

**TRPA
GOVERNING BOARD
PACKETS**

**SEPTEMBER
1997**

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD AND COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, September 24, 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 September 24, 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 August 1997 financial statement and August check register; 3) policy regarding use of fines and forfeitures; 4) establishment of contingency account to cover unfunded liability; 5) procedure for preparing budget; and 6) member comments. (Committee: Neft, Heller, Galloway, Bresnick, Chairman Bennett)

NOTICE IS FURTHER GIVEN that on September 24, 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) Minster, resolution of enforcement, 435 Lakeview, Washoe County APN 123-122-03; 3) discussion of Coordinated Transit System (CTS) agreement; 4) show cause hearing on Executive Director determination to use project security, Tahoe Mariner, litigation settlement, Washoe County; and 5) member comments. (Committee: Miner, Cronk, Sevison, Wynn, Chairman Waldie)

NOTICE IS FURTHER GIVEN that on September 24, 1997, commencing at 12:00 noon, during the lunch recess, in the same location there will be a joint meeting of the Legal Committee and the Shorezone Policy Committee. 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 certain two-stroke engines; 3) discussion on draft agreement between TRPA and the National Marine Manufacturers Association and personal watercraft concessionaires on process for phase-out of certain two-stroke engines; 4) timetable and content of October 1997 ordinance amendments pertaining to certain two-stroke engines; and 5) member comments. (Shorezone Policy Committee: Waldie, Wynn, Sevison, Galloway, Cole, Chairman Westergard)

Date: September 15, 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.

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

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

September 24, 1997
9:30 a.m.

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

AGENDA

Page #

- 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. Elk Point Country Club, Plan Revision to Existing Water Tank Facility, Elks Avenue Common Area, Douglas County APN 05-242-61 119
 - 1. Motion to Reconsider by Board Member Kay Bennett
 - 2. Plan Revision to Existing Water Tank Facility
- VIII. PUBLIC HEARING (*items include action on the findings plus action on related ordinances, resolutions, environmental documents, and/or plans)
 - A. Amendment of Regional Plan In-Lake Fish Habitat Map* 135
- IX. SHOW CAUSE HEARING
 - A. Executive Director Determination to Use Project Security, Tahoe Mariner, Litigation Settlement, Washoe County APNs 123-055-01, 123-062-01, and 123-071-24 143

X. PLANNING MATTERS

- A. Scoping for the 1998 Regional Transportation/Air Quality Plan Draft EIS

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XI. ADMINISTRATIVE MATTERS

- A. Annual Report on Performance Statistics for the Environmental Compliance and Project Review Divisions

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XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

- A. Finance Committee Report
- B. Legal Committee Report
- C. Joint Legal Committee and Shorezone Policy Committee Report - (to be taken up in the afternoon)

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- 1. 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 Certain Two-Stroke Engines
- 2. Draft Agreement Between TRPA and the National Marine Manufacturers Association and Personal Watercraft Concessionaires on Process for Phase-Out of Certain Two-Stroke Engines
- 3. Timetable and Contents of October 1997 Ordinance Amendments Pertaining to Certain Two-Stroke Engines

- D. Environmental Improvement Program Implementation Committee
- E. Rules Committee Report
- F. Local Government Committee Report

XIII. REPORTS

- A. Executive Director Monthly Status Report
 - 1. Status Report on Project Applications
 - 2. Status Report on Environmental Improvement Program Implementation
- B. Legal Division Monthly Status Report
- C. Governing Board Members

