

**TRPA
GOVERNING BOARD
PACKETS**

**FEBRUARY
2000**

February 2000
Governing Board Packet

TAHOE REGIONAL PLANNING AGENCY (TRPA)

NOTICE IS HEREBY GIVEN that on Wednesday, February 23, 2000, 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 Horizon Casino Resort Hotel, U.S. Highway 50, Stateline, Nevada. 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, February 23, 2000, 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)** January month-end trial balance; **3)** monthly report on mitigation fees; **4)** progress report on FY 98-99 TRPA audit recommendations; **5)** authorization to file grant applications and execute grant agreements with the Federal Transit Administration for federal assistance; **6)** authorization to spend up to \$20,000 from shorezone mitigation fund for completion of the Shorezone EIS; and **7)** member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS FURTHER GIVEN that on Wednesday, February 23, 2000, commencing at 8:30 a.m., in the same location, the TRPA Environmental Improvement Plan Implementation Committee will meet. The agenda will be as follows: **1)** public interest comments (no action); **2)** report on Washington D.C. trip; **3)** EIP update process; and **4)** member comments. (Committee: Waldie, Cole, Perock, Miner, DeLanoy)

NOTICE IS FURTHER GIVEN that on Wednesday, February 23, 2000, during the noon lunch hour, in the same location, the TRPA Legal Committee will meet. The agenda will be as follows: **1)** public interest comments (no action); **2)** Phillips, resolution of enforcement for grading violation, Placer County APN 94-223-09; **3)** report on outside counsel assignments; and **4)** member comments. (Committee: Waldie, Sandoval, Miner, DeLanoy, Giles, Medina)

NOTICE IS FURTHER GIVEN that on Wednesday, February 23, 2000, in the same location, at the conclusion of the TRPA regular meeting, the TRPA Executive Director Committee will meet. The agenda will be as follows: **1)** public interest comments (no action); **2)** update on community member participants; **3)** update on candidates; and **4)** member comments. (Committee: Solaro, Waldie, Sandoval, Bennett, Alternates: Sevison and Galloway)

February 14, 2000



Jerry Wells
Acting 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

Horizon Casino Resort Hotel
U.S. Highway 50, Stateline, Nevada

February 23, 2000
9:30 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

AGENDA

- I. PLEDGE OF ALLEGIANCE (5 minutes)
- II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)
- III. PUBLIC INTEREST COMMENTS - **All comments are to be limited to no more than five minutes per person.**

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, 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 (5 minutes)
- V. APPROVAL OF MINUTES (5 minutes)
- VI. CONSENT CALENDAR (see agenda page 2 for specific items) (5 minutes)
- VII. PUBLIC HEARINGS
 - A. Amendment of Plan Area Statement 041, Incline Village #3, to Reduce Density Requirement in Special Area #1 (45 minutes) **Pg. 29**
 - B. Amendment of Community Plans for Tahoe City, Kings Beach Commercial, Incline Village Tourist, Incline Village Commercial, Round Hill, Kingsbury, and Bijou/Al Tahoe to Add Threshold-Related Research Facilities as a Special Use Under Public Service (30 minutes) **Pg. 39**
 - C. Amendment of Map Showing Need for Water Quality Improvements Pursuant to Requirements of Chapter 37, Individual Parcel Evaluation System, Section 37.10.A, Installation of Water Quality Improvements in Vicinity of Parcels, Douglas County (15 minutes) **Pg. 83**

VIII. PLANNING MATTERS

- A. Report and Discussion on February 2 Workshop on Transit-Oriented Development, Urban Boundaries, and the Two-Step Subdivision Process (15 minutes) **Pg. 89**

IX. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

- A. Finance Committee (5 minutes)
- B. Legal Committee (5 minutes)
- C. Environmental Improvement Program Implementation Committee (5 minutes)

