

**TAHOE REGIONAL PLANNING AGENCY (TRPA)
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)
AND TRPA COMMITTEE MEETINGS**

NOTICE IS HEREBY GIVEN that on Wednesday, May 26, 1999, 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 Granlibakken Conference Center, 625 Granlibakken Road, Tahoe City, 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 May 26, 1999, commencing at 8:30 a.m., in the same location, the TRPA **Finance Committee** will meet. The agenda will be as follows: **1)** public interest comments (no action); **2)** receipt of the April 1999 financial statement and check register; **3)** allocation of excess fines and forfeitures account; **4)** release of water quality mitigation funds (\$300,000) to Washoe County for Incline Village Commercial and for Lower Wood Creek water quality improvement projects; **5)** release of FY 98-99 water quality mitigation funds (\$109,000) and SEZ mitigation funds (\$74,000) to South Lake Tahoe for water quality and SEZ projects; **6)** discussion of changes to current building lease; and **7)** member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS ALSO GIVEN that on May 26, 1999, in the same location, following action by TRPA on the Consent Calendar, the **Governing Board** of the **Tahoe Metropolitan Planning Organization** (TMPO) will meet. The TMPO agenda is attached hereto and made a part of this notice.

NOTICE IS ALSO GIVEN that on Tuesday, May 25, 1999, at 8:15 a.m., at the Zephyr Point Presbyterian Conference Center, 660 Highway 50, Zephyr Cove, Nevada, the **Governing Board** of the Tahoe Regional Planning Agency will conduct a planning retreat on the TRPA Strategic Plan and FY 1999-00 Work Program.

May 17, 1999



Jerry Wells
Deputy Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateine, Nevada, and Stateline 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 AND
TAHOE METROPOLITAN PLANNING ORGANIZATION GOVERNING BOARD

Granlibakken Conference Center
625 Granlibakken Road
Tahoe City, California

May 26, 1999
9:30 a.m.

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

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

At the conclusion of action on the consent calendar, the TRPA Governing Board will recess its meeting and convene as the TMPO Board. Upon completion of the TMPO agenda, the TMPO Board will adjourn and the TRPA Governing Board will reconvene.

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, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, RTPA, TMPO Appeal, and Planning Matter items will be taken at the time those agenda items are heard.

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 agenda page 3)
- VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)
 - A. Public Interest Comments
 - B. Prioritization of Nevada Transportation Enhancement Act Project Applications

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VIII. PROJECT REVIEW

- A. Sierra Nevada College, New College Dormitory for 126 Students, PAGE 59
Special Use Determination, 291 Country Club Drive, Incline Village,
Washoe County APN 127-040-08
- B. Ruvo, Existing Residence Relocation from Douglas County PAGE 87
APN 01-190-09 to APN 01-070-26
- C. Rosemeyer, Existing Pier Relocation and Expansion, Placer PAGE 101
County APN 117-020-09, File #980224

IX. PUBLIC HEARINGS

- A. Amendment of Chapter 4, Project Review and Exempt Activities, PAGE 121
by Adoption of New Delegation MOU With the City of South Lake Tahoe
- B. Amendment of Plan Area Statement 93, Bijou, to Create a PAGE 129
Special Area #1
- C. Amendment of the Stateline/Ski Run Community Plan PAGE 143
 - 1. Amendment to the Permissible Uses Matrix
 - 2. Amendment to Redistribute Commercial Square Footage
 - 3. Amendment to Objective 2, Policy B, Regarding Construction of the
Required Infrastructure Within the "Ski Run Village" District (3b)
- D. Amendment of Plan Area Statement 58, Glenbrook, to Prohibit PAGE 157
the Construction of New Piers Per the Glenbrook Shorezone Plan

X. PLANNING MATTERS

- A. Discussion on Movement of the Individual Parcel Evaluation PAGE 171
System (IPES) Line in El Dorado and Placer Counties
- B. Discussion on Code Chapter 28, Natural Hazard Standards, PAGE 175
Relative to Floodplain Maps
- C. Discussion on Issues Relating to the Urban Boundary PAGE 177
- D. Discussion on Request for Qualifications for Phase II of PAGE 185
the Regional Revenue Source Analysis
- E. Resolution Supporting Restricting Parking Along Highway 28 PAGE 187

XI. ADMINISTRATIVE MATTERS

- A. Authorization for Executive Director to Enter Into MOU With PAGE 199
Douglas County to Establish a Land Coverage Bank

B. Resolutions for Board Members – 11:45 a.m.

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XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

1. Discussion on Changes to Current Building Lease

B. Legal Committee

XIII. 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

XIV. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. April Financial Statement and Check Register	Receipt	<u>P 1</u>
2. RTPA Resolution Accepting TRPA's Transportation Development Act Triennial Performance Audit for FYs 95-96, 96-97, and 97-98	Approve	<u>P 3</u>
3. Request for Water Quality Mitigation Funds (\$300,000) to Washoe County for the Incline Village Commercial and the Lower Wood Creek Water Quality Improvement Projects	Approve	<u>P 5</u>
4. Request for Water Quality Mitigation Funds (\$109,000) and SEZ Mitigation Funds (\$74,000) to South Lake Tahoe for Water Quality and SEZ Projects	Approve	<u>P 11</u>
5. Allocation of Excess Fines and Forfeitures Account	Approve	<u>P 15</u>
6. Wilson, New Commercial Building and Residential Unit, 3100 N. Lake Boulevard, Dollar Hill, Placer County APN 93-130-31 and -28, File #970599	Approve Findings and Conditions	<u>P 19</u>

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|----|---|---------------------------------|-------------|
| 7. | Lake Tahoe Community College, Two Modular Classrooms Addition, One College Drive, South Lake Tahoe, El Dorado County APN 25-010-54 File #990117 | Approve Findings and Conditions | <u>P 33</u> |
| 8. | Douglas County School District, Zephyr Cove Elementary School, Classroom Addition, Warrior Way, Douglas County APN 05-070-01 | Approve Findings and Conditions | <u>P 45</u> |
| 9. | Resolution in Support of Committees to Lay Groundwork for 2000 Federal Census | Approve | <u>P 55</u> |

These consent calendar items are expected to be routine and non-controversial. 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

During the May 26 noon lunch break, the North Lake Tahoe Historical Society will provide the Board with a tour of the Gatekeeper's Museum and the Marion Steinbach Indian Basket Museum, 130 West Lake Boulevard in the William B. Layton Park, Tahoe City, California.

