work on an interim plan to provide for resumption of opportunity for new development in the 1986 building season. Since time is running short, I intend to direct staff to commence this month to outline a plan to implement, involving those participants in the consensus group who wish to be involved. I recommend the Chairman appoint a four-person committee for staff to consult with and to provide preliminary evaluation of that interim plan prior to consideration by the full Board. Our target would be a status report on January 22 and adoption in February.

WAM:jf
12/10/85

AGENDA ITEM VI B.

TAHOE REGIONAL PLANNING AGENCY
STATEMENT OF ASSETS AND LIABILITIES
(As of November 30, 1985)

ASSETS

GENERAL FUND		
Petty Cash	$120.00	
Operating Cash	$14,224.55	
Savings Account	$16,636.69	
Dean Witter Account	$1,602,507.93	
SPECIAL FUNDS		
Security Bonds Account	$125,993.72	
Mitigation Fees Account	$25,090.37	
Dean Witter Mitigation Account	$466,543.52	
Dean Witter Security Bond Account	$233,939.79	
CTRPA - Tahoe Keys Mitigation Fund Account	$611,063.69	
CTRPA - Indirect Source Review Fund Account	$190,709.37	
CTRPA - Security Bonds Savings Account	$292,340.43	
Workman's Compensation Deposit	$3,229.00	
Prepaid Service Agreements	$306.00	$3,582,705.46
Accounts Receivable	$35,577.78	
E.P.A. Grant Receivable	$11,576.31	
State Water Resources Control Board Receivable	$36,644.45	
Air Resources Board Receivable A2-131-76	$7,556.40	
Air Resources Board Receivable A5-088-76	$2,189.41	
Air Resources Board Grant A3-127-76 Receivable	$2,380.08	
		$95,924.43
Office Furniture & Equipment		$180,505.51
AMOUNT TO BE PROVIDED		$127,532.63
		$3,986,668.03

TAHOE REGIONAL PLANNING AGENCY
STATEMENT OF ASSETS AND LIABILITIES
(As of November 30, 1985)

LIABILITIES		
Accounts Payable	$72,566.11	
Security Deposits Held	$359,933.51	
Mitigation Fees Held	$491,633.89	
CTRPA - Tahoe Keys Mitigation Fund	$611,063.89	
CTRPA - Indirect Source Review Fund	$190,709.37	
CTRPA - Security Bonds Held	$292,340.43	
Retained Filing Fees Fund	$41,847.00	
Accrued Employee Benefits Payable	$84,038.24	
Contract Payable - IBM (W.P.)	$20,965.48	
Contract Payable - Savin 5040	$8,035.45	
Contract Payable - Savin 7055	$14,493.46	
Caltrans Transportation Unearned Revenue	$130,456.14	
Resources Agency (CTRPA Deactivation) Unearned Revenue	($42,661.16)	
R.T.P.A. Unearned Revenue	$23,060.07	
Instream Flow Study Unearned Revenue	$26,254.65	
U.S.G.S. Unearned Revenue	$95,000.00	
		$2,419,736.53
FUND BALANCES		
Inventory Fixed Assets: General Fund	$147,953.07	
Inventory Fixed Assets: Contributions	$6,755.76	
Inventory Fixed Assets: Department of Agriculture	$1,035.08	
Inventory Fixed Assets: Caltrans	$14,608.54	
Inventory Fixed Assets: Instream Flow Study	$9,069.19	
Inventory Fixed Assets: Legal Funds	$1,083.87	$180,505.51
FUND BALANCE		$1,386,425.99
		$3,986,668.03

STATEMENT OF REVENUES & EXPENDITURES
(As of November 30, 1985)