X. REPORTS

- A. Executive Director Monthly Status Report (15 minutes)
 - 1. Status Report on Project Applications **Pg. 95**
 - 2. Status Report on Executive Director Personnel Decision
 - 3. Report on Welze/South Shore Estates, Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 970883 and 980089
 - 4. Report on Best Management Practices Retrofit Program Notice **Pg. 97**
- B. Legal Division Monthly Status Report (5 minutes)
- C. Governing Board Members (5 minutes)

XI. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. January Month-End Trial Balance	Receipt	<u>Pg. 1</u>
2. Resolution Authorizing the Filing of Grant Applications and the Execution of Grant Agreements With the Federal Transit Administration for Federal Assistance Administered by the Federal Transit Administration	Adoption	<u>Pg. 3</u>
3. Phillips, Resolution of Enforcement, Grading Violation, Placer County APN 94-223-09 (This item will be acted on after the noon meeting of the Legal Committee.)	Approval	<u>Pg. 7</u>

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|----|--|-------------------------------------|---------------|
| 4. | Authorization to Spend Up to \$20,00 From Shorezone Mitigation Fund for Completion of the Shorezone EIS | Approval | <u>Pg. 9</u> |
| 5. | Appointment of Secretary and Staff Representative to Retirement Committee | Approval | <u>Pg. 11</u> |
| 6. | Wallace Theater Corporation (Office Depot), Commercial Modification, 1043 and 1053 Emerald Bay Road, City of South Lake Tahoe, El Dorado County APNs 23-430-21 and -36 | Approval W/ Findings And Conditions | <u>Pg. 13</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

Tahoe Regional Planning Agency Governing Board Members:

Chairman Larry Severson, 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

January 26, 2000

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Larry Sevison called the regular January 26, 2000, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:45 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. Montgomery (for El Dorado County), Mr. Anderson (for the Nevada Secretary of State), Mr. Davis (for South Lake Tahoe), Ms. Bennett, Mr. Perock, Ms. Neft, Mr. Galloway, Mr. Sevison

Members Absent: Mr. Giles, Ms. Medina, Mr. Sandoval, Mr. Newmann

III. PUBLIC INTEREST COMMENTS – none

IV. APPROVAL OF AGENDA

MOTION by Ms. Bennett to postpone item VIII.B. (Welze/South Shore Estates, Multi-Family Subdivision, Scoping of Environmental Document)

In explaining her motion, Ms. Bennett noted that, as a result of the lengthy earlier hearing on this item, she had written a letter to the Board requesting that the issues raised in the project discussion be discussed by the Board outside of the project. She objected to this issue coming back to the Board before the Board had the opportunity to discuss the issues relating to the appropriate level of environmental review for this type of condominium subdivision on bare land. Her motion would continue this specific item until the appropriate workshops were completed. One had been held already; others were scheduled.

Chairman Sevison noted that the intent of the item on today's agenda was to scope out the appropriate environmental documentation. He did not think that any new rules would apply to this application, since it was submitted under the old rules.

Ms. Bennett suggested that precedent was being set by what the Board did with this project and would lay the groundwork for future projects. She objected to having a project set the policy, rather than the Board developing policy outside the scope of a project.

Agency Counsel John Marshall suggested that he was not so much concerned with the merits of the motion but rather that the Board with this motion would be taking action on an item which people from the public may be wishing to comment on. It may be more appropriate to make the determination on continuance at the time the agenda item came up.

Mr. Galloway questioned what form environmental review would take for this project if the Board continued this item.

Ms. Bennett explained that it was the intent with her earlier letter to re-agendize the policy issue at the earliest possible point after recommendation from the working group. The issue was to determine the level of environmental review the Board would expect to see on projects proposing the condominium subdivision process. She had chaired one of these subcommittee meetings and would like to see other Board member participation.

Dr. Miner suggested that this project had been bandied about for so many months that the public had a right to testify. Continuing the matter indefinitely would not serve the public. Staff's rationale for putting the project on the agenda was to scope out the contents of the environmental document – whether it would be an EA (Environmental Assessment) or an Environmental Impact Statement (EIS). If an EA were prepared and it was determined not to be sufficient, the Executive Director could call for an EIS.

