

## Meeting Summary: Steering Committee (#19)

Meeting Held 4.14.2017



### Topics in this Summary

- Organizing Principles
- Potential EIS Alternatives
- Commercial and Tourist Accommodation Piers
- Pier Eligibility Criteria and Density Criteria

### Action Items

5/1	All	Send comments on EIS alternatives to John Marshall
asap	Gina	Send out EIP proposal
5/23	Dan	Review / update compilation document to demonstrate that marinas can begin planning for low lake before reaching Phase 2 levels.
5/1	TRPA	Map parcels without piers
5/1	TRPA	Investigate commercial pier potential design standards to provide public health and safety
Asap	Jan Joanne	Meet to craft proposals to manage remaining pier issues
5/5	Freshtracks	Create document to brief constituents and board members on shoreline policies

### Meeting in Brief

The Steering Committee focused on pier eligibility criteria for most of its meeting, trying to refine the density criteria to meet the goals of avoiding “clutter” and distributing piers in a manageable way.

The Committee also concurred on using the organizing principles to explain to constituents and the public the components of the shoreline plan. The facilitator distinguished that the compilation document is a tool for tracking policy proposals, not to educate the public even though this issue is confounded because RPIC meetings necessitate that the public can review it.

### Summary

#### Consolidated Document

The facilitator asked the group to evaluate the package of policies, documented in the Consolidated Document. The Committee spent time evaluating the document. The consolidated document has some big holes in it with many sections still “under development.” Also, the level of detail varies dramatically, blending specific and

vagueness. The document doesn't capture conversations and how the Committee arrived at these policies. The Committee and CBI confirmed that the audience for the document is the Committee and the intent is to document the recommendations as the Committee is developing them. Committee members are a little bit frustrated that the document is shared publicly for RPIC meetings given these concerns. CBI confirmed that the Committee needs a different format to brief constituents. TRPA and CBI will work with FreshTracks to create an externally facing document in the near term. Two audiences exist: (1) Steering Committee boards, members, and constituents and (2) the general public. The Shoreline Plan needs materials for both audiences.

### **Tahoe Keys**

The Committee briefly discussed how the Shoreline Plan would address the Tahoe Keys. Joanne articulated an approach, with which the group conferred. The facilitator agreed to document this approach for review and confirmation.

The Shoreline Plan accounts for the anticipated environmental impacts of the Keys by including Tahoe Keys lagoon structures as part of the 2016 structure inventory and boating capacity coming from the Keys for the baseline. The Lake Tahoe shoreline development standards in the Shoreline Plan would not apply in the Tahoe Keys because the Keys are not part of Lake Tahoe (proper). Low lake adaptation policies and standards also would not apply in the Keys. The highest priority issue to address in the Keys is Aquatic Invasive Species (AIS) management, and TRPA and Lahontan are working actively with the Keys Homeowner's Association on developing and implementing an invasive weeds management plan. Because the Keys is built out, there is little need to prioritize planning for new development, and any refinements to permit administration for the Keys will likely be taken up after the Shoreline Plan for Lake Tahoe and the Keys AIS Management Plan work is completed.

### **Marinas**

Bob Hassett vetted the proposals with the Lake Tahoe Marina Association members in early April. Members were generally supportive, but expressed concern with low lake level adaptation levels that by Phase 3 (below 6220'), the Lake is unusable in many cases and marina owners need to start planning earlier. In the past, marinas could start planning when the lake fell to 6225'. The Committee clarified that marinas could start planning at any time, they didn't need to wait until the Lake hit a certain level. Marinas can implement a plan to adapt to 6220' at any time. Staff will review the Compilation Document and make sure that this clarification is evident for future reference.

### **Organizing Principles**

In preparing for the March RPIC meeting, Joanne developed organizing principles to help give context to the policies under development. The intent was to provide scaffolding or a framework to the different policies. Steering Committee members think the organizing principles can serve as a helpful communication tool.

### **Potential EIS Alternatives**

John Marshall presented some initial concepts for the EIS alternatives. Ascent Environmental is budgeted to analyze four alternatives. The Steering Committee agreed to send input to John Marshall in the next few weeks. In addition, TRPA staff will vet the approach to the alternatives with RPIC at its April 25 meeting.

