

**TRPA
GOVERNING BOARD
PACKETS**

**JUNE
1998**

3-15

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD AND COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, June 24, 1998, 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 Tahoe Seasons Resort, Saddle Road at Keller, South Lake Tahoe, 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 June 24, 1998, 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 May 1998 financial statement and check register; 3) El Dorado County request for water quality mitigation funds (\$673,226) for SEZ and erosion control projects; 4) adoption of proposed FY 98-99 Caltrans/TRPA overall work program; 5) amendment of FY 98 Regional Transportation Improvement Plan (RTIP) to provide for transit vehicle grants for Placer County and the TTD; 6) use of abandoned securities (\$5,783); 7) FY 98-99 TRPA operating budget; 8) Washoe County, request for water quality mitigation funds (\$250,000) for Incline Village #1 erosion control project; and 9) member comments. (Committee: Neft, Heller, Galloway, Bresnick, Chairman Bennett)

NOTICE IS FURTHER GIVEN that on June 24, 1998, commencing at 8:30 a.m. at the same location, the Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Evans, resolution of enforcement, 1754 Meadow Vale Drive, El Dorado County APN 34-752-06; 3) consideration of bond company's denial of payment in Tahoe Mariner litigation settlement; 4) retention of Agency Special Projects Attorney through December 1998; and 5) member comments. (Committee: Miner, Cronk, Sevison, Wynn, Chairman Waldie)

NOTICE IS FURTHER GIVEN that on June 24, 1998, during the lunch recess at 12:00 noon in the Needles Restaurant at the Tahoe Seasons, the Rules Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) amendment of Policy 2.6 (Vacation) and 3.2 (Salary Schedule) of the Personnel Policy Manual; and 3) member comments. (Committee: Neft, Sevison, Bresnick, Heller, Chairman Galloway)

Date: June 15, 1998

By: 

Jerry Wells
Deputy Director

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Seasons Resort, Saddle Road at Keller
South Lake Tahoe, California Seasons

June 24, 1998
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 AGENDA
- V. APPROVAL OF MINUTES
- VI. CONSENT CALENDAR (see page 3)
- VII. PLANNING MATTERS
 - A. Status Report on Research Activities in the Tahoe Basin 119
 - B. Status Report on Implementation of Coordinated Transit System 121
 - C. Discussion of Metropolitan Planning Organization Designation 123
 - D. Public Comments on U.S. Forest Service/Tahoe Transportation District Proposal to Implement Paid Parking on State Route 28 127
- VIII. ADMINISTRATIVE MATTERS
 - A. Designation of Board Members to Attend Litigation Settlement Conference in Sacramento in Lake Tahoe Watercraft Recreation Association v. TRPA 129
 - B. Performance Evaluation of Executive Director (includes closed session without action)

C. Appointment of Board Member to the Shorezone Policy Committee

IX. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

B. Legal Committee

1. Retention of Agency Special Projects Attorney Through December 1998

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2. Consideration of Bond Company's Denial of Payment in Tahoe Mariner Litigation Settlement

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C. Rules Committee

1. Resolution Amending Policy 2.6 (Vacation) and Policy 3.2 (Salary Schedules) of the Personnel Policies Manual

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D. Shorezone Policy

X. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications

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B. Legal Division Monthly Status Report

C. Governing Board Members

XI. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. May 1998 Financial Statement and Check Register	Receipt	1
2. Use of Abandoned Securities (\$5,783)	Approval	3
3. FY 98-99 TRPA Overall Operating Budget	Approval	5
4. RTPA Resolution Adopting Proposed FY 98-99 Caltrans/TRPA Transportation Overall Work Program(OWP)	Approval	7
5. RTPA Resolution to Amend FY 98- Regional Transportation Improvement Plan (RTIP) to Provide for Transit Vehicle Grants For Placer County and the Tahoe Transportation District	Approval	15