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XIV. ADJOURNMENT

CONSENT CALENDAR

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| <u>Item</u> | <u>Recommendation</u> | |
|---|-------------------------------------|-----|
| 1. August 1997 Financial Statement and August 1997 Check Register | Receipt | 1 |
| 2. City of South Lake Tahoe, Highway 50/Tahoe Meadows Linear Parkway, El Dorado County, TRPA File #510-101-97/970392 | Approval of Findings and Conditions | 3 |
| 3. Lyddon Coffee House, Commercial Change in Operation, South Y Shopping Center, South Lake Tahoe, El Dorado County APN 23-430-32 | Approval of Findings and Conditions | 25 |
| 4. Leonard Minster, Resolution of Enforcement, 435 Lakeview, Crystal Bay, Washoe County APN 123-122-03 | Approval | 35 |
| 5. El Dorado County Office of Education, Multi-Use Facility, Commercial/Public Service Change in Operation, Special Use Determination, 1285 Emerald Bay Road, El Dorado County APN 032-203-01 | Approval of Findings and Conditions | 37 |
| 6. Falcon Capital, Land Capability Challenge, Douglas County APN 005-230-11 | Approval | 47 |
| 7. Nevada State Park/Spooner Lake Cross Country Cross Country Ski Area, New Backcountry Cabins and Warming Huts, Douglas County APN 01-010-03 | Approval of Findings and Conditions | 49 |
| 8. Pacific Bell Mobile Service, New Transmission and Receiving Facility, Kings Vista Court, Placer County APN 112-210-01 | Approval of Findings and Conditions | 65 |
| 9. Tahoe Edgelake Beach Club, Tourist Accommodation Unit Additions, 7680 N. Lake Boulevard, Kings Beach, Placer County APN 117-140-06 | Approval of Findings and Conditions | 75 |
| 10. Tahoe City Public Utility District, North Tahoe High School Athletic Field Addition, Polaris Road, Dollar Hill, Placer County APN 93-010-15 | Approval of Findings and Conditions | 89 |
| 11. South Shore Christian Assembly/Assemblies of God Church, Church Addition, Special Use Determination, 886 Glorene Avenue, South Lake Tahoe, El Dorado County APN 23-351-09 | Approval of Findings and Conditions | 105 |

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 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

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

South Lake Tahoe Council Chambers
South Lake Tahoe, California

August 27, 1997

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Drake DeLanoy called the regular August 27, 1997, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:40 a.m. and asked Vice Chairman Larry Sevison to lead in the Pledge of Allegiance.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLanoy, Mr. Waldie, Dr. Miner, Mr. Sevison, Mr. Heller (present after the lunch recess), Mr. Cole, Ms. Bennett, Mr. Cronk, Mr. Perock (for the Nevada Department of Conservation and Natural Resources), Ms. Neft, Mr. Galloway, Ms. Bresnick, Mr. Upton, Mr. Wynn
Members Absent: Mr. Neumann

III. PUBLIC INTEREST COMMENTS

Mr. Don Kornreich submitted and commented on his three letters to the Board relating to basin user fees, analysis of an added gasoline/diesel tax by 2000, and interest earned from TRPA mitigation funds.

Mr. Galloway noted that the Board's previous position on the basin user fee was not necessarily to endorse the fee but to recognize that money needed to be raised. Staff was instructed to broadly look at all sources of revenue and return to the Board for more discussion.

IV. APPROVAL OF MINUTES

MOTION by Mr. Sevison to approve the July 23, 1997, Governing Board minutes as presented. The motion carried unanimously. (Mr. Wynn was out of the room.)

V. APPROVAL OF AGENDA

Deputy Director Jerry Wells advised the Board that a request had been made by the attorney for neighboring property owners to take up the certification of the Final EIS for the Lake of the Sky Facility after lunch.

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

III. PUBLIC INTEREST COMMENTS (continued)

Board member Wynn noted he had received a letter from the Placer County Water District regarding pending California Senate Bill 521, which called for a study on the effects on air and water quality of MTBE, the chemical additive

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that increased burning efficiency of gasoline. MTBE was very toxic. TRPA was being encouraged to urge the State of California to adopt the measure and to complete the study so the results would be available to staff and the Board.

VI. CONSENT CALENDAR

Mr. Wells noted the following: 1) the applicant for item 2 (Tahoe Keys Beach and Harbor Association, addition of boat slips, South Lake Tahoe) had requested a continuance; 2) staff had prepared amended conditions for item 7 (Safeway commercial building addition and relocation); and 3) staff had amended the conditions for item 8 (Tahoe Lake Elementary School modular classroom addition, Placer County); the conditions were acceptable to the applicant (copies were distributed).

Mr. Waldie asked to pull the Safeway project (item 7) from the consent calendar and noted that the Legal Committee had earlier in the day acted on items 3, 9, 10 and 11 and recommended approval.

Finance Committee Chairman Kay Bennett noted that the Finance Committee had earlier in the day recommended approval of the financial statement and check register (item 1). On Item 4 (release of \$150,000 Air Quality Mitigation Funds to Placer County for the 64-Acre Transit Center, Tahoe City), the Committee voted to modify the recommendation to approve the release of the \$150,000 for a portion of the design and construction of a multi-modal transit facility on the 64-acre tract in Tahoe City or an alternate site. The Committee did not wish to pull the item off the consent calendar.