TRPA needs a reasonable range of alternatives for the environmental analysis. The proposed alternative will be the Shoreline Plan. The “no project” alternative is the existing code. Analyzing “minimum development” and “maximum development” alternatives that are feasible and have the potential to avoid or mitigate environmental impacts also fall within the reasonable range of alternatives.

Committee discussion was high level and provided general feedback as members had not had a lot of time to review the alternatives in advance of the meeting. In general, the Committee was not that supportive of analyzing the 2008 Shorezone Program as one of the alternatives. Because it is similar to the 2017 proposal, the Committee would prefer to look at another option. The 2008 challenge was tied to the baseline and the deferred mitigation for the Blue Boating Program, not the proposed regulations. The Committee might like to explore a “more development” alternative, such as more development of structures to demonstrate the measured nature of the proposal, but understands that this does not provide as much strength to demonstrate the “reasonable range.” Several members suggested analyzing a higher development alternative that looks at eligibility and loosens up the scenic constraints to demonstrate scenic impacts even if it's not feasible to implement. However, it was pointed out that courts tend to reject high development alternatives deemed “not feasible.”

The goal is to vet the alternatives at this early stage and settle on a set to avoid changing them later: changing alternatives drives up the cost of the EIS. TRPA will present concepts for the environmental alternatives to RPIC in April.

### Next Steps

- € Steering Committee send comments to John on EIS Alternatives.
- € John will speak with Ascent Environmental about the alternatives and develop a new reasonable development alternative.

### Commercial and / or Tourist Accommodation Piers

**Background:** Piers associated with a commercial or tourist accommodation came up previously. During this meeting, the Committee discussed a recommendation to add tourist accommodations with commercial piers because so many existing sites have both commercial and tourist uses. (The previously circulated approach to lump tourist accommodations with Single Parcel, Multiple Units was withdrawn – that text will go back to the original agreement consistent with the language in the Compilation Document under Multiple Use Piers, Design Standards – Applicability.) Previously all Steering Committee members could live with the commercial pier proposal. The new info under consideration at the meeting was on tourist use; however, other issues emerged, including the definition of public.

#### **Proposal Discussed (not accepted) at Meeting: Commercial and/or Tourist Accommodation Piers**

Allocation of new piers for a commercial or tourist use would come out of the same pier allocation pool for private piers.

New commercial or tourist use piers that provide public access would be allowed to design to the multiple-use standard for 4 or more littoral parcels.

New commercial or tourist use piers that do not provide public access must meet the design standards for single-use piers and would not receive permit prioritization above other single-use pier applications.

**Next Steps:** The Steering Committee will revisit this issue, as it did not come to a conclusion. TRPA will also think about it more and potentially develop a new proposal. The other issue that emerged was conversion of use of a property. CBI will track this for a future Steering Committee discussion.

**Discussion:** The complicating factor for this policy is defining “public.” Is a private club open only to members of the public? Are restaurants or hotels with a pier public? These commercial piers are quasi-public. For some, individuals must pay; for others, individuals can walk out onto the pier without paying. One option might be to tie the standard to upland use. The Shoreline Plan could define public piers to public land ownership.

The goal of having policy is to create certainty for the applicant and for TRPA staff.

The concern is the proliferation of these types of piers and the impact of these piers on the pool of available piers.

Design standards for these types of piers should also meet public health and safety requirements. Another option brainstormed was to limit these piers to a certain square footage to manage impacts.

## **Pier Eligibility Criteria**

### **Eligibility for piers for parcels served by homeowners associations**

The key issue here is whether a parcel is eligible for a single use or multiple use pier if it has access to a multiple use facility (pier or buoy field) through its homeowners association. The concern is that some homeowners associations are voluntary or have a limited membership so a lakefront owner could have pier development rights that the owner would like to use and could be in a situation that the owner is ineligible to use the association's multiple use facility. TRPA has concerns about interpreting whether an association is voluntary or not and continuing to manage scenic thresholds given the possibility of more piers. Steering Committee members are open to considering this situation once it works out the other pier eligibility criteria. TLOA's current proposal is that if an association's membership is mandatory, the lakefront parcel owner would not be eligible for a pier. If voluntary, the lakefront owner would not be eligible for a single use pier, but would be eligible for a multiple use pier.

Knowing how many potential piers might emerge through this policy would help inform the Steering Committee's recommendation because this proposal might be acceptable to some of the Committee members, contingent on the number. The other consideration is how this fits into “fair and reasonable” access if the owner could access the multiple use facility.

