

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

South Lake Tahoe City Council Chambers
1900 Lake Tahoe Boulevard
South Lake Tahoe, California

January 26, 1994

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Wayne Chimarusti called the regular January 26, 1994, meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:45 a.m. and asked Vice Chairman John Upton to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. DeLanoy, Mr. Waldie, Mr. Pruett, Mr. Sevison,
Ms. Cavin (for Ms. Lau), Mr. Klein, Ms. Bennett,
Mr. Cronk, Mr. Westergard, Mr. Bradhurst, Ms. Hagedorn,
Mr. Upton, Mr. Chimarusti
Members Absent: Ms. Neft, Presidential Appointee (position vacant)

III. PUBLIC INTEREST COMMENTS - There were no public interest comments.

IV. APPROVAL OF MINUTES

MOTION by Mr. Upton to approve the December 15, 1993, regular meeting minutes as presented. The motion carried unanimously.

V. APPROVAL OF AGENDA

Chairman Chimarusti noted the following: 1) the Kahle Park project would be acted on after action on the updated Public Service and Recreation Lists (agenda items VII.B. and C.); 2) the discussion on TRPA/Local Jurisdiction Substitute Sign, Parking, and Design Standards and Guidelines (XI.A.) was continued as noted in the packet information.

Executive Director Dave Ziegler advised that by mutual agreement of all involved parties, including Placer County, the application by Placer County to amend the Regional Plan land capability overlay map pursuant to a man-modified determination (Payless site) (agenda item VIII.A.) was to be continued for a month.

MOTION by Mr. Sevison to continue the Placer County determination for one month. The motion carried unanimously.

Mr. Ziegler noted that, with the mutual consent from the appellant, staff would like to continue the Meyers IPES score appeal (agenda item IX.A.) so staff could review some additional technical information submitted by the appellant.

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MOTION by Mr. Upton to continue the Meyers IPES appeal to February. The motion carried unanimously.

Mr. Ziegler noted that the participants in the team-recommended Community Plans for Tahoe City and Stateline/Ski Run had been advised that these items (XI.C. and D.) would come up in the afternoon.

Chairman Chimarusti advised that the shorezone discussion (XI.B.) would be taken up at 1:30 p.m.

Mr. DeLanoy, Chairman of the Legal Committee, commented that the Legal Committee had met earlier in the day and agreed to continue the reallocation of the Bitterbrush mitigation fund (XII.B.2.) to March.

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

VI. CONSENT CALENDAR

Mr. Ziegler advised that Mr. Prim's agent had submitted a letter requesting continuance of item 7 (land capability challenge, Washoe County APN 126-251-24).

Mr. Westergard noted that item 6 (McGirr, Resolution of Enforcement Douglas County APN 03-172-04) should also be continued, because of the earlier Legal Committee discussion and direction to refer the matter back to staff for further negotiations.

MOTION by Mr. Klein to approve the consent calendar with items 6 and 7 continued. The motion carried unanimously.

(Following are items approved on the consent calendar: 1. City of South Lake Tahoe, Request for Air Quality Mitigation Funds (\$148,995) for Bus Acquisition; 2. Caltrans, Bridge 25-16 Replacement (Taylor Creek), California 89, El Dorado County, TRPA Project Number 520-201-93; 3. Handal, Special Use Determination, Veterinary Hospital, 1030 Emerald Bay Road, City of South Lake Tahoe, El Dorado County APN 23-430-32; 4. Ronning, Resolution of Enforcement, Washoe County APN 125-131-24; 5. U.S. Forest Service, Special Use Determination, Valhalla Boathouse Conversion, El Dorado County, TRPA Project Number 580-110-91)

VII. PROJECT REVIEW

- A. Zephyr Point Presbyterian Conference Commission, Special Use Determination, Expansion of Group Recreation Facility Requiring Allocation of PAOTs, 660-670 U.S. 50, Douglas County APN 05-100-01

Senior Planner Mike Thomas presented a brief summary of the proposal and staff's recommendation for approval.

Mr. Pruett noted that one of the conditions required a deed restriction limiting the use to organized groups, prohibiting vacancy signs and "drop-in"

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advertising and requiring the new owners to maintain recreational amenities on site. He questioned whether this condition could be changed in the future to allow the owner to apply for another type of use.

Mr. Thomas explained the applicant could apply for another use. If the owner wished to convert to tourist accommodation, as an example, he would have to transfer such units to the site.

Mr. Pruett asked that the conditions be clarified to address this.

Mr. Thomas explained that the coverage mitigation fees were used for coverage retirement.

Mr. Dorman Leader, the executive director of the Zephyr Point Presbyterian Conference Center, on behalf of the owners, explained the history of the center dating back to 1924 and the effort to meet the needs and requirements of TRPA and the fire and building departments.

Agency Special Projects Attorney Susan Scholley responded to Mr. Pruett's comment and suggested the staff add a condition making it clear that any future modification of the use would require TRPA's review and approval and the deed restriction would be amended accordingly. All deed restrictions had a standard paragraph that they may be amended with review and consent of TRPA.

Mr. Thomas explained that, because the project area was in land capability class 1a and contained approximately 63,050 square feet of excess coverage, the applicant would be required to either pay a mitigation fee or reduce existing coverage pursuant to the Code. Mr. Thomas presented more detail on the fee calculation.

Mr. Waldie noted that the staff summary indicated the general public was permitted access to the beach. He felt this was a unique provision to find in a private ownership project and was commendable.

Mr. Thomas explained that the public was required to check in at the front desk before going to the beach. As a group facility, one of the requirements for being eligible for PAOTs (persons at one time) was that public access to the beaches be required.

Mr. Thomas explained that, of the available 1,000 PAOTs basinwide, there would be 920 left after the project proceeded. The 1,000 pool was specifically set aside for Plan Areas that did not have PAOTs or had an inadequate amount for whatever was being proposed.

Mr. Jerry Loving, architect, discussed the architecture of the project and agreed to accept the staff-recommended conditions. Public access was referenced in the conditions, and the historical pattern was for people to check in at the front desk at Highway 50 to make their presence known. Those using the beach would then take the access routes down to the beach. It was his understanding this was a condition of the permit.

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Mr. Thomas explained that staff wanted the Conference Center to maintain the public access, since it was already an existing policy.

Mr. Loving explained that the earlier expressed objections of the fire department regarding the narrowness and steepness of the roads had been negotiated to equilibrium. The old tortuous roads would be gotten rid of and fire sprinklers and a hydrant would be installed. The road would be improved before construction could commence. There was a loop circulation route through the entire property, and the project area was at one end of the site. The road would be improved for safety purposes, and buildings would be closer to the road for easier service access.

Mr. Ziegler noted that staff had a letter from the Tahoe-Douglas Fire Protection District Marshal stating that he and the Fire Chief agreed to the project, provided it included five conditions. These had been incorporated into the project.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, explained the League was not opposed to the project but was concerned that in the context of recreational issues in general there needed to be a clear definition of recreation. The League understood PAOTs to be a form of allocation intended to promote and protect recreational uses in the Basin. This project was coming in as a campground, a group facility, a religious camp. The League had a problem with 40 rooms housing 80 people being considered a campground. This more closely resembled tourist accommodation units than camping units. In general, the issue of what constituted a recreational use was something that should be revisited and redefined, since the existing definitions were inadequate. With regard to the public beach access, Ms. Nason urged the Board to include the requirement as a deed restriction. Clearly this was a critical portion of the finding under the present Code that this was a recreational use. It should be preserved in the event the facility was sold to another buyer. She was surprised that the project was referred to as part of a master plan since this was not reflected in the documents.

Mr. Ziegler noted that staff would support a condition that public beach access be part of a deed restriction if acceptable to the applicant and that this would be considered a continuation of the existing policies.