Mr. Cronk noted he would not be voting on consent calendar item 12 (Sunnyside Resort, Inc., Jesse DeBusschere, New Public Parking Area, Special Use Determination, Placer County).

MOTION by Mr. Upton to approve the consent calendar with the continuance of item 2 (Tahoe Keys Beach and Harbor boat slips) and with other changes as discussed. The motion carried unanimously. (Mr. Cronk did not vote on item 12.)

(Following are items approved on the consent calendar: 1. Year-to-Date Financial Statement (July 31, 1997) and July Check Register, and Revisions to FY 96-97 Operating Budget; 3. Pershing, Resolution of Enforcement, 650 Blitzen, El Dorado County APN 36-611-19; 4. Release of \$150,000 Air Quality Mitigation Funds to Placer County for the 64-Acre Transit Center, Tahoe City; 5. Resolution Allocating FY 1997-98 Local Transportation Funds (LTF) (\$149,352) to El Dorado County for Community Transit Services (RTPA Resolution No. 97-16); 6. Resolution Allocating FY 1997-98 Local Transportation funds (\$57,688) (LTF) to the Regional Transportation Planning Agency for Administration and Planning (RTPA Resolution No. 97-13); 8. Tahoe Lake Elementary School, Modular Classroom Addition, 375 Grove Street, Placer County APNs 94-080-01, 94-101-02, -03, and -04; 9. Osherhoff/Lemelson, Resolution of Enforcement, Washoe County APN 122-100-11; 10. Ferris, Resolution of Enforcement, 3410 Edgewater, Placer County APNs 93-083-10 and -11; 11. Diekman, Resolution of Enforcement, 845 Stateline Avenue, South Lake Tahoe, El Dorado County APN 29-010-17; 12. Sunnyside Resort, Inc., Jesse DeBusschere, New Public Parking Area, Special Use Determination, Placer County

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APN 084-140-26; 13. Mike Alexander, New Commercial Building, Plan Revision/Allocation of Commercial Floor Area, Washoe County APN 127-010-05; 14. Nichols, New Commercial Building, 201 and 205 Stateline Boulevard, Placer County APNs 90-304-19 and -20; 15. Hornblower Cruises, Waterborne Transit, Temporary Use, Ski Run Marina and Camp Richardson Marina, El Dorado County APNs 27-690-06 and 32-110-01; 16. Read, Appeal of IPES Score, Placer County APN 098-102-01; 17. Serrett, New Commercial Building, 925 Tahoe Boulevard, Washoe County APN 132-231-06; 18. North Shore Foursquare Church Buildings, Commercial/Public Service Change in Operation, Special Use Determination, 918 Northwood Boulevard, Washoe County APN 131-110-02; 19. Pacific Bell, New Transmission and Receiving Facility, Special Use Determination, 961 Emerald Bay Road, El Dorado County APN 23-191-21; 20. Pacific Bell, New Transmission and Receiving Facility, Special Use Determination, U.S. Highway 50 at Spooner Summit, Douglas County APN 01-010-13; 21. Giovacchini/High Meadows Timber Harvest, Substantial Tree Removal, El Dorado County APN 30-161-03; 22. Riley, Land Capability Challenge, 187 Tallac Street, Douglas County APN 005-114-15;

Safeway, Inc., Commercial Building Addition and Relocation, 7815 North Lake Boulevard, Kings Beach, Placer County APNs 117-180-08 and -09 and 117-200-46 and -47 (consent calendar item 7.)

Mr. Waldie noted he had pulled this item off the consent calendar at the request of the League to Save Lake Tahoe.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, expressed strong objection to the procedure being followed in this approval, since this was a major project which included 150,000 square feet of coverage in the project area and a large transfer of coverage from one SEZ area to another. This was being done with no environmental analysis whatsoever and was clearly improper. The Board and the public needed more background information for review and comment. The League was not present today to oppose the project and had been assured by staff that the project was a beneficial one. She urged the Board at a minimum for future projects to instruct staff to prepare more complete environmental documentation. TRPA staff had assured her this morning that there would not be any intersection improvements associated with the project, unless and until a project application for such improvements was submitted. The turn lane described in the staff's summary was not a part of the Board's action.

