

**TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD**

North Tahoe Conference Center
8318 North Lake Blvd.
Kings Beach, CA

March 22, 2006

UPDATED - REGULAR MEETING MINUTES

- I. PLEDGE OF ALLEGIANCE
- II. CALL TO ORDER AND DETERMINATION OF QUORUM

Chairman Biaggi called the meeting to order at 9:35 a.m.

Members Present:

Ms. Aldean, Mr. Biaggi, Ms. Bresnick, Mr. Galloway, Ms. Huys for Mr. Heller, Mr. Kranz, Mr. Merrill, Mr. Ruthe, Ms. Santiago, Mr. Swobe, Mr. Waldie, Mr. Weber

Members Absent: Ms. Motamedi, Mr. Smith, Mr. Yount

- III. PUBLIC INTEREST COMMENTS

Jim Hildinger stated that he is against noisy helicopters circling above Emerald Bay and is also against the impact that this has on the only bald eagle's nest in the Basin.

Dave Ennis stated that he agrees with Mr. Hildinger that the helicopters are impacting our national symbol the bald eagle and that this is a logical Shorezone issue.

Michael Donahue, Sierra Club, stated that he supports Mr. Hildinger's view and is concerned and doesn't think we can wait until Pathway 2007 to address this issue. He asked for this to be agenized and brought back in the next couple of months.

John Friedrich, League to Save Lake Tahoe, stated that they received several complaints regarding this issue and he concurs with Mr. Hildinger. He stated that at the noise technical working group meeting, Jordan Kahn outlined TRPA's legal authority on some of these issues. He asked if Jordan would update the group on the discussion.

Staff member Jordan Kahn stated that the noise group asked him to give a legal opinion as to their authority to come up with rules to regulate aircraft in the Basin. He stated that TRPA feels very strongly that we have the authority to come up with rules regulating aircraft in the Basin, even if those rules are stronger than FAA regulations. This is based on a 1987 court decision where the City sued TRPA stating that TRPA couldn't limit the number of planes that came in and out of the airport. The City argued that what is set forth by Federal Law negated TRPA from coming up with a different rule. The argument that TRPA presented and was ruled

in favor of was that Congress created the Compact and they also created national airline rules. The judge ruled that when Congress rules nationwide and when they speak specifically with the Compact, and carve out a geographical area, then TRPA is well within its rights to implement the thresholds and come up with stricter rules than the FAA.

IV. APPROVAL OF AGENDA

Ms. Aldean moved approval of the agenda.
Motion carried unanimously.

V. APPROVAL OF MINUTES

Ms. Aldean moved approval of the minutes.
Motion carried unanimously.

VI. CONSENT CALENDAR

Executive Director John Singlaub stated that staff recommends continuing Item #4 until the April Governing Board meeting.

Mr. Galloway moved to approve Consent Calendar Items #1 and 2 and to continue Item #3 until the next meeting.
Ms. Aldean abstained.
Motion carried.

The following Consent Calendar items were approved:

1. Acceptance of February 2005 Monthly Financial Statement
2. Heritage Plaza New Public Outdoor Recreation Facility.
570 & 580 North Lake Boulevard, Placer County, APN
094-090-016/TRPA File #20051478

The following Consent Calendar item was continued to the April Governing Board meeting:

3. Highlands Village New Mixed Use Development, 3205 & 3225
North Lake Boulevard, Placer County, APNs 093-160-038,
-065, -067, -070 / TRPA File #20051389

VII. GOVERNING BOARD MEMBER REPORTS

Mr. Kranz stated that he went to Washington, D.C. and he met with several legislative and agency representatives to address our catastrophe wildfire issue. They talked about his counties' unanimous support of HR4200 and the Forest Emergency Recovery Act by Congressman Walden and S2079, the Forest Future Generations Act by Senator Smith. Also discussed was the ability of turning the Tahoe National Forest into a demonstration forest. They also talked about biomass facilities to assist in reducing the fuels. They talked about the National Bio-energy Investment Act which is Senator Harkin's bill. Everyone he talked to expressed concern, but they didn't have any idea where to come up with additional money.