REVENUES	Current Month	Current Month Budget	Year to Date	Year to Date Budget	Projected Budget	Fiscal Year 1985-86 Budget
State of California	$0.00	$0.00	$616,500.00	$616,500.00	$616,693.00	$616,693.00
State of Nevada	$0.00	$0.00	$456,584.00	$456,917.00	$473,429.00	$473,762.00
State of California Governing Board Travel Reimbursement	$0.00	$0.00	$15,000.00	$15,000.00	$15,000.00	$15,000.00
State of California Litigation Assistance	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
State of Nevada Litigation Assistance	$0.00	$0.00	$108,333.00	$108,000.00	$108,666.00	$108,333.00
EL Dorado County	$0.00	$0.00	$47,475.00	$47,475.00	$47,475.00	$47,475.00
Placer County	$0.00	$0.00	$39,435.00	$39,435.00	$39,435.00	$39,435.00
Washoe County	$0.00	$0.00	$32,150.00	$32,150.00	$32,150.00	$32,150.00
Douglas County	$4,600.00	$4,600.00	$9,200.00	$9,200.00	$18,440.00	$18,440.00
Carson City	$0.00	$0.00	$6,250.00	$6,250.00	$12,500.00	$12,500.00
Calif. Water Res. Cont. Bd.	$14,760.03	$10,000.00	$34,747.87	$25,000.00	$89,747.87	$50,000.00
EPA Grant (P0093610I0)	$11,576.00	$11,569.00	$11,576.00	$11,569.00	$11,576.00	$11,569.00
Air Resources Board A2-127-76 Grant	$0.00 $0.00	$0.00	$2,380.08	$3,500.00	$2,342.08	$3,462.00
R.T.P.A. Revenue	$2,858.89	$3,000.00	$8,956.09	$9,200.00	$24,786.09	$25,000.00
Caltrans Contract	$9,960.03	$12,000.00	$45,444.48	$49,000.00	$156,444.48	$160,000.00
CTRPA Deactivation Contract	$9,436.85	$7,500.00	$72,661.16	$69,500.00	$123,161.16	$120,000.00
City of South Lake Tahoe Reimbursement	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Instream Flow Study Revenue	$6,379.10	$12,000.00	$52,378.20	$58,000.00	$73,001.20	$78,623.00
EPA R & D Grant	$0.00	0.00	$0.00	$0.00	$0.00	$0.00
Air Resources Board Grant	$2,189.41	$3,000.00	$2,189.41	$4,500.00	$27,689.41	$30,000.00
UMTA Section 8	$0.00	0.00	0.00	0.00	$0.00	$0.00
Filing Fees	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Fines & Forfeitures	$0.00	$0.00	$15,000.00	$10,000.00	$30,000.00	$25,000.00
Printed Matter Taxable	$30.00	$100.00	$435.89	$500.00	$3,935.89	$4,000.00
Printed Matter Nontaxable	$185.25	$200.00	$1,529.37	$1,000.00	$4,529.37	$4,000.00
Investment Income	$4,108.79	$10,000.00	$17,898.57	$26,000.00	$77,258.57	$85,360.00
Mitigation Fee Income	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Other Income	$685.00	$1,000.00	$715.00	$1,000.00	$7,715.00	$8,000.00
Security Bond Income	$0.00	$2,000.00	$13,146.08	$13,500.00	$26,646.08	$27,000.00
	$66,769.35	$76,969.00	$1,610,015.20	$1,613,196.00	$2,022,621.20	$2,025,802.00

AGENDA ITEM VIII C

TAHOE REGIONAL PLANNING AGENCY
STATEMENT OF REVENUES & EXPENDITURES
(As of November 30, 1985)

