

**TRPA  
GOVERNING BOARD  
PACKETS**

**JULY  
1997**

TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD AND COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, July 23, 1997, commencing at 9:30 a.m., the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. The agenda is attached hereto and made a part of this notice.


Governing Board Committee items are action items unless otherwise noted.

NOTICE IS FURTHER GIVEN that on July 23, 1997, commencing at 8:30 a.m. at the same location, the Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) receipt of year-to-date (June 30, 1997) financial statement and June check register; 3) status of FY 96-97 operating budget; and 4) member comments. (Committee: Neft, Heller, Galloway, Bresnick, Chairman Bennett)

NOTICE IS FURTHER GIVEN that on July 23, 1997, commencing at 8:30 a.m. in the same location, the Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) extension of 60-day statute of limitation for Section 2.00 of Ordinance No. 97-12 (Amendment of Chapter 81 of the Code) relative to June 1999 phase-out of carbureted two-stroke engines; 3) Diekman, discussion regarding violation resolution, 845 Stateline Street, City of South Lake Tahoe (no action); 4) report on proposed Rafton settlement and extension of the statute of limitations until January 5, 1998, on land capability appeal, Placer County APN 117-072-08; 5) amendment of Board authorization for reimbursement of costs for emergency access improvements from \$105,000 to \$132,000 (from Bitterbrush settlement agreement fund), Washoe County; and 6) member comments. (Committee: Miner, Cronk, Sevison, Wynn, Chairman Waldie)

NOTICE IS FURTHER GIVEN that on July 23, 1997, during the lunch recess at 12:00 noon in the same location, the Capital Financing Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) update on Presidential Forum; and 3) member comments. (Committee: Westergard, Miner, Waldie, Wynn, Upton, Chairman Cronk)

Date: July 14, 1997

By:   
Jerry Wells  
Deputy Director

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

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GHI office, and the North Lake Tahoe Chamber of Commerce.

TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD

North Tahoe Conference Center  
8318 North Lake Boulevard  
Kings Beach, California

July 23, 1997  
9:30 a.m.

All items on this agenda are action items unless otherwise noted.

Page  
#

AGENDA

- I. PLEDGE OF ALLEGIANCE
- II. ROLL CALL AND DETERMINATION OF QUORUM
- III. PUBLIC INTEREST COMMENTS (No Action)  

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, RTPA, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, RTPA, Appeal, and Planning Matter items will be taken at the time those agenda items are heard.

NOTE: THE GOVERNING BOARD IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.
- IV. APPROVAL OF MINUTES
- V. APPROVAL OF AGENDA
- VI. CONSENT CALENDAR (see page 3)
- VII. PROJECT REVIEW
  - A. U.S. Forest Service, Resource Management, Pioneer Hazard Reduction Project, Portions of El Dorado County and City of South Lake Tahoe, TRPA File #970017 137
  - B. Elks Point Country Club, Thorne/Achard, Plan Revision to Existing Water Tank Facility, Elks Avenue Common Area, Douglas County APN 05-242-61 147
- VIII. APPEAL
  - A. Hooks Landing, Appeal of Administrative Determination Regarding Status of Discontinued Uses, Tahoe City, Placer County APN 94-510-01 149
- IX. PUBLIC HEARING (\*items include action on the findings plus action on related ordinances, resolutions, environmental documents, and/or plans)
  - A. Draft Environmental Improvement Program for the Lake Tahoe Region (No Action) 181

B. Amendment of Section 41.3.A of Chapter 41 (Permissible Subdivisions) Pertaining to Subdivision of Land Conveyed to Public Agencies\*

183

C. Resolution Amending the Regional Transportation Improvement Program (Adopted December 1995) to Include: a. Federal Transit Administration Funds for the South Shore CTS (\$1,256,505); and b. Environmental Protection Agency Funds for the South Shore CTS (\$1,250,000); and c. Regional Surface Transportation Project (RSTP) Exchange Funds for the Mountain Drive Erosion Control Project in El Dorado County\*