Mr. Loving explained this had been a concern of the Conference Center. There had been a historical pattern on this. Indiscriminate access was a concern because the site did contain a religious facility and people were to check in on entering the site. Keeping the policy in place was acceptable. He questioned whether this wasn't already codified in the law of the Basin with respect to beach access. On the question of the recreational use, the private rooms were a segment of the recreational amenities; these were logical for adults, disadvantaged, and those in need of privacy unique to the kind of non-profit and religious groups using the facility. The use was appropriate. On the question of a master plan, the applicant needed to file with TRPA an understanding with respect to phases 2 and 3 of the property. All of the physical planning had not occurred as yet, but the Center had stated its intent as to the future use of the property and converting it all to a group, recreational use facility. This was all on file with TRPA.

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Mr. Waldie asked if it was clear that with staff's acceptance and the seeming acquiescence of the applicant the deed restriction relating to beach access would be a part of the action of the Board.

Chairman Chimarusti concurred this was his understanding.

MOTION by Mr. Cronk to make the findings required to approve the Zephyr Point Conference Grounds project. The motion carried unanimously.

MOTION by Mr. Cronk to approve the project with the conditions in the packet and the condition regarding a deed restriction for beach access as was the custom to date. (In other words, people check in at the front door to announce their presence.) The motion carried unanimously.

Agency Counsel Rachelle Nicolle asked if the Legal Committee matter could be taken up next due to the presence of the applicant's attorney.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

B. Legal Committee

1. Vennard, Settlement of Pier Violation, 300 Highway 28, Washoe County APN 123-151-01

Ms. Nicolle explained that the Legal Committee voted on a \$5,000 fine for Mr. Vennard with the idea that the Committee would hold up the recommendation concerning the extension of the pier, which was previously approved by the Board, until the shorezone study was done. The applicant would come back at that time on the issue of reinstatement.

Mr. Tom Hall, attorney for Mr. Vennard, agreed to accept the recommendation of the Legal Committee to pay the \$5,000 fine and execute an agreement in the form presented by staff and counsel.

Mr. Waldie asked if he was correct in his understanding that the Committee had agreed that the applicant would come in not only for the extension but also for the stairs and existing pier as well.

Mr. Hall agreed. The applicant would come back for the pier permit in conjunction with the shorezone cumulative study report.

MOTION by Mr. DeLanoy to approve the Vennard agreement as recommended by the Legal Committee and as presented. The motion carried unanimously.

- B. Lake Tahoe Community College, Phase II North Addition, El Dorado County APNs 025-010-24 and -34, 025-041-10, and 031-011-02, City of South Lake Tahoe, and Discussion on Pertinent Height Regulations

Associate Planner Vivica Orsi presented the staff summary of the College proposal, the issues and the pertinent solutions. Staff recommended support of the proposal.

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Mr. Westergard questioned the status of sewer capacity at the South Tahoe Public Utility District and the establishment of priorities for the remaining available sewer units.

Mr. Klein suggested the capacity problem was a paper problem and related to definitions and litigation settlements. In reality, the STPUD was operating at peak periods at as much as 1,000,000 gallons below what the paperwork showed. Many felt there was no problem in reality, but the District was moving through a process that would likely take the balance of the year to address resolving the paper issue.

Ms. Scholley reminded the Board that there was allocated capacity at the plant as stated in prior EISs and as part of the .2 mgd expansion a few years ago and an assigned number of sewer units allocated to various uses (residential, commercial, public service, recreation, affordable housing). This project would either come close to or zero out the allocated sewer units in the public service category. The District was proposing an EIS and a facilities plan which would get into the issues raised by Mr. Klein. While there was no concern the plant would overflow because of this project, there was an issue to be addressed regarding allocation of available capacity to different classifications of use. At this point in time, under the Board's current EISs and method of calculating sewer capacity, this project would pretty much zero out the public service capacity. The District was in the process of coming up with a temporary fix for that situation, not only the zeroing out of the public service capacity but also the fact it was pretty much out of capacity under the current method of allocation for any new residential uses in 1994 and for any private recreational projects. The staff was working with the District on this, and there could be a temporary fix before the Board in February.

Mr. Ziegler explained that, because of the large size of the parcel (160 acres), the land coverage penalties in the portion of the Code which exchanged additional height for reductions in potential land coverage were quite large (over two acres). It would not affect the project approval but would affect the financing and long-term situation at the College site. Staff discussed various options on this issue with the Advisory Planning Commission (APC), and the APC asked staff to pursue the possibility of a Code amendment which would deal with the situation for very large parcels and try to level the playing field so that large parcels would not be unfairly penalized. The condition in the staff summary suggested that, if such an amendment were made prior to occupancy, the College could come in with a request to revise the permit. Occupancy was anticipated for September 1995. While the APC wanted this addressed in February, the staff would more likely take it up in March because of other work commitments.

Mr. Bradhurst expressed concern that Senior Planner Andrew Strain not be pulled off his work on the Washoe County Community Plan to work on the height issue. The County needed Andrew to focus on getting its plan completed.

Dr. Guy Lease, President of the Lake Tahoe Community College, explained this project along with another future project were covered in an original environmental document adopted by the Board in 1986. A special turn-around

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for the STAGE bus system was built. Buses came on campus 14 times a day as part of the regular routing, and this would be increased most likely when the students from the West Campus were moved to this site.

Ms. Rochelle Nason, an adjunct faculty member of the College and League to Save Lake Tahoe Executive Director, suggested the League would reserve its comments on the height issue until it came back to the Board. On the sewage issue, the STPUD had a sewer spill in Heavenly Creek in 1986. The League had done what it could to get STPUD to ensure this would not happen again. This matter was coming to a head at this time because no action had been taken to correct the problem, despite an agreement to do so. On the alleged capacity at the plant and the paper limitation, the League had no evidence to substantiate this claim. A part of capacity was the ability to avoid risks, and the risk of a spill reoccurrence was unacceptable in terms of any claim of additional capacity. With regard to the transit situation, the requirement that there be essentially three parking spaces available for every person who might use the facility at any time meant that incentives were being given to encourage people to drive rather than to take transit. Although the community college was on the ordinary routes of the bus system, there was not a regular stop. Buses stopped if a student requested the stop. At this point the college was served by transit but only in the minimal sense.

Chairman Chimarusti suggested that the Lake Tahoe Community College get in touch with the Sierra Nevada College and discuss its limitation on parking and encouragement for transit use.

Ms. Hagedorn asked for reassurance that TRPA would revisit the parking management strategy and requested a copy of the College's transit management plan. She did not think this was an issue to gloss over; TRPA had an option to do some enhancement of transit alternatives which would pay off long term for the Tahoe Basin.

Dr. Lease discussed meetings held with TRPA staff and the transit provider and the College's effort to manage the transit situation. TRPA's regulations gave differing signals depending on when discussions with TRPA were conducted. In the original approval, the College was required to build twice as many parking spaces as the College felt it needed to serve the facility. The College was required to ensure there would be no parking on the roadways surrounding the College, particularly on Al Tahoe Boulevard. The College took this to mean that there should be sufficient parking so people would not park out on the road and walk in and that the College should not charge for parking because it would encourage people to park offsite and walk in. The College would like to see regulations it could work under to assist in solving some of the community transit problems and was willing to come up with additional plans in this area as they met TRPA's goals and requirements. The College was willing and needed to be a part of a much larger study and a larger direction.

Ms. Hagedorn encouraged the College to take a leadership role in transit management. At a minimum she felt the College's management plan should address aggressive negotiations with transit services to make sure those services were continued and enhanced. She knew of no college where such parking was not done by permit. Students should be trained on what to expect

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on transit, including the possibility of a self-assessment to cover the cost of a transit contract.

Mr. Ziegler explained that a Transportation Management Association (TMA) was being created on the South Shore; TRPA would be making a contribution to this group. The College would be a member of that TMA as well, assisting in the public-private partnership interests to work on solving transit problems.

MOTION by Mr. Upton to make the findings necessary to approve the Lake Tahoe Community College project as proposed. The motion carried unanimously.

MOTION by Mr. Upton to approve the project with conditions as outlined. The motion carried unanimously.