EXPENDITURES	Current Month	Current Month Budget	Year to Date	Year to Date Budget	Projected Budget	Fiscal Year 1985-86 Budget
Staff Salaries & Benefits	$66,551.36	$73,521.00	$319,309.89	$355,937.00	$801,165.89	$857,796.00
Employee Benefits	$10,281.41	$12,301.38	$44,913.54	$57,512.18	$131,769.36	$144,368.00
Building Expenses	$8,852.83	$8,435.00	$51,308.64	$48,948.33	$119,080.51	$115,720.00
Office Equipment Rent	$63.00	$60.00	$1,686.54	$745.00	$4,331.54	$3,390.00
Reproduction & Printing	$0.00	$0.00	$1,600.00	$850.00	$5,850.00	$5,100.00
Film & Camera Expense	$9.24	$51.66	$338.36	$258.31	$700.05	$620.00
Subscriptions/Publications	$18.00	$62.25	$281.02	$311.25	$716.77	$747.00
Communication Expense	$3,023.66	$2,508.00	$14,436.69	$18,703.33	$32,809.36	$37,076.00
Postage Expense	$653.18	$600.00	$3,098.37	$3,000.00	$7,298.37	$7,200.00
Insurance Expense	$130.00	$800.00	$6,839.75	$4,591.63	$15,398.92	$13,151.00
Office Expense	$1,542.25	$1,300.00	$6,435.71	$7,783.33	$15,352.38	$16,700.00
Other Supplies	$229.87	$399.08	$2,870.07	$2,403.74	$7,705.33	$7,239.00
Parcel Data Base Sys. Supplies	$81.21	$170.83	$710.40	$937.49	$2,322.91	$2,550.00
Repairs & Maintenance	$854.41	$375.00	$4,417.48	$3,830.00	$16,817.48	$16,230.00
Equipment Purchases	$7,613.71	$7,613.00	$29,359.82	$30,343.00	$47,221.82	$48,205.00
Equipment Leases	$1,445.28	$1,656.40	$6,641.61	$8,002.40	$27,540.21	$28,701.00
Travel Expense - Staff	$2,159.26	$2,166.67	$9,478.78	$10,833.34	$24,645.44	$26,000.00
Travel Expense - Govern. Board	$946.22	$1,250.00	$2,707.74	$6,250.00	$11,457.74	$15,000.00
Auto Expense	$263.56	$633.00	$977.96	$2,149.00	$9,578.96	$10,750.00
Legal Notices	$76.81	$58.33	$223.66	$291.67	$631.99	$700.00
Accounting Services	$3,795.00	$4,000.00	$3,795.00	$4,000.00	$9,795.00	$10,000.00
Legal Services	$18,669.57	$20,000.00	$85,769.93	$100,000.00	$310,769.93	$325,000.00
Concensus Expenses	$1,508.24	$10,000.00	$4,318.76	$13,000.00	$14,651.76	$23,333.00
Consulting Service	$0.00	$110.00	$26,082.37	$24,210.00	$27,692.37	$25,820.00
Contract Labor	$0.00	$541.67	$15,036.33	$17,397.34	$436,244.99	$438,606.00
Miscellaneous Expense	$519.48	$125.00	$6,105.74	$3,123.00	$6,759.74	$3,777.00
Interest Expense	$210.01	$200.00	$575.13	$587.65	$1,581.48	$1,594.00
Contingencies	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	$129,497.56	$148,938.27	$649,519.49	$725,999.20	$2,089,293.29	$2,165,773.00
EXCESS OF REVENUES OVER EXPENDITURES	($62,728.21)		$960,495.71	$887,196.80	($66,672.09)	($139,971.00)
			$425,930.28	$425,930.28	$425,930.28	$425,930.28
			$1,386,425.99	$1,313,127.08	$359,258.19	$285,959.28

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 85-

WHEREAS, the U.S. Supreme Court has recently issued a decision regarding the applicability of the Federal Fair Labor Standards Act to municipal governments; and

WHEREAS, the U.S. Congress has recently passed P.L. 99-150 in response to the above-referenced court decision; and

WHEREAS, it is necessary and desirable to revise the policies of the Agency with respect to overtime and compensatory time in view of the legislation; and

WHEREAS, in the interests of administrative effectiveness, certain other changes in policies related to overtime and vacation time are necessary and desirable;

BE IT, THEREFORE, RESOLVED by the Governing Body of the Tahoe Regional Planning Agency that the Administrative and Fiscal Procedures Manual of said agency, adopted January 24, 1973, is hereby amended as follows:

Section 16 - Vacation Credits (delete existing section and substitute the following:)

Full-time employees shall earn vacation credits at the rate of 10 hours of vacation for each calendar month, or major fraction thereof, worked. A major fraction is defined as more than one-half of a month. Vacation credits in excess of 240 hours on the anniversary date of the employee will be lost. No employee shall take earned vacation until he/she has completed not less than six months of continuous actual service. However, sick leave may be taken within the six-month probationary period if necessary due to illness. The Executive Director may provide, by order, for prorated vacation or sick leave for part-time employees.