Acting Executive Director Jerry Wells explained that staff's understanding from the discussion last fall on the policy issues was that there was no new direction from the Board as to the level of environmental review on projects. Most of the Board input was that the review process and determining the level of review were in pretty good shape. The real issue was the two-step process itself. The working group, which would be meeting again on February 8, was focusing on the two-step process itself and the types of projects that were coming out of that process. What was before the Board today was a confirmation from the Board that the level of environmental document recommended by staff for this project was appropriate. The Board's earlier motion on this project related to whether the Board could approve the findings based on a checklist. The earlier determination was that there were not sufficient votes to make that finding. A motion to require an EIS also failed. What staff was bringing to the Board today was a recommendation on preparation of an Environmental Assessment (EA). This would not preclude the Board's ability to move that up to an EIS at a later point after preparation of an EA.

The motion to continue the agenda item failed with Mr. Perock and Ms. Bennett voting in favor of the continuance. (Members voting in opposition: Davis, Miner, Galloway, Neft, Waldie, Anderson, Montgomery, DeLanoy, Sevison)

MOTION by Mr. DeLanoy to approve the agenda as presented. The motion carried with Ms. Bennett voting in opposition.

V. APPROVAL OF MINUTES

MOTION by Ms. Neft to approve the December 15, 1999, regular meeting minutes as submitted. The motion carried unanimously.

VI. CONSENT CALENDAR

MOTION by Mr. DeLanoy to approve the consent calendar with the exception of items 5 and 7.

(Items 5 and 7 would be taken up after the Legal Committee had an opportunity to hear and make a recommendation on the items at its noon meeting.)

Finance Committee Chairman Bennett noted that her committee had recommended receipt of the trial balance (item 1) and the audits (item 2). The Committee would be taking up the management letter associated with the audit in more detail at its next meeting.

Dr. Miner asked that consent item 4 include the resolution distributed prior to the Board meeting.

The motion carried unanimously.

(Following are items approved on the consent calendar:

1. December Month-End Trial Balance (received)
2. TRPA FY 98-99 Audit (received)
3. Resolution Allocating FY 99-2000 Local Transportation Funds (\$468,938) to Placer County for Operating Assistance of Tahoe Area Regional Transit (TART) System (TRPA Res. No. 20-1)
4. Resolution Authorizing Executive Director to Execute Contract With California State Water Resources Control Board for Federal 319(h) Grant Funding of Best Management Practices Retrofit Program (TRPA Resolution No. 20-2)
5. Highlands Village, Land Capability Challenge, 3205 No. Lake Boulevard, Placer County APN 93-160-70)

(See page 27 for action on consent items 5 and 7.)

Chairman Sevison adjourned the TRPA and convened the TMPO. TMPO member Ed Gee was absent.

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

A. Public Interest Comments

Mr. Steve Teshara, TTD member and member of the Tahoe Transportation Commission Board of Directors, commented on the earlier contribution by his group to help fund a Postal Service master plan for the Tahoe Basin. Regional representatives from the Postal Service appeared at the time and committed to updating this master plan and requested funding assistance. The TTD did contribute funds, and he had volunteered to be the TTD's liaison to the Postal Service's master plan steering committee. The Postal Service was requested to give a good faith commitment to the process, and this was given. Of concern was a Tahoe Tribune article last week which contained a Postal Service quote suggesting the Postal Service did not have to comply with TRPA's requirements. Mr. Teshara explained that he was not addressing the legal issue but rather to note for the TMPO Board that this was out of character with the ongoing partnership efforts with other federal agencies. He was concerned with the Postal Service's attitude and whether it was committed to the process. Secondly, he felt input from local governments in this master planning effort was lacking. He distributed copies of evolving master plan elements and asked the Board members through him or through the steering committee to provide comments. Mr. Teshara responded to Board member questions.

Dr. Miner explained the Postal Service had expressed concern in Douglas County with the hazards of wintertime home mail delivery on the narrow and dangerous streets. There was also concern with the high cost of new facilities and coverage and mitigation fees. The Postal Service had expressed a desire to work with the Agency to reduce some of those costs.