193

D. Amendment of the 1992 Regional Transportation Plan-Air Quality Plan to Include: a. Federal Transit Administration Funds for the South Shore CTS (\$1,256,505); and b. Environmental Protection Agency Funds for the South Shore CTS (\$1,250,000)\*

197

X. ADMINISTRATIVE MATTERS

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

209

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

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee Report

B. Legal Committee Report

1. Report on Proposed Rafton Settlement and Extension of the Statute of Limitations Until January 5, 1998, for Land Capability Appeal, Placer County APN 117-072-08

211

C. Capital Financing Committee Report

D. Rules Committee Report

E. Shorezone Policy Committee Report

F. Local Government Committee Report

XII. RESOLUTION

A. For Former Board Member Steve Bradhurst - 11:30 a.m.

XIII. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications

2. Other

217

B. Legal Division Monthly Status Report

C. Governing Board Members

1. Request by Larry Sevison to Direct Staff to Do The Following:
  - a. Prepare an Ordinance Amendment to Extend the June 1, 1999, Phase-Out of Carbureted Two-Stroke Watercraft Engines to June 1, 2000 (Action Item)
  - b. Extend the 60-Day Statute of Limitation for Section 2.00 of Ordinance No. 97-12 (Amendment of Chapter 81 of the Code) Relative to June 1999 Phase-Out of Carbureted Two-Stroke Engines (Action Item)

XIV. ADJOURNMENT

| <u>Item</u>   | <u>CONSENT CALENDAR</u> | <u>Recommendation</u>               |    |
|---|-------------------------|-------------------------------------|----|
| 1. Year-to-Date Financial Statement (June 30, 1997) and June Check Register   |                         | Receipt                             | 1  |
| 2. Amendment of Board Authorization for Reimbursement of Costs for Emergency Access Improvements from \$105,000 to \$132,000 (From Bitterbrush Settlement Agreement Fund), Incline Village, Washoe County |                         | Approval                            | 3  |
| 3. Tahoe Secret Harbor, Inc., Major Structural Pier Repair, 2170 Highway 28, Carson City APN 07-011-23  |                         | Approval of Findings and Conditions | 11 |
| 4. South Tahoe Public Utility District, Water Pump Station, Special Use Determination, Tahoe Paradise Unit #30, El Dorado County APN 34-614-07  |                         | Approval of Findings and Conditions | 25 |
| 5. South Tahoe Public Utility District, Sewer Pump Station, Special Use Determination, Ponderosa Road, El Dorado County APN 31-285-06   |                         | Approval of Findings and Conditions | 35 |
| 6. Tahoe Keys Beach and Harbor Association, Addition of Boat Slips, Recreation, Venice Drive East, City of South Lake Tahoe, El Dorado County APN 22-210-22   |                         | Approval of Findings and Conditions | 47 |
| 7. Douglas County Community Develop. Department, Uppaway and Boucher-Young Estate, Water Supply System Modification, Special Use Determination, Uppaway Estates, Douglas County APN 001-100-74            |                         | Approval of Findings and Conditions | 57 |
| 8. Glenbrook Company, New Mooring Buoys, Golf Links Road, Glenbrook, Douglas County APN 01-060-07   |                         | Approval of Findings and Conditions | 81 |

- |  |  |            |
|--|--|------------|
| <p>9. Glenbrook Homeowners Association, Temporary Maintenance and Storage Yard, Special Use Determination, Old Highway 50 Near the Intersection of Pray Meadow Road, Douglas County APN 01-090-12</p>  | <p>Approval of Findings and Conditions</p> | <p>89</p>  |
| <p>10. Resolution Authorizing the Filing of Grant Applications and the Execution of Grant Agreements With the Federal Transit Administration, and Operating Administration of the U.S. Department of Transportation, for Federal Assistance Administered by the Federal Transit Administration</p> | <p>Adoption</p>                            | <p>101</p> |
| <p>11. Stateline Limited Partnership, New Mixed Use Development Consisting of a Commercial Building and 16 Residential Units, 4 Calaneva Drive, Crystal Bay, Washoe County APNs 123-044-01, -09, and -10</p>   | <p>Approval of Findings and Conditions</p> | <p>105</p> |
| <p>12. Heavenly Ski Resort, New Ski Lift (Tamarack Express) and Ski Runs, El Dorado County APN 580-102-97</p>  | <p>Approval of Findings and Conditions</p> | <p>125</p> |