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| 6. | El Dorado County, Request for Water Quality Mitigation Funds (\$673,226) for SEZ and Erosion Control Projects | Approval | 27 |
| 7. | Evans, Resolution of Enforcement, 1754 Meadow Vale Drive, El Dorado County APN 34-752-06, | Approval | 31 |
| 8. | Incline Village General Improvement District, Guardhouse Replacements, Incline Beach and Ski Beach, Lakeshore Boulevard, Washoe County APN 127-280-01 | Approval of Findings and Conditions | 35 |
| 9. | Morris, Commercial Rebuild and Addition, 270 Kingsbury Grade, Douglas County APN 07-180-04 | Approval of Findings and Conditions | 47 |
| 10. | Conte/Castagnola Trust, New Multi-Family Dwelling and Condominium Subdivision (5 Units), 946 Harold Drive, Washoe County APN 131-131-01 | Approval of Findings and Conditions | 61 |
| 11. | Lindblom, Shoreline Protective Structure, Special Use Determination, 7830 North Lake Boulevard, Kings Beach, Placer County APN 117-180-29 | Approval of Findings and Conditions | 75 |
| 12. | Fulton Water Company, New Water Well and Pump House, Special Use Determination, North Ridge Avenue, Cedar Flat, Placer County APN 117-180-29 | Approval of Findings and Conditions | 85 |
| 13. | Washoe County, Release of Water Quality Mitigation Funds (\$215,000) for Incline Village #1 Erosion Control Project | Approval | 93 |
| 14. | Hooks Landing, Outdoor Recreation Concession, Special Use Determination, Placer County APN 94-510-01, TRPA File #980190 | Approval of Findings and Conditions | 95 |
| 15. | Serrano Beach Pier, Multiple-Use Determination, Placer County APN 117-110-03, TRPA File #970657 | Approval of Findings and Conditions | 105 |
| 16. | FY 98-99 Work Program and Strategic Plan (1998-2001) | Approval | 117 |

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

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 GID office, and the North Lake Tahoe Chamber of Commerce.



TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
Kings Beach, California

May 27, 1998

REGULAR MEETING MINUTES

I. PLEDGE OF ALEGIANCE

Chairman DeLanoy called the regular May 27, 1998, meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:30 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, Dr. Miner, Mr. Sevison, Mr. Chimarusti (for Mr. Heller),
Mr. Cole (present for afternoon session), Ms. Bennett, Mr. Johnson (for
Nevada Department of Conservation and Natural Resources), Ms. Neft,
Ms. Bresnick, Mr. Upton
Members Absent: Mr. Waldie, Mr. Cronk, Mr. Galloway, Mr. Neumann

There were not sufficient California members present until the afternoon session to act on California projects.

Chairman DeLanoy noted that Board member Jim Galloway was not present because he was ill.

III. PUBLIC INTEREST COMMENTS

Ms. Mary Gilanfarr, on her own behalf, urged all California voters to vote in the June 2 primary against Proposition 224, an attempt by state employees to take over functions performed by private firms in architecture, engineering and planning function.

Mr. John Falk, for the Tahoe Sierra Board of Realtors, asked the Board to take up future ordinance amendments to revise the October 15 grading prohibition. He requested that there be equal treatment for both public and private entities wishing to grade after the cut-off date. He had previously sent correspondence to TRPA requesting consideration of such amendments, and he would resubmit his letter.

Mr. Don Komreich, an Incline resident, discussed operation and maintenance funds and noted he would be sending a letter to Chairman DeLanoy and Executive Director Jim Baetge outlining ten potential funding sources. Between \$3 and \$6 million were needed to support the \$900 million Environmental Improvement Program (EIP). He responded to Board member questions.

IV. APPROVAL OF MINUTES

MOTION by Ms. Neft to approve the April 22, 1998, Governing Board minutes. The motion carried unanimously.

TRPA REGULAR MEETING MINUTES MAY 27, 1998

V. APPROVAL OF AGENDA

Deputy Director Jerry Wells noted the only change to the agenda was continuance of the Everett Demolition and Rebuild of Historic Single Family Dwelling, Placer County APN 090-141-09 (agenda item VII.A.).

MOTION by Mr. Upton to approve the agenda as modified. The motion carried unanimously.

VI. CONSENT CALENDAR

Finance Committee Chairman Bennett advised that her committee had recommended approval of items 1, 2, and 3. Item 11 was continued to the June meeting.

Mr. Wells noted that action on items 7, 9, and 10 relative to projects in California would have to be deferred until five California members were present. All other items could be acted on.

MOTION by Mr. Upton to approve items 1, 2, 3, 4, 5, 6, and 8 on the consent calendar. Items 7, 9, and 10 were deferred to later in the meeting. The motion carried unanimously.