TAHOE REGIONAL PLANNING AGENCY

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NOTICE OF AMENDED AGENDA TAHOE REGIONAL PLANNING AGENCY GOVERNING BOARD

NOTICE IS HEREBY GIVEN that the regular May 26, 1999, Governing Board meeting agenda for the Tahoe Regional Planning Agency is hereby amended by adding the following item as Planning Matter item X. F.:

Special Projects Allocation, Commercial Floor Area, Request for Time
Extension **PAGE 191**

May 18, 1999



By: _____
Jerry Wells
Deputy Executive Director

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.

REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Seasons Resort
South Lake Tahoe, California

April 28, 1999

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Larry Sevison called the regular April 28, 1999, meeting of the Governing Board of the Tahoe Regional Planning Agency to order and asked Vice Chairman Don Miner to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Mr. Cole, Ms. Bennett, Mr. Giles (present at 9:55 during discussion on item VII.B.), Mr. Perock, Ms. Neft, Mr. Galloway, Mr. Sandoval, Mr. Heller, Ms. Medina, Mr. Sevison

Members Absent: Mr. Neumann

Chairman Sevison welcomed Leslie Medina to the Board as the new California Assembly Speaker appointee.

III. PUBLIC INTEREST COMMENTS

Mr. Don Kornreich, Incline Village resident, addressed the Board on a Basin impact fee, a memo to TRPA Executive Director Jim Baetge from the Incline Village/Crystal Bay Chamber of Commerce, the importance of raising \$20 million for the EIP, and his current summary of average daily trips in Nevada.

Mr. Galloway noted that the Chamber's letter to Mr. Baetge discussed things other than just the user fee as a source of revenue.

IV. APPROVAL OF AGENDA

Executive Director Jim Baetge noted there were no agenda changes.

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

V. APPROVAL OF MINUTES

MOTION by Dr. Miner to approve the March 24, 1999, minutes with spelling corrections (Dr. Miner's name). The motion carried unanimously.

VI. CONSENT CALENDAR

Legal Committee member Drake DeLanoy asked that item 3 (Duffield resolution of enforcement) be taken off the calendar for discussion and separate action.

Finance Committee Chairman Kay Bennett noted her committee had met earlier in the day and recommended approval of items 1, 2, 8, 9, and 11.

Legal Committee Chairman Waldie explained that his committee had met earlier in the day and had voted two to approve and one to abstain on the Duffield matter.

MOTION by Mr. Galloway to approve all items other than item 3 on the consent calendar.

Associate Planner Kathy Canfield advised the Board that an April 22 memo to the Board contained additional conditions of approval for item 4 (Pet Network). A copy of an added condition to item 6 (Lake Tahoe Christian Fellowship) was distributed to members prior to the meeting. Applicants in both cases were agreeable to the changes.

Mr. Galloway's motion to approve items 1, 2, and 4 through 11 on the calendar carried unanimously.

(Following are items approved on the consent calendar:

1. March Financial Statement and Check Register
2. Resolution Amending Filing Fees (TRPA Resolution No. 99-5)
4. Pet Network of North Lake Tahoe, New Public Service Building, Animal Care Facility, 401 Village Drive, Incline Village, Washoe County APN 124-071-47, File No. 980770
5. Nixon, Resolution of Enforcement, Placer County APN 92-180-45
6. Lake Tahoe Christian Fellowship, New Church, 3580 Blackwood, City of South Lake Tahoe, El Dorado County APN 25-250-06, File #980953
7. South Tahoe Public Utility District, Flagpole Water Tank, New Public Service Facility, Access Road at the End of Chiapa Drive, Meyers, El Dorado County APN 035-010-11, File #980827
8. Authorization to Switch Banking Institutions From Bank of America and Nevada Banking Company to Norwest Bank
9. Resolution Amending FY 98/99 TRPA/Caltrans Overall Work Program (RTPA Resolution No. 99-7)
10. Round Hill Vacation Resort, Minor Modification to an Approved Mitigation Measure in the Project Environmental Assessment (EA) Affecting Project Phasing, Douglas County APN 005-230-11 (near intersection of Elks Point Road and Highway 50)
11. Placer County Request for Additional \$200,000 in Water Quality Mitigation Funds for the Tahoe City Water Quality Improvement Project)

Duffield, Resolution of enforcement, 703 Champagne Road, Washoe County APN 126-243-03 (Consent Calendar Item 3)

Mr. DeLanoy explained that he had asked for discussion on this item because the public should know what the Legal Committee looked at in its review of enforcement activities. Applicants granted permits to build signed a pledge taking the responsibility for any violation of TRPA ordinances. In its capacity as representative of residents and visitors to the Basin, the Board took seriously any violations of that agreement. Although the Duffield matter had been settled, in the future he and others would look differently at violations based on compact language allowing the courts to impose additional penalties if violations were grossly negligent or intentional. For that reason, he asked the Board in

the future to determine whether a violation was willful and, if so, urge the courts to seek punitive damages based on the financial status of the violator.

Mr. Galloway explained the conditions of the settlement appeared to go in a minor degree to correction of the violations. Although the fine was hefty, the Board should give serious thought to those who violated conditions of development but who did not have to take something that mattered out of the project. They had only to pay a fine. This was not a good message to send to other developers. He was not sure that what the Duffields were being required to do was sufficient. He would, however, support the motion.

MOTION by Dr. Miner to approve item 3 on the consent calendar (Duffield, Resolution of Enforcement, 703 Champagne Road, Washoe County APN 126-243-03). The motion carried with Mr. DeLanoy abstaining.

