

**TAHOE REGIONAL PLANNING AGENCY (TRPA)
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)**

NOTICE IS HEREBY GIVEN that on Tuesday, August 24, 1999, commencing at 1:00 p.m., at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada, the TRPA Shorezone Policy Committee will meet. (A quorum of the Board members may be present.) The agenda for the meeting is as follows: **1)** public interest comments; **2)** new scenic program for the shorezone; **3)** the proposed ordinance, **4)** the fisheries panel outcome; **5)** the environmental document schedule; and **6)** member comments. (Committee: Waldie, Cole, Miner, Perock, Galloway)

NOTICE IS HEREBY GIVEN that on Wednesday, August 25, 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 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 Wednesday, August 25, 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)** legal opinion on delegation authority to the Executive Director to approve and execute Agency contracts; **3)** allocation of FY 1999-2000 LTF (\$32,000) to the TRPA for administration and planning; **4)** allocation of FY 1999-2000 LTF (\$424,483) to South Lake Tahoe for operating assistance of STAGE; **5)** allocation of FY 1999-2000 LTF (\$168,752) to El Dorado County for community transit services; **6)** July month-end trial balance; and **7)** member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS FURTHER GIVEN that on Wednesday, August 25, 1999, during the noon lunch break at Needles Restaurant in the Tahoe Seasons Resort, the TRPA Rules Committee will meet. The agenda will be as follows: **1)** public interest comments (no action); **2)** discussion of notice procedures for represented parties; **3)** amendment of Records Retention Schedule; and **4)** member comments (Solaro, Neft, Heller, Galloway, Medina)

NOTICE IS FURTHER GIVEN that on Wednesday, August 25, 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.

August 16, 1999



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 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

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

August 25, 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.

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, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, 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. Consent Calendar
 - 1. Report of the TTD August 13, 1999, Meeting **PAGE 119**
(Recommended Action: Receipt)
 - 2. Resolution Endorsing NDOT's Proposed Lake Tahoe **PAGE 125**
Basin FY 2000-2001 and Long Range Highway Projects
(Recommended Action: Approval)

(convene joint meeting of the TMPO and TRPA)

- VIII. JOINT PUBLIC HEARING OF THE TMPO AND TRPA BOARDS
- A. Regional Transportation Plan/Air Quality Plan Public Scoping Process for an Environmental Impact Statement (EIS) **PAGE 127**
- (adjourn the TMPO)*
- IX. APPEAL
- A. Welze/South Shore Estates, 26-Unit Multi-Family Subdivision, Appeal of Executive Director Decision to Require an Environmental Impact Statement - 11:00 a.m. **PAGE 161**
- X. PROJECT REVIEW
- A. Welze/South Shore Estates, 26-Unit Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 970883 and 980089 (This item will be heard pending Governing Board action on agenda item IX.A.) **PAGE 176**
- B. Park Avenue Development Project, City of South Lake Tahoe, El Dorado County APN 800-101-94 **PAGE 201**
- C. Ponderosa Ranch, Funicular Railway, Washoe County APNs 130-301-03, 139-010-01, -03, and -04 **PAGE 245**
- XI. PLANNING MATTERS
- A. Staff Recommendations on Code Chapter 28, Natural Hazard Standards, Relative to Floodplain Maps - 10:30 a.m. **PAGE 277**
- B. Special Projects Commercial Floor Area Allocation **PAGE 285**
- XII. ADMINISTRATIVE MATTERS
- A. Appointment of California and Nevada Lay Members to the Advisory Planning Commission **PAGE 294**
- B. Appointment to Shorezone Policy Committee
- C. Progress Report on FY 98-99 Work Program **PAGE 296**
- D. Resolution for Forest Supervisor Juan Palma
- XIII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION
- A. Finance Committee
1. Legal Opinion on Reaffirming Delegation Authority to the Executive Director to Approve and Execute Agency Contracts, Adoption of Resolution

- B. Legal Committee
- C. Shorezone Policy Committee
- D. Rules Committee

- 1. Amendment of Records Retention Schedule

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XIV. REPORTS

- A. Executive Director Monthly Status Report
 - 1. Status Report on Project Applications
 - 2. Status Report on Regional Revenue Feasibility Analysis, Phase II
- B. Legal Division Monthly Status Report
- C. Governing Board Members

XV. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. McNeil, Land Capability Challenge, 9950 Lake Street, Placer County APN 090-320-01, Washoe County APN 123-021-01	Approval	Pg 1
2. Lakeview Office Center, Commercial Building Modification and Allocation of Commercial Floor Area, 224 Kingsbury Grade and Kahle Park, Douglas County APN 07-130-06 and Kahle Park Project Area, File #990464	Approval of Findings and Conditions	Pg 17
3. Lira's Market, Commercial Building Modification, 2977 and 2981 Highway 50, Meyers, El Dorado County APN 34-270-49, File #990009	Approval of Findings and Conditions	Pg 33
4. NDOT, New Salt and Sand Dome, Incline Village Maintenance Yard, State Route 431, Washoe County APN 124-032-35	Approval of Findings and Conditions	Pg 51
5. Resolution Allocating FY 1999-2000 Local Transportation Funds (\$32,000) to the Regional Transportation Planning Agency for Administration and Planning	Approval	Pg 61
6. Resolution Allocating FY 1999-2000 Local Transportation Funds (\$424,483) to South Lake Tahoe for Operating Assistance of South Tahoe Area Ground Express (STAGE)	Approval	Pg 65

7.	Resolution Allocating FY 1999-2000 Local Transportation Funds (\$168,752) to El Dorado County for Community Transit Services	Approval	Pg 69
8.	Glenbrook Club, New Clubhouse, Pro Shop, and Maintenance Building at Glenbrook Golf Course, Douglas County APN 01-090-31	Approval of Findings and Conditions	Pg 73
9.	Backhus, Land Capability Challenge, Placer County APN 083-390-02	Approval	Pg 95
10.	North Tahoe Public Utility District, Boat Ramp Expansion, Placer County APN 117-110-01	Approval of Findings and Conditions	Pg 99
11.	July Month-End Trial Balance	Receipt	Pg 117