(Following are items approved on the consent calendar:

1. April 1998 Financial Statement and Check Register
2. El Dorado County Request for Air Quality Mitigation Funds (\$536,232) for Transit Operations and Bicycle Facilities
3. Resolution Allocating FY 1997-98 State Transit Assistance (STA) Funds (\$46,054) to the City of South Lake Tahoe for STAGE Operations (RTPA Resolution No. 98-8)
4. Welze, Land Capability Challenge, Adjacent to Lakeland Village, Douglas County APN 07-050-05
5. Shoen, Land Capability Challenge, 179 Yellow Jacket Road, Douglas County APN 001-080-18
6. Schopf, New Single Family Dwelling, Douglas County APN 05-220-16, TRPA File #980088
8. Douglas County, Kahle Park Special Events Area Designation, 236 Kingsbury Grade, Douglas County APN 07-130-04

Action on the following items was deferred until later in the meeting:

7. U.C. Davis and Tahoe Research Group, New Mid-Lake Buoy, APN 570-101-98, TRPA File #980302
9. South Tahoe Public Utility District, Christmas Valley Water Tank Replacement Project, Special Use Determination, Santa Claus Drive, Meyers, El Dorado County APN 36-530-19
10. Rippey, Expansion of Shoreline Protective Structure, Special Use Determination, 1970 West Lake Boulevard, Sunnyside, Placer County APN 84-140-24

The following item was continued to the June meeting:

11. El Dorado County, Request for Water Quality Mitigation Funds (\$673,226) for SEZ and Erosion Control Projects)

VIII. PUBLIC HEARING

A. Amendment of Meyers Community Plan Commercial Floor Area Allocation Policies

Senior Planner Andrew Strain presented a summary of the proposed clean-up amendments to the plan adopted by the Board in 1993. The amendments related to revising the total amount of commercial floor area available within the plan by 10,000 square feet, allowing the County Supervisors to shift the allocation amounts between land use districts under certain conditions, and allowing commercial project proponents the option of paying \$20 per commercial square foot in lieu of providing the match. Mr. Strain responded to Board member questions.

TRPA REGULAR MEETING MINUTES MAY 27, 1998

Mr. Carl Fair, an owner and developer of commercial property in the Meyers commercial plan, spoke in favor of the proposed amendments since they would provide an additional option for those wishing to develop commercial sites while at the same time providing environmental improvements.

Ms. Sue Abrams, a South Lake Tahoe resident, spoke in favor of the Community Plan process and questioned whether TRPA would be advised of allocation modifications made by the County Board of Supervisors. She endorsed the plan amendment but did not wish to give that much authority to the Board of Supervisors; the area residents felt that often the concerns of special interest groups were addressed by the Supervisors over the interests of the residents. She would prefer that the TRPA Board also be involved in reviewing the changes.

Mr. Strain explained that the amendment was similar to a provision in the Washoe County Community Plan; it allowed the local governing body to take certain actions on its own to reallocate square footage without increasing the total amount.

Mr. Upton, the Board member from El Dorado County, explained that the Meyers community round table group would meet and provide input on potential changes to the County Planning Commission, which, in turn, would make a recommendation to the Board. It was a community-generated change. Under the agreements made with the community, the Board of Supervisors would not make changes on its own. The procedures that had been set provided for the community to initiate changes.

Since no one else wished to comment, the public hearing was closed.

MOTION by Dr. Miner to make the findings to approve the Meyers Community Plan changes as proposed. The motion carried unanimously.

MOTION Mr. Upton to adopt Ordinance No. 98-14.

Chairman DeLanoy read the ordinance by title:

An Ordinance Amending Ordinance No.87-9, by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending Chapter 2, Chapter 7 and Appendix C of the Meyers Community Plan, and Providing for Other Matters Properly Related Thereto

The motion carried unanimously.

Executive Director Jim Baetge advised the Board that this was Andrew's last meeting. Andrew was leaving TRPA's employment to work as director of planning for Heavenly Ski Resort and the American Ski Corporation. Andrew's work at Heavenly would assist in the accomplishment of improvements that TRPA wanted to see in the Tahoe Basin.

Mr. Strain noted that his new position would focus on implementing Heavenly's new master plan; this was a great opportunity for him. He had enjoyed his service to the Board and to TRPA.

Chairman DeLanoy complimented Andrew for his straight-forward presentations to the Board and for his work for the Agency.

IX. PLANNING MATTERS

B. IPES Workshop

Mr. Gordon Barrett, Chief of Long Range Planning, noted this item was continued from an earlier meeting. In his presentation, Mr. Barrett discussed the background of the Bailey and IPES programs, the criteria to be met to lower the line between buildable and unbuildable lots, the vacant lot issue, the alternatives being considered by the working group, and the staff recommendation. Alternatives being looked at by the working group included reviewing available data in the IPES database to determine if adjustments were warranted to the vacant lot equation; consideration of what 208 Plan amendments were appropriate and to fast-track such amendments; and consideration of what 208 Plan amendments were appropriate for inclusion in the 208 Plan update scheduled for adoption in 2000. Staff recommended the Board endorse the working group process, with a report to be made back to the Board in August.