Mr. Teshara responded that there were different mail delivery needs in the different communities around the Basin. The Postal Service had stated its case on the inadvisability of certain types of delivery in certain areas and had committed to more business delivery in some areas. He did not think that just one set of rules would work for the whole Basin, and the Postal Service had done a lot of work to customize its service for individual communities. He wanted to make sure that as this was all coming together there was not going to be a global discussions on who was on first; the focus needed to be on finishing and implementing the master plan.

B. Consent Calendar – Report on the TTD January 14 Meetings

MOTION by Dr. Miner to receive the report. The motion carried unanimously.

- C. Approval for the Programming of \$6,300,000 of California State Highway Operations and Protection Program (SHOPP) Funds in the California Federal Statewide Transportation Improvement Program for the Repaving of SR 28 from Tahoe State Park East to the California Stateline During the Summer of 2000

Transportation Planner Richard Wiggins presented the staff summary of the Caltrans proposal to use SHOPP funds for a summer overlay project from Tahoe City through Crystal Bay. The issue here involved efforts to include water treatment and water quality BMPs in all projects. Caltrans wanted to do the overlay but not program any funds for water quality improvements until the 2002 SHOPP programming cycle, implying that the actual improvements would not actually occur until the construction seasons of 2005 or 2006. The Tahoe Transportation Commission after discussion recommended approval of the \$6.3 million for the overlay on the condition that staff and Caltrans work together to explore ways to accelerate the water quality improvements.

Mr. Dick Melim, Caltrans Deputy District Director for Lake Tahoe, commented on the recent Governor's and Caltrans' commitment to the Environmental Improvement Program (EIP). This project started out as an emergency dig-out project to protect and hold down the road until the final project could be completed. The Caltrans District Director had signed a document which would start the process to deliver the remaining portion of the Highway 28 project. The strongest commitment was there.

Dr. Miner questioned how Caltrans could ask for approval of a project that ignored water quality improvements for the next six years, when NDOT had stepped up to the plate on every one of its overlay projects by including water quality improvements.

Mr. Melim explained that the delivery time would be the same whether Caltrans did the overlay now or incorporated all the other environmental improvements. Caltrans wanted to do the paving now and to commit to quickly deliver the follow-up project. It was not a separate effort. This follow-up project would have more environmental review, a tremendous right-of-way involvement, and cooperation with other local and private entities. Caltrans was concerned with holding the paving together while this more extensive effort was underway. Caltrans was committing to completing the rest of the project as soon as possible. Caltrans District Director Itamura had challenged her staff to prepare a schedule for completion of the project and was optimistic that the rehabilitation project could be moved up before 2006; 2006 was the worst-case scenario.

Ms. Bennett suggested that 2006 was too late. California's own experts, one of whom was Dr. Goldman, had told the Board that if serious improvements were not accomplished by 2007 it was too late for the Lake. To her this was very serious. California's Governor needed to send a message on down through the system that this was important. She had discussed this with the Governor's representative on the Board, Mr. Terry Giles. Nevadans had taxed themselves to raise \$20 million in bond act monies, and when overlay projects were proposed they included an EIS and all the proper work. It was taken very seriously. The same was true in South Lake Tahoe and Crystal Bay.

Acting Executive Director Jerry Wells advised that this was not the only project Caltrans had planned out over the next six years. Caltrans had \$53 million worth of EIP projects in the Basin programmed out to be completed over the next six to eight years. Nevada had started out early

TRPA REGULAR MEETING MINUTES JANUARY 26, 2000

with the master plan idea for Highway 28. Caltrans was just gearing up for that now. Caltrans was a much larger organization and it would take more time. Its ten-year EIP goal was to have the entire commitment on the ground. Other projects would be coming. One example was sidewalk and gutter improvements through South Lake Tahoe, a project which was planned for the near future.

Chairman Sevison explained that Caltrans had also participated on projects in the Tahoe City area, one of which started at \$3 million and ended up costing \$12 million. The cost of doing these projects in the commercial area had turned out to be much more expensive and time-consuming than anticipated. Caltrans had pulled this off in spite of all the problems. He did share the concerns with the need to move forward, and he appreciated Mr. Giles' efforts in getting the Governor's and Caltrans' commitments.