**Next Step:** TRPA and TLOA will discuss further and bring forward a proposal for the Committee.

## **Density and Other Criteria**

**Background:** The Committee is contemplating issues related to criteria. One use for criteria is justification for the number of piers selected for permitting and second is for the location

of piers. Dan Nickel walked everyone through information captured in the meeting materials, Pier Eligibility Memo.

**Discussion:** The Committee had a long exploratory, inconclusive conversation on this issue that coalesced around several key points.

**Naturally Dominated and Visually Dominated** (marinas) are not an issue and can be taken off the table.

**Visually Sensitive Areas** could be managed in a unique fashion, such as special mitigation to make the scenic threshold improve in the unit (rather than static and not outside of the unit) and only allowing for multiple use piers for 3 or more parcels.

**Visually Modified** – which is most of the Lake – is the challenge to manage. The group identified **distribution as the key focal point** of the interests that it is trying to meet through density criteria or some other criteria. Distribution needs to focus on:

- ✓ Spread piers out – avoid or reduce “cluttering” on the shoreline
- ✓ Minimum piers possible in visually sensitive
- ✓ Keep piers as short as needed to serve the function
- ✓ Continue driving to multiple use and improving scenic
- ✓ Equal opportunity – avoid a huge rush on permitting tied to criteria

Quadrants or counties might be a way to establish criteria to distribute piers.

The plan could tailor mitigation to scenic character type.

The group didn't really have problems with the scenic character types, but identified limitations with the application of density criteria. Originally, density criteria identified the number of potential piers in a scenic unit, which helped analyze the cumulative impacts. When applied, however, the density criteria can identify more eligible parcels than actually exist in a unit (See Crystal Bay example in Meeting Materials Pier Eligibility Criteria). Frustration expressed with the density criteria is the 1/100 feet distribution even though it is applied on average to determine the number of piers.

The advantage of the density criteria is that it supports the cumulative impacts analysis. Mitigating by scenic character type is of interest and could possibly create improvement in threshold attainment, but implementation could prove challenging. If shoreline shifts to a threshold analysis on a case-by-case basis, implementation would include a threshold scoring for each project to ensure there is a net gain or impact. This could result in inconsistencies during project review or the scenic unit decreasing because each consultant analyzes scenic differently, as it is subjective. Density may be easier to measure.

Two different issues exist: how to deal with areas already developed vs. the application of regulations to new development (absorptive capacity of the particular character type within a unit). Tailored mitigation might help with threshold improvements to current inventory.

The California AG is interested in density criteria as a tool to meet environmental objectives.

**Next Steps:**

- € Jan, Joanne, and John will discuss options for substitutes for the density criteria to address pier distribution.
- € TRPA will provide map and list of parcels without piers.

## Approved

### Marina / Low Lake Adaptation Pier Extensions

*CBI Notes: Given complexities of site conditions, handling marina piers on a case-by-case basis seems to be the best approach. The latest proposal is to strike the second bullet and let TRPA evaluate each situation given that only 14 marinas exist and not many have reported plans to extend. All Steering Committee members could live with this proposal.*

Flexibility in pier design at marinas would be allowed based on site-specific navigation and environmental considerations. Longer piers may help to alleviate the need for dredging, but could have navigation and scenic impacts.

TRPA shall review marina pier extensions on a case-by-case basis and subject to the following:

- A marina pier must serve the public.
- ~~A pier extension cannot extend beyond the extent of an existing marina buoy field.~~
- A marina pier extension must not negatively impact safe navigation.
- All impacts of a marina pier extension must be appropriately mitigated.

A marina pier extension for the purposes of facilitating waterborne transit shall be considered only with the review of a waterborne transit plan or project.

## Participants

### Committee Members Present

TRPA: Joanne Marchetta

California State Lands Commission: Colin Connor

Lahontan RWQCB: Robert Larson

Lake Tahoe Marinas Association: Bob Hassett

League to Save Lake Tahoe: Darcie Goodman Collins

Nevada Division of State Lands: Charlie Donahue and Elizabeth Kingsland

Tahoe Lakefront Owners' Association: Jan Brisco

### Other Participants

TRPA: John Marshall, Rebecca Cremeen, Tiffany Good, and Mitch Koch

Consultant: Dan Nickel, The Watershed Company (*by phone for part of the meeting*)

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