Section 24 - Overtime (delete existing section and substitute the following:)

Nonexempt Employees

When approved in advance by a division chief, Assistant Executive Director, or Executive Director, overtime worked by nonexempt employees (as defined by the regulations of the U.S. Department of Labor) shall be compensated with compensatory time off (CTO) at the rate of one and one-half hour for each hour worked in excess of 40 hours per week. The requirement of advance approval may be waived by the Executive Director. Nonexempt employees can accrue a maximum of 80 hours of compensatory time off unless additional hours are authorized in advance by the Executive Director. Compensatory time off in excess of 80 hours must be taken within one month from the accrual date. In no event shall accrued compensatory time off exceed the limit allowed by law for nonexempt employees.

AGENDA ITEM IX A.

Exempt Employees

When approved in advance by a division chief, Assistant Executive Director, or Executive Director, overtime worked by exempt employees (as defined by regulations of the U.S. Department of Labor) shall be compensated with compensatory time off (CTO) at the rate of one hour for each hour worked in excess of 40 hours per week.

It is the policy of the Agency that professionals do not limit their hours of work to only those compensated. It is also considered impractical to keep records of fractions of overtime hours. Therefore, the following additional policies apply to exempt employees:

(a) Compensatory time off can be accrued to a maximum of 80 hours. Compensatory time off will not be given for overtime when the limit of 80 hours is reached unless authorized in advance by the Executive Director. Compensatory time off in excess of 80 hours must be taken within one month from the accrual date;

(b) In order to qualify for compensatory time off, overtime worked must be in excess of one hour;

(c) Exempt employees are encouraged to take advantage of flexible work schedules so that overtime worked can be compensated by working a shorter work day on another day within the pay period. Flexible work schedules are permitted only with the advance authorization by the division chief, Assistant Executive Director, or Executive Director. Payroll time sheets must show hours actually worked per day;

(d) Management personnel, as defined by the Executive Director, shall qualify for compensatory time off only for overtime beyond a 10-hour day or on weekends or holidays, unless otherwise authorized by the Executive Director;

(e) An employee, upon termination, shall be paid for accrued compensatory time off to a maximum of 80 hours at his/her rate of pay at time of termination.

The Finance Director shall be responsible for maintaining a current (and running) accounting of each employee's accrued compensatory time off. All requests for taking compensatory time off shall be approved in advance by the division chief, Assistant Executive Director, or Executive Director.

Section 29 - Leave Without Pay (add new section as follows:)

A full-time employee may be permitted, with advance approval by the division chief, Assistant Executive Director, or Executive Director, leave without pay (LWOP) for a period of up to 30 calendar days in a 12 month period. During authorized LWOP, the Agency shall pay the Agency's share of insurance and health benefits and shall deduct the employee's share from

his/her paycheck. If the employee's paycheck is insufficient, the employee benefits payments shall be deducted from subsequent paychecks until paid, or billed to the employee.

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held on _____, 1985, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

_____
Stanley G. Hansen, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

(702) 588-4547

MEMORANDUM

December 10, 1985

To: The Governing Board

From: Agency Staff

Subject: Guide for Fines

As planned in the Agency's Program of work, we are proposing for your adoption a Guide for Fines.

It must be understood at the onset that all TRPA imposed fines are fines in lieu of civil litigation. The Agency does not have the authority within the Tahoe Regional Planning Compact to levy civil penalties. That authority is left with the courts. The Penalties section of the Compact is short and to the point:

> "Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence."

It sets a high cost for violations and being based upon civil law, requires that the Agency follow civil procedures to obtain a decision on a penalty from the court. The experience of the Agency in pursuing violations has shown that when a particular case is researched and presented correctly, the opposing party has been willing to settle prior to the case reaching court. These settlements include a fine in lieu of civil litigation.

Staff has developed a matrix (see attached) which we recommend be used to determine a fine in lieu of civil litigation. Staff summaries for show cause hearings would include recommendations for those fines in lieu of civil litigation. The matrix consists of a list of terms headed Nature of Violation on the horizontal axis including Inadvertent or Slight Negligence, Simple Negligence, Gross Negligence and Willful Negligence. Terms on the vertical axis would be headed Degree of Violation and include Permitted Activity, Not A Prohibited Activity, But Not In Compliance and Prohibited Activity. A factor would be reached by identifying the appropriate categories for the violation. This factor would then be multiplied by $5,000 resulting in a proposed fine for that particular violation. Some violations can be remdied easily by the violator. In some cases the violator refuses to remedy the problem or persists in repeating the violation. In those instances it may be appropriate to multiply the penalty by the number of days the violation persists.