He did get some good ideas and some good leads and intends to make this his top priority. Lake Tahoe is too valuable not to pursue this issue and he would appreciate any help from any other county or city or the TRPA Board. He asked that TRPA endorse HR4200 and S2079.

Mr. Galloway stated that he will be meeting with Washoe County staff to try to revive a project that was previously stalled out and thinks he has money from franchise fees accumulated to scope out a feasibility and cost study on putting some power lines at Crystal Bay underground. They are also looking for other funding to supplement these fees. Washoe County also endorses the key concept in HR 4200, but they didn't endorse the entire bill because the bill has some "pork" in it for universities.

Coe Swobe stated that he commends Mr. Kranz and Ms. Aldean for pursuing the subject of biomass which is really a critical part of avoiding catastrophe wildfire in the Basin.

Mike Weber stated that the City of South Lake Tahoe had their bond rating raised from a B to an A- and that will save them \$150,000 per year and a million and a half dollars in present market value. They see the airport as a real asset to the Basin in terms of the triple bottom line, transportation, the economy, getting people out of their cars and reducing BMTs. They will be coming forward to the Board and to the Executive Director with a plan for the airport.

VIII. REPORTS

A. Executive Director Status Report

Executive Director Singlaub gave the Executive Director's Status Report.

B. Legal Division Status Report

Legal Counsel Marchetta stated that there would be a Legal Committee violation resolution workshop tomorrow morning at the TRPA offices and she encourages all Board members as well as the public to attend if they are interested and have suggestions or solutions.

Adjourn as the TRPA and convene as the TMPO

IX. TAHOE METROPOLITAN PLANNING ORGANIZATION

A. Formation of an Advisory Planning Commission for carrying out Tahoe Transportation Commission advisory duties for the Tahoe Metropolitan Planning Organization

Staff Member Nick Haven presented this formation.

No Public Comment.

Mr. Weber moved to approve the formation of an APC committee to carry out TTC advisory duties.

Motion carried unanimously.

Adjourn as the TMPO and reconvene as the TRPA

X. ADMINISTRATIVE MATTERS

- A. Formation of an Advisory Planning Commission for carrying out Tahoe Transportation Commission advisory duties for the Tahoe Metropolitan Planning Organization

No Public Comment.

Mr. Swobe moved to approve the formation of an APC committee to carry out TTC advisory duties.
Motion carried unanimously.

XI. PUBLIC HEARINGS

- A. Chapter 20.5 Excess Land Coverage Mitigation Fee Update and Possible Amendment

Staff member Phil Scoles presented the fee update and proposed code amendment.

Public Comment:

John Falk, representing the Tahoe Sierra Board of Realtors, stated that they don't support nor object to this fee update until this can be addressed in the Pathway 2007 process.

Bruce Eisner, California Tahoe Conservancy, stated that he supports the staff's recommendation as it was modified by the Advisory Planning Commission and they think that it is a step in the right direction.

Mr. Galloway moved approval of the findings.
Ms. Aldean abstained.
Motion carried.

Ms. Bresnick moved approval of the code amendment.
Ms. Aldean abstained.
Motion carried.

- B. Adjustment of Individual Parcel Evaluation System ("IPES") Line in El Dorado, Washoe and Douglas Counties to "1" and Discussion of IPES Line Status in Placer County

Staff member Tim Hagan presented the adjustment of the IPES Line in El Dorado, Washoe and Douglas Counties to "1".

Public Comment:

John Falk, representing the Tahoe Sierra Board of Realtors, stated that they

support this adjustment.

Mr. Waldie moved approval of the findings.
Motion carried unanimously.

Ms. Aldean moved approval of the adjustment of the IPES line in El Dorado., Washoe and Douglas Counties to "1".
Motion carried unanimously.

Staff member Tim Hagan presented a solution-based discussion of how to lower the IPES line in Placer County.

- C. Amendment of Plan Area Statement 060, Genoa Peak, to create Special Area #2 and add Regional Public Health and Safety Facilities as a permissible use, and other matters properly relating thereto

Staff member Melissa Shaw presented the proposed amendment of Plan Area Statement 060, Genoa Peak, to add Regional Public Health and Safety Facilities.