VIII. PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS

B. Resolution Adopting 1994-1998 List of Additional Public Service Facilities Pursuant to Section 33.7

Associate Planner Coleen Shade explained that the bistate compact listed a public service and facilities plan and recreation plan as parts of the Regional Plan. Goal 5 of the Goals and Policies in the Public Service Element discussed a five-year list to be prepared by TRPA and updated annually or as necessary. The Code stated no person could construct a public service project without its first being on the list. For this update TRPA received 39 new projects and 46 project amendments. The Advisory Planning Commission in its earlier discussion on this topic asked the staff to look at streamlining the process and determining whether a finding of need had to be made for the projects on the list.

Agency Special Projects Attorney Susan Scholley explained that the adopting resolution made it clear that the finding of need being made for the listed projects was made in the context of the five-year planning process and did not preclude an inquiry into the need for the project at the time of project review. Because the lists did help fulfil the requirements in the compact for recreation and public service plans, there was a need to at least do some initial screening of the projects. The finding of no significant effect with respect to the list was not a finding of no significant effect with respect to any of the individual projects. Each project had to come back in for the determination. This was all being done in the context of a plan. TRPA was not subject to the California Environmental Quality Act, but rather to Article VII of the Compact, which set forth when an Environmental Impact Statement (EIS) was required. TRPA's own rules elaborated on that process.

Mr. Waldie suggested that making the finding that the list was consistent with the regional plan was an environmental conclusion.

Ms. Scholley responded that the Goals and Policies stated that public service and recreational facilities would keep pace with whether or not they could serve the Region's needs. There were a number of allocation systems in place (PAOTs allocations, commercial allocations, vacant parcel limits). It was possible to look at the listed projects to see if they would serve the general

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parameters of development anticipated within the Region. Staff felt comfortable recommending a finding of no significant impact on a regional basis, again realizing that each project would have to come back in and be screened much more specifically.

Ms. Shade explained that the list was used by legal staff and project review staff to see if there were sufficient public facilities to deal with the capacity in the Basin. It also assisted in looking at future activities and staff work loads. In terms of transportation projects, it assisted staff in looking at whether air quality standards and thresholds were being attained and maintained. The environmental threshold issues specifically were not addressed.

Ms. Hagedorn questioned how the list would move the Agency along in achieving its goals as opposed to just processing through paper.

Ms. Bennett suggested the list of projects itemized upgrades of facilities that would have a positive environmental effect. She felt the Capital Financing Committee would be very interested in knowing when these projects were completed because they represented a significant investment on the part of the community.

Mr. Pruett asked why several upcoming projects in Douglas County were not on the list. These included the DCSID Kingsbury Grade sanitary sewer intertie project, a beach pump station, and a water improvement project at Zephyr Cove.

Ms. Shade explained that a questionnaire was mailed each year to public service providers requesting anticipated projects for five years, the cost of the projects, the location and type of projects, the plan areas involved, and the need for the project. Staff took those and incorporated them into the update. An appendix listed projects for which there was not sufficient information and projects which may be listed at a later year on the list. Some projects, such as line replacement, did not need to be on the list.

Mr. Waldie suggested the list had an environmental consequence. There were advantages to projects on the list and detriments to those which were not. There were detriments to the Basin environmentally for those which did not or did get on the list. Why didn't the environmental consequences of failure to get on the list warrant more documentation?

Agency Counsel Rachelle Nicolle suggested that environmental documents generally looked at impacts on the ground. She agreed that conceptually there was validity to the point but there were generally many projects that went through city and county review that fell by the wayside. They usually were not analyzed in greater deal until they were closer to construction.

Mr. Ziegler explained how the lists satisfied the Compact requirement for a recreation and public service plan and how that was acknowledged in the 1987 Regional Plan litigation settlement. The lists were used primarily as early warning devices to give everyone an idea of what was coming down the road from a work standpoint and also gave notice what public service and recreation projects were being planned for the five-year horizon. Mr. Ziegler commented

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further on the policy background on the public service and recreation lists.

Mr. Upton suggested the lists provided for the ability to look at needs that crossed jurisdictional lines in a more regional way. There likely was an unrealized potential in terms of the practical use of the lists that the Board should think about. The lists could be used not only for joint planning purposes but also for joint financing purposes. These were capital financing issues.

Mr. Klein commented the '87 settlement included a stipulation there could be no changes in certain requirements for a five-year period. That period had passed, and it may be appropriate to take a new look at the lists and how they were used. The Board needed to come up with a way of addressing planning issues as a tiered process, as opposed to starting out with an environmental document that may be difficult to prepare.

Mr. Waldie explained he had no objection to the list. In view of the staff comment that the lists were determined as part of the '87 litigation settlement to be equal to a plan as required by the Compact, the plan by definition embodied some judgmental decisions relative to environmental issues. The plan therefore required a considerably higher level of environmental documentation than was set forth at this time.

Mr. Ziegler explained that the issue of a higher level of analysis on the two plans was a new one. The Capital Financing Committee had danced around the issue of whether the capital financing plan should have some awareness and recognition of the public service list and the public service needs. This was an issue that would come up on January 27. In his mind, for the day's discussion, it was a question of priorities and work load and available staff to do the analysis. To do a more detailed analysis of the list would require dropping something else from the work program. He felt the decision whether to prepare an environmental assessment was a discretionary one.

Ms. Scholley explained it was up to the Board to determine at what point an issue rose to the level of requiring an EIS. The decision was based on existing case law and the Compact language. Staff did an initial environmental check list (IEC) on these lists to determine whether or not there were issues. There was extensive environmental documentation prepared on the Regional Plan Goals and Policies, the Code, and the 208 Plan. Since the preparation and certification of those documents, there had been a dependency on the fact that as long as things were occurring within the scope and envelope of the growth addressed in those documents TRPA did not need to go through the process over and over again.

Ms. Hagedorn noted that one of the Agency's goals resulting from the Board retreat in November was to establish and implement a coordinated program to find and prioritize funding resources. She assumed that, based on the recommended timing to accomplish this, TRPA was on its way and the document was a proactive one.

Chairman Chimarusti noted that the Capital Financing Committee had taken on this assignment since it was within the purview of its responsibilities.

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Ms. Rochelle Nason, for the League to Save Lake Tahoe, reiterated her earlier concern regarding the recreation list and the need for more planning. The recreation list involved a huge overestimation of PAOTs if all the projects were to be completed. The list included campgrounds that would look more like hotels than campgrounds. The list would not include additional tour boat facilities that wanted approval. A definition of recreation was desperately needed here. With regard to Mr. Waldie's concern, if the wish list was treated as a planning list, if in any sense a project was considered to have some kind of pre-approval or merit attached to it by inclusion on the list, it would require a complete and adequate environmental document. The League considered the list a wish list only. TRPA was subject to CEQA, and there was no question about that as a matter of law. CEQA contained a specific exemption for TRPA documents to the extent they were equivalent to CEQA documents. With regard to tiering, the process was for projects to tier from more complete documents to documents that focused on project specific aspects. TRPA could not go from an Initial Environmental Checklist to a more complete environmental document.

Chairman Chimarusti suggested that if the League had a problem with the definition of recreation contained in the Code it make a formal proposal to amend the Code. The Board could discuss it in that context, rather than trying to do it off the cuff.

MOTION by Mr. Klein to move adoption of Resolution No. 94-1 amending the 1994-1998 list of additional public service facilities. The motion carried unanimously.

C. Resolution Adopting 1994-1998 List of Additional Recreation Facilities Pursuant to Section 33.6

Long Range Planner John Hitchcock advised that he had been requested by the proponents of the Homewood Marina expansion, which was on last year's list, to amend the list by adding replacement of a boat launch ramp.

Mr. Sevison asked to amend project 45 on page 3 to read "California Tahoe Conservancy Carnelian Bay Picnic Area/boat ramp". The North Tahoe PUD had it listed on page 1 as Patton Beach. Patton Beach was not the best location for the boat ramp because of a proposed restoration of the nearby Carnelian Creek outlet. Also, item 26 for NTPUD had no project title.