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION

Chairman Sevison recessed the TRPA Governing Board and called the Governing Board of the Tahoe Metropolitan Planning Organization (TMPO) to order. He welcomed Juan Palma to the TMPO Board as the representative of the U.S.D.A. Forest Service.

A. Public Interest Comments

TRPA Executive Director Jim Baetge commented on this first meeting of the TMPO Board and welcomed Juan Palma as a voting member. One task to be accomplished today was setting the rules for future operations and procedures. The TMPO Board consisted of the TRPA Board plus the Forest Service. Mr. Richard Wiggins was acting as the Transportation Manager for the TMPO, the TRPA, and the Tahoe Transportation District (TTD). The Board would see many changes in the coming months; this was the first step.

B. Resolution Adopting Rules of Procedure of the TMPO

Mr. Richard Wiggins explained that the TMPO had been two years in the making, and the proposed rules addressed the new body's voting and other procedures. These rules were based on TRPA's rules but deleted sections related to review of projects. The intent was that the TMPO Board meet on the same day as the TRPA Board and use the same agenda. The vote required for action was a simple eight vote, and the TRPA Chairman and Vice Chairman would serve as the TMPO Board officers. A right was reserved at a later time for the TMPO to elect its own officers if it wished.

Dr. Miner asked for the following rule changes: 1) Article II, Section 2.2(a)(i) regarding calling of special meetings – should be amended to comply with the Nevada Open Meeting Law and not as set forth (“publication of the date and place for such special meeting at least five calendar days prior to the meeting in a newspaper or combination of newspapers whose circulation is general throughout the Region...”). The Nevada Open Meeting Law required that notice be given based on business days (not calendar days) with a minimum of three days' notice. 2) Article II, Section 2.4 – In compliance with the Nevada Open Meeting Law, the third sentence should be amended to read, “No action shall be taken in the absence of a quorum. ~~except that a lesser number of members may continue a meeting until a quorum is present.~~”

Agency Counsel John Marshall responded that, because of the uncertainty regarding which set of laws the TMPO would operate under, staff had presumed it would be the Nevada Open Meeting Law, the same as for TRPA. Although not necessarily required, to be consistent the TMPO should use the Nevada Open Meeting Law.

Dr. Miner asked that use of the Nevada Open Meeting law be specifically set forth in the TMPO rules.

MOTION by Dr. Miner to approve TMPO Resolution No. 99-1 with the changes as requested.

(Mr. Giles came into the meeting.)

Mr. Steve Teshara, a member of the TTD Board of Directors, addressed issues discussed by the TTD and the desire to participate in key TMPO personnel hiring decisions.

Mr. Baetge concurred. He thanked Steve Teshara for the many years and tremendous effort he had put into the TMPO designation.

TTD Board members Bennett and Solaro spoke in favor of Mr. Teshara's recommendation on participation by the TTD in personnel selection.

Mr. Wiggins addressed further items, including the formation of a Tahoe Transportation Commission and determining its duties.

The motion to approve TMPO Resolution 99-1 as amended carried unanimously.

C. Authorization for Executive Director to Enter Into MOU Regarding Implementation of the Federal Metropolitan Planning Process in the Tahoe Basin

Mr. Wiggins noted that only certain items of the 30-page MOU had been highlighted in the Board members' meeting materials. The MOU was required between the TMPO, Caltrans and NDOT because of federal funding coming to the MPO, the relationship of TRPA as the administrative arm of this new body, and required identification of responsibilities. Mr. Wiggins presented more information on the MOU contents.

MOTION by Ms. Neft to authorize the Executive Director to enter into an MOU for the implementation of the federal metropolitan planning process at Tahoe. The motion carried unanimously.

D. Status Report on Implementation of Home Mail Delivery in the Tahoe Basin

Mr. Wiggins explained this matter was first brought to the TTD along with the question of whether funds should be programmed to conduct a survey of postal patrons to determine status of home delivery in the Basin for future implementation efforts. An existing postal service action plan on the books dated back to the early 1980s. Unfortunately it only addressed the South Shore. The intent today was to have a dialog between TRPA and the TMPO so that the Postal Service could understand the

relationship between the various agencies and provide feedback from the TMPO on how to proceed with the master planning process.

Ms. Rebecca Bernard, Operations Manager with the Post Office in Reno, introduced the working group who would be developing the mail delivery plan. These included postmasters from Tahoe City/Tahoe Valley, Incline Village/Crystal Bay, Carnelian Bay, and Homewood, consultant Sue Rae Irelan and postal representatives from Denver and Las Vegas. The goal for the Postal Service was to provide mail service to the Tahoe Basin that encouraged residents to drive fewer miles. This would be done by offering rural home delivery of mail. Carriers on wheels could offer most services provided at the post office. Goals included encouraging the public to fill out the form requesting establishment of rural delivery, expanding current postal services to accommodate the carriers, and establishment of rural delivery in as many communities as possible. Currently, South Lake Tahoe had individual home delivery and Incline had predominantly mail delivery to neighborhood units. Ms. Bernard provided more information on rules for mail carriers regarding home delivery, formation of the working group to include community members and a TRPA staff member, and the hiring of Sue Rae Irelan to assist with the plan. The next step was to present a work plan to TRPA for approval, an ad campaign for the survey, and drafting and adoption of the master plan. The schedule called for completion of the action plan proposal by February 2000. Previously the Postal Service had focused more on the negative aspects of mail delivery rather than looking at what it could actually do. The focus and approach had shifted. Ms. Bernard responded to Board member questions.

The Board members and staff complimented the Postal Service and Ms. Irelan for stepping forward in such a positive manner to complete the action plan.

Ms. Irelan explained the survey was intended to address service needs and to determine travel patterns.

Ms. Bennett urged that the Postal Service and the participants in the master plan process keep the Tahoe Transportation District updated on the process.

Ms. Patricia Ronald, for the League to Save Lake Tahoe, spoke in favor of this process as a mechanism to reduce vehicle miles traveled. She would prefer to have it implemented throughout the Basin and not just on a voluntary basis. She urged the use of vehicles with alternate forms of fuel.