Because there may be instances where the lowest factor or the highest factor may not reflect the relative severity of the violation, the matrix allows for those to be adjusted lower and higher respectively as the situation dictates. Also because a matrix cannot possibly describe every possible situation, the Governing Board could deviate from the guide.

It is important that the terms have clear definitions. A permitted activity is one which the Agency can approve. Not a prohibited activity, but not in compliance is an activity which was not in compliance with conditions of approval or which could have been approved; but where special conditions by the Governing Board could have been imposed. A prohibited activity is one which cannot be approved by the Agency.

Blacks Law Dictionary defines the following terms:

> Inadvertent or Slight Negligence. "A slight want of ordinary care."
>
> Simple or Ordinary Negligence. "The omission of that care which a man of common prudence usually takes of his own concerns. A want of that care and prudence that the great majority of mankind exercise under the same or similar circumstances."
>
> Gross Negligence. "The intentional failure to perform a manifest duty in reckless disregard of the consequences. "Gross negligence," is substantially higher in magnitude than simple inadvertence, but falls short of intentional wrong."
>
> Willful Negligence. "Though rejected by some courts and writers as involving a contradiction of terms, this phrase is occasionally used to describe a higher or more aggravated form of negligence than "gross". It then means a willful determination not to perform a known duty, or a reckless disregard of the safety or the rights of others, as manifested by the conscious and intentional omission of the care proper under the circumstances."

When determing fines for specific violations the Governing Board may wish to take into account the reversible nature of the violation; raising the fine if the damage caused by the violation cannot be reversed. In all cases involving a prohibited activity the fine shown on the matrix is based on the assumption that in addition to the fine, the violation would be reversed and the site restored.

A few violation and fine scenarios follow utilizing this guide.

1) <u>Violation</u>: Removing a tree without a permit.

   Description: A property owner cuts down a tree on his property. The tree removal would have been authorized as the trees on the property were in an overstocked condition. The owner states that he was unaware that a permit was needed.

Fine: The property owner inadvertantly cut down the tree without obtaining a permit. The violation is an inadvertant, minor one which a permit could have been written for. The fine amount would be .006 x $5,000.00 or $30.00.

2) Violation: Constructing a deck without permits.

Description: A property owner constructs a deck addition to a single family dwelling. The parcel has sufficient remaining allowable coverage and the deck could have been permitted but local and Agency permits were not applied for. The property owner states that he would have applied for the proper permits if he had known they were needed.

Fine: Local building departments require that applications be made for such structures to insure that they meet Uniform Building code Standards. Local government would not have written a permit without first seeing proof of TRPA approval. The property owner has shown an omission of that care which a man of common prudence usually takes of his own concerns, i.e. simple negligence. The activity is a permitted one of a major nature. The recommended penalty would be .125 x $5,000 x 1 equalling $625 plus application for the required permit and applicable fees.

3) Violation: Constructing a pier without permits.

Description: A lake front property owner builds a 100 foot long pier from his property into Lake Tahoe. The area is a fish spawning area. Prior to construction the owner contacted local government and was informed that a permit from TRPA State Land and the Army Corps of Engineers would be required but that TRPA was not writing new pier permits at this time. The owner proceeded to construct the pier with this knowledge.

Fine: The owner has shown a willful determination not to abide by the regulations of the Agency. New piers are prohibited at this time. The recommended penalty for this major violation would be 2.0 x $5,000 x 1 or $10,000 including removal of the pier.

Resolution 85-

WHEREAS, the Tahoe Regional Planning Compact, as amended, authorizes the Tahoe Regional Planning Agency (TRPA) to enforce the Compact, TRPA Ordinances, Rules and Regulations and conditions of approval, and

WHEREAS, it is necessary and desirable to consistently assess fines in a consistent and fair manner in lieu of civil litigation for violations; and

WHEREAS, the task of determining appropriate fines in a consistent manner would be facilitated by use of a guide for fines;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Tahoe Regional Planning Agency adopts the following Guide For Fines for determining penalties in lieu of civil litigation for violations of the Compact, TRPA Ordinances, Rules and Regulations and conditions of approval.