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

Tahoe Regional Planning Agency Governing Board Members:

Chairman Larry Sevison, Placer County	Wayne Perock, Nev. Dept. of Conservation Appointee
Vice Chairman Don Miner, Douglas County	Drake DeLanoy, Nevada Gov. Appointee
Kay Bennett, Carson City	Jerry Waldie, Calif. Senate Rules Com. Appointee
Jim Galloway, Washoe County	Leslie Medina, Calif. Assembly Spkr. Appointee
Hal Cole, South Lake Tahoe	Joanne Neft, Calif. Gov. Appointee
Dave Solaro, El Dorado County	Terry Giles, Calif. Gov. Appointee
Brian Sandoval, Nevada At-Large Member	Peter Chase Neumann, Presidential Appointee
Dean Heller, Nevada Secretary of State	

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

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

July 28, 1999

REGULAR MEETING MINUTES

Prior to commencement of the meeting, Chairman Larry Sevison invited the Board and audience members to step out onto the Conference Center patio to view the TRPA boat used in implementation of the new watercraft regulations.

I. PLEDGE OF ALLEGIANCE

Chairman Larry Sevison called the regular July 28, 1999, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:35 a.m., 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. Reis (for Mr. Heller), Mr. Cole, Ms. Bennett, Mr. Giles (present at 10:00 a.m. during public interest comments), Mr. Perock, Ms. Neft, Mr. Harper (for Washoe County), Ms. Medina, Mr. Sandoval, Mr. Sevison

Members Absent: Mr. Neumann

III. PUBLIC INTEREST COMMENTS

Mr. Dwight Steele spoke on his 30-year efforts to stop pollution of Lake Tahoe's water and concerns with continuing TRPA approval of projects whose mitigation measures were not sufficient to offset impacts caused by VMT and erosion. It was apparent that the Compact objectives could not be attained by continuing to permit more construction and more automobile use. He passed around an historic and a current photograph of the AI Tahoe area and distributed an article on actions taken in the Columbia River Gorge.

Mr. Don Kornreich, from Incline Village, distributed memos to the Board and discussed the overall transportation work program, future possible funding for public projects, Larry Sevison's work on the California Tahoe Conservancy and the need for similar programs in Nevada, the Washoe County/Crystal Bay capital improvement programs, and the upcoming Regional Transportation Plan.

Ms. Mary Scoonover, Deputy with the California Attorney General's Office, inquired about the order of discussion on the South Shore Estates proposal noted on the agenda as a Governing Board discussion item.

Chairman Sevison responded it was not appropriate to discuss the project at this meeting. The only issue up for discussion was the Agency's procedures. He invited audience members to comment on that matter now or during a mid-afternoon timeframe when there would be an opportunity for additional public comments.

TRPA REGULAR MEETING MINUTES JULY 28, 1999

Dr. Miner concurred that the parameters of the discussion relating to his request (agenda item XIV.C.1.) were limited to staff's internal procedures. He was not looking for any public input on the project.

Ms. Scoonover noted she would remain for the later discussion and reminded the Board that correspondence had been sent to Board members from the California AG's office outlining concerns about the project itself. Those concerns remained. The AG strongly supported staff's recommendation that an EIS was appropriate in this circumstance and that staff had acted appropriately.

Mr. Garrett Meinke, property owner in lower Tyrolia (T7), commented on the requirement in his subdivision that coverage be transferred for development of a single family dwelling. All coverage for the 1972 development went primarily to roads. Although he had an approved application pending, there was no available coverage in Incline Village to be transferred so that he could build this year. Although TRPA had earlier recognized the need for a Nevada land bank to facilitate coverage transfers, such a bank did not exist at this time. He urged the Board to investigate this further.

Mr. Harper noted that recent legislation did permit the creation of a land bank in Nevada, and Commissioner Galloway had urged his office to work on this with the appropriate entities. The goal was to create a land bank by next year. He asked Mr. Meinke to discuss this with him further.

Ms. Bennett asked that there be a discussion on this at an upcoming meeting.

Mr. Perock noted that State Lands Administrator Pam Wilcox would not be available to discuss this in August but could perhaps attend the September meeting.

Mr. Gregg Lien commented on continuing problems with Tahoe's water clarity in spite of ongoing rehabilitation and retrofitting efforts around the Basin. He and his family were moving out of the Basin because of difficulties faced by local school districts in upgrading their facilities. Because of the significance of mitigation fees, projects such as conversion of modular classrooms to permanent facilities were not occurring. All the money raised in the last number of years for the Kings Beach Middle School, as an example, were not sufficient to pay the water quality mitigation fees for proposed projects. The District had raised 60 to 70 percent of the rehab costs, and the water quality mitigation fee was \$137,000. As a policy matter, Mr. Lien asked the Board to direct staff to look into this further and consider some kind of mitigation fee exemption for school districts.

Executive Director Jim Baetge commented on the complex nature of exemptions and problems in attempting to focus on granting an exemption for just one entity or use. An additional point to consider was that the Basin was seeking \$900 million over 10 years for improvements. The gap in that funding was not from the two states or the Federal Government but rather the local match. The gap was occurring in the very area where Mr. Lien wished to see an exemption. Granting such an exemption would shift the cost over to others for environmental improvements. The question was to determine who would pay. The issue was not an easy one.

Ms. Neft asked to have the matter come back on a future agenda, and Chairman Severson concurred that he wished for the Board to have an opportunity to discuss it in more detail.

Mr. Gary Midkiff, whose office was adjacent to the proposed Welze project, noted that a key element in South Shore redevelopment projects over the past few years was the atmosphere of public trust and a feeling that rules would not be changed in mid-stream. The concern he had with what had happened with this project was that, after the project was reviewed by staff, the proponent was being told the rules had changed and an EIS was now required. The message was not a good one to send to the public if TRPA wished to see redevelopment projects occur.