The Forest Service representative Juan. Palma commented on the historic importance of the moment. The Forest Service, on behalf of the public, managed 80 percent of the land in Lake Tahoe and was looking forward to the possibilities in being able to participate with this board on transportation issues. This was an exciting time, and much work remained to be done.

XIV. REPORTS

A. Governing Board Members

1. Request of Board Member Waldie for Reconsideration of the Following: Robinson, The Dunes, New Multi-Family Dwelling, Subdivision, and Modification to Shoreline Protective Structures,

6780 North Lake Boulevard, Placer County APN 117-072-11, File Nos. 980368 and 980448 (**This item must be acted on before action on agenda item VIII.C.**)

Board member Jerry Waldie explained he had asked this be put back on the agenda at the request of Deputy Executive Director Jerry Wells, who had concerns with notice provided to affected property owners prior to the March Board meeting. The project was approved on the consent calendar at that time. In his opinion, the opponents to the project were not legally entitled to present the deficient notice as a reason for their confusion. There was sufficient legal response to the requirements of notice. During the review process, the Feeleys, the neighboring property owners, had raised issues, and staff was under the impression that with some changes in the application their problems had been accommodated. Mr. Wells became aware subsequent to approval of the consent calendar that the applicant's representative, Mr. Basile, was in the hallway during the Board's action on the calendar. In Mr. Waldie's opinion, Mr. Basile had erred and should have been present when the calendar was called and should have consulted staff as to his confusion on the notice. He should have asked the matter be taken off the consent calendar. He did neither. Mr. Lien, attorney for the applicant, correctly argued there was no duty on his part to inform his opponent the case was being called. In Mr. Waldie's opinion, however, there was a courtesy demanded of counsel that counsel be informed the matter was about to be called. This was not done. By the time Mr. Wells became aware that the opponents were out of the room when the calendar was approved, the project proponents had left. It would have been a great imposition to reconsider the matter at the March meeting with the proponents having left the site. It was a situation fraught with unanticipated dilemmas that were not dealt with very comfortably by all parties concerned. He had acquiesced to Mr. Wells' request to place reconsideration back on the agenda. As to the consent calendar, it was a unique procedure, and only issues without an iota of disagreement or opposition should be placed on it. On this Robinson matter there was a big question as to opposition. It was handled by the opposition and by other parties poorly. The fact was not altered in the slightest that this project had opposition and not altered in his view that the duty of the Board was to provide a forum for that opposition to be expressed.

MOTION by Mr. Waldie to reconsider the Robinson new multi-family dwelling, subdivision, and modification to shoreline protective structures.

Agency Counsel John Marshall advised that a five-nine vote was required. Should the motion carry, the matter was on the agenda for action at this meeting.

Mr. Baetge explained that only affected and noticed property owners or Board members could request that an item be taken off the consent calendar. In practice, however, if a member of the public who was not noticed wanted an item to be pulled staff would direct that person to a Board member for a request.

Chairman Sevison inquired if Mr. Basile or Mr. Feeley were present in the audience. Neither was present.

Mr. Marshall advised that he had contacted Mr. Basile on April 27 to let him know the project was on the agenda for reconsideration and formal action.

During the roll call vote for reconsideration, Mr. Gregg Lien, attorney for the Robinsons, inquired about his ability to comment on the matter.

Mr. Marshall explained that the Rules of Procedure did not address whether there should be public comment on a motion for reconsideration. To be in a more defensible position, the Board may choose to take public comment; it was not a necessity.

Mr. Lien withdrew his request.

Mr. Waldie's motion for reconsideration failed on the following vote:

Ayes:	Mr. Perock, Mr. Cole, Ms. Medina, Ms. Bennett, Mr. Waldie, Mr. Giles
Nays:	Dr. Miner, Mr. Galloway, Ms. Neft, Mr. Heller, Mr. Sandoval, Mr. Solaro, Mr. DeLanoy, Mr. Sevison
Abstain:	None
Absent:	None

The Board members discussed the rules affecting the consent calendar and procedures for requests for reconsideration.

Chairman Sevison explained that with the Board's action on the request for reconsideration, item VIII C. (the Robinson project) was deleted from the agenda.

VIII. PROJECT REVIEW

A. Stateline Casino Core, Areawide Stormwater Drainage Project Douglas County

Project Review Planner Kara Russell distributed a revised condition of approval on the project and presented a summary of the project for which the Board had certified an Environmental Assessment in February 1998. She presented information on affected properties, on the plan and proposed facilities, and on the revised condition requiring implementation of an approved monitoring plan for a minimum of five years. Construction would commence in June this year and be completed in June of 2000. Ms. Russell responded to Board member questions about maintenance of the facilities and the quality of runoff from Golf Course Creek.

Consultant Gary Midkiff, project coordinator for the affected properties, presented a history of the project dating back to 1978 and placement of a condition of approval on the Sahara Tahoe Hotel tower and the Park Tahoe Casino Hotel for installation of stormwater facilities on their sites. Over the years, he had negotiated with all parties a more detailed agreement for each property to collect and pretreat everything on their sites prior to discharge to a common facility. The participants shared the cost proportionally based on percentage of surface area. The adoption of the Community Plan for the Stateline area in 1993 required an irrevocable commitment of funds to implement the stormwater package prior to release of any additional commercial floor area. Mr. Midkiff presented more information on the specific details of the proposal and the likely participation of the nearby Wells Fargo Bank. Issues of note in the staff report related to the project security and the monitoring security. The conditions would require a project security. The project contract would be let and managed by NDOT. NDOT's

contract required the posting of a 100 percent performance bond for completion of the total project. The project by definition was a stormwater BMP project, and he was working with staff on what the security needed to be. The applicant would post a reasonable security to maintain the temporary BMPs through the construction period, since there would be a performance bond in place for the actual implementation of the vaults and facilities. Staff also required a \$5,000 fee to cover inspection costs, and he would work with staff to track so that if the costs were substantially less there could be a refund. There was a requirement for a security for the monitoring program for all points of monitoring. Staff had agreed that it was a reasonable adjustment that the applicant would monitor and provide a security for monitoring the final point of discharge from the entire system. The security for monitoring would be for the monitoring cost associated with the point of discharge.