Mr. Hitchcock responded that this project was the Tahoe Vista Recreation Area. Item II.A.5. (new projects requiring PAOT allocations) should read, "North Tahoe Public Utility District, Patton Beach Mooring Buoys/Boat-Ramp."

Mr. Waldie commented that, in his opinion, the environmental documentation was insufficient for this agenda item, as it was with the previous agenda item, because of its failure to comply with Article VII of the Compact and particularly the California Environmental Quality Act as it applied to the Compact.

Ms. Nicolle responded that, rather than debating the issue at this time, she would be mailing Board members a memo on this subject.

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MOTION by Mr. Klein to adopt Resolution No. 94-2 adopting the 1994-1998 list of additional recreation facilities. The motion carried unanimously.

VII. PROJECT REVIEW (continued)

C. Douglas County, Kahle Park, APNs 07-130-03 and -04

Senior Planner Lyn Barnett presented a brief summary of the County's proposal to construct a new community park on 19 acres of land. Staff recommended approval.

Mr. Scott Morgan, Douglas County Director of Parks and Recreation, spoke in support of the project and concurred with the recommended conditions.

MOTION by Mr. Pruett to make the required findings for approval of the Kahle Park project. The motion carried unanimously.

MOTION by Mr. Pruett to approve the Kahle Park project with conditions as outlined. The motion carried unanimously.

The meeting recessed for a lunch break from 12:05 to 1:30 p.m.

XI. PLANNING MATTERS

B. Policy Determination Regarding Modification and Expansion of Existing Shorezone Structures Located in Fish Habitat (Code Section 52.3.G(2))

Deputy Director Jerry Wells noted that since July 1993 staff had been working on a process to establish a clear policy direction for several unresolved shorezone issues. The intent was to develop a policy for each issue that provided a clear means of processing shorezone projects. One issue would be addressed today. The process consisted first in defining the issue at staff level, followed by the drafting of possible options with a pro and con type of analysis (in the packet material at page 242). Staff then discussed the options with the regulatory agencies for their input (resulting in option 7), subsequently refined the options at staff level and then met with project proponent interests for their input. The final staff refinement resulted in option 8, which staff was recommending for Board approval today. The issue today was whether TRPA should allow modifications or expansion of existing structures located in fish habitat if no degradation of environmental thresholds was demonstrated and a net environmental threshold benefit was achieved. The policy would address existing piers both private and public that were behind the pierhead line. Those piers proposing to go beyond the pierhead line involved a determination of multiple use, and it was staff's intention to discuss this issue with the Board at a later date. The policy to be discussed today was directed primarily at piers short of the pierhead line (6229' elevation), boat ramps that were short of 6229', floating docks and platforms less than 100 square feet in size that could go up to 100 square feet and which were located above elevation 6229', and buoy relocations (not buoy field expansions).

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Mr. Wells presented a summary of issues considered by staff in its analysis, including 1) the avoidance of any significant cumulative impacts, particularly from the standpoint of scenic and recreational access to the shorezone; 2) the ability to consider environmentally beneficial projects; 3) the ability to consider health- and safety-related projects; 4) the ability to consider projects which enhanced or improved public access; and 5) the ability to consider repair and replacement of existing structures. The analysis resulted in three primary options. Option 1, the "status quo," would allow continued modifications and expansions of existing structures located in fish habitat provided that the modification or expansion did not degrade any environmental threshold and improved the ability to attain or maintain environmental thresholds (at least in one threshold category). This was the scenario in effect until July of 1993 and was not supported by Agency staff or by the various shorezone regulatory agencies because it did not provide for a cumulative analysis. The project proponent group supported this option, however. Because staff was preparing a cumulative study for the entire shorezone, it was concerned about getting projects out ahead of the study without knowing what the cumulative impacts might be.

Option 7 provided for the processing of all 20 pending applications under Option 4, which allowed reconfigurations, relocations, modifications and expansions but limited expansions to minor additions. No applications could be processed which called for lengthening of structures further out into the Lake. Option 7 referenced new applications coming in the door between now and completion in late summer of the cumulative analysis. No new applications could be processed with the exception of minor structural repairs (less than \$5,000 in cost). This option was discussed and supported at a meeting of all affected regulatory agencies, with the exception of Nevada State Lands, which was not in attendance. The letters distributed to the Board members today, showed California State Lands and California Fish and Game still in support of Option 7. Option 8 was developed after the meeting with the public agencies.

Mr. Wells explained that staff did not favor Option 7 because it did not permit TRPA to consider any new applications other than minor repairs until completion of the cumulative study. This included processing beneficial public health and safety projects and projects which could provide access to the Lake. California Fish and Game supported Option 7 but would agree to expanding it to include full repairs or replacement of a pier if damaged or wiped out in a storm. Fish and Game did not want to see any pier extensions at this time. Option 8 was developed after the initial meeting and after a meeting with the project proponent group. It was an effort to reach common ground and to allow certain beneficial projects to be considered while at the same time protecting concerns relative to significant recreational and scenic cumulative impacts. Mr. Wells explained that Option 8 would permit processing of all applications under Option 1 with the understanding that all pending and new applications would be required to demonstrate that no significant cumulative impacts would occur. Mr. Wells presented more information on the three-step process under this option.

Mr. Wells explained that of the 20 pending applications, 14 involved pier expansions, 7 of which could be processed under Option 8; the other 7 could not because they involved structures proposed to go beyond the pierhead line.

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This brought into question the multiple-use issue, an issue not yet discussed. Staff recommended holding off for Board direction on projects involving multiple use. There were 4 pending buoy relocation projects, 3 of which could be processed under Option 8. One could not because it raised multiple use issues. There were 4 buoy field expansion applications which could not be processed because they were in fish habitat and could not be expanded. Of the 20, there were 10 that the staff could bring to the Board for consideration, and all would have to meet the three-step process as described. Mr. Wells presented more information on which projects could and could not be considered under the various options.

Mr. Westergard asked whether staff's reference to Code provisions was based on former Agency Counsel Jeff Blanck's position or on current Agency Counsel Nicolle's opinion.

Mr. Wells responded that it was based on Ms. Nicolle's opinion. Under Mr. Blanck's interpretation, significantly fewer than 10 of the 20 which could be processed under Ms. Nicolle's opinion could be processed. None had been processed under Ms. Nicolle's opinion. In July 1993 as a result of the discussion on the Cedar Flat buoy field project, the brakes were essentially put on the processing of any expansions until the issues raised in that discussion could be resolved. It had taken virtually six months to get these questions before the Board.

Mr. Waldie asked whether an environmental document was necessary if the Board now approved a policy change regarding the granting of pier expansions. If so, at what level would the policy change require the support of an environmental document? Was the provision of environmental support through documentation dependent upon a relaxation or upon a change? It was his understanding that a change in the impact on the environment by a policy required support through an environmental document.

Ms. Nicolle explained that, using Option 8 as an example, Option 8 was a more restrictive interpretation of the existing Code, so whatever environmental documentation was done with adoption of the provisions of the Code would incorporate a stricter reading.

Chairman Chimarusti commented that, as he understood Agency Counsel's answer, it was no, since TRPA had environmental documentation supporting the existing policy. This was not a relaxation of that policy or the Code but rather a more restrictive posture.

Ms. Nicolle concurred with Mr. Chimarusti's characterization.

Mr. Waldie asked if there would need to be environmental documentation prior to the Board's taking action on the final policy. If so, at what level? And if it were a policy, why would it require an EIS?

Ms. Nicolle explained that the final policy would be considered after the shorezone cumulative study and EIS.

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Mr. Wells responded that the cumulative study was an EIS. The Code required reconsideration of the location standards for structures in fish habitat, and the staff had determined that the reconsideration would require an EIS.