IV. APPROVAL OF AGENDA

Deputy Executive Director Jerry Wells advised staff had received a request for a continuance of the Hooks Landing matters from Mr. Martin Eber, an opponent to the appeal and the project. The decision was one for the Board to make.

Mr. Martin Eber, for the Tahoe Marina Homeowners Association, explained he had requested that he be sent all pertinent information on this application when Hooks Landing was continued by the Board a year ago. He had received the 450-page summary for this item, as well as a May 20-page legal brief, on July 23. The Agency's rules required that affected persons be notified at the earliest possible time, and clearly this had not occurred. While he had received notice of the July Board meeting, he had not had adequate time to review the materials.

MOTION by Ms. Neft to hear the Hooks Landing matters at the appropriate time on the day's agenda. The motion carried unanimously.

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

V. APPROVAL OF MINUTES

Mr. Perock noted that "budget" had been misspelled on page 3 of the June 23, 1999, minutes.

MOTION by Dr. Miner to approve the June minutes as corrected. The motion carried unanimously.

VI. CONSENT CALENDAR

Mr. Wells asked that item 10 be removed from the calendar and handled at staff level (Peterson land capability challenge, El Dorado County APN 15-031-12). Item 11 (McNeil land capability challenge, Washoe County APN 123-021-01) was to be continued to August at the request of the applicant.

Finance Committee Chairman Bennett explained that the Committee had recommended approval of items 1, 2, 8, and 9. The Committee wished item 16 to be pulled off consent and acted on separately.

TRPA REGULAR MEETING MINUTES JULY 28, 1999

Legal Committee Chairman Waldie advised that the Committee recommended approval of a proposed settlement in the Andre matter (item 7).

MOTION by Ms. Neft to approve the consent calendar as discussed (items 1-9 and 12-15). The motion carried unanimously.

(Following are items approved on the consent calendar:

1. June Financial Statement and Check Register (The Finance Committee asked that the staff discontinue providing monthly check registers to the Committee.)
2. City of South Lake Tahoe, Five-Year List of Air Quality Mitigation Fund Projects
3. Taormino, Land Capability Challenge, El Dorado County APN 16-143-10
4. Fantasy Inn, Addition of 20 Tourist Accommodation Units and a Wedding Chapel, 3696 Lake Tahoe Boulevard, City of So. Lake Tahoe, El Dorado County APNs 27-071-17, -22, and -24, 27-072-10 and -32 and Portions of Osgood and Sonora Avenues
5. South Tahoe High School Addition, City of So. Lake Tahoe, El Dorado County APN 032-040-04
6. Cobblestone Center, New Commercial Building, Placer County APN 94-070-14 and
7. Andre, Resolution of Enforcement, 531 Silvertip, Washoe County APN 122-113-09
8. Resolution Authorizing TRPA to Enter Agreement With Caltrans for Release of TRPA's FY 97-98, 98-99 Allocation of RTPA Optional Exchange Amounts (TRPA Resolu. No. 99-14)
9. Resolution Authorizing TRPA to Enter Into A Fund Transfer Agreement With Caltrans Regarding the Allocation of Federal Aviation Administration Funds for the Completion of the Interregional California Aviation System Plan (TRPA Resolu. No. 99-15)
12. Hale, Land Capability Challenge, 663 Christina Drive, Washoe County APN 126-251-20
13. Callahan, Land Capability Challenge, 1259 Hidden Woods Drive, Douglas County APN 03-242-04
14. Skele, Land Capability Challenge, 705 Christina Drive, Washoe County APN 126-251-11
15. Hofstrand, Land Capability Challenge, 1987 Osage Circle, El Dorado County APN 34-663-01)

Resolution Reaffirming Delegation Authority to the Executive Director to
Approve and Execute Agency Contracts (consent calendar item 16)

Ms. Bennett noted that the Finance Committee had recommended approval of the resolution because a significant federal grant was attached to it. She had a concern, however, about NRS 334 and the requirement for the Governing Board's approval of contracts in excess of \$25,000, even if they were within the budget. The Committee had asked that a legal opinion be brought back.

Finance Committee member Solaro explained the Committee had approved moving forward on the resolution because of the fact there was a large grant pending that could not wait until the next meeting. Agency Counsel John Marshall was to research the matter further, however, and the Committee would go forward with the grant process pending that opinion at the next meeting. The Committee did not wish to hold up the grant.

Mr. Wells explained that the Committee's recommendation was that the approval be subject to legal counsel review and, if permissible, the grant would proceed. If not, it would not. Staff felt that in the past the authority to enter into contracts was already given to the Executive Director. What prompted this was a requirement in some of the state and federal funding programs that there be a specific resolution of the TRPA Board confirming the delegation authority. The resolution in the packet was a generic resolution so that the authority was memorialized such that staff would not have to return to the Board each and every time a contract was signed. The Board was kept apprised of these contracts through the budget process, and all contracts were within the Board-approved budget. The Finance Committee's recommendation was that Agency Counsel

review the matter from the legal perspective and bring it back next month. Staff's question was whether it could move ahead with this one grant, since the grant was pending. Even though the resolution was generic, staff would apply it only for this one grant.

MOTION by Dr. Miner with that understanding to approve Resolution No. 99-16.

Ms. Bennett noted she would oppose the motion because she did not feel that the law would permit the approval. She preferred there to be clarification on the procedures.

The motion carried on the following vote:

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

Chairman Sevison welcomed Forest Service representative Juan Palma to the TMPO Board and noted this was going to be his last meeting. Juan and his family were moving to Oregon.

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

- A. Public Interest Comments – none
- B. Consent Calendar
 - 1. Revision of FY 99-2000 Transportation overall Work Program (Recommended Action: Approval)
 - 2. Report of the TTD July 9, 1999, Meeting (Recommended Action: Receipt)

MOTION by Mr. Harper to approve the consent calendar. The motion carried unanimously.