Dr. Miner asked that the approval of the project include a condition requiring that the monitoring costs be shown at actual costs and staff is directed to maintain records of personnel and bill the Stateline stormwater project for actual cost of monitoring.

Mr. Phil Herbeck, Operations Manager for Harvey's and president of the Association, addressed the cooperative effort of public and private entities over the years to get the project to this point. It would be a great system. This was miles beyond the water quality treatment facilities in the casino core now. He complimented all participants. With regard to the special project security provisions, he urged the Board to continue to work with the Association. All private participants had budgeted for this year to get the job done and hoped the mitigation costs could be kept within reason so that the focus of the resources could go onto the ground.

No one else wished to comment.

Ms. Russell explained that the permittee would have to submit a maintenance schedule for the individual systems and the common facilities. (She noted that the required findings at the top of page six of the staff summary should refer to Governing Board approval, not Hearings Officer approval.)

MOTION by Dr. Miner to make the findings to approve the Stateline Areawide Stormwater Drainage Project. The motion carried unanimously.

MOTION by Dr. Miner to approve the project with conditions as amended and including a requirement that oversight costs be actual costs. The motion carried unanimously.

XI. PLANNING MATTERS

B. Report by Caltrans and NDOT on Salt and Abrasives Use on Tahoe Basin Highways

Senior Planner Mike Solt advised that this annual report to the Board was a Code requirement. The use of salt and abrasives on Basin highways was a recognized necessity as a public safety precaution in the winter months, and it was also recognized that their use had an impact on several thresholds of concern, including water quality, soil, air quality, and vegetation. The Highway Departments had set a standard of a 30 percent reduction in salt use dating back to 1989; that goal had been met by both highway departments during the past ten years, and both continued with practices to

further reduce reliance on salt. Recently an interagency winter operations and maintenance committee was formed to exchange information on effectiveness of new methods used on a trial basis.

Mr. Dale Ten Brock, on behalf of Irene Itamura, the District Director for Caltrans District 3, and Mr. Thor Dyson, Assistant District Engineer for NDOT, distributed handouts to the Board and discussed both state programs, snow days per winter, amounts of snow removed, salt use in the Basin, experiments in other areas with liquid deicers, cooperative programs, monitoring and personnel training.

The meeting recessed for a lunch break from 12:15 to 1:25 p.m.

VIII. APPEAL

- A. Chase, Appeal of Executive Director Decision Denying Relocation and Expansion of Existing Single-Use Pier, Douglas County APN 03-080-27, TRPA File #990043

Associate Planner Charles Donaldson presented a summary of the denial of a request to relocate and expand an existing single use pier. The denial was based on the fact staff could not verify an existing pier on the property to relocate and expand and could not recommend a finding that the existing structure had been serviceable in the past five years. In staff's opinion, the structure the applicant was calling a pier was part of a marine railway system. The applicant had appealed this decision. Mr. Donaldson distributed photographs of the site and responded to Board member questions regarding the littoral parcel and the identification of the site as a fish habitat.

Mr. Gary Midkiff, consultant for Shari Chase, noted that the Code defined a pier as a platform extending beyond the high water line. The structures in question included a platform and a boathouse that extended beyond the high water line of Lake. The definitions in the Code supported his appeal and entitled the littoral property owner to a pier and two mooring buoys. An existing pier could be repaired and, in most cases, extended. This was clear in the Code, and staff was attempting to modify the interpretation of the Code without changing the Code. Mr. Midkiff presented more information and affidavits on past use of the house and shoreline structures and the applicant's position that the structures met the Code definition of a pier and a boathouse. He responded to Board member questions about the condition of the structures, the serviceability of the railway, the separate nature of the railway and pier and boathouse, the property owner's understanding of what shorezone uses were permitted when the property was purchased, and past uses.

Mr. John Gianotti, co-owner of the property with the appellant, described his desire over the years to own and live on shoreline property, verification given earlier in a backshore boundary clarification of the existence of a pier and a boathouse, and his wish to fish on the Lake. He urged the Board to grant the appeal and to concur with Mr. Midkiff's points.

The Board members, the staff and the appellant discussed the configuration and relationship of the structures, the appellant's effort to treat the separate components of the structure, definitions, staff's evaluation of the structures, how the structures were used over time, the proximity of the structures to the high water line, the need for clarification in the upcoming shoreline ordinance amendments, and the affidavits.

MOTION by Dr. Miner to approve the Chase appeal. The motion failed on the following vote:

Ayes: Mr. Cole, Dr. Miner, Mr. Galloway, Mr. Solaro,
Nays: Ms. Medina, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Heller, Mr. Giles, Mr. Sandoval, Mr. DeLanoy, Mr. Perock, Mr. Sevison
Abstain: None
Absent: None

Executive Director Jim Baetge explained that the Shorezone Ordinance Amendments EIS was currently out in circulation for comment. The whole package was designed to address issues in the shorezone, including clarification and clean up of all shorezone regulations.

IX. PROJECT REVIEW (continued)

- B. Incline Village General Improvement District, New Skate park, 949 Southwood Boulevard, Washoe County APNs 127-030-15, 016 and -02, and APN 127-040-07, TRPA File #980910

Associate Planner Kathy Canfield presented the staff summary for approval of the District's proposed skate park and the 14,400 square feet of new land coverage. She distributed letters received by staff on the project. The project would not be visible from the roadway, and no lighting was proposed. Any proposal to add lighting over 26 feet would have to come back through TRPA.

Mr. Doug Doolittle, Incline Village GID director of Parks and Recreation, explained planning for this project by independent groups in Incline started back in 1992. The latest group was the Incline Skateboard Foundation, and this group would help finance part of the project in the amount of \$25,000 of in-kind services or cash from fund-raising events. Many meetings had been held locally and at the Commission level on this project, the goal being to provide a safer alternative for skateboarding than streets, sidewalks, and parking lots and to provide an opportunity for skateboarders to improve their skills. There would be no charge for use of the park, and the business leaders in the community would see a great benefit in getting the skaters out of the parking lots.