Mr. Waldie questioned why an interim decision advancing toward that conclusion did not have the same requirement. He felt that a change in policy, whether stricter or more liberal, required environmental documentation. In the litigation settling the 1984 Regional Plan lawsuit filed by the California Attorney General, there was an applicable holding by Judge Garcia relating to the backlog and the different way of handling the backlog from other applications. The Judge determined this was not proper. It was absurd for staff and the Board to spend so much time and effort on the processing of 10 applications and the setting of interim policies when the cumulative study was within a few months of being completed. What was the urgency? The interim policy decisions could be totally different from what would ultimately be concluded on the final policy. The Board did itself and the applicants an injustice by not having the information necessary to make reasoned judgments.

Associate Planner Coleen Shade advised that a final document would be before the Board in mid-summer. Accompanying ordinances would come out in early fall.

Ms. Hagedorn suggested redirecting staff effort from the interim policy work to the cumulative study in an attempt to expedite the process.

The Governing Board discussed the role of the cumulative impact study in the whole shorezone picture, treatment of the pending projects in relation to the final report, issues raised in the study to date, potential findings of the final report, previous Board direction, the position of state agencies, the staff's work load. The Board also discussed the difference between California and Nevada state laws relative to the shoreline.

Mr. Waldie summarized the various meetings and resulting positions on the policy and expressed concern with the evolution of staff's support of Option 8. He objected to the abrupt discarding of the opinions of the representatives of the public agencies of both states. The process of obtaining opinions from state agencies on issues such as this should be a public process and not something done by telephone. He was concerned that the staff was persuaded so effectively by the private property interests in changing its position. While the handling of the process was an honest mistake, he was offended at the slighting of the public interest and the accommodation to a great degree of the private interests. He would have liked to have attended the later meeting as he had the shorezone review committee meeting.

Mr. Wells described the meeting with shorezone property groups and attempt by staff to get the input of those who would be affected by the Board's adopted policy. Those present included Gregg Lien, Jan Brisco, Todd Carr and TRPA staff. The same options were presented at that time as were discussed with the public entities, and after more staff research on Goals and Policies and the 1991 threshold evaluation, staff came up with Option 8. He did not disagree with Mr. Waldie's concern with the process, but part of the problem

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was caused by the time crunch and an effort to get something before the Board. He had made an effort to include all affected parties in getting input.

Mr. Gary Midkiff, from the audience, advised he was not in attendance at the referenced meetings and suggested staff had done a good job in looking at alternative approaches. The shorezone had been an issue since the late '70s and had been under study continually. There appeared to be no end to the decision-making process. He recommended the Board follow the staff's recommendation to look at projects on a case-by-case basis while the process to put together the cumulative study was underway. The Board should require projects to pass the test to show that they would not further degrade but rather improve the environment. This was a fair approach and gave the public an opportunity to show they could perform and got the private sector involved in meeting the thresholds. He favored Option 8. Mr. Midkiff responded to Board member questions.

Mr. Gregg Lien, representing the Tahoe Sierra Preservation Council and the Tahoe Marina Owners Association, spoke in favor of the staff's treatment of the issues and inclusion of the public in the discussion. In 1987, the Board dealt with the big picture and came up with compromises in the Goals and Policies and the Code intended to deal with the butting of heads between the private and the public interests on the shorezone. Mr. Lien presented the background of the shorezone issues dating back to 1984, litigation, consensus, Code changes, and shorezone studies relating to scenic impacts, fish habitat, and public access. Staff determined that a cumulative impact study was needed in order to meet the Code to lift the moratorium. Now it seemed that that same study was geared towards imposing a new moratorium and to causing the Board to reconsider the grand policy and to compromise the earlier documents. He favored keeping the existing commitments by following the existing rules. The environmental work had already been done on scenic, public access, fisheries, and other issues. Option 1 took the process to an entirely higher standard than the status quo because it required proof of progress towards meeting thresholds. Since 1987 the total number of processed expansions totaled 37, and many were actually a reduction in size and scope. Half of the 37 were multiple use, and the total number of piers in the last ten years had gone down. Mr. Lien spoke in opposition to Option 8 and suggested a cumulative impact study for each project would be a nightmare and was not required by the Code or by the Goals and Policies. Mr. Lien presented information on shorezone approvals, the effect on scenic quality, on public access, and the need to get something decided soon so the building season would not be missed this year.

Mr. Wells explained that the shoreline survey showed there were approximately 70 piers short of the pierhead line. This was a rough figure. There were approximately 700 existing piers in Lake Tahoe, both public and private.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, spoke in support of Option 7 and suggested the Board was faced with the narrow issue of deciding what to do pending the outcome of the cumulative impact study. The thought of analyzing on a case-by-case basis whether each pier had a cumulative impact was essentially absurd. To do such a serious study with regard to each pier was an extraordinarily serious undertaking, which could not be completed

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before the cumulative impact study was scheduled to be completed anyway. The only way TRPA could approve projects using this standard would be by fudging the studies and accepting studies that were much less than adequate for review of cumulative impacts.

Mr. Todd Carr, from Vail Engineering, questioned the timeframe for the cumulative study and his feeling that the staff report scheduled for completion this fall would more likely take two years to complete. The thought of approving public projects over private projects was not going to hold up. Public projects would have secondary impacts outside of the scope of the cumulative impact study. Public projects had to have high capability land, access, traffic studies and air quality studies. Would the cumulative study be faulty from the outset and would it address secondary impacts? Because of the time required to cover these topics completely, there needed to be a policy for treatment of pending applications. Vail Engineering had five pending applications which were submitted in 1991 and had at staff's urging submitted more information and additional studies over the years. Mr. Carr urged the Board to look with sympathy towards the pending applications, to look at Option 1 and, at the least, Option 8. The Board should know that the staff's study was dependent upon the completion by other agencies of studies regarding rorippa and dredging. This could mean even more delays.

Mr. Neil Eskind, for the Cedar Flat Improvement Association, spoke in favor of Option 7 and of the League's statement with respect to cumulative impact studies. The cumulative impact study really did not address a solution to the problem and would probably make it worse. Option 7 would provide the escape hatch necessary to allow property owners to address public safety and health issues. The Association would like to proceed with consideration of reorientation of its buoy field due to the proximity of the buoys to each other. Having many minor studies would not improve the situation and may actually make the major study of less value. He appreciated staff's position that this represented a compromise towards trying to find a middle ground, but for the short term a lot of smaller studies could delay the major study. Staff did not have time to review each of the cumulative impact studies.

Ms. Jan Brisco, representing the Tahoe Lakefront Owners Association, discussed ownership of the California shoreline and the public trust easement between the high and low water marks and treatment of piers as navigational and emergency aids. In most cases, single use piers went to elevation 6219', a depth considered to be safe, navigable water at low water. Ms. Brisco distributed a copy of an excerpt from the California Public Resources Code favoring substantial public benefit derived from private recreational piers on the waterways of the State. The finding applied a right of reasonable private use. She favored reasonable regulations to enjoy and use properties in a reasonable manner, not inconsistent with thresholds and studies. The Association had worked cooperatively over 20 years with regulatory bodies to address code, scenic, navigational, public interest and environmental issues. In most cases, cumulative issues were already being addressed. Ms. Brisco asked the Board to direct staff to continue as it had since 1988, processing projects based on their case-by-case merits. She requested that the positive impact of piers be addressed in the upcoming cumulative impact study.

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Mr. Greg Peterson, private citizen, advised he had an application on file for a joint pier with his neighbor. The process of trying to comply with the regulations as they changed over time was a frustrating one, and he had spent \$9,700 to date. He strongly urged the Board to approve Option 1.

Mr. Paul Kaleta, Basin Strategies, suggested the Goals and Policies and Code should be implemented as they existed today while additional studies were contemplated. Imposing a moratorium every time there were studies underway would mean no approvals would be granted in the Basin. Getting a permit from TRPA would not usurp the authority of other regulatory agencies and prevent their denial of the same applications. There were differences between issues of concern in California and Nevada, and it was appropriate for TRPA to concentrate on its own area of concern. There were equity issues here concerning the 20 pending applications, and it was only because of different Code interpretations that the controversy had arisen. The Board should stay with the existing Code and continue to review pending projects. Some of the pending projects would provide scenic improvements and fish habitat restoration; it was not in the Agency's best interest to postpone action. He favored Option 1.