- C. Public Hearing on Adoption of the Lake Tahoe Transportation Conformity Consultation Procedures

Transportation Planner Jim Allison explained that the proposed procedures would apply to the affected partners in planning air quality/transportation plans and programming documents and also state implementation plans. These procedures required the partners to consult with each other and the public in planning efforts.

Dr. Miner asked that the procedures reference the applicability of the Nevada Open Meeting Law. In the section outlining the procedures for mailing agendas and materials, staff should insert, "in accordance with the Open Meeting Law"— as opposed to the current seven-day notice.

Mr. Palma noted that the Conformity Task Force section listed federal agencies as FHWA, FTA, EPA. Because the Forest Service was so engaged in the various transportation bodies (TRPA, TMPO, TTC, etc.), it may be appropriate to list the Forest Service in this committee member list. Since the preceding paragraph did allow others to participate, specifically naming the Forest Service as a committee member may eliminate some flexibility on the part of the Forest Service.

Mr. Allison explained that the Forest Service representative Colin West had commented at an earlier meeting that he would appreciate having more flexibility by not naming the Forest Service specifically.

Ms. Bennett noted the Forest Service was a full member of the TMPO and participated as well in the TTD and on the Tahoe Transportation Commission. She felt the Forest Service should be named as a member of the Conformity Task Force.

MOTION by Ms. Bennett to approve the procedures with the addition of the reference to the Nevada Open Meeting Law and the Forest Service as a member of the Conformity Task Force. The motion carried unanimously.

D. TMPO Resolution Establishing the Tahoe Transportation Commission

Transportation Team Leader Richard Wiggins presented the proposal for the establishing of the Transportation Commission and explained its purpose, function, and goals.

No one wished to comment in the hearing.

MOTION by Mr. Waldie to adopt TMPO Resolution No. 99-3. The motion carried unanimously.

The Board members wished Juan Palma well in his new position in Oregon.

Chairman Sevison reconvened the TRPA Governing Board.

VIII. PUBLIC HEARINGS (*Reconvene as TRPA*)

A. Amendment of Chapter 91, Air Quality Control, by Deleting Subsection 91.8 and Removing the Winter Time Motor Vehicle Fuel Oxygenate Requirement

Transportation Planner Jim Allison presented a summary of the ordinance amendments that would delete a requirement in the Tahoe Region for oxygenated fuel from November 1 through January 31. This step was consistent with the California Air Resources Board's June 1999 action to help the Tahoe Basin be free of MTBE.

Mr. Solaro spoke in favor of this action. El Dorado County, South Lake Tahoe, and STPUD had formed the Lake Tahoe Regional Water Preservation Authority a few months ago because of lack of state or federal response to concerns about MTBE effects on South Shore. The State of California was also going to introduce legislation for additional protection for storage tanks in the near future. El Dorado County would be

considering an amendment to its ordinance to address secondary containment with continuous monitoring.

Mr. Bob Baer, General Manager of STPUD, urged the Board to support the amendment.

No one else wished to speak in the public hearing.

MOTION by Ms. Neft to make the findings as required to amend Ordinance No. 99-19. The motion carried unanimously.

MOTION by Ms. Neft to adopt Ordinance No. 99-19.

Chairman Severson 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; Deleting the Code of Ordinances Section 9.18, Removing the Winter Time Fuel Oxygenate Requirement, and Providing for Other Matters Properly Relating Thereto.

The motion carried unanimously.

B. Amendment of Chapter 4, Project Review and Exempt Activities, to Amend an MOU Between TRPA and the California Tahoe Conservancy

Project Review Chief Rick Angelocci presented a brief summary of the proposal to amend an existing MOU with the Conservancy. On July 14, the Advisory Planning Commission (APC) voted unanimously to recommend approval.

No one wished to speak during the public hearing.

Mr. Solaro asked if there was any conflict of interest in his being a member of the California Tahoe Conservancy Board as well as a TRPA Board member.

Agency Counsel John Marshall responded that the conflict procedures for TRPA related to financial obligations. He did not perceive any conflict.

MOTION by Mr. Harper to make the findings to amend Chapter 4 and the Conservancy MOU. The motion carried unanimously.

Chairman Severson 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 Exempt Activities, Providing for a Memorandum of Understanding Between the Tahoe Regional Planning Agency and the California Tahoe Conservancy to Exempt Certain Activities from TRPA Review, and Providing for Other Matters Properly Related Thereto.

MOTION by Mr. Harper to adopt Ordinance No. 99-20. The motion carried unanimously.

XI. PLANNING MATTERS

C. Resolution Supporting Grant Application for State Route 28 Scenic Byway

Ms. Bennett advised the Board that this matter was coming to the TRPA Board without the commitment of NDOT at this time for the matching funds. Meetings were scheduled for this commitment to occur in the near future. It was possible the scenic byway improvement would be funded out of another discretionary fund from FHWA. In spite of that, the application would require resolutions of support and Carson City and Douglas County had passed those resolutions of support. The scenic byway application would be submitted lacking the commitments from other sources.

Dr. Miner noted Douglas County fully supported the application.

Mr. Perock explained the project was directly across Highway 28 from Spooner Lake State Park facilities. He asked that, as the process of design and implementation went forward, efforts be coordinated to ensure that bicycle activities were taken into account. The State Park System was also going for scenic byway money to make the improvements at the Spooner Lake facility.

MOTION by Dr. Miner to adopt TRPA Resolution No. 99-18 supporting the grant application for the Nevada State Route 28 scenic byway. The motion carried unanimously.

D. TRPA Resolution Establishing Tahoe Transportation Commission (see agenda item VII.D.)

No one wished to speak on this item.

MOTION by Mr. Harper to adopt TRPA Resolution No. 99-17. The motion carried unanimously.

XII. ADMINISTRATIVE MATTERS

A. Appointment of Bi-State Lay Member to the Advisory Planning Commission

MOTION by Ms. Neft to approve the appointment of the Tahoe Transportation District Chairman to the two-year bistate lay-member term. The motion carried unanimously. (The term will run through July 2001.)