These consent calendar items are expected to be routine and noncontroversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that an item be removed from the calendar, it will be taken up separately in the appropriate agenda category.

---

Four of the members of the governing body from each State constitute a quorum 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 require 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  
GOVERNING BOARD

Horizon Casino Resort  
Stateline, Nevada

June 25, 1997

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Drake DeLanoy called the regular June 25, 1997, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:45 a.m. and asked Vice Chairman Larry Sevison to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLanoy, Mr. Waldie, Dr. Miner, Mr. Sevison,  
Ms. Crowell, Mr. Cole, Mr. Plank, Mr. Cronk, Ms. Neft,  
Mr. Westergard, Mr. Galloway, Ms. Bresnick, Mr. Wynn,  
Mr. Nutting  
Members Absent: Mr. Neumann

Chairman DeLanoy noted that Ms. Pamela Crowell was sitting in for Nevada Secretary of State Dean Heller and Mr. Jon Plank was sitting in as Kay Bennett's replacement from Carson City.

III. PUBLIC INTEREST COMMENTS

No public comments.

Mr. DeLanoy advised he had received a letter from Nevada Senator Harry Reid, who unfortunately could not be at the meeting because of Congressional commitments. Senator Reid would be present for the Presidential summit and would meet each of the Board members personally.

IV. APPROVAL OF MINUTES

MOTION by Mr. Sevison to approve the regular May 28, 1997, Governing Board minutes as submitted. The motion carried with Mr. Nutting abstaining.

V. APPROVAL OF AGENDA

MOTION by Mr. Cronk to approve the agenda as presented. The motion carried unanimously.

VI. CONSENT CALENDAR

Finance Committee member Joanne Neft advised the Board that the Committee earlier in the day met and recommended continuance of the May financial statement and revisions to the FY 96-97 operating budget (consent items #1 and #2, respectively). The Committee did recommend approval of consent item #3



TRPA REGULAR MEETING MINUTES JUNE 25, 1997

(the tentative FY 97-98 budget), item #5 (Caltrans/TRPA Overall Work Program), and item #6 (\$26,000 air quality mitigation fund request for Placer County).

Legal Committee Chairman Jerry Waldie noted the Legal Committee, which had met earlier in the day, continued action on consent #4 (Pershing resolution of enforcement) and approved #9 (Caesar's Tahoe resolution of enforcement).

Deputy Director Jerry Wells noted that Board member Westergard had asked that page 8 of the Three Year Strategic Plan (7/97-6/2000) (consent calendar item #16) be modified to emphasize that TRPA was not reducing its regulatory approach but rather placing more emphasis on the Environmental Improvement Program (EIP). Board member Cole wanted Work Element #13 in the FY 97-98 work program (item #16) to be more specific as to the work item involving conversion of tourist to commercial units. Staff would make both of these changes. The consent calendar was modified subsequent to the agenda mailing by adding an item #17, a resolution of the Regional Transportation Planning Agency certifying that the El Dorado County Department of Transportation application for FTA Section 5310 funding was consistent with TRPA's RTP-AQP.

MOTION by Mr. Sevison to approve the consent calendar as discussed

(1. continuing action on the May financial statement, the revisions to the FY 96-97 budget, and the Pershing resolution of enforcement; 2. modifying item 16; and 3. adopting RTPA resolution for item 17). The motion carried unanimously.