Mr. Wells responded to Board member questions regarding the testimony and specifically the scheduling of the study. TRPA had a more ambitious schedule initially, but due to delays encountered by assisting agencies the schedule had been moved out. Staff did not have full control over the rorippa and dredging studies.

Mr. Ziegler addressed the moratorium and the question raised as a result of the July and August 1993 Board meetings regarding which standards to apply to expansion and nonconforming uses in the shorezone. As a result, staff embarked on a process to answer the policy questions that had been brought up. The so-called "mini-moratorium" was a pause to get clarity on the applicable standards. He felt that the process today was a more efficient process than bringing individual pier or buoy field applications to the Board and getting caught in a huge cross-fire and acrimonious debates. As lengthy as this debate was today, it was orderly and helpful. With regard to the staff work load, Mr. Ziegler explained that there was crossover among the divisions in work assignments and other staff members could be assigned to work on the study. Staff wanted some direction so it could answer applicant's questions. Staff could live with Option 7 even though it was not the preferred option. Any denial could be appealed, and it was likely some percentage would be. The work load would not disappear should the Board choose Option 7. Staff preferred Option 8 but there were risks involved in dealing with the fact that the individual cumulative analyses could be a lot of work both for applicants and for staff and could lead to open ended arguments about whether the cumulative impacts were significant or not. In the context of the July and August Board meetings, the issue of cumulative impacts came up repeatedly. At this point, staff could not support Option 1 because it did not give enough weight to cumulative impacts. Staff felt that, with a cumulative impact study going on, there should not be a double standard applied to pending projects.

The Board members discussed the impacts of the various options, application of California high and low water rules to Nevada by virtue of TRPA action, living

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up to earlier deadline commitments, support for staff's recommendation, the definition of demonstration of net environmental threshold benefit, cumulative impacts as a subjective determination, the process of discussing policy issues one at a time while processing applications, whether threshold findings to grant approvals could be made without a cumulative impact study, Board and staff time required under the various options, and the need to rely on other agencies for completion of studies.

MOTION by Mr. Pruett to approve Option 8. The motion failed on the following vote:

Ayes: Mr. Pruett, Mr. Cronk
Nays: Mr. Klein, Ms. Cavin, Mr. Sevison, Mr. Bradhurst, Mr. DeLanoy,
Mr. Waldie, Ms. Bennett, Ms. Hagedorn, Mr. Westergard, Mr. Upton,
Mr. Chimarusti
Abstain: None
Absent: Ms. Neft

MOTION by Mr. Upton to approve Option 1. The motion carried on the following vote:

Ayes: Mr. Klein, Ms. Cavin, Mr. Sevison, Mr. Bradhurst, Mr. DeLanoy,
Ms. Bennett, Mr. Cronk, Mr. Upton, Mr. Chimarusti
Nays: Mr. Waldie, Ms. Hagedorn, Mr. Westergard, Mr. Pruett
Abstain: None
Absent: Ms. Neft

XI. PLANNING MATTERS

C. Presentation of the Team-Recommended Tahoe City Community Plan

In response to Chairman Chimarusti's direction, Principal Planner Gordon Barrett focused his presentation on listing the issues raised in the Community Plan (CP) discussions to this point and the scheduling. The focus of the Tahoe City plan was that it be a major tourist accommodation, retail, and service area broken up into six areas (downtown commercial, public service area, the 64-acre tract area, a commercial area south of Tahoe City, state park north of Tahoe City, and the golf course area). The plan called for 50,000 square feet of new allocation with a potential for 100,000 transferred square feet. The CP provided for 25 bonus units and expansion of tourist accommodation of 160 to 170 units, with 50 affordable housing units. The planning process for this CP focused on rehabilitation of the area, not so much on expansion. Mr. Barrett presented more on the details of the key features of the plan and advised that the EIS would be mailed in the next few days. The Advisory Planning Commission would be considering the plan at its meeting in February. Issues raised in the eight comment letters related to the adequacy of the EIS/EIR, the downtown improvement projects, the area-wide drainage system and how it applied to each property, the connector roads, Plan Area Statement (PAS) 003/Industrial extending down the Truckee River corridor, and parking. Mr. Barrett responded to Governing Board questions about PAOTs, the status of the Truckee River corridor, the proposed Lake of the Sky interpretive center, and the status of commercial development.

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Mr. Bill Combs, Placer County planner, advised he had been working on the plan for six years and had put in considerable time in the process. He looked forward to TRPA support and adoption and would be taking the plan to the Placer County Supervisors in March for adoption.

Mr. Rick Dondro, with the Placer County Department of Public Works, commented on the transportation features of the plan, suggesting transportation was a key element of the plan as it related to air and water quality. The plan focused on pedestrian and bicycle use, a shuttle system, intercept parking lots at the ends of town, and on a menu approach to selecting transportation options and solutions.

Board members discussed the importance of a parking management plan, the role of redevelopment, the schedule for the TRPA Board to act prior to the Placer County Board of Supervisors, the ability to handle differences between TRPA and Placer County at a later time, and the need for the staffs to be prepared at a future meeting to discuss transportation issues in connection with the Lake of the Sky interpretive center (on the 64 acres).

Mr. Robert McDowell, with the Forest Service, advised that nothing had changed since Jackie Faike presented the Forest Service's plans at last month's meeting for the 64 acre site, the interpretive center and the place holder for the community parking lot. Two years ago, the Forest Service submitted a letter regarding PAS 003 and the change of land use from the current commercial zoning downriver. The Forest Service had determined that the portion of the Truckee River down from Tahoe City was eligible for Federal Wild and Scenic status as a recreation river and the Forest Service was proceeding with an environmental impact statement process on that river as well as other rivers on the Tahoe National Forest. The Forest Service would like to keep the current zoning, which was to redirect the commercial uses in the river corridor out of the corridor because of its recreational and scenic values. He recommended the Board not change the current PAS direction and not approve a continuation of the commercial status.

Chairman Chimarusti directed that this comment be brought up again when the matter was before the Board for actual debate.

Mr. Harold Singer, Executive Officer with the Lahontan Regional Water Quality Control Board, clarified that on page 262 under the paragraph on Area-Wide Drainage there was a statement suggesting that Lahontan felt all drainage should be treated on-site to be consistent with their policies. While this was a correct statement in terms of Lahontan's overall process, Lahontan realized that on-site treatment in downtown Tahoe City was not feasible because of the high ground water; the community-wide drainage system was the appropriate mechanism for treatment in the downtown area. Lahontan realized there were on-site activities that could occur, such as oil and grease separation and street sweeping, to enhance the effectiveness of any system. The concern with the miscommunication on this point was that there seemed to be an implication that if the community-wide system was built that that was all that would ever have to be done for stormwater treatment in Tahoe City. Some on-site property owners may feel they did not have to do anything more. While Lahontan felt the community system may be a first phase to meet water

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quality standards, if the system did not meet the standards, Lahontan would expect further facilities either on-site or further off-site if feasible. He could see water quality improvements treated in the same manner as the earlier described menu approach for transportation. If one method was not effective, there were other options to be considered. Lahontan would be meeting with Placer County on February 9 to resolve some of the differences.

Mr. Terry Dyer, a CP team member, advised the plan had been in the planning stage for seven years. Another group of commercial property owners was being formed who just now were getting involved in the process. The group's concern was focused for now on parking. He would be meeting with this group tomorrow.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, suggested the League had a number of concerns with this plan but overall found much in the plan that was very good. The menu approach of looking at various traffic solutions was a good one.

D. Presentation of the Team-Recommended Stateline/Ski Run Community Plan

Principal Planner Gordon Barrett described the features of the plan and noted the plan would be back before the Board with staff recommendations. The plan proposed 45,000 square feet of allocation, 30,000 square feet up towards the Stateline area; commercial would be reserved for the pedestrian corridor on Highway 50 and at the Crescent V shopping center. The plan had more detailed control over land uses than the previously presented plans. The plan addressed, in part, a loop road system, an array of transportation options, pedestrian improvements, tourist accommodation units in the Ski Run Boulevard area, an allocation system. Mr. Barrett described the various parts of the plan using a wall display. The APC would be considering the plan in February. Issues involved the adequacy of the EIR/EIS, boundary changes, areawide drainage, areawide standards, threshold achievement, and parking.