The Board members discussed the process as it had been implemented in California and in Nevada, the difficulties being faced because the line was not moving down through the vacant lot inventory in California, research needs, options, acquisition of points, the characteristics of the market place for lots and points, and the makeup of the working group.

Mr. Larry Hoffman, for the Tahoe Sierra Preservation Council, referred to an April letter he had sent to all Board members on the IPES process and described the consensus process that helped create the system, the purpose of the IPES program, the progress and current status of land acquisition programs, problems with the vacant lot inventory and IPES program as implemented in California, and understanding the reason for the program in the first place and whether it was still valid.

The Board, staff and Mr. Hoffman discussed the status of vacant lots, the accuracy of lot numbers in the system, the status of acquisition programs and allocations, the goals of the data research being done this summer, the environmental documentation requirements for amendment of the 208 Plan, and the focus of the working group.

(During this discussion, Mr. Wells noted that the Board was operating without a quorum, since member Upton had to leave for a prior appointment. He would be returning after the lunch recess. The Board could only provide informal direction at this point. Members present: Wynn, Sevison, Neft, Bennett, Chimarusti, Miner, Bresnick, Johnson, DeLanoy)

Mr. Dan Siegel, from the California Attorney General's Office, agreed with staff's proposal to conduct workshops to look in more detail into the issue and commented on which actions would require an amendment of the 208 Plan and which would not. The vacant lot formula was a key element in determining movement of the IPES line. Rewriting the formula would require an amendment of the 208 Plan. Approaches consistent with the formula were those which would search the data base for errors or seeing whether anything could be done to increase the number of lots available for purchase.

Mr. Jeff Cutler, for the League to Save Lake Tahoe, agreed with Mr. Siegel's analysis on which actions would require a 208 Plan amendment and which would not. The first step should be to update and make accurate the data base, as suggested by staff. Being creative with modifications to the IPES program at this time could create new legal problems.

TRPA REGULAR MEETING MINUTES MAY 27, 1998

Chairman DeLanoy directed staff to move forward with the plan it had outlined and to report back to the Board in August.

C. Discussion on Scope of Impacts for Environmental Documents Relative to Washoe Cultural Center

Senior Planner Lyn Barnett explained that the construction of a Washoe Cultural Center was a priority 2 EIP project. He presented the history of the planning effort dating back to the late 1970s, the earlier approval of an Environmental Assessment and permit which had since expired, and the current planning effort and alternatives. The document being prepared now would include looking at an alternative in the Kiva Beach area that did not encroach into the historic area. Staff was proposing preparation of an Environmental Assessment rather than an EIS due to the scale of the development and anticipated impacts. Mr. Barnett responded to Board member questions about the environmental documentation process.

Mr. Kelly Fike, Forest Service Project Manager for the proposed Washoe Cultural Center, distributed and described an informational handout. This described the project, the site plan, the location, the schedule, mitigation, the scoping summary, key issues, and key alternatives.

Although a California quorum was not present for formal action, the Board did agree that staff's proposed direction was appropriate.

X. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

Committee Chairman Bennett noted that the committee had reached consensus on continuing with security for Board meetings.

B. Legal Committee

Executive Director Jim Baetge noted that, as a result of the May 26 Legal Committee and Governing Board interviews, John Marshall had been offered the Agency Counsel position. Mr. Marshall would be faxing staff at noon today to advise whether he would be accepting the position.

B. Shorezone Policy Committee

Committee member Larry Sevison noted that the committee had met on May 26 in an informal session since a quorum was not present. Those who were present recommended informally that there be a future cutoff date for the flow of information to be addressed in the Shorezone EIS currently in preparation, that a four-month extension be made a part of the timeframe; and that the July agenda contain a discussion on how to deal with existing projects that were in the pipeline or wanted approval prior to completion and decision on the watercraft, two-cycle engine litigation. The whole shorezone package was being held up until there was a final resolution of that issue.

(The Board took no formal action.)

C. Retirement Committee – noon meeting

TRPA REGULAR MEETING MINUTES MAY 27, 1998

XI. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications – in the packet materials.

Executive Director Jim Baetge noted that the Agency's budget was proceeding well in both states. The last meeting of the Nevada Legislative Oversight Committee was scheduled for Friday, June 12.