Mr. Galloway asked what the impact would be if the matter were continued in order to complete the discussions that Caltrans was anticipating. Could more be done now?

Mr. Melim responded that moving ahead on the paving project now was critical. Caltrans was set to go. If a month were lost, the best case would be completing the paving in the fall. He was not sure if the work could be completed if it could not be started until this fall. The greater impact was that the project would be held off until the next construction season and the road may not hold together that long. This was not an easy task in view of the seasons at Tahoe.

Dr. Miner explained that what the Board was asking for was a firmer commitment to EIP projects. He questioned how long it would take for Caltrans to commit to the \$55 million over the next few years.

Mr. Melim explained that, with regard to the \$55 million, he could provide the Board with the targets and the pertinent dates today. He was prepared to present that information under a later agenda item (XI.B. Caltrans report on its master plan). He could present that information now if the Board wished.

Chairman Sevison urged the Board to stay with the project under consideration. This was a maintenance project in part, and while he supported the need to get the rest of the work done, he suggested the Board could not afford to let the roadway deteriorate at this point. This would only create a worse problem with blacktop going into the Lake, not just dirt. Without something being done now, there would be a worse mess. Through the last series of storms he had seen Caltrans use a lot less sand and salt. Caltrans was to be commended for that.

Mr. DeLanoy urged support of the project and asked Caltrans to provide a written report on when additional projects would be completed under the EIP.

Mr. Melim responded that project prioritization was part of the master planning process to the extent that Caltrans could provide a pretty specific list of target projects with target dates.

Mr. Davis commended Caltrans for stepping up to the plate. Caltrans had committed to providing curbs and gutters in the City of South Lake Tahoe in the next few years. This would have a tremendous impact, since the project would extend from Stateline all the way out Highway 89 to the airport and back. He commended Caltrans also for its use of a sweeper to remove snow during the last storm. The equipment collected the sand to prevent it from getting into the side drainage system. This was a change in Caltrans philosophy. Caltrans Director Itamura just last week committed to the EIP and to doing whatever it would take to move the process up. He applauded Caltrans; it had come a long way.

MOTION by Ms. Neft to approve the TMPO Resolution No. 20-1 in support of including the \$6.3 million SR 28 overlay project in the California STIP.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, commented on the improvements made by Caltrans, especially recently. Discussions had been ongoing for many years with Caltrans on the need for water quality improvements in association with its projects. It was unfortunate for California and Lake Tahoe that this project needed to go forward and be done without the appropriate water quality improvements. She did understand that without the project chunks of roadway would actually be lost. It was incomprehensible that the road could get into such bad shape so quickly without any planning done for the ultimate work that needed to be done. She urged TRPA to stay in close touch with Caltrans and perhaps have a monthly report; TRPA should send a very clear message to Caltrans that, although this project would go forward on an emergency basis, the lack of planning would not be tolerated over the long haul.

The motion carried unanimously.

Mr. Wiggins explained to the Board that it was because of TRPA's MPO status that these types of discussions were occurring. Prior to the MPO designation, a SHOPP action would have been taken and TRPA would likely have heard about it after the fact.

Chairman Sevison adjourned the TMPO and reconvened the TRPA Board.

VIII. PROJECT REVIEW

- B. Welze/South Shore Estates, Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 970883 and 980089, Scoping of Environmental Document