Ms. Teri Jamin, Planning Director for the City of South Lake Tahoe, discussed the role of the local government in the process and explained the plan would go to the City's Planning Commission and City Council in March, after TRPA Board action.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, suggested the Stateline portion of the plan, adjacent to Douglas County, was inextricable from the Douglas County CP. The greatest concern was that there was no watershed plan for the total area to address the areas of influence and the areas that would receive impacts from growth. Adequate systems needed to be in place and growth needed to be phased in with adequate water quality improvements. The portions of the plan relating to traffic and transportation were unintelligible, and there was excessive parking. Transit instead of being improved would decline. Some kind of planning had to be done in order to build the loop road because of the thousands of dollars needed from each household in South Lake Tahoe. The likelihood this would be funded by the Federal Government over the objection of NDOT and Caltrans was not realistic.

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Mr. Steve Teshara thanked the staff and the City and all those who worked on the plan in cooperation with the Douglas County CP to ensure they were integrated.

The Board discussed the schedule for consideration of the two CPs as presented by staff. The Board directed staff to place both the CPs on the February agenda (Kings Beach meeting), and if the Board could get through the Tahoe City CP it would move on to the South Lake Tahoe plan.

E. Chapter 97, Employer-Based Trip Reduction Ordinance

Transportation Planner Bridget Mahern advised that the ordinance was taken to the Advisory Planning Commission for adoption on January 12. After public input, the APC postponed action to February to allow Basin employers to give a trial run to the employer worksheet. The form asked them to present information on the characteristics of their businesses and the existing employee commute habits. The APC also wanted more information on the definition of a common work location and the employers to whom it would apply, origin and destination across state lines, and clean fuel vehicles.

Mr. Dwight Steele, for the League to Save Lake Tahoe, advised that the Tahoe Transportation Coalition on January 25 made progress in its review of the ordinance. The Board needed to do some thinking before adoption of the ordinance on how to comply with the Regional Transportation Plan (RTP) and to think about innovative ideas on charging for parking in an effective way for employee trip reduction. The RTP required the ordinance to address employee parking pricing and supply limits; to date, the ordinance did not. The parking ordinance was to include provisions for paid parking with proceeds to subsidize employer-based trip reduction programs. He hoped this would be looked at. One option was to charge employees who used single-occupancy vehicles; another was to pay employees who abandoned a free parking space.

Mr. Klein suggested the Board members, staff and the Coalition also look at the information submitted by Mr. Kornreich on the scope and magnitude of the transportation problems in the Tahoe Basin and on workable solutions. Instead of charging fees for parking, he favored pay incentives and collecting a return in perpetuity at the front end.

Mr. Ziegler advised the Board that the APC was 95% okay with the ordinance and supported the user friendly approach. It did, however, want a dry run on the employer form/worksheet.

X. ADMINISTRATIVE MATTERS

B. Process for Selection of Executive Director; Resolution Establishing Governing Board Committee

Chairman Chimarusti noted that Larry Sevison's continuing membership on the Board was uncertain. He wanted to add Jane Hagedorn's name to the resolution in the event Larry would not be staying on the Board. He asked Mr. Sevison to contact staff as soon as he knew of his status. The resolution for Board action would note that Larry Sevison was to serve, and in the event he was

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unable to serve on the panel, Jane Hagedorn would serve.

MOTION by Mr. Klein to adopt Resolution No. 94-3 setting forth membership as amended and responsibilities of the Executive Director committee. The motion carried unanimously.

The Board discussed the involvement of the community in the intermediate phase of the Executive Director selection process, the fact the final decision was a Board determination, the difficulty in trying to set up several different interview sessions, concern with politicizing the selection through the panel process, the potential legal problems in asking improper questions in a panel format, and the experience at local governments in having open interviews.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, suggested the community interest in Lake Tahoe was not just the local Basin residents but all the people visiting from around the country and residents of California and Nevada. If the Board was having a community buy-in, it needed to look at the larger constituency and appropriately include it.

Agency Legal Counsel Rachelle Nicolle advised the Board that, in light of the definition of Public Officer and the fact that the Executive Director position was specifically mentioned in the Compact, she recommended the interviews be conducted in open session. Deliberations as well should be in open session.

Ms. Hagedorn commented that, if the process was to be an open one, everyone interested in the selection could be present. There would be input one way or the other.

Mr. Ziegler advised the Board he had received a letter from the South Lake Tahoe Chamber of Commerce asking that there be community input in the process. Some committee of the APC, which had lay and professional members as well as local and at-large representation, could assist staff in the first round of the initial screening process. He did not think the Board should dilute its consideration in the final round, since the 14 members on the Board represented a wide variety of viewpoints.

Chairman Chimarusti directed that the applicants be advised of the requirement for open session and if they wished their applications to be withdrawn they would have that opportunity. He suggested that some of the APC members be invited to participate in the initial screening process.

Mr. Ziegler asked if a motion could be made directing him to invite a representative sub-set of the APC to help with the screening process.

Chairman Chimarusti concurred and suggested he and Mr. Ziegler could discuss it further.

MOTION by Mr. Upton to approve the process outlined by Mr. Ziegler with regard to the screening process. The motion carried unanimously.

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C. Resolution Modifying Filing Fee Schedule

Deputy Director Jerry Wells advised this was discussed by the Finance Committee in the morning and was recommended for approval. The proposal was for a 2% inflationary adjustment. The effective date would be February 1. All the fees were originally set in August 1992 based on actual costs. TRPA did not capture all of that because local governments and state agencies were exempt from paying filing fees. The staff recaptured about 75% of the actual cost overall for project review and subsidized 25% of the process.

Mr. Cronk suggested that if some aspects of the review had changed over the last few years, such as streamlining or additional review requirements, and the filing fees were out of line there should be some means for adjustment.

MOTION by Mr. Severson to approve the amended filing fee schedule (Resolution No. 94-4). The motion carried unanimously.

D. Increase in Outside Agency Counsel Fees

Legal Committee Chairman Drake DeLanoy advised that outside legal counsel Gary Owen had not had an increase in fees for two years. The Committee recommended \$125 per hour for Gary, \$90 for fellow partners, and \$75 per hour for their associates.

Mr. Ziegler advised the Finance Committee also discussed the matter and felt that so long as the Legal Committee was not projecting increased costs in toto this fiscal year there would be no budgetary impact. Ms. Nicolle and Mr. Owen felt that although the hourly rate was going up in this fiscal year the budgeted amount would not be exceeded.

MOTION by Mr. DeLanoy to approve the increase in legal fees as outlined. The motion carried unanimously.

E. Status Report on Mitigation Measures in 1991 Threshold Evaluation -
in the Board packet material

A. Performance Review of Special Projects Attorney

Mr. DeLanoy advised that the Legal Committee had conducted a performance review of Special Projects Attorney Susan Scholley and recommended a salary increase.

Ms. Scholley requested that she have a performance evaluation by the full Board.

Mr. Ziegler advised that on the question of the salary matter the Finance Committee agreed by motion to create room in the budget for a salary increase. The only thing remaining to be done was for the Board to adopt the budget recommendations when this item came on the agenda and to conduct a review at some point.

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Chairman Chimarusti directed the review be conducted at the conclusion of the meeting.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

1. Receipt of December Financial Statement and Check Register

MOTION by Ms. Bennett to approve the financial statement and check register as recommended by the Finance Committee. The motion carried unanimously.

2. Revisions to FY 93-94 Operating Budget

MOTION by Ms. Bennett to approve the recommendations of the Finance Committee with regard to the amended FY 93-94 budget. The motion carried unanimously.