XI. PLANNING MATTERS

E. Presentation by Nevada Department of Transportation on Tahoe Basin Projects to be Completed in 2000-2009

Transportation Team Leader Richard Wiggins explained NDOT's wish to update the TRPA Board on projects it was proposing for the 2000 Statewide Transportation Improvement Program (STIP).

Mr. Richard Nelson, District Engineer for NDOT, explained the State's yearly preparation of the STIP, which contained the annual work program (projects to be initiated in upcoming fiscal year), the short-range element (years two and three out) and programs out to ten years. What was presented to the Board in the distributed materials were those projects identified that would come into the Basin during these three planning horizons. Mr. Nelson and NDOT representatives Coy Peakock and Reed Kaiser responded to Board member questions.

Executive Director Jim Baetge explained that NDOT's plan was being used as a model in the Basin for how things should be done. NDOT had gone through a master planning process, using a tremendous teamwork approach with all the Nevada players around the table. NDOT had also worked on the maintenance end of the plan and was now in the programming phase. This was a very significant program.

Mr. Waldie commended NDOT's sensitivity to the need for reporting to the TRPA Board on its activities and suggested NDOT appeared to be more sensitive to the needs of correcting problems in the Basin than Caltrans.

As a California member of the Board, Mr. Giles thanked NDOT for what had been done. He knew the work done by NDOT would be used by Caltrans. Recognizing this was a nine-year plan, he hoped that thought had been given to starting with those projects that would have the greatest beneficial effect the soonest.

Mr. Nelson responded that, with respect to doing the right thing at the right time, as NDOT went through the process and reported back to TRPA annually there may be projects listed in the long-range plan that were there for some time. The whole plan was reevaluated every year, at which time some projects may move up ahead of others because of cost benefits. Sometimes other projects that would provide a better benefit cost would move up ahead of others. NDOT was working closely with TRPA to make sure these concerns were addressed.

Dr. Miner explained that NDOT had been good about bringing in local jurisdictions to help prioritize needs at a local level with the state projects. The counties participated in the rearranging of the priorities, based on available funding. It had been an excellent working relationship.

Mr. Nelson advised that NDOT and Caltrans had spent considerable energy cooperating over the years. Many joint projects to address the environmental concerns of the Basin had been done, particularly with snow and ice operations in the winter months. Since Irene Itamura had taken over in District 3 of Caltrans, an interagency bistate committee had formed to address common issues in the Basin. This staff group specifically looked at opportunities for how to improve the way business was conducted. Issues included runoff, bicycle trails, winter maintenance, etc.

Ms. Bennett acknowledged Amir Soltani, NDOT coordinator on coalition efforts, for his work in this planning effort.

Chairman Sevison agreed and directed that Executive Director Jim Baetge send a letter recognizing the outstanding work of Mr. Soltani, Mr. Nelson, and NDOT in this area.

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Mr. Nelson advised that NDOT's plan was being taken to the NDOT Board of Directors in September for approval. He asked that the Board adopt a motion endorsing the plan to accompany that presentation.

Since the item was not on the agenda for action, Chairman Sevison directed that the August Board agenda contain a resolution endorsing the NDOT project plan.

Mr. Baetge explained that Caltrans had already spent close to \$21 million on projects in the Basin. Caltrans had \$32 to \$33 million in EIP-related projects. This was unprogrammed currently, but it was out there for the Basin. What NDOT had done was to prioritize its projects. He and Board member Giles had met in Sacramento recently with Caltrans officials to discuss their taking a similar approach. The intent was to get desired projects and programs expedited and implemented in the next few years.

Ms. Jila Priebe, representative from Caltrans, commended NDOT for its master planning effort and noted that Caltrans was also working on a master plan for the Tahoe area. Of note was the \$25 million worth of projects completed since 1997-98 in the Tahoe Basin and the planned maintenance projects coming forward. Caltrans looked forward to working with everyone on this.

Chairman Sevison commented on the significance of the funding available for projects; getting them all completed would take a great deal of efficiency and coordination on everyone's part, including TRPA's. Streamlining on TRPA's part was essential, so that progress was not held up.

Mr. Giles asked that Caltrans be put on the agenda to present a master planning status report to TRPA in 90 days.

Ms. Priebe concurred that this would be helpful; the update would not only address the projects but also the maintenance programs.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

Finance Chairman Kay Bennett advised the Board that in the earlier meeting the Committee had asked for a legal opinion regarding contracts (see previous discussion). The Committee also discussed Washoe County's volunteering to provide information on how the County had programmed and tracked its mitigation funds.

Mr. Harper explained that Washoe County had been working on a Tahoe Basin Capital Improvements Program in response to the EIP. He would be pleased to bring back the material that was recently presented to the Washoe County Board on how the programming of mitigation fees was tracked and would be tracked in the future. He was not aware until this morning that TRPA asked local governments for five-year commitments for air and water quality projects. This would fit in nicely with Washoe County's current planning efforts.

Ms. Bennett advised that the staff would no longer be bringing the monthly check register to the Finance Committee. These had been presented on a monthly basis, and the Committee decided this was no longer necessary.

B. Legal Committee

Chairman Waldie advised of the Committee's discussion on the IPES and acquisition programs. Agency Counsel Marshall had reported on the status of discussions regarding efforts to improve the acquisition programs.

Committee member DeLanoy commented on a letter sent by Mary Gilanfar, of the Tahoe Sierra Preservation Council (TSPC), which had caused him some concern. The Agency was going down one track trying to cooperate with vacant lot owners in California in moving the IPES program forward and at the same time this offensive letter was sent out. He had looked into the problem regarding communication with prospective clients. In Nevada this was not tolerated by members of the bar. Mr. Hoffman, attorney for the TSPC, was not a member of the Nevada bar but had been given authority to represent property owners in California and Nevada. Mr. Marshall was going to look into whether California had similar rules. The Committee did not wish to proceed without talking with Mr. Hoffman about what was intended by the TSPC letter.