Associate Planner Jon Paul Harries noted that the project was not on the agenda for action; the Board was considering whether the applicant should prepare an EA (Environmental Assessment) or an EIS (Environmental Impact Statement) for the project. The project was before the Board in September 1999 but did not receive enough votes for the environmental findings to approve the project. At that same meeting, the Board made a motion to require an EIS. That motion also failed. As a result, the project was neither approved nor rejected. In October, the Board was going to reconsider September's action, and staff informed the Board that the project was open and the applicant could come in with an EA or with an EIS. In December, Mr. Hoffman and Mr. Borelli, the project representatives, informed staff they would prepare an EA. Staff advised them it would consider an EA, given staff's willingness to move forward with a checklist in September and the Board's decision not to move forward with an EIS. Staff did inform the applicant that this was not an end all; the EA may not be the only document; an EIS may be necessary. The applicant understood this and reaffirmed his decision to move forward with an EA. Based on this decision by the applicant, staff informed Mr. Borelli that it would like to see a proposed outline of what the EA would contain. That outline was contained in the Board's packet material, along with staff's recommended outline for the EA. The major differences were within the project alternatives and staff's inclusion of a requirement to address wildlife and fisheries. Staff recommended a focused EA to address cultural/historical, water quality/hydrology, traffic, and wildlife and fisheries. A focused EA would not ignore other impacts; the EA must identify which effects were determined not to be significant, and the basis of that determination must be included in the EA. The final scope and content of the EA was subject to approval by the Executive Director, as directed by the Board. If the Board agreed to proceed with an EA, staff would scope that document. At the Board's discretion, additional items, such as soils or affordable housing, could be added to the scoping of the document. Once the EA was completed and provided there were no adverse environmental impacts, the EA could be brought back to the Board for action along with the

project. If the Board decided an EA was appropriate, staff recommended that a third party contract be executed to prepare the EA, consistent with Article 6 of the Rules of Procedure. TRPA would send out an RFP for document preparation and interview and select the consultant. While the prior motion to require an EIS failed, the Board may wish to revisit that issue. The question before the Board was not really to prepare an EA or an EIS but whether to prepare an EA at this time – or an EIS and skip over the EA process. It was feasible that an EA would be completed and that the Agency would later come back to require an EIS if there were significant unmitigated impacts. Agreement to proceed with preparation of an EA did not preclude the preparation of an EIS. Chapter 5 of the Code, Article 6 of the Rules of Procedure, and the bi-state compact (pertinent sections in the packet) addressed three levels of environmental review: the Initial Environmental Checklist, the EA, and the EIS. Mr. Harries presented more information on the flow chart and the differences between the levels of documentation and when they were required.

Acting Executive Director Jerry Wells explained that it was possible to move right from a Checklist to an EIS. Staff tried to avoid doing all three documents because it was not efficient. In some cases, the process could get part way through an EA only to have an unavoidable impact kick the process into an EIS. An EIS also permitted a finding of overriding consideration if the issue involved was not threshold-related.

Mr. Waldie questioned whether anything had changed on this project since the Board acted previously to reject the environmental documentation.

Mr. Harries explained that since the September hearing the staff had followed up with the reconsideration hearing, but at that point no new information had come forward to staff, with the exception of the applicant proposing to do the EA. There were no proposed changes to the project at this time.

Mr. Waldie asked if the project would come back in another month requesting an EIS if the Board today rejected preparation of an EA.

Mr. Harries explained that if the Board rejected preparation of an EA staff would ask for Board direction to require an EIS. At a later hearing, staff would address the scope of the document.

Mr. Wells noted that the Board previously did not act on the project, but rather the environmental findings that would be the basis for acting on the project. The Board rejected those findings. The Agency now had an open file where the Board had not taken any definitive action on the project itself. The project was in limbo until there was a decision on the level of environmental documentation. If the Board decided today that neither a checklist nor an EA were adequate, the only remaining option was an EIS. Because the Board had voted on an EIS previously, the only alternative was to vote on an EA. That EIS vote could be reconsidered today.

Mr. Waldie commented that the IEC (Initial Environmental Checklist) was rejected as sufficient for environmental documentation; the Board rejected an EIS as sufficient environmental documentation; it seemed that the project had already died somewhere along the line. He asked staff to comment on the role public controversy over a project played in determining the level of environmental documentation. Would public controversy dictate a higher level of environmental documentation under the law?

Agency Counsel John Marshall responded that under TRPA's rules the fact that an item was controversial did not automatically elevate it to a particular level of environmental review. It certainly could be a factor that both the Agency and the applicant might want to consider when