Mr. Ziegler explained that on the revenue sheet the major change was that because the U.S. Supreme Court rejected review of the Kelly case all the costs that the Nevada courts had granted TRPA became due and payable. TRPA received a check this morning from Mr. Kelly's attorney. There were other minor adjustments in the revenue sheet. Fines and forfeiture revenues were running ahead of projections. On the expense sheet the major changes related to salaries and benefits. Salaries were lower because of reduced work schedules and higher because of his resignation resulting in a cash-out situation and Ms. Scholley's increase. The Committee also approved directing fines and forfeitures revenues to a short-term, one-time only contract position for the capital improvements program into the fourth quarter of this fiscal year and some money for the "Tahoe Landscape" publication.

C. Rules Committee

1. Affirmative Action Policy

Rules Committee Chairman Jerry Waldie noted that the Committee discussed the policy as it now existed. There was confusion on some possible conflicts as it was written, and there was a need for some clarifying analysis. The matter was postponed to the next meeting to receive that further information before making a recommendation.

2. Conflict of Interest Policy

Mr. Waldie advised that Ms. Nicolle provided the Committee with the existing policy, and the Committee recommended no action but that every member of the Board be provided with a copy of it for their own understanding and that the process of requiring an updating of the conflict of interest filings be done on an annual basis. Now it was not done at all and left up to each individual Board member to do should there be a change in property or income. There was also a question that Ms. Nicolle was researching regarding whether it was a conflict of interest for a Board member to vote on a generic issue, like lowering the IPES line, and thereby increasing the value of the Board member's privately owned property. There was a lot of gray area in this situation.

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There was no change in the policy, but there needed to be a better understanding by the Board members of what it was.

D. Capital Financing Committee - to meet on January 24

Mr. Chimarusti asked the Committee to provide the Board with a report in February on the "short list."

XIII. REPORTS

A. Executive Director

1. Status Report on Processed Projects - in the packet
2. Status Report on IPES and Land Capability Determinations - in the packet
3. Quarterly Status Report on Project Securities - in the packet

Mr. Ziegler updated the Board on the discussions at the January 24 meeting of the Nevada Oversight Committee. Topics included controversies over the last 18 months, a legal report, a roundtable discussion about TRPA, a report on land acquisition programs in the Basin, a roundtable discussion on the six areas of interest on which the Committee will be making recommendations at the conclusion of its study, and a report on the status of past Oversight Committee recommendations. The Committee was scheduled to meet again on April 18 and possibly the 19th. The Committee was particularly interested in the whole area of partnerships and the idea of increasing the level of buy-in on TRPA activities. The staff had discussed having the Governing Board take this up as an agenda item and drafting a position on each of the six areas of interest earlier expressed by the Committee. He would schedule a discussion for the February agenda.

Mr. Ziegler distributed pamphlets describing an upcoming seminar being put on by various executive officers in the South Shore. Board members were invited to attend the February 21 seminar, with costs to come from the training budget. Some senior staff would be attending. Topics would include meeting the local leadership challenge, changing government, ethical considerations in local government, and planning and policy making in an era of change.

B. Agency Counsel

Ms. Rachelle Nicolle updated the Board on the denial by the Supreme Court of the Kelly request for certiorari and the upholding of the earlier Nevada Supreme Court ruling on the legality of the IPES program.

Ms. Nicolle distributed a supplement to the Nevada Open Meeting Law from the Nevada Attorney General's office.

Ms. Nicolle advised the Board that three lawsuits were filed against the Douglas County Community Plan adopted in November 1993. TRPA was served by the League to Save Lake Tahoe and the Committee for Lake Planning. The legal

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staff would be filing an answer. Also filed but not served on TRPA was a complaint from Lawyers Title.

The Tahoe Sierra Preservation Council hearing was set in the Ninth Circuit for February 8, and the Schumacher trial was set for the end of February. On January 24, Agency Counsel filed a Code enforcement complaint against Deborah Chase, who dismissed her attorney and was unwilling to sign an extension of time to allow TRPA to continue negotiations. The issues involved the illegal construction of a boathouse and cutting of mature trees.

Ms. Nicolle advised the Board that in the process of her investigation on workers' compensation insurance she had learned that TRPA was required to have its Board members on its policy. That had been done and members were now covered. She was in the process of contesting the double coverage for some Board members who were on the Board by virtue of their positions with other entities.

Ms. Nicolle advised that she and Ms. Scholley were working with Mr. Ziegler in the application process for the Executive Director position and establishing a procedure for the selection process. They both had also attended and participated in the Nevada Oversight meeting.

Agency Special Projects Attorney Susan Scholley advised the Board that on January 21 TRPA conducted the 1994 drawing for allocations for parcels below the IPES line. Staff did not conduct a drawing for portions of El Dorado County and the City within the South Tahoe PUD service area because the 1994 allocations had not been released in these areas. Both these actions awaited a determination by the TRPA Board that there was available sewer capacity to serve the 1994 residential allocations. The District was still in the process of preparing an application for the Board's consideration explaining how the District intended to document its remaining available sewer capacity.

C. Governing Board Members - no comments

XIV. RESOLUTIONS

A. In Support of Funding for Tree Removal for Long-Term Fire Hazard Reduction in the Lake Tahoe Basin

MOTION by Mr. Upton to adopt Resolution No. 94-5 supporting proposed funding for tree removal.

Ms. Bennett submitted for the record a resolution adopted by the Carson City Board of Supervisors in support of the funding.

Mr. Upton advised that the El Dorado County Board of Supervisors in December adopted a similar resolution.

Ms. Nason suggested that the Board add language in the resolution to state that the funding in addition to meeting immediate and long-term vegetation management needs would be "consistent with achievement and maintenance of the environmental threshold carrying capacities for the Lake Tahoe Region." While

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this may be obvious to the Board, there was a need to point out that there may be needs for funding for the Tahoe Basin which were unique because of the watersheds.

Mr. Robert McDowell, from the Forest Service, concurred with the suggestion.

Mr. Upton agreed to include this in the resolution. The motion carried unanimously.

XV. ADJOURNMENT - The meeting adjourned at 6:45 p.m.

I. MEETING OF THE REGIONAL TRANSPORTATION PLANNING AGENCY (RTPA)

A. Amendment of the Regional Transportation Improvement Program (RTIP)

Ms. Bridget Mahern highlighted amendments to the plan.

MOTION by Mr. Klein to approve the amendments. The motion carried unanimously.

ADJOURNMENT - Chairman Chimarusti adjourned the RTPA meeting.

X. ADMINISTRATIVE MATTERS (continued)

Chairman Chimarusti reconvened the TRPA Governing Board for the purpose of conducting a performance evaluation of Special Projects Attorney Susan Scholley.

MOTION by Mr. Upton to go into closed session for the purpose of discussing the performance of the Special Projects Attorney. The motion carried unanimously.

Members present: DeLanoy, Waldie, Bennett, Hagedorn, Cronk, Westergard, Upton, Pruett, Klein, Cavin, Sevison, Bradhurst, Chimarusti.

At the conclusion of the closed session, the Board went back into open session.

Ms. Scholley noted that the Legal Committee had recommended a 5% increase.

MOTION by Mr. Upton to approve an above average evaluation for Special Projects Attorney Susan Scholley and to approve a 5% increase. The motion carried unanimously.

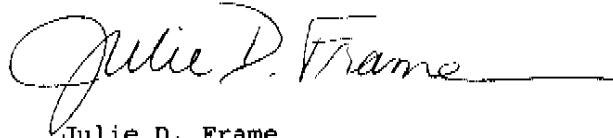
Mr. Waldie asked if this action reflected the highest possible evaluation rating.

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Chairman Chimarusti acknowledged that this was the Board's intent.

The meeting adjourned at 7:05 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julie D. Frame". The signature is written in black ink and is positioned above the typed name and title.

Julie D. Frame
Clerk to the Governing Board

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (702) 588-4547. In addition written documents submitted at the meeting are available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.

*These minutes were approved
as submitted on Feb. 23, 1994.*