Mr. Waldie explained that the Committee resolved to take no action in terms of registering a formal complaint as a Board but would seek information as to some of the ethics and guidelines within California and Nevada.

Mr. Waldie reported that the Andre resolution of enforcement had been taken up on the consent calendar. With regard to the watercraft citation penalties, the Committee learned that the four enforcement people on the Lake had issued 150 warnings to two-cycle operators and 45 warnings for those who violated the 600-foot no wake zone rules. Of that relatively large group, there had only been seven repeat violators. Although this year was focused primarily on education, persistent violators receiving three or more would have proceedings taken against them similar to enforcement actions now seen on the Board agendas. The Legal Committee asked staff to continue its enforcement efforts this season to get a precise picture of the program's effectiveness after one boating season. Efforts were underway to develop a method of enforcing the ordinance at the local and state levels.

Mr. Giles commented on the seriousness of the IPES matter and the need for coordination in solving the problems with legal actions to defend TRPA. This should be done sooner than later, particularly in light of the TSPC letter. While he had sympathy for the homeowners, he was offended by the letter because of its untruths. There were some things, however, TRPA could do and should do - sooner than later.

Agency Counsel Marshall explained the IPES discussions were noted on the Legal Committee agenda on a monthly basis for the purpose of updating the Committee on IPES progress. Nothing was happening quickly. If the Board felt it was appropriate to take another look at what was going on and energize the process, there may need to be a special meeting. Otherwise, the group would continue to meet on a regular monthly basis to see where it was on these multi-tracks of getting more money per parcel and looking at solutions that could be done within or without the 208 process.

The Board continued to discuss the IPES program, solutions to address concerns with how the program was proceeding, legal options, and the inability of the Board to discuss legal strategies in closed session because of the Nevada Open meeting Law. Mr. Waldie indicated he would discuss this further with some of the Board members to see

what would be put before the Legal Committee, within the constraints of the Nevada Open Meeting Law.

The meeting recessed for lunch from 12:05 TO 1:30 p.m.

VIII. APPEAL

A. Hooks Landing, Appeal of Executive Director Decision to Deny Vested Rights Determination, Placer County APN 94-510-01

Mr. Lyn Barnett, Acting Chief of Project Review, summarized the appeal of a 1997 administrative decision that vested rights did not exist for the Hooks Landing pier to recommence discontinued water-oriented activities. Included in the appeal were watercraft fuel sales. This Executive Director decision was based on the fact that the former nonconforming uses were discontinued and ceased for a period greater than one year. Because TRPA did not recognize Hooks Landing as a marina but rather as a pier available for public access, fuel sales to the public could not be permitted; fuel sales were considered accessory and only permitted within recognized marinas. After the 1997 decision was issued, the applicants filed an appeal with TRPA, arguing that the use should be grandfathered in and allowed to continue. In March 1998, the applicants also filed an application for a reduced project that did not include fuel sales to the public and also specified a certain level of activities on the pier related to boat rental and other water-oriented uses. The appeal filed earlier was held in abeyance awaiting the outcome of the project application. The Board voted to deny the project application in June 1998, and the applicants were prohibited from coming back to the Board within one year of a project denial before another action could be taken. That time has passed. Should the Board deny the appeal, the Board would hear and act on the project (item X.A.). If the Board granted the appeal, the project would not be heard. The main difference between the two requests was fuel sales.

Mr. Barnett explained that one of staff's concerns with the impact of fuel sales at this location was the proximity of the pier to the outlet of Lake Tahoe at the Truckee River Dam and the difficulty in containing a spill. Mr. Barnett presented more information on the basis for staff's determination on discontinuance of the use.

With regard to whether or not there would be a continuance of this matter as discussed in the morning, Deputy Executive Director Jerry Wells explained that staff was prepared to proceed with the matter.

The Board members discussed the amount of information provided on the appeal and project, its timeliness in delivery to the appellants and opponents, the complexity of the issues, and notice provided. Staff noted that the information packet was sent to the appellant, the opponent and Board members at the same time.

On his request for a continuance, Mr. Martin Eber, for the Tahoe Marina Lodge Association, noted his request was also on behalf of the Lands of Sierra, the owner of the underlying fee. His request for materials to be sent to him on this matter was made at the last open hearing. Staff had on the record indicated compliance with that request.

Mr. Marshall explained that the arguments provided on the appeal had generally remained the same as previously. There were some new but similar legal arguments, along with some additional affidavits attached to the new package.

The Board discussed granting a continuance for more time to review the material, the adequacy of notice requirements and availability of public records, the public's expectations of the Agency to provide materials, the responsibility of the public to seek information, and the rules regarding timing on appeal submittals.

MOTION by Ms. Bennett to postpone the Hooks Landing hearing for 30 days.

Mr. Lew Feldman, on behalf of Hooks Landing, spoke in opposition to a continuance. It was common when notice went out on a potential Board action to go to the Agency to review the file. The same opportunity was extended to the Tahoe Marina Lodge representative. In addition, correspondence had been occurring with other governmental agencies, specifically the Placer County counsel's office, involving issues relating to this application in which Mr. Eber had participated. The applicant was trying to get a permit to operate this season; the season was half over, and there was a significant economic consequence to a 30-day delay. The first he had heard of a request for continuance was this morning. Staff and the applicant had complied with the notice requirements. He urged denial of the motion.

The motion failed with Ms. Bennett voting in favor of a continuance, 12 members voting in opposition (Miner, Medina, Harper, Neft, Waldie, Reis, Sandoval, Solaro, DeLanoy, Perock, Cole, Sevison), and Mr. Giles abstaining.

(Mr. Giles asked that the record show an abstention for him on this vote and all Hooks Landing matters. He had represented a member of the applicant's family a number of years ago on an unrelated matter and he felt it was inappropriate for him to vote on any Hooks Landing matters.)

Mr. Barnett continued with his summary of the appeal, the nature of the earlier approval in 1971, the disputed uses, the discontinuance of the uses, the watercraft concession, parking and sanitation concerns, and staff's recommendation for denial of the appeal on a vested rights determination.