Mr. Galloway explained the community impacts of the project were extensively discussed at the Washoe Commission level, and it was determined to be a positive activity for the community. It was approved at that level. The question before TRPA should focus on the environmental impacts.

Mr. Perock spoke on the very positive impacts of a similar facility in Carson City.

No one from the audience wished to speak on the project.

MOTION by Mr. Heller to make the findings for approval of the IVGID skateboard park. The motion carried unanimously.

MOTION by Dr. Miner to approve the project with conditions.

PUBLIC HEARINGS

- A. Amendment of Chapter 4, Project Review and Exempt Activities, by Adoption of New Delegation MOU With El Dorado County

Mr. Rick Angelocci, Chief of Project Review, presented a summary of the delegation MOU with El Dorado County and the goal of the MOU to expand the Permit Integration Program. This was one of several MOUs coming to the Board. Currently the County reviewed all residential projects. Some of the activities this MOU would delegate to the County were review and approval of multi-person dwellings, nursing facilities, residential care facilities, minor additions/modifications to tourist accommodation uses, and coverage transfers. The APC voted unanimously to approve it. In other actions, the City Council adopted the TRPA Plan Area Statements as a part of the City's General Plan. This would be brought to the Board next month. Additionally, Douglas County had voted to put a planner in TRPA's office to work on Douglas County projects. Staff would be working with Placer and Washoe Counties to expand their MOUs.

No one wished to speak during the public hearing.

MOTION by Mr. Solaro to approve the MOU between TRPA and El Dorado County as proposed. The motion carried unanimously.

Chairman Severson noted this was a very positive step. He read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, By Amending Chapter 4 of the Code of Ordinances of the Tahoe Regional Planning Agency Relating to the Exempt Activities; Providing for a Memorandum of Understanding Between the Tahoe Regional Planning Agency and El Dorado County to Exempt Certain Activities From TRPA Review; and Other Matters Properly Related Thereto.

MOTION by Mr. Solaro to adopt Ordinance No. 99-13. The motion carried unanimously.

- B. Lake Tahoe Source Water Assessment and Protection Program – continued to a later meeting
- C. Amendment of the Boundary Line Between Special Areas #1 and #2 of the Tahoe Vista Community Plan to Include Placer County APN 117-072-012 in Special Area #1

Associate Planner John Hitchcock presented the history of the uses on the parcel dating back to July 1992, when the residence on the parcel burned down. The parcel was located in Special Area #2, where residential uses were not a permissible use. Residential uses were, however, permitted in the tourist Special Area #1. When the boundary line was drawn in 1996 the parcel was put in Special Area #2 because it was vacant. Staff assumed, because there was no residence, that the property should go into the commercial Special Area #2. This was a Community Plan area and Special Area #1 was a tourist accommodation area; the policy encouraged tourist uses and beach access. To that end, staff recommended and the applicant had agreed to provide a ten foot easement above high water as a part of the amendment. Mr. Hitchcock responded to questions regarding the delineation of the easement.

Agency Counsel John Marshall explained that in this case there would be an irrevocable offer to dedicate the easement to an entity that would accept the offer. The easement was defined in the offer as ten feet landward of the mean high water mark. The applicant had agreed not to block public access or to put up a private property sign.

Mr. Sevison advised that in the early 1960s he had built the cabin on the site. It had been a long time since he had had any involvement with the property. He questioned if he had a conflict.

Mr. Marshall responded that he did not.

No one wished to comment in the public hearing.

MOTION by Dr. Miner to make the findings to approve the amendment. The motion carried unanimously.

Chairman Sevison 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 Tahoe Vista Community Plan to Amend the Boundary Line Between Special Area #1 and Special Area #2 to Include Placer County APN 117-072-01 Into Special Area #1, and Providing for Other Matters Properly Relating Thereto

MOTION by Ms. Neft to adopt Ordinance No. 99-14. The motion carried unanimously.

D. Amendment of Chapter 20, Land Coverage, Relative to Maximum Land Coverage in Adopted community Plans

Associate Planner John Hitchcock explained the amendment was intended to clean up and add consistency between Code sections. The proposed language would allow parcels that had been subdivided or newly recorded due to boundary line adjustments to be eligible to transfer in up to a total of 50 percent coverage for multi-residential, recreation, tourist accommodation, or public service projects when located within an existing adopted Community Plan. Although there was a concern on the part of one APC member regarding the definition of a new parcel in the Basin, this was a point not related to the boundary line issue. The Advisory Planning Commission voted to approve the amendment.

No one wished to comment in the public hearing.

MOTION by Ms. Neft to make the findings to amend Chapter 20 as proposed. The motion carried unanimously.

Chairman Sevison read the ordinance by title

An Ordinance Amending Ordinance No. 87-9, as Amended, By Amending the Code of Ordinances of the Tahoe Regional Planning Agency, Amending Chapter 20, Land Coverage, Subsection 20.3.B(3), and Providing for Other Matters Properly Relating Thereto

MOTION by Dr. Miner to approve Ordinance No. 99-15. The motion carried unanimously.

- E. Performance Review Committee Recommendations on Distribution of 50,000 Square Feet of Commercial Floor Area Allocations to Local Jurisdictions

Senior Planner Paul Nielsen presented the recommendation of the Performance Review Committee for distribution of 50,000 square feet of commercial floor area to local jurisdictions based on completion of capital improvement projects. The item was continued from December at the Board's request so that the Committee could consider additional information on criteria for establishing the ratings. The Committee had met two times since then and had agreed to clarify the criteria used. Based on that criteria, some changes were made. Significant capital investment had been made by local jurisdictions towards achievement of environmental goals. He responded to Board member questions.

No one wished to speak during the public hearing.

MOTION by Dr. Miner to make the finding of No Significant Effect for apportionment of the 50,000 square feet of commercial to local governments. The motion carried unanimously.

MOTION by Dr. Miner to adopt Resolution No. 99-6. The motion carried unanimously.