No Public Comment.

Mr. Galloway moved approval of the findings.
Mr. Biaggi abstained.
Motion carried.

Mr. Galloway moved approval of the ordinance.
Mr. Biaggi abstained.
Motion carried.

XII. PROJECT REVIEW

- A. Nakazato Pier Expansion, APN: 115-060-09, TRPA File #: 20051094

Staff member Brenda Hunt presented the Nakazato pier expansion proposal.

Public Comment:

Gregg Lien, representing the applicant, stated that TRPA has standards that are well thought out and part of our ordinance. The way those standards were sold to this Board and the way he believes the Board adopted them was to get away from the subjective and quantify the standard as being able to fully mitigate the impact with the standard that is 1.5 to 1 mitigation. The applicant has met that. Past Board members stated at the time this was brought to them originally, that this pier may have met the numbers for mitigation, but they didn't think this could be mitigated. He feels that's not following the rules and not following the spirit and intent of the Shoreland ordinance that was adopted to get away from subjectivity. He feels that if you meet the standard, then your project would be approved and if you didn't meet the standard it wouldn't be approved. He withdrew the original application then because he felt that the Board was voting contrary to their own ordinances and it's on the record that he felt then that he

had a good lawsuit. However, they decided to bring it back to the Board again for reconsideration and approval. They have added more mitigation on top of the original proposed mitigation to fully meet the standards and they even doubled the scenic part of the project. Regarding the fish habitat mitigation, they went ten to one on this mitigation. The applicants are also giving up one of two buoys and the total number of boats or moorings stays the same.

He stated that this meets all of the current standards at this time and there is no new information that would lead them to believe that this is not mitigateable, or that this is something that would not be approvable under the new set of ordinances.

John Friedrich, League to Save Lake Tahoe, stated that the fish habitat mitigation as noted in the staff write up, and the TRPA regional plan threshold standard for fish habitat is no net loss. A key question is do these mitigations offset the impacts? He urges the Board to consider this. In general, we should error on the side of not degrading the lake and not degrading the thresholds which are the rules and regulations that the Board is held to. One way to get around this is to first test the mitigation to see if it works and then if it works, you have a basis to create an impact.

Patricia Ronald, member of the public, stated that this Board has not hesitated voting against the staff when they were in favor of a pier and she respected the staff. What bothers her is the cumulative impacts. We have been approving one pier at a time without considering the cumulative impacts on either the fisheries or the scenic threshold. She objects to approving or allowing a pier of a certain length because two neighbors have piers that are that long. She agrees with Mr. Waldie that these mitigations are questionable. Can these mitigations truly help this pier be allowable? She thinks when in doubt, we go with the lake.

Jan Brisco, speaking on behalf of the applicant, stated that one of the things that we should remember is that the ordinance assumes that those cumulative impacts will be taken care of. They are more than mitigating what the impacts could possibly be. There are at least 100 projects over the last 20 years where we have actually gone in and restored fish habitat with a fisheries biologist. We have looked and monitored these impacts. When you have fluctuating water elevations, sometimes that area could be high and dry and the force of the waves moves rocks around all the time so it's not a static condition. Monitoring this will be very difficult, but we do know it has worked in many areas and we haven't seen a significant decline in those locations. There is also a fisheries mitigation fee involved in this at \$30 a foot plus an additional fee for the boat lift. This money was originally for fisheries mitigation to restore, enhance and monitor fisheries. Over a half million dollars has gone into that fund and not one dime has gone to the restoration or even looking at restoration or enhancement. This money she hopes could be earmarked for this mitigation. She hopes that the Board will vote favorably on this project.

Michael Donahoe, Sierra Club, stated that for the past 20 years we have been asking the wrong question. We ask when projects come forward "will this particular project have any significant negative impact"? We aren't paying enough attention to the cumulative impact. We need to change our frame of

reference and ask the question, "Will this project help the lake"? The Compact gives two directions to TRPA, one is to attain the thresholds and the second is to maintain them. We've been asking a maintenance question rather than an obtainment question. A suggestion is to postpone this until Shorezone is approved. He urges the Board not to approve this project.