GUIDE FOR FINES

NATURE OF VIOLATION

Degree of Violation		Inadvertent	Simple Negligence	Gross Negligence	Willful
Permitted Activity	Minor	.006	.0125	.025	.05
	Major	.06	.125	.25	.5
Not a Prohibited Activity But Not In Compliance	Minor	.0125	.025	.05	.1
	Major	.125	.25	.5	1.0
Prohibited Activity	Minor	.025	.05	.1	.2
	Major	.25	.5	1.0	2.0+

Factor X $5,000.00 x Number of Days Violation Persists

PASSED AND ADOPTED this _____ day of December, nineteen hundred and eighty five by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENTEES:

_____
Stanley G. Hansen, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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(702) 588-4547

MEMORANDUM

December 10, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Resolutions Approving Requests for State Transit Assistance Funds

The TRPA has been designated by the Secretary of the California Business and Transportation Agency as the Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Basin. Under this designation, the TRPA is responsible for the administration of Transportation Development Act (TDA) funds which are made available to support public transportation services within the California portion of the Tahoe Basin. There are two sources of funds provided by the TDA for public transportation services through regional planning and programming agencies: the county Local Transportation Fund (LTF) and the regional State Transit Assistance Fund (STA).

The STA Fund program was created under Chapter 161 of the Statutes of 1979 (SB 620). The program provides a second source of TDA funding for transit and streets and roads. Funds for the program are derived from the statewide sales tax program. The money is appropriated to the Secretary of the Business, Transportation and Housing Agency for allocation by formula to each RTPA. The allocations from the Secretary are deposited in each regional entity's STA fund.

The process for allocation of funds from the STA fund is based on transit operators' revenues and on region population. Thirty percent of the STA fund amount is allocated to the regions based upon transit operators' revenues and must be allocated back to each transit operator. The remaining 70 percent of the STA funds are allocated to the regions on the basis of population. These funds are available for allocation to claimants for either transit services or for streets and roads purposes. The STA fund is not apportioned by the RTPA on the basis of population, however. The RTPA may approve the use of all remaining STA funds by one claimant.

The staff recommendations for the apportionment of 1985-1986 STA funds are based on these guidelines and the objectives of the Regional Plan Goals and Policies.

LA:jf
12/10/85

AGENDA ITEMS IX C. & D.

STA FUND CLAIMS 1985-1986

CLAIMANT	AMOUNT CLAIMED
City of South Lake Tahoe	$ 50,000.00

The City of South Lake Tahoe has submitted a claim for $30,000 to fund beach bus service and for $20,000 to remodel the El Dorado Motors building to accommodate the TTD offices and additional bus maintenance and storage facilities.

County of Placer	$ 25,000.00

The County of Placer has submitted a claim for $25,000 to fund 1985-1986 operating expenses for the Tahoe Area Rapid Transit (TART) system.

Staff Recommendation

At the present time, the amount of STA funds available for allocation during the 1985-1986 fiscal year is $73,569.00.

Although the Tahoe Transportation District has not yet submitted a claim for STA funds, they have indicated that they would do so if there was a need to increase the amount of funds necessary to complete the update of the SRTP. The amount of this claim would be approximately $4,000.00.

The staff recommendation for the allocation of STA funds is as follows:

City of South Lake Tahoe	$ 47,000.00
1. Beach Bus Service..... $30,000	
2. Bus Facility/TTD Office Remodel..... $17,000	
County of Placer	$ 23,000.00
Total:	$ 70,000.00
STA Fund Balance:	$ 3,569.00

If you have questions or comments concerning this agenda item, please contact Leif Anderson at (702) 588-3296.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 85 -

WHEREAS, the Tahoe Regional Planning Agency (TRPA) is the Regional Transportation Planning Agency for the California portion of the Tahoe Basin and is responsible for allocating State Transit Assistance (STA) funds for the Tahoe Basin; and

WHEREAS, the California portion of the Tahoe Basin has STA funds available to be used within the Basin's political jurisdictions for the purposes of transit, streets and roads; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of the Regional Transportation Planning Agency; and

WHEREAS, the TRPA has been notified by the State of California Department of Transportation that there is $73,569 available in the Tahoe Basin STA account; and

WHEREAS, the TRPA has received an application from the following eligible entity for the following purpose:

The County of Placer
a. Operating expenses for TART bus system ($25,000).