(Following are items approved on the consent calendar: 1. May Check Register; 3. FY 97-98 tentative Overall Operating Budget; 5. Caltrans/TRPA FY 1997-98 Overall Work Program (RTPA Resolution No. 97-9); 6. Placer County, Request for Air Quality Mitigation Funds (\$26,000) for North Shore Trolley Program; 7. Pacific Bell, Transmission and Receiving Facility, Special Use Determination, 2633 Sussex Avenue, El Dorado County APN 31-255-17; 8. Dunia Wasserman, New Automobile Dealership (Terry Libbon), Special Use, 1920 Lake Tahoe Boulevard, City of South Lake Tahoe, El Dorado County APN 32-291-30; 9. Caesar's Tahoe, Resolution of Enforcement, Douglas County APN 07-040-13; Lake Tahoe Unified School District, Class Size Reduction Program, Modular Classroom Building Additions (items 10-14): 10. Al Tahoe Elementary School, Rufus Allen Boulevard and Lyons Avenue, City of South Lake Tahoe, El Dorado County APN 25-010-52; 11. Bijou Elementary School, 3501 Spruce, City of South Lake Tahoe, El Dorado County APN 25-250-03; 12. Tahoe Valley Elementary School, 943 Tahoe Island Drive, City of South Lake Tahoe, El Dorado County APN 23-700-08; 13. Sierra House Elementary School, Pioneer Trail and High Meadow Trail, El Dorado County APN 25-780-01; 14. Meyers Elementary School, Apache and San Bernardino Streets, El Dorado County APN 34-030-04; 15. Access Tahoe Limited, New Professional Office Building, 1008 Tahoe Boulevard, Incline Village, Washoe County APN 130-050-05; 16. Three Year Strategic Plan (July 1997-June 2000) as modified and Program of Work for FY 97-98 as modified; 17. Regional Transportation Planning Agency, Resolution Certifying that the El Dorado County Department of Transportation Application for FTA Section 5310 Funding is Consistent With TRPA's RTP-AQP (RTPA Resolution No. 97-10))

VII. PUBLIC HEARING

- A. Amendment of Plan Area Statement Boundary Between PAS 110, South Y (Commercial/Public Service), and PAS 114, Bonanza (Residential), to Relocate El Dorado County APN 32-151-01 from PAS 114 to PAS 110

Associate Planner John Hitchcock presented the staff summary for approval of an amendment to relocate a parcel from PAS 114 to PAS 110. This would not be amending the Community Plan boundary; such a review would be occurring at a later time with the startup of the Community Plan. The staff and Advisory Planning Commission recommended approval of findings and the ordinance. In the future, if the property were to become a part of the Community Plan, it would be eligible for Community Plan incentives. Currently, it would not.

Mr. Dale Sare, on behalf of property owner Ebright, noted he concurred with the staff recommendation.

MOTION by Mr. Cronk to approve the required findings to amend PAS 110 and 114 as proposed. The motion carried unanimously.

MOTION by Mr. Cronk to adopt Ordinance No. 97-10.

Chairman DeLanoy read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended; by Amending the Regional Plan of the Tahoe Regional Planning Agency Amending the Boundary Between PAS 110, South Y Commercial/Public Service, and PAS 114, Bonanza Residential, to Relocate El Dorado County APN 32-151-01 From PAS 114 to PAS 110; and Providing For Other Matters Properly Relating Thereto

The motion carried unanimously.

Mr. Cronk noted that the motion on the findings included the Chapter 6 and Chapter 13 findings.

- B. Amendment of Plan Area 041, Incline Village #3 (Residential) to Reduce the Minimum Residential Density Requirement in Special Area #1

Senior Planner Andrew Strain distributed letters from nearby property owners and described the proposed request and previous Board actions on the property. The proposal at this time was to reduce the density. The applicant wished to remove the 15-unit attached building and replace it with two attached duplexes. The Advisory Planning Commission heard the matter and recommended denial of the change in density in order to preserve the precedent of transit-oriented development. The APC also philosophically had concerns with the approval of multi-family dwellings which subsequently were subdivided into single family uses. The APC was also concerned with design problems resulting from replacement of the 15 unit building with two duplexes.