Associate Planner Kathy Canfield explained the applicant originally submitted an Initial Environmental Checklist, along with a preliminary grading plan and the supporting documents for soils, hydrology, scenic and traffic impacts. Taken together these reports almost made up an entire Environmental Assessment. Caltrans at this point was working on plans for intersection improvements. Traffic improvements that were a part of this project included the street frontage improvements - curbs, gutters, sidewalks along Highway 28 and up to the corner of Highway 267.

MOTION by Mr. Cronk to approve the Safeway project. The motion carried unanimously.

VII. PROJECT REVIEW

- A. Elks Point Country Club, Thorne/Achard, Plan Revision to Existing Water Tank Facility, Elks Avenue Common Area, Douglas County APN 05-242-61

Senior Planner Paul Pettersen presented a brief history of the project, including the Board's approval in September of an upgrade of two existing, failing water tanks. This earlier approval was for a 126,000 gallon tank and an 8" intertie line from the Round Hill General Improvement District (RHGID). Since that approval, the applicants had learned they could become an autonomous system with one tank and no tie line, thus this plan revision for a 264,000 gallon tank without the intertie. Concerns had been expressed by the neighboring property owners in the process, and several scoping meetings with the residents had been conducted. To address these concerns, the applicant proposed recessing the tank 4.5 feet, implementing a landscape plan, painting the tank a certain color, installing acoustic panels for booster tanks and BMPs. The 126,000 gallon tank would have had a diameter of 30' and a height of 24'. The revised tank would have a diameter of 42' and a height of 23'8". An EA was done on the proposal, and staff recommended approval, since it would not affect regional thresholds and was consistent with the Code.

Ms. Deborah Palmer, representing the Elk Point Country Club, explained that lake water could not be mixed with potable water. Lake water could not be pumped into the tank. The project's intent was to have both potable and fire water in the same tank and to have Elk Point Country Club completely independent from any outside source. Currently, the potable water was separate from the fire flow water; backup fire water was provided under a five-year lease by a tie line to RHGID. That lease was terminable upon 180 days' notice. The proposed plan revision was the minimum amount to meet the Tahoe Douglas Fire District fire storage needs, as well as the potable water and retention requirements.

Mr. Gene Thorne, representing the Elk Point project, explained that a study was done a number of years ago on creating one piping system for both fire flow and potable water. At that time, the subdivision was able to pump lake water through the fire system. Standards had changed and Nevada did not allow potable water and lake water to commingle. Elk Point decided a number of years ago to have potable water throughout the system. A 1988 study addressed eliminating the tank and having Elk Point tie into the Round Hill system for all its water needs. The study identified not only the connecting line that was built at that time but an additional connecting line whose cost was identified between \$275,000 and \$300,000. The alternative to having no tank was to have a second pipeline to create a looped system. The connection with Round Hill consisted of approximately 1,500 feet of dead-end line. A domestic system could not be operated on a single line; a second tie would be required. The study that was done identified several alternatives, including a no-tank alternative. Eighty-seven houses were currently served; there were 89 lots total and 13 fire hydrants in the subdivision. Mr. Thorne responded to questions about chlorination, treatment of groundwater and stored water, the use of generators in the event of power failures, and the failing condition of the existing tanks.

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Ms. Palmer responded to questions regarding past votes by the homeowners association on the tank proposals. A vote at an April 1997 meeting had 78.9 percent of the members voting in favor of the revision and 19 percent voting against. Seventy six of the 87 members were present. In 1988 the members voted to upgrade the two existing tanks to 125,000 gallons. There was a debate at that time on where to locate the tank. Mr. Hoyt, an adjoining property owner, objected to the tank being located next to his house. There was discussion about putting the tank on Forest Service property adjacent to Elk Point Country Club property. A majority of members voted to keep the tank where it had been since the 1920s. The current proposal was the minimal size to meet governmental standards. Both adjoining property owners, Mr. Hoyt and Ms. Marilyn Thompson, had acquired their properties after the wooden tank was built.

Mr. Kirby Randall, a member of Elk Point Country Club, commented on previous homeowner votes, Mr. Hoyt's objections to the new tank, and the neighborhood disagreements over the size of the tank.