Agency Counsel John Marshall explained TRPA's definition of discontinuation of use and how staff had reached its determination. What was before the Board was an appeal of the Executive Director's denial of a vested rights determination. If the Board granted the appeal, that decision would be reversed. If the appeal were denied, the Board would affirm the decision that there was no vested rights. Granting the appeal would mean Hooks Landing would have commercial fuel sales and the water-based concession. There would therefore be no need to go ahead with the application for a concession under the 1987 Regional Plan, since the use would proceed under the vested rights claim. Denial of the appeal would then have the Board hear the project for a water-based concession under the terms of the 1987 Plan. Staff recommended approval of that project. Under the vested rights, Hooks Landing could sell fuel commercial to any boats and there would be a larger concession base for the fleet. Under the permit, they could dispense fuel only to their vessels and would have a smaller concession operation. By finding a vested right the Board would be saying there was a continuation of service or the use discontinuation was excused under the terms of the Code.

Mr. Lew Feldman, on behalf of Hooks Landing, thanked staff for its work on the Hooks Landing matters and noted the main issue related to the retail sale of gas. The applicant started watercraft activities and sale of fuel in 1961 in that general vicinity. In 1970, the applicant applied to CTRPA, Placer County and TRPA for a permit. In reliance on those approved permits, the pier that was historically there was reconstructed with retail sale of fuel and watercraft concessions. The interruption occurred because of the many years of drought in 1995 and 1996. Staff felt the appellant could have resumed the retail sale of gas in 1995, so long as it was done before the end of 1996. In April 1997, the applicant applied to resume activities. The question was whether the applicant sat on his hands for seven months longer than he should have between the end of 1996 and spring of 1997. The point of departure factually seemed to be whether contamination became an issue in 1996 or 1995. It was his position that leaks were discovered in 1995, and by 1996 a remediation effort was underway. It was his position that, under TRPA's Code, implementation of that effort was more compelling than low water and constituted a lawful cessation of activity. Mr. Feldman spoke on the validity of the TRPA permit and Placer County Supervisors' March 1998 finding that the Placer County permit allowed the activities and that the cessation in use did not bar the continuation of those activities. Opposition to the project from the neighboring Tahoe Marina Lodge related to public access and public use of recreational facilities. What had occurred through the cessation of the Hooks Landing activities was overt privatization of this public recreation area by the neighboring homeowners of the motel/condominium project. What had occurred was posting of signs and physical barriers to keep the public out of the Hooks Landing area and restrict the area for the exclusive use of the condominium, in spite of the County requirement that 50 percent of the facility was to be available for public recreation and use. Hooks Landing approval would assure continuance of that public use. In an effort to be responsive to staff's concern regarding retail sale of gas, the appellant proposed a special fueling platform. He urged the Board to recognize the vested right and accept the appellant's proposal to address staff's concerns through reasonable conditions. Acceptable conditions would retain the fleet as proposed under the application for a new permit while incorporating the beneficial fueling mechanism.

Mr. Feldman and staff responded to Board member questions about the cessation of activities, public access, use of the Tahoe Marina property by the public, the relationship of the various county and regional permit conditions and the discontinuation of uses, the applicant's willingness with a vested right finding to modify the permit to make the uses (with the exception of the fuel sales) similar to the current project application.

Mr. Martin Eber, on behalf of the Tahoe Marina Association, explained that public access existed and continued to exist at the Tahoe Marina Lodge pier, that a rate chart was available for public use of the tennis courts and pool; and that parking and the pier were available at no charge to the public. He read excerpts of letters from nearby boat and marina operators/owners expressing concern with the potential for continued mismanagement of fuel and oil facilities on the part of Hooks Landing owner, John Kearns. He described the parking problems in the area and competing parking needs with nearby businesses. Ten spaces were reserved and so marked in the Tahoe Marina Lodge parking lot for public use; the remainder were for the Lodge. Mr. Eber commented further on parking issues and lack of available parking for the proposed operation, and the easement from the Commons Beach across the Tahoe Marina Lodge property reserved for Mr. Kearns' employees. Mr. Eber concurred with staff's recommendation that there was no vested right. He referred to TRPA's cease and desist orders issued to Mr. Kearns for excavating tanks and installing fuel pumps without

TRPA permits. He noted that Mr. Kearns chose to move his operation from the Tahoe Marina Lodge pier to open up a similar operation at the Boatworks. Whether he did so for economic reasons or not was a different question.

Mr. Howard Bloom, a 22-year owner at Tahoe Marina Lodge, commented on past fueling practices at the end of the pier and on the severe parking shortage for businesses and employees in the area. When Tahoe Marina Lodge first opened, Mr. Kearns ran the business and helped to design it and draft the CC&Rs. Nothing had changed. The fueling lines from the underground tank to the pier went under the Lodge's tennis court; hazardous problems were not resolved as yet, and he understood the pipes would have to be removed and/or sealed.

Mr. Paul Feldman, president of the Tahoe Marina Lodge Homeowners Association, explained that the public access to the pier was available but people were not to walk through the lawn area to get there. There was a designated paved access to the pier along the back of the property at the tennis courts. The fence the Lodge put up bordering the pier to the pool and tennis courts did not restrict pier access. The Board should not approve the project if the approval was based on providing public access. That public access was now available. Lands of Sierra owned the pier and Mr. Kearns had a lease of the pier until November 2001.

Mr. Feldman read a May 10, 1999, letter from Placer County Supervisor Rex Bloomfield in support of Mr. Kearns' application to continue historical use of the Hooks Landing/Tahoe Marina pier, acknowledging the Kearns' vested right to operate the recreational concessions on the pier, and commenting on the fences constructed by the Lodge discouraging the public's use of the recreational facilities.

Mr. Marshall explained that if the Board wished to deny the appeal and uphold the Executive Director's determination the rules stated that the motion should ask that the appeal be granted. That motion would fail on a 5/9 vote.