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that the STA funds be released to the following entity for the designated purpose and amount:

The County of Placer
a. Operating expenses for TART bus system ($23,000).

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency on December 18, 1985 by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Stanley G. Hansen, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 85 -

WHEREAS, the Tahoe Regional Planning Agency (TRPA) is the Regional Transportation Planning Agency for the California portion of the Tahoe Basin and is responsible for allocating State Transit Assistance (STA) funds for the Tahoe Basin; and

WHEREAS, the California portion of the Tahoe Basin has STA funds available to be used within the Basin's political jurisdictions for the purposes of transit, streets and roads; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of the Regional Transportation Planning Agency; and

WHEREAS, the TRPA has been notified by the State of California Department of Transportation that there is $73,569 available in the Tahoe Basin STA account; and

WHEREAS, the TRPA has received an application from the following eligible entity for the following purpose:

The City of South Lake Tahoe
a. Operation of a summer beach bus shuttle ($30,000),
b. Remodel of a transit facility located at Shop Street in South Lake Tahoe ($20,000).

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that the STA funds be released to the following entity for the designated purpose and amount:

The City of South Lake Tahoe
a. Operation of a summer beach bus shuttle ($30,000),
b. Remodel of a transit facility located at Shop Street in South Lake Tahoe ($17,000).

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency on December 18, 1985 by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Stanley G. Hansen, Chairman
Tahoe Regional Planning Agency

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MEMORANDUM

December 10, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Projects Approved at Staff Level

Attached is a copy of the computer printout listing staff-approved projects since the date of the last reporting (November 12, 1985). As indicated in the November 12 memo, for each of these projects, staff has made a finding of no significant effect as part of its approval. This list does not include activities which, as set forth in Ordinance 81-1, are not projects but which, under the injunction, are required to be reviewed by the Agency to determine whether they are exempt from the injunction.

Also attached is a list of the codes which identify the project type, location and key dates.

Staff will be prepared at the December 18 meeting to respond to any questions.

GW:jf
12/10/85

AGENDA ITEM X A.1.

APPROVED APPLICATIONS BETWEEN NOV 22,1985 AND DEC 9,1985 12/10/85

TRPA FILE NUMBER	PROJ TYPE	PROJECT	APPLICANT NAME	STAFF	DATE RECEIVED	ACTION	ISSUE DATE	EXPR DATE
85117	AM	ALPINE WOOD	COYNE, M	PK	03/15/85	AP	11/13/85	/ /
						FIREWOOD LOT USE PERMIT		
85505	BC	PURDY, BRUCE	GARAGE BREEZEWA	GG	08/06/85	AP	12/03/85	12/03/88
						NO PERMIT ISSUED		
85598	VR	BENNETT, DONALD	J	JW	09/20/85	AP	11/20/85	/ /
85681	VR	RONALD MORRIS		SS	09/27/85	AP	11/20/85	/ /
85697	BC	KNIESEL	KAUFMAN	GC	10/10/85	AP	12/02/85	12/02/88
						NO PERMIT ISSUED		
85703	BC	COLLIER		GC	09/30/85	AP	12/02/85	12/02/88
						NO PERMIT ISSUED		
85722	H1	WATERS EDGE PIER	CHRISTINE RICHA	JW	10/23/85	AP	12/05/85	12/05/88
						NO PERMIT ISSUED'		
85766	BC	HONSE,S; HARDEN, K	MATCHAM, CHIP	GCPK	11/06/85	AP	12/03/85	12/03/88
						NO PERMIT ISSUED		
85788	AQ	PINE TREE PRINITING	KERR, DOUG & KE	RA	11/13/85	AP	11/14/85	/ /
						RELOCATION		
85815	FB	NOOT	DAVIS, KEN	RA	10/02/85	AP	12/04/85	12/04/88
						PERMIT ISSUED 12/9/85		

TRPA PERMIT DATA FORM CODES

e #2 County Codes

PL - Placer
EL - El Dorado
CC - Carson City
DG - Douglas
WA - Washoe

e #10 Action Code

AP - Approved
CT - Continued
DE - Denied
IN - New application
WI - Withdrawn
RE - Rejected
RS - Resolved
VR - Vested right

e #4 Project Type Code:

A. Commercial and Industrial

1. Professional Office Building
2. Bulk Storage
3. Limited Commercial
4. Service Stations
5. Light Industrial
6. Electric Power Plant
7 Wrecking Yards
8. Batch Plants
9. Other
A. Auto and Vehicle Dealers
B. Building Materials and Hardware
C. Eating and Drinking Places
D. Food and Beverage Retail Sales
E. Fuel Dealers
F. General Merchandise
G. Outdoor Retail
H. Auto Repair and Service
I. Financial Services
J. Personal Services
K. Warehousing
L. Child Care
M. Change in Use
N. Remodel/Revisions
O. Relocation
P. Sign Replacement
R. Ordinary Mainetnante & Repair

B. Residential

1. Case-by-Case in a 1-3 (new SFD)
2. Single Family Dwelling in a 4 through 7
3. Multiple Residential/Apartments
4. Single Family Dwelling with an SEZ
5. Single Family Dwelling in the Backshore
6. Mobile Home Parks
7. Other
8. Single Family Dwelling in a 1 through 3 (not case-by-case)
9. Case-by-Case in a 1-3 and in Shorezone
A. Case-by-Case in a 1-3 and contains an SEZ
B. Case-by-Case in a 1-3 and in Shorezone and contains an SEZ
C. Additions to Single Family Dwellings in 4-7
D. Additions to Single Family Dwellings in 1-3
E. Additions to Single Family Dwellings in the Shorezone
F. Additions to Multi-Family
G. Rebuilds
H. Minor structural alterations
I. Remodel
J. Plan Revisions
K. Ordinary Maintenance & Repair

C. Tourist Residential

1. Hotels and Motels
2. Multi-Person Dwellings
3. Recreational Vehicle Park
4. Other
5. Timeshare
6. Bed and Breakfast
7. Ordinary Maintenance & Repair

D. Recreation

1. Developed Campgrounds
2. Pack Station, Corral and Stable
3. Organized Recreation Camps
4. Skiing Facilities
5. Day Use Area
6. Hiking and Biking Trail
7. Outdoor Recreation Concessions
8. Amusement Parks and Video Centers
9. Other

E. Resource Management and Agriculture

1. Timber Production/Growing and Harvesting
2. Grazing
3. Fire Lookouts
4. Forest Management
5. Fish and Wildlife Management
6. Forest Products Removal
7. Other
8. Sanitation and Salvage Tree Removal
9. Timber Stand Improvement

F. Public and Quasi-Public

1. Transportation Facility (Bus Turnouts, etc.)
2. Communication Facility
3. Utility Plants
4. Fire and Police
5. Water Storage and Distribution
6. Sewage Lift Stations and Water Treatment Plants
7. Electrical Substations
8. Schools
9. Religious and Cultural Centers
0. Medical Facility
Z. Other
A. Erosion Control Projects
B. Road Improvements
C. Government Offices
D. Solid Waste Transfer and Recycling Station
E. Sewer Lines
F. Power Lines
G. Gas Lines
H. Maintenance

G. Administrative Permits

1. Additional Land Coverage
2. Replacement of Non-Conforming Coverage
3. Man-Modified Determination
4. Similar and Appropriate Use
5. Other
6. Grading
7. Special Events

H. Shorezone

1. Piers
2. Floating Dock
3. Platform
4. Boat Ramp
5. Jetties and Breakwaters
6. Shoreline Protective Devices (Erosion Control)
7. Mooring Buoys
8. Filling and Dredging
9. Marinas
0. Submarine Conduits or Pipelines
Z. Other

I. Subdivisions

1. Condominiums
2. Timesharing
3. Parcel Map
4. Lot Consolidation
5. Lot and Block Subdivisions
6. Other
7. Minor Boundary Line Adjustment

J. Variance

1. Land Use Ordinance
2. Shorezone Ordinance
3. Subdivision Ordinance
4. Grading Ordinance
5. Tree Conservation Ordinance
6. Sign Ordinance
7. Other

K. General Plan Amendments

L. Special Determinations (vested right)

M. Casino

N. Land Capability Challenge

O. Exempt (exempt from agency review)

R. Other 590-999-00

S. Enforcement of Illegal Activities

T. Clearinghouse

U. Field Verifications