The Board members discussed the history on the property, the applicant's attempts to be responsive to Board direction, the fact the APC representative from Washoe County was not at the APC meeting, the lack of neighborhood

TRPA REGULAR MEETING MINUTES JUNE 25, 1997

turnout at the APC, the Local Government Committee's earlier discussion on affordable housing, and the previous Governing Board project approval.

Mr. Jim Borelli, for the proposal, discussed the APC's concern regarding density, the neighborhood support for the project, the project design, the history of TRPA actions on the site, and the applicant's willingness to work with staff on the siting and design of the two duplexes. He responded to Board member questions regarding density, affordable housing, and transit-oriented development.

The following neighboring residents and/or property owners spoke in favor of the project: Byrne Falke (650 Village Boulevard), Elaine Carrick (784 Golfers Pass), Kathleen Caine (774 Golfers Pass), Jeff Connors (647 Village), Bob Purdy (778 Golfers Pass), Joe Killcoyne (605 Village Boulevard). A petition in favor of the project and a photographic display were submitted for the record.

MOTION by Mr. Galloway to make the finding of No Significant Effect based on the initial environmental check list as supplemented in the staff report. The matter would go back to the staff for any additional review. The motion carried unanimously.

MOTION by Mr. Galloway to make the findings required by Chapters 6 and 13 of the ordinance. The motion carried unanimously.

Chairman DeLanoy read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended; by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending Plan Area Statement 041, Incline Residential #3, to Amend the Minimum and Maximum Densities and Special Policies Relating to Special Area #1; and Providing for Other Matters Properly Related Thereto.

MOTION by Mr. Galloway to adopt Ordinance No. 97-11. The motion carried unanimously.

VIII. PLANNING MATTERS

- A. Discussion on Draft Environmental Improvement Program (EIP) for the Lake Tahoe Region (January 15, 1997)

Executive Director Jim Baetge explained that the EIP document was currently in circulation to all Basin entities, the intent being to bring it back to the TRPA Board in August after the President's visit so that there would be general buy-in on all the projects and programs contained in it. He asked the Board to review the document to make sure that it found the approach and the document acceptable. The document with capital improvement projects and various research and other programs was a dynamic one; it would serve as a baseline. Once accepted, it would be implemented and could be modified as necessary according to Chapter 31, which the Board adopted in May. He hoped that all changes could be made in the document prior to August, so that all affected entities could put their names on the front of the package. He asked

the Board and public to advise the staff if there were any problems with it. The issues workshops being conducted prior to the President's visit at the end of July could potentially better describe what was in the document and the anticipated outcomes. Staff would schedule public hearings in July and August before the APC and Board. The regulatory program was fairly mature at this point in the Basin. This document would not in any way weaken TRPA's regulatory program.

Chairman DeLaney presented more detail on the intent of the EIP to assist in the accomplishment of environmental thresholds.

Mr. Baetge explained that costing out of the programs was currently being worked on. The institutional list setting forth what each player in the Basin could be asked to accomplish was in the drafting stages and would assist the federal agencies as they focused on Tahoe. No Board action was expected today.

B. The Gateway Project (Redevelopment Project No. 3), City of South Lake Tahoe

Mr. Rick Angelocci, Chief of Project Review, introduced this item by explaining the location of the proposed project across from the Park Avenue proposal and describing scoping meetings for the preparation of environmental documents. The intent of the day's presentation was to see if Board members had concerns with project design or the environmental process.

Attorney Lew Feldman, on behalf of the project proponents, discussed the project's goals as a redevelopment proposal and showed slides of the neighborhood, the proposed plan, the gondola, the Park Avenue project, the proposed site plan and uses, and parking. He responded to Board member questions.