Mr. Weber moved to approve the findings with the condition that the applicants give up one of their buoys.

Chairman Biaggi asked for a role call vote.

Voting yes from Nevada: Ms. Aldean, Mr. Biaggi, Mr. Galloway, Ms. Huys, Mr. Ruthe, Mr. Swobe

Voting yes from California: Ms. Bresnick, Mr. Kranz, Mr. Merrill, Mr. Weber

Voting no from California: Ms. Santiago, Mr. Waldie

Motion failed.

XIII. PLANNING MATTERS

A. Schedule of Public Hearing on Shorezone Final EIS and Ordinances

Mr. Swobe stated that in his opinion there are two important reasons to conduct public hearings when a governing body or legislative body considers enacting legislation rules or regulations, which when enacted will affect many individuals and have far reaching effects. The first is to educate the governing body to ensure that all available and pertinent information is presented before the final vote is taken. Staff research and recommendations are essential. Input from lobbyist and stakeholders are essential to point out and give individual interpretations of the subject at hand. You may recall especially Mr. Galloway, during the hearings of the debate on the scenic ordinances, where simple word changes of shall and may could impact the outcome. In his opinion, the testimony of those personally and deeply affected that don't have a lobbyist or a stakeholder to speak for them, gives invaluable insight on what the ultimate affect of the proposed rules will have on individuals making an appearance and others who make up the general public. Public hearings afford the policy makers the opportunity to gage first hand the participant's credibility presentation and message. Secondly, he believes of equal importance, public hearings afford the opportunity for those affected to feel that they are part of the process. When public hearings are open and timely noticed, they give the public confidence in the governing body not acting merely to enact rules for the convenience of staff and the Board, not merely echoing the request of special interests or those who have the ability to hire lobbyists or stakeholders. He believes that confidence in the agency is very important and public hearings, however many it takes, inspire public confidence and help to dispel suspicion that the agency only acts for the benefit of the powerful. Public hearings also encourage increased interest and support by these organizations. In this case, the protection and preservation of Lake Tahoe. The longer the proposed rules are kept from the public, the more anxious and suspicious the public becomes and the more the public yearns for a formal public hearing by which they can express themselves. In summary, he believes that those who are affected by the Shorezone rules, and those who will pay the fees imposed by the rules should be included in the process.

Mr. Waldie stated that he echoed much of what Mr. Swobe has said and he

endorses it enthusiastically for a few simple reasons. They are only asking for a couple months delay in the passage of these particular ordinances and for the Board to recognize that there may be someone out there that can't get up to the lake and it would be against our best interests to be sending negative signals to the public. This is just postponing the final vote on the ordinances which should not be any great problem, and to give the opportunity to a lot of people to express their opinions.

Mr. Swobe moved that at least one public hearing on the Shorezone rules be set at least 60 days after the Shorezone rules are released to the public.

Mr. Merrill voted no.

Motion carried.

B. Pathway 2007 Briefing

a) Overview of Recreation Resource Area

Staff member Peter Eichar presented an overview of the Recreation Resource Area.

b) Overview of Socioeconomic Resource Area

Staff member Peter Eichar presented an overview of the Socioeconomic Resource Area.

c) Overview of Scenic Resource Area (continued until next month)

d) Overview of Vegetation Resource Area

Dave Fournier with the Forest Service presented an overview of the Vegetation Resource Area.

e) Overview of Noise Resource Area (continued until next month)

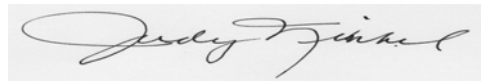
f) Overview of Soils/SEZ Resource Area (continued until next month)

g) Overview of Transportation Resource Area (continued until next month)

XIV. ADJOURNMENT

Chairman Biaggi adjourned the meeting at 5:10 p.m.

Respectfully submitted,



Judy Nikkel
Clerk to the Board

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes

of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review at the TRPA Office, 128 Market Street, Stateline, Nevada.