Mr. Mark Hughes, on behalf of neighboring property owners Hoyt and Thompson, noted three local and state agencies other than TRPA were required to approve the application; there were reasonable alternatives to the tank project that addressed all health and safety concerns; and the available information in the EA would not support the special use findings. Mr. Hughes commented further on the current lack of booster pumps, gravity feed, the tie line to RHGID, health department requirements, and the current approval for a 126,000 tank.

Agency Special Projects Attorney Susan Scholley noted the matter was properly before TRPA. The Board could choose to defer to the other entities if it wished. Typically the Agency preferred to be first in line, because it dealt with the bigger issues of land coverage, siting, and environmental impacts and allowed more flexibility in the initial stages. TRPA had independent authority under the Compact to approve the project, as did other agencies. To build the project, however, the applicant had to line up all required approval and permits.

Engineer Jere Williams described the study done by his firm in 1987 and 1988 at the request of the subdivision on a water system improvement project and possible alternatives. Mr. Williams described the various alternatives analyzed in the report and the recommended superior alternative calling for the intertie with RHGID's system. Because of Round Hill's available capacity for fire protection in a gravity system, the homeowners voted to construct a pressure connection as a standby. That was in place today. He continued to believe that a full-service connection to RHGID's system was a superior alternative for domestic water supply, fire protection, and from a water quality standpoint. Mr. Williams presented more information about the RHGID system and responded to Board member questions on health requirements, water storage, alternative sites and options, and costs.

Mr. Gary Midkiff, for Mr. Hoyt and Ms. Thompson, passed around photo simulations of the proposed tank as seen from neighboring property owners' homes and commented on the negative visual impacts, health concerns with stored water, the size of the tank, the inability of TRPA to make the special use findings regarding nature and scale of the project, negative impacts on

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neighboring properties, and potential changes in the project design caused by other governmental actions. Mr. Midkiff presented more detail on the inadequacies of the EA, including, noise, alternatives, fire turnaround, seismic concerns, other entity requirements, and devaluation of properties.

Discussion followed among Board members, staff, and Mr. Midkiff.

MOTION by Dr. Miner to continue action on the project.

In commenting on his motion, Dr. Miner suggested that the matter be continued so that Douglas County, the Public Service Commission, and state health input and approvals could be brought back to TRPA prior to TRPA action.

Ms. Palmer explained that Elks Point had requested Douglas County action on the project in July. Douglas County postponed it to August 28.

Mr. John Doughty, representing Douglas County, advised that a request for a continuance had been received from the project proponents, because the issue of the intertie had not been addressed. Douglas County had taken the matter off the agenda at the applicant's request.

The motion to continue failed on the following vote:

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| Ayes: | Mr. Perock, Mr. Sevison, Mr. Galloway, Mr. Waldie, Dr. Miner, Mr. Upton |
| Nays: | Mr. Cole, Mr. Wynn, Ms. Neft, Ms. Bennett, Mr. Cronk, Ms. Bresnick, Mr. DeLanoy |
| Abstain: | None |
| Absent: | Mr. Heller |

Mr. Petterson reminded the Board that what was being looked at was a difference of 12 diameter feet over the old approval. The issues brought up by Mr. Midkiff had all been addressed by the project proponents. Staff believed the project was consistent with the ordinances and the thresholds and recommended approval as proposed.

Mr. Hughes noted that Elk Point had been going on 14,000 gallons all summer. The EA's conclusion that the 126,000 gallon tank was no longer feasible was based on a finding that the tie line was illegal. The tie line was permitted under health services regulations. The EA conclusion in this regard was not correct. The tie line between Elk Point and RHGID was unanimously approved in July of 1997. There were reasonable alternatives to the tank, and the findings could not be made.

In responding to an earlier question, Ms. Palmer explained that the official tie line to make a double loop system described by Mr. Thorne would cost between \$275,00 and \$300,000; it would cost \$15,000 per household with a \$30 per month charge to the individual. A self-contained system without a lease with RHGID would cost \$136,000. For the 87 home owners this was a lot of money. Also, the lease was terminable upon 180 days' notice at any time, for any reason.

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Mr. Pettersen explained that the noise impacts were being mitigated by recessing the tank structure into the ground, by providing acoustical paneling, and a muffler system on the backup generator. The approvals would also require an extensive landscape plan subject to TRPA staff approval.