No action was taken by the Board.

IX. SHOW CAUSE HEARING

A. Tonnemacher, 575 Village Boulevard, Washoe County APN 124-083-30

Legal Committee Chairman Jerry Waldie noted this item was before the Committee earlier in the day. The staff material contained the statement of facts and the legal issues. The Committee reviewed staff's allegations and requested that the facts stated in the packet be made a part of the record in the show cause hearing. The issue came down to whether the Committee believed Mr. Tonnemacher as to whether he did not commit any of the violations with which he had been charged. He had been before the Committee previously, and the Committee had done all it could to accommodate his problems and his schedule. The Committee found Mr. Tonnemacher's testimony not to be credible and found the staff testimony to be credible. Mr. Tonnemacher was informed at the conclusion of the Committee meeting that his rights were not concluded with regard to TRPA, and that he had every right to appear before the full Board to present additional or similar evidence for a full Board presentation. Mr. Tonnemacher indicated he had no desire to appear before the Board. Mr. Waldie recommended on behalf of the Legal Committee that the Board affirm

TRPA REGULAR MEETING MINUTES JUNE 25, 1997

the Legal Committee's action in resolving the evidence as set forth in the staff materials and direct a finding as set forth in the staff summary (page 138). The Committee's action was unanimous.

MOTION by Ms. Neft to affirm the Executive Director's determination of the violations in the Tonnemacher matter as outlined in Section "b" of the staff report and to direct counsel to pursue judicial remedies. The motion carried unanimously.

Chairman DeLanoy directed Agency Counsel Rachelle Nicolle to proceed as directed.

X. ADMINISTRATIVE MATTERS

A. Appointment of Two Nevada Lay Members to the Advisory Planning Commission

Deputy Director Jerry Wells explained that one of the requested actions involved the reappointment of Nevada lay member Bob Jepsen. His term expired the end of June, and he had expressed an interest in staying on the APC. The other was a replacement for Nevada lay member Phil Caterino, who resigned several months ago.

Dr. Miner explained that Douglas County would have a recommendation on filling the vacancy in July.

MOTION by Mr. Westergard to reappoint Mr. Jepsen to another two-year term as a Nevada lay member. The motion carried unanimously.

(Mr. Jepsen's new term will expire the end of June 1999.)

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

B. Legal Committee Report

1. Stay of Statute of Limitations Issues Including: a) Delegation to the Chairman of the Legal Committee to Grant Short Stays Pending Legal Committee Review; b) Delegation to Legal Committee to Deny Requests for Stays of the Statute of Limitations; c) National Marine Manufacturers Association Request for Stay of Statute of Limitations Concerning Potential Challenge to TRPA's June 1997 Watercraft Ordinances

Legal Committee Chairman Waldie explained the earlier discussion and unanimous recommendations by the Committee on items a) and b) regarding statutes of limitations. One related to a request for a waiver of the statute of limitation that had a short time within which it could be considered. If legal staff wished to accept a waiver after conferring with the Legal Committee Chairman, the stay could be granted. The second issue regarded a request that a denial by the Legal Committee of a request for a stay of the statute of limitations proceed immediately to the Board that day for resolution. The decision on these by the Committee was unanimous.

TRPA REGULAR MEETING MINUTES JUNE 25, 1997

MOTION by Mr. Cronk to approve the recommendation of the Legal Committee with regard to items a) and b). The motion carried with Mr. Nutting voting in opposition.

Agency Counsel Nicolle explained that item b) was on the agenda for delegation to the Legal Committee to deny requests on stays. It was her understanding that the Committee did not wish to recommend that it would have the authority to deny. A positive motion with a vote in opposition was the appropriate motion on item b) if the Board did not wish the Committee to have the sole authority to deny without secondary Board review.

Chairman DeLanoy noted that Mr. Cronk's motion covered both items addressed by the Legal Committee.

Ms. Nicolle agreed but clarified that the wording on the agenda would require a different wording for item b. The Board did not wish to delegate to the Legal Committee the ability to deny.