X. PLANNING MATTERS

- A. Discussion on Movement of the Individual Parcel Evaluation system (IPES) Line in El Dorado and Placer Counties

Senior Planner Joe Pepi explained the criteria to be met for movement of the IPES line in the two California counties. The vacant lot equation required that the number of parcels with IPES scores below the line divided by the number of parcels deemed sensitive could not exceed 20 percent in California. At this time, Placer County was at 49 percent, and El Dorado County was at 28 percent. El Dorado was 349 parcels away from the 20 percent figure, and Placer was 485 parcels away. At the Board's earlier recommendation, a workshop meeting was held on April 6 to discuss ways to achieve the 20 percent threshold. Options discussed by the group for achieving this included looking at consolidation of parcels, possible removal from the inventory of 38 parcels owned by local government agencies, clean-up of vacant properties not now eligible for buy-out by acquisition agencies because of their fire hazard, scoring the 212 unscored sensitive lots for a more complete picture of the scoring distribution of vacant parcels above and below the line, and addressing the small sliver parcels now in the inventory which had limited suitability for development. At best the acquisition agencies in attendance at the workshop determined they could acquire and thereby reduce the inventory by 80 additional parcels per year. This would mean two to three years in El Dorado County to reach the 20 percent and four to five years in Placer County. While these options did not provide a quick fix for the immediate future, they were potential avenues to address the line's movement, given the criteria in the Code and the 208

Plan. Any consolidation of lots, particularly high scoring lots, should be deed restricted to prevent future splitting.

Mr. Larry Hoffman, on behalf of the Tahoe Sierra Preservation Council, a property rights organization in the Basin, commented on the number of times discussion on movement of the IPES line had come before the Board. The issue was one relating to approximately 2,000 single family parcels in approved, established subdivisions in California with non-pass IPES scores. As long as the IPES program stayed in place, it constituted a taking. Mr. Hoffman presented a history of the process dating back to litigation on the 1984 Regional Plan. His summary addressed the consensus process; the ranking of vacant residential lots jurisdiction by jurisdiction based on criteria relating, in part, to lot sensitivity; and the intended movement of the line through the inventory of lots based on public agency lot acquisition and capital improvements by local governments. The lion's share of the acquisition programs was completed and considerable dollars had been invested by local jurisdictions on capital improvements. The reason for the rule was no longer a justification. The line in California had not moved, and the math did not work. The Board's earlier direction for staff to look at what other options were available had been done, and he was still being told it would be years before the line came down in California. In Nevada the line was near the bottom of the bucket, with the exception of stream environment zone lots which had zero scores. There was a disparate system between the States; people were being treated differently. There also was the benefit of substantial litigation and case law which found that a taking existed if a lot owner could not make use of a lot. The current regulatory system in the Basin exposed TRPA to defensible legal challenges. He urged the Board to take a second look and change the system by amending the ordinances and plan. The reason for the rule in the first place had been met, and there no longer was a need for the regulation; it was not achieving anything. Movement of the line as anticipated by staff was just the beginning of the line's movement. For eleven years, the line had not moved in California. He would like TRPA to get rid of the line altogether, as there was a cap on building already in place because of the fixed number of allocations issued per year.

Mr. Hoffman and staff discussed with the Board the impact of treating all lots in the Basin as a unit and not by state, problems encountered in shifting from the Bailey Land Capability System to the IPES program in 1989, reasons the anticipated line movement had not occurred as estimated, what could be done to achieve purchase of sensitive lots, setting guidelines and a deadline (such as 24 months) for California's achievement of the same status as the Nevada counties, allowing lots to come into the system that were capability 4-7 (higher capability) under Bailey but which under IPES were below the line, and the potential for litigation.

Executive Director Jim Baetge explained that the working group that met in early April was trying to administratively fix the IPES line situation. Mr. Hoffman felt those administrative fixes would not work. The Board should be aware that another process was underway geared towards amending the 208 Plan to address this issue. However this evolved, there would be legal issues. One qualification with Mr. Hoffman's summary of the process to date was that rates of capital improvements at the local level had not occurred at the rate that was needed. The acquisition program did take a dip in the 1990s, but it was on an upswing now in both states. The question was how quickly the agencies could move to acquire the properties. He suggested that the 208 amendment

process proceed, even though TRPA may be at risk during that time period. The three-year time frame was probably how long that amendment process would take

Mr. Giles questioned whether TRPA had the legal authority to set a goal of resolving the issue in 24 months. At that time TRPA would treat California lots the same as it did Nevada's.

Mr. Marshall responded that TRPA had that authority so long as it took the necessary steps to get there. If the Board were looking at substantial structural changes to the 1987 Plan, an amendment of the 208 Plan would be required. The amendment process had certain timelines. If the problems could be solved with non-208 Plan fixes, that could be done relatively expeditiously. Structural changes to the 1987 Plan would take longer to accomplish. The 1984 Plan which resulted in TRPA being sued by the California AG and the League to Save Lake Tahoe contained the provision now suggested by Mr. Hoffman to allow a certain number of sensitive lots to be built on every year. That plan was declared by a court to be invalid. The goal was to protect the Lake, and the Agency had to figure out how to accomplish that with a minimum of exposure.

The Board members discussed further the legal implications of the status of the California line. Mr. Marshall recommended the Board continue to pursue all available strategies – to defend the 1987 plan in court, to look at correcting any known fairness issues, to consider ways to bring the IPES line down – with a realistic view that if significant fixes needed to happen, they would take a number of years to come on line.

Mr. Hoffman suggested that whatever the Board chose to do should be on a fast track under Board control, and it had to be a high priority. He would not want it to be one of those issues that was visited once a year. He wanted a course of action that would get to resolution.