B. Legal Division Monthly Status Report

Attorney Mary Scoonover advised the Board she was working through the end of June with TRPA on loan from the California Attorney General's office. She would be assisting the Agency until permanent counsel was hired. Ms. Scoonover reported briefly on the status of the watercraft, Suitum, and TSPC litigation.

Mr. Sevison asked that Board members be mailed a more detailed status summary.

The Board discussed the July/August starting date for the new Agency attorney, the cost of outside legal counsel, the need to continue monitoring outside counsel bills, and potential costs of litigation.

The meeting recessed for a lunch recess from 11:55 a.m. to 1:30 p.m. The Retirement Committee met during the lunch break.

The following members were present after lunch: Johnson, Cole, Wynn, Sevison, Neft, Bennett, Chimarusti, Miner, Bresnick, Upton, DeLanoy. Members absent: Galloway, Waldie, Cronk, Newmann)

VI. CONSENT CALENDAR

MOTION by Mr. Sevison to approve items 7, 9, and 10 on the consent calendar and to continue item 11 (El Dorado County request for water quality mitigation funds for SEZ and erosion control projects) The motion carried unanimously.

(Following are items approved:

7. U.C. Davis and Tahoe Research Group, New Mid-Lake Buoy, APN 570-101-98, TRPA File #980302
9. South Tahoe Public Utility District, Christmas Valley Water Tank Replacement Project, Special Use Determination, Santa Claus Drive, Meyers, El Dorado County APN 36-530-19
10. Rippey, Expansion of Shoreline Protective Structure, Special Use Determination, 1970 West Lake Boulevard, Sunnyside, Placer County APN 84-140-24

Chairman DeLanoy announced that he had received a letter announcing the retirement of Roland Westergard from TRPA. The Board would miss him a great deal.

Mr. Sevison asked that the staff arrange for a get-together and a resolution for Roland.

VII. PUBLIC HEARING

TRPA REGULAR MEETING MINUTES MAY 27, 1998

C. Recommendation on Certification and Technical Adequacy of the Final EIS for the Tahoe City Public Utility District Bicycle Trail

Associate Planner Kathy Canfield explained this was a request for finding of technical adequacy and certification of the EIS for the District's bicycle trail. The final EIS, containing all the comments and errata, were sent to the Board members.

Chairman DeLanoy opened the public hearing.

Ms. Rhonda Gramanz, a Tahoe City resident, noted that the area in front of the Tahoe Marina Lodge property was to remain open to the public and should not be closed off and become inaccessible to the public. This easement dated back to the early 1970s and should remain open.

Mr. Sevison agreed with Ms. Gramanz, and suggested that research was needed to verify this. He asked the Board to approve the EIS with the idea that if the easement could be perfected, it become part of the project when it came in for approval.

MOTION by Mr. Sevison to approve the staff recommendation for technical adequacy and certification of the TCPUD bike trail EIS. The motion carried unanimously.

X. APPEAL

A. Leonardini/Wagner, Appeal of Staff Denial of New Multiple Use Pier and Boat Lifts, 905 and 907 Lakeshore Boulevard, Washoe County APNs 121-251-02 and -03

Associate Planner Coleen Shade presented a chronology of events from the 1984 to the 1997 actions by TRPA to adopt and reaffirm the map identifying the area in question as fish habitat feed and cover. In May 1997, the applicant applied for a fish habitat map verification; this was followed by a pier application in June. The applicant wanted to proceed with the project, although the Code did not permit new structures in fish habitat areas. Staff denied the application in September because of the prohibition on new structures in prime fish habitat. The appeal filed by the applicants challenged the fish habitat finding; challenged the rational basis for prohibition of shorezone structures in prime fish habitat; challenged the uniform application of this prohibition; and contended that the denial deprived the property owner of due process and amounted to a taking of property for public use. Ms. Shade presented more information on these points and responded to Board member questions.

Mr. Wynn commented that the fish studies proved that the basis for the prohibition of new structures in fish habitat was false. Piers were not a threat to fish. He felt it was time that this be acknowledged and that the appeal be granted. There were grounds for the Board to consider this appeal within the scope of the current regulations based upon common sense.

Ms. Bresnick suggested that regardless of the feelings of the shorezone study group as to the correctness or incorrectness of study findings the Code regulations until changed needed to be followed. She was not prepared on a case-by-case basis to change the regulations.

Mr. Sevison explained that one of the issues that the Shorezone Policy Committee wanted the Board to discuss in June was possible rule amendments that were responsive to the findings of