Mr. Waldie explained that the Committee voted that, when there was a denial by the Committee of a request presented to the full Committee for a statute of limitations waiver, that action of the Legal Committee would immediately proceed to the Board for review. That was the intent of the motion.

MOTION by Mr. Cronk to delegate to the Legal Committee the power to deny requests for statute of limitation waivers. The motion failed with all Board members with the exception of Mr. Nutting voting in opposition. Mr. Nutting abstained.

Mr. Nutting explained he had abstained because he was not going to vote on something he did not understand.

Mr. Waldie explained that item c) involved a request by the National Marine Manufacturers Association (NMMA) for a stay of the statute of limitations concerning a potential challenge to TRPA's June 1997 watercraft ordinances. The potential nature of the challenge meant that if an ordinance was not adopted no challenge would be required. Should TRPA adopt the watercraft ordinance, NMMA had 60 days to file a legal challenge to the ordinance. NMMA's representatives felt it would be no harm for them to have the right to await the expiration of a two-year period to 1999 before they decided whether to legally challenge the ordinance. The feeling was that within that two-year limbo period the Board may reverse itself and a legal challenge would not be needed. His view of the matter was that TRPA's obligation in this narrow instance was to defend the position of the Board. If that position was to adopt an ordinance to control the use of two-stroke engines on the Lake, TRPA ought not in any way to surrender a legal position that was beneficial to the Agency. He felt the request should be denied. The vote was three in favor of denying the request; one Committee member recommended approval of the request.

MOTION by Mr. Waldie to deny the request by NMMA to stay the statute of limitations.

TRPA REGULAR MEETING MINUTES JUNE 25, 1997

Agency Counsel Rachelle Nicolle commented that TRPA's procedure called for all motions to be phrased in the positive.

MOTION rephrased by Mr. Waldie to approve the request by NMMA.

Ms. Nicolle responded to Board member questions about the environmental assessment and a challenge to the Board's action. The Board's decision today was based on the record up to this date. It included hearings and all the records prepared prior to and for this meeting. Once the Board made its decision, that was the record under which TRPA would go to court if necessary. It would not matter what TRPA discovered after the ordinance was adopted.

Mr. Nutting suggested that this matter should be dealt with in conjunction with the 1:30 p.m. agenda item on the proposed watercraft ordinance. There was a correlation, and he felt they should be handled at the same time.

Mr. Waldie noted that the attorney for NMMA was not present at this time. She may have been under the mistaken assumption that this item would be taken up during the 1:30 agenda item. Rather than risk any discourtesy or placing her in an unfair position, he recommended continuing this matter to 1:30 p.m.

Chairman DeLanoy directed that this matter come back at 1:30 p.m.

XII. REPORTS

A. Executive Director Monthly Status Report

2. Report on Operation of the Tahoe Queen From the Ski Run Marina

Executive Director Jim Baetge noted that the staff last month indicated it would provide an update on the status of the Tahoe Queen and how the permitting procedures were handled. The packet contained a June 16 letter from staff to Travel Systems, Ltd. explaining TRPA's position; the June 19 thank you response letter from Travel Systems had been distributed to Board members. Unless there were any questions, this would not be pursued further.

Ms. Frame, Chief of Management Support, introduced new Administrative Clerk Merrienne Tolbert. Merrienne was new to the Management Support Division and was assisting with signing in people who wished to speak during the afternoon public hearing.

1. Status Report on Project Applications

Mr. Baetge noted that in line with Agency procedure the staff packet contained a listing of those projects which for various reasons were not acted on within the 120-day requirement. If Board members had questions, they were to ask staff.

3. Other

Mr. Baetge noted staff had worked hard getting streamlining funds into TRPA's budget in California and Nevada. Special thanks to Mara Bresnick for her help in California. As of now, it was in both the California and Nevada budgets to begin a major streamlining of Agency regulations starting July 1.