Mr. Dan Siegel, with the California Attorney General's office, advised that the major reason his office had brought the lawsuit against TRPA's 1984 plan was that it allowed limited development of environmentally sensitive lots and unimproved lots. The injunction was upheld in the courts. The idea of the IPES system with a lowering of a line was extremely controversial because it was a system which allowed development of environmentally sensitive lands. The resulting formula agreed to by all allowed a number of parcels that potentially could be environmentally sensitive to be developed, but that number would be sufficiently small that everyone could live with it. That formula was very important to his office and to the League to Save Lake Tahoe. TRPA now operated under the 208 Water Quality Plan, a plan certified by California and Nevada and approved by EPA. The formula was explicitly stated in that plan. Any amendment would require an analysis showing whether the new approach was at least equal in terms of protecting Lake Tahoe as the current plan. The AG was not closed to amending the 208 Plan, but there would be strict environmental standards applied to amending it. Staff was looking for ways to legitimately lower the IPES line in California, while being faithful to the 208 Plan. Mr. Siegel presented more information on these options, noting that the Suitum issues had nothing to do with the IPES line. SEZ lots were unaffected by the IPES line.

Mr. Sevison commented on the decreasing number of willing sellers in California and the impact on lowering the line. He did not think the line would move in three to four years; it would be more like dozens years if acquisitions were a prerequisite. In spite of

significant efforts to encourage the buy-out programs, they were not proceeding as hoped and as anticipated.

Mr. Cole suggested there was an assumption the IPES line would move; that was in response to concerns of a takings. The idea of having a system which allowed movement of the line allayed the legal concerns with a takings. There were problems if the line had not moved and it would not move in anyone's lifetime.

Ms. Bennett commented on the hard work in the last five to six years to attract a high level of attention to the Tahoe Basin, resulting in large amounts of dollars from the states and federal government to protect Tahoe's water quality. Nevada was considering another \$57 million. She was concerned with the message being sent to those who had invested public dollars on the EIP program if TRPA were going to make it possible for there to be more private development. It was reasonable to look at opportunities, but not to eliminate IPES and allow development on all properties.

Dr. Miner suggested there were no provisions for unlimited buildout of all parcels, since there was a fixed limit of 300 permits per year in the Basin. If the line were lowered, there still would be 300 permits distributed equitably throughout the Basin. There was no carry-over from one year to the next, and allocation was conditioned on certain capital improvement projects being factored in. He favored a first come-first served allocation system up to the number of residential units allowed in any one year. His concern was whether there was sufficient time to make amendments; 208 amendments would be a major effort, as would amendment of the 1987 plan. He questioned what could be done to work toward more parity – without giving up any existing controls.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, explained that if Mr. Hoffman had been at the April 6 workshop, he might feel differently about the issue. Those who had participated, including real estate agents, left the meeting quite confident that with the measures being looked at the necessary lots could be retired faster than the 208 Plan amendments could be processed. Ms. Nason commented on the possible increase in funds for the California Tahoe Conservancy from \$5 to \$7 million to \$23.5 million, and the more active management of the Forest Service and its commitment to the Burton-Santini program. There was a vastly greater amount of money coming into the acquisition agencies than there had been for the last few years. Ms. Nason commented further on the April 6 discussions and reasons for people being unwilling to sell their lots, including clean-up requirements and tax reasons. The League was looking at volunteer cleanup programs and at developing a land trust for trades, homeowner association arrangements, and other programs. The acquisition concern could be addressed expeditiously if the League, the Preservation Council, and the realtors associations cooperated in the effort. Her understanding of the reason Nevada's programs were different from California's was that it was a recognition of the fact that Nevada had a different land use pattern and not the enormous numbers of subdivision lots. The League could support 208 Plan amendments if Lake Tahoe could be better protected with the amendments as a package.

(Mr. Cole left at 4:05 p.m. during the following discussion.)

The Board members discussed setting fair market value of properties in an effort to get people to sell lots, the reasons people were unwilling to sell, condemnation and lawsuit potential, the problem that current fair market value for an unbuildable lot was below that

of a buildable lot, land costs over time in the Basin compared with other areas, return on investment,

Mr. Galloway suggested that if the ultimate goal was to retire a certain number of low scoring lots and the Board knew that amount then only an equivalent mechanism could replace that system - otherwise the Agency would be backing off its objective and getting into a vulnerable position. He did not favor condemning properties in an effort to advance the program. It appeared the Board was handicapped by some of the technicalities of the IPES program and how it worked.

Mr. Baetge explained that the April 6 meeting did provide some options. The reason everyone was optimistic about what was going on in the Tahoe Basin was that many of the battles were in the past. The hope was to get to solutions. The threat of costly legal battles would kill where everyone was hoping to go. The Lake would be lost. There were solutions available, including amendment of the 208 Plan, if everyone could buy into it. He would prefer to have everyone, including Larry Hoffman, sit around the table and amend the 208 Plan in a cooperative effort. This was not beyond doing.

Chairman Sevison asked staff to provide a list of things that could happen to accomplish this once and for all at the May meeting.

Mr. Giles suggested that the Board had a responsibility to people around the Lake to let them know at least what was going on. This included Mr. Hoffman's clients. He would like to see as much time as possible reserved in May to handle this issue and to make a decision. The Board was better making a decision and was even better off in litigation if it had a well thought out decision to act on. He would like to see the issues narrowed down. Handle it sooner than later, and reduce the agenda of other matters.

Mr. Baetge responded that much of the Agency's success had not come from the Board giving directions but from the community and many players coming together on solutions everyone could agree on. This did not and would not happen over night. He really felt this effort to reach a community consensus for presentation to the Board was a successful approach.

Ms. Bennett suggested it would be very helpful in May to spend substantive time clarifying the issue and providing direction for the staff on what questions to ask and how to proceed. This had to be done in the context of the EIP.

Mr. Sevison also inquired about the number of parcels per county and per year that were below the line. The Board should know how significant those numbers were. To spend days and hours trying to come up with solutions for just a few parcels was not an efficient way to deal with the problem. In view of the remaining items on the agenda he asked that this issue be continued to May.

Mr. Dwight Steele, a participant in the 1980s' consensus process, noted that he and others were pressing at that time for the ability to raise the line as well as lower the line should the conditions warrant it and the Lake's clarity be getting worse. He was not urging that issue to be revisited but he suggested the anticipated progress had not been made in slowing the loss of clarity. To now consider loosening up controls would be a grave mistake.