Ms. Bennett asked that any approval include more screening of the tank than an 8-foot fence. The fence was not high enough, and landscaping would take time to be established. She preferred to see something more decorative than a slotted fence.

Mr. Cole suggested that the Board was being asked to increase a tank from 30 to 40 feet in diameter. He was comfortable with a motion to approve the findings and with the summary and recommendation of the staff. Most of the arguments heard today belonged at a local level.

MOTION by Mr. Cole to approve the findings contained in the staff summary and a finding of no significant environmental effect.

Ms. Scholley asked that the Board give members of the public an opportunity to testify because this was a special use hearing.

Mr. Kevin Coles, on behalf of his mother- and father-in-law, owners of the home at 455 Lakeview Drive, questioned the safety of the tank and the addition of 1 million pounds of water on a 30 degree slope, 150 feet from his home. If there were ever a failure of the tank, water would come down on their roof, because the home was cut into the slope. The Board had the ability to balance equities. There was now a tie to RHGID, and there was not adequate testimony on whether the lease could be changed so it was not revocable. He recommended denial of the request.

Mr. Mario Henry Barsotti, a homeowner in Elks Point for 37 years, spoke on the tank location, the negative impact of the tank on nearby properties, the outcome of previous votes by homeowners on the tie line and on the tank, the history of the proposal, and discrepancy in information. The vote on the tie line was unanimous; the vote on the larger tank was split. He urged denial.

Ms. Janet Marlborough, a full-time Elk Point resident, urged Board approval. The residents had been living with this situation for ten years; the present system was unsafe. She voted to keep the tie line with RHGID for now; without that, there was not adequate fire protection.

Mr. Pettersen explained that the proposal for the 126,000 gallon tank with an 8" intertie to RHGID would need further justification through a water analysis.

Ms. Cindy Johnson, a residential real estate appraiser, commented on her diminution-in-value analysis of two adjacent properties. The first analysis was done with the knowledge of the approval for the 126,000 gallon water tank. She estimated the loss in value to the Hoyts' residence from the 126,000 as built to a 250,000 gallon tank, ranging between 12 and 12-1/2 percent.

Ms. Helen Wallace, RHGID board president, explained it cost \$30 for each homeowner for the RHGID tie in. While the agreement between Elk Point and

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RHGID had a 180-day release clause, modification of the agreement was possible. There were 900,000 gallons of storage in RHGID; 750,000 gallons was gravity flow. It was advantageous for Round Hill to have fire protection in the Elk Point area because of the need to stop a fire before it moved to other properties. Ms. Wallace responded to Board member questions.

Mr. David Seifert, a real estate appraiser, commented on appraisal reports presented by Ms. Johnson and his conclusions on estimates of gained or lost value. The reference to diminution of value on two properties was not supported or justified. His research of mitigation (color selection, vegetative screening) to screen a 300,000 gallon water tank from a residence in Upper Lakeridge showed that the home had been mitigated to the point where there was no loss of value.

Mr. Marty Bibb, past president of Elk Point Homeowners Association, explained the April vote by the Association was 60 to 15 in favor of the larger tank. The later vote at the annual meeting was 47 to 28, or 62 percent in favor.

Mr. Curt Brown, current president of the Association, urged the Board to grant approval of the tank so that the community, which had been in existence since 1921, could have its independent, self-contained system. Current annual dues to maintain community services amounted to \$1,000 per year.

Motion restated by Mr. Cole to approve the findings in the staff summary including a finding of no significant environmental effect.

Mr. Cronk asked if one of the required findings included a need for the project.

Ms. Scholley responded that such a finding was previously required for projects to be placed on a public service list. That list had been abolished some time ago.

Ms. Bennett asked that any later project approval require a higher fence around the tank.

The motion failed on the following vote:

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| Ayes: | Mr. Cole, Mr. Sevison, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Upton, Mr. Perock, Mr. DeLanoy |
| Nays: | Mr. Wynn, Mr. Galloway, Mr. Cronk, Dr. Miner, Ms. Bresnick |
| Abstain: | None |
| Absent: | Mr. Heller |

Ms. Scholley noted that because the findings could not be made the project was deemed denied.

Dr. Miner asked that, in the future, staff defer TRPA action until after local jurisdiction approval on projects requiring the special use findings.

Ms. Scholley suggested that this could be placed on a future agenda for Board consideration.