MOTION by Ms. Neft to grant the Hooks Landing appeal. The motion failed on the following vote:

Ayes:	Mr. Solaro, Dr. Miner
Nays:	Ms. Medina, Mr. Harper, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Reis, Mr. Sandoval, Mr. DeLanoy, Mr. Perock, Mr. Cole, Mr. Severson
Abstain:	Mr. Giles
Absent:	None

IX. PROJECT REVIEW

A. Hooks Landing, Outdoor Recreation Concession, Special Use Determination, Placer County APN 94-510-01

Mr. Lyn Barnett, Acting Chief of Project Review, explained the application was for six rental personal watercraft, one parasailing boat, eight single kayaks, four paddle boats, three rental sail boats, four rental power boats, a fishing charter, eight double kayaks, and three canoes. He described the location of the activities, the parking lot, access and the pier. Issues for the project related to access and a required easement from the TCPUD Commons Beach for the kayak activity; the adequacy and availability of parking

and competition with public uses; and the condition of approval requiring submittal of a revised traffic generation analysis to assure availability of parking sufficient to accommodate all the proposed uses. Mr. Barnett presented more information about the compatibility of proposed uses with the Community Plan and described changes to recommended conditions. Of note were the following: (1) special condition 1 referenced a revised parking analysis in special condition 4b; this should be 3b; (2) there were no physical or structural improvements proposed as part of the project; this was a use proposal only; (3) the ten parking spaces were to be retrofitted for water quality improvements; (4) the permit referenced two securities; one was to be deleted. Condition 3(d) required a security based on the cost estimate for water quality improvements; condition 3(f) also referenced a security and was to be eliminated and replaced with a different condition 3(f): "Prior to any fuel dispensing to watercraft concession craft, the permittee shall demonstrate that all fuel lines and other fueling activities are approved and authorized for operation by applicable agencies, including TRPA (for required permits)." (5) only one fueling bay/port, not multiple bays, was needed and was to be removed after the boating season. Mr. Barnett responded to Board member questions about the location of parking in relation to the pier and noted the permit would run with the land.

Mr. Lew Feldman, for Hooks Landing, concurred with staff's recommendation and the addition of a new special condition 3(f). He requested that, if the two additional parking spaces over the 19 could be found to the satisfaction of staff, the applicant be able to proceed without having to come back to the Board. Mr. Barnett agreed that this could be handled as a minor plan revision at staff level.

Mr. Gary Midkiff, for Hooks Landing, explained that John Kearns would not be the operator of the project; Mike Kearns and Ronda Gramantz would be the operators. With regard to a question on the fuel lines, if the fuel system was going to be used with new underground tanks and pumps, all of the lines from the tank to the pumps would be replaced. If the lines under the tennis courts were to be abandoned, the applicant would work this out with the Tahoe Marina Lodge and the various regulatory agencies.

Mr. Martin Eber suggested the ten dedicated spaces on Lot 51 were not dedicated to the pier but rather for public access. Not all ten spaces would be available for the pier. He suggested that the Commons Beach parking be designated for the kayak and canoe users and parking at Lot 51 be used for the pier. This would avoid the problem of people crossing over and going back and forth. He had a copy of the settlement agreement on the easement question prepared by the attorney for the Lands of the Sierra if staff wished a copy. He did not feel that for the few vessels being proposed there was a need for new underground storage tanks and new distribution lines. The potential for spills was of concern. There was uncertainty regarding security, sanitation facilities, garbage disposal, food service, short-term review.

Staff, Mr. Eber, Mr. Paul Feldman, and Mr. Midkiff responded to Board member questions about parking and use of the Tahoe Marina Lodge lot, an early permit requirement dedicating half of the pier's use for residents of the Lodge, provision for security, the County's position regarding public use of and access to the Lodge restrooms and recreational facilities, the fuel lines and extent of the proposed mitigation, concerns with attempting to designate public parking spaces on the TCPUD Commons Beach for Hooks Landing, requiring that garbage not be disposed of at the Tahoe Lodge

facilities, requiring a short-term review of the operation if approved in October 2000, and Mr. Kearns' past business maintenance and management problems.

Chairman Sevison urged staff to insure that all the concerns expressed in the discussion were thoroughly resolved in a suitable fashion before a permit was signed.

Mr. Barnett responded that a new condition L be added requiring that the applicant demonstrate there are adequate restroom facilities on the property available at no charge to the public. A new condition 3 M would require that the permittee demonstrate to the Board by the October 2000 Governing Board meeting that all permit conditions are met, and a new condition requiring that trash be removed from the site to an appropriate location on a daily basis during operating periods and trash receptacles be provided for the general public.

Mr. Eber asked that the Board include a requirement that the Tahoe Marina Lodge be involved in the process, rather than having to be in a reactive mode. He also asked that there be no fueling. The Lodge CC&Rs addressed the requirement by the conditional use permit related to the provision for public access to the Lodge subject to reasonable regulations.

MOTION by Mr. Harper to make the findings to approve the Hooks Landing project. The motion failed on the following vote:

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

XIII. REPORTS

B. Governing Board Members

1. Request by Don Miner to Discuss Executive Director Decision to Require an EIS, Welze Multi-Family Subdivision, Douglas County

Chairman Sevison started the discussion by noting that the Welze project was not before the Board at this time; an appeal on this matter would be taken up in August. Under continuing Public Interest remarks on the agenda, the public could comment on the procedures only, not the project.

Dr. Miner explained that this item was on the agenda at his request and concern over how a particular project was handled at the staff level. After a few years of a project proponent working through the TRPA system and providing what he thought was appropriate and called for by TRPA, staff placed the project on the March agenda with a recommendation for approval. The project was continued without being heard because of questions needing answer. The pursuit of those answers continued for the next three months, and staff later determined that an EIS would be necessary. He questioned whether this was the right way to do business with the public – having two years of a process go forward, spending a tremendous amount of money, with no written communication to the proponent that an EIS or an EA may be required. What this did