

NOTES: Steering Committee Meeting #2

Held April 26, 2016

Meeting in Brief

The Lake Tahoe Shoreline Steering Committee, made up of directors of agencies and nonprofit organizations in the region, held its second meeting as a committee charged with setting the policy framework and context for shoreline planning.

Dan Nickel of The Watershed Company presented lessons from completing more than 60 shoreline plans under the State of Washington's regulatory process. Washington's driving principle is to balance water-oriented uses, public access, environmental protection, and private property rights. *No net loss* of natural resources is the measure by which balance occurs, creating a framework for policy and regulations as well as restoration in regional areas.

The proposed scope for the shoreline plan would include boating and public access structures, low lake level adaptation, green infrastructure, and streamlined permitting. TRPA would address new dredging programmatically and analyze some parking in the area adjacent to the shoreline at a programmatic level. Staff will develop a definition of the shoreline that is easy-to-understand and will further define the planning scope.

A number of elements are under development to support the planning process, including the web site and public information materials / plan. Staff convened a meeting with marina owners on 4/26 to identify policy issues and verify marina data to support the planning process. The first Joint Fact Finding meeting is scheduled for 4/27 to focus primarily on the resource inventory and data gathering for the summer season.

Next Meeting: 5/12/2016, 9:00-1:00

Action Items

Date	Responsible	Item
5/12	Staff / CBI Team	Draft goals for shoreline plan and refine scope for next meeting
6/1	CBI / Gina	Ask for examples of collaborative public-private partnerships to share with steering committee

Discussion Summary

Scope of Shoreline Plan

TRPA staff presented a proposal for the shoreline plan scope, identifying issues to be included in the plan and issues that are addressed in other planning efforts. Everyone is striving to have agreement on the scope of the planning process up front. As a result of the discussion, staff will revise the draft scope to include a shoreline definition and clarify **programmatic-level consideration** of policy on new dredging and access issues such as parking at the regional scale. Site-specific evaluation would be necessary for project applications.

Parking

Parking is a constraint on access and is a critical component to boating lake access structures. Managing it in some way in the shoreline plan seems important, recognizing that the shoreline plan cannot address all structures in the upland area. On parking, the shoreline plan would not address site-specific parking. Rather, the environmental analysis could consider different “reaches,” considering in which areas might new parking structures be allowed. The plan would provide capacity at the regional scale with a defined increase in parking. Later, site-specific facility planning would occur through projects, such as state-park plans or marina plans. One assumption is that parking is a significant constraint for boating and so increasing parking could provide a corresponding increase in the number of boats on the lake. Parking is a limiting factor for marinas. Parking could be analogous to the Regional Plan, providing programmatic sideboards and allowances against standards that later have more specific site-specific plans developed.

New Dredging

TRPA has a standard in place for “new dredging” that is more stringent than both federal and state standards for Lake Tahoe and other lakes in the region. TRPA Code, Section 84.15.3, requires TRPA to find that any “new dredging” be “beneficial to existing shorezone conditions or water quality and clarity.” As a result of this stringent standard, TRPA has not approved “new dredging” since 1991, a year in which a prolonged drought brought lake levels down to very low levels. The Coast Guard is currently pursuing an application through the partial permitting program for a pier extension in Tahoe City that would involve new dredging.

The key question is whether and, if so, how to address new dredging through the shoreline plan. For instance, should TRPA make exceptions for particular needs, such as public health and safety? Should the standard be revised? If so, how can the standard be revised as a programmatic level?

Marinas would strongly advocate that the shoreline plan address new dredging. Marinas currently have a CEQA exemption for maintenance dredging. New dredging is closely linked to low lake level adaptation and will emerge as an issue with both piers and buoys. Others are supportive of looking at new dredging because it is important to provide viable lake access, but express concern that the complexity of the issue could overwhelm the planning effort.

After discussion, the Steering Committee would recommend that the shoreline plan would look at new dredging on the programmatic level. Everyone recognizes that individual projects would still need to be evaluated. Everyone seemed to concur that the shoreline plan could focus on the resource management standard, not where dredging could occur.

Fallen Leaf and Cascades Lakes

The Steering Committee agreed to discuss Fallen Leaf and Cascades Lakes later in the process. TRPA code says that shoreline code will provide guidelines for other lakes in the Tahoe Basin. The committee agreed that once the code is developed for the Lake Tahoe shoreline, it will revisit its applicability elsewhere.

Public Health and Safety

TRPA proposed to set public health and safety on its own separate process to address permanent public health and safety needs on a shorter timeline than is necessary to address the full range of shoreline issues. TRPA staff have met with first responders to identify facility needs. The overarching goal is to have one designated access facility per quadrant. Washoe County is the only jurisdiction that is without permanent facilities. They have been using temporary facilities, but are actively seeking a permanent solution that does not involve relying on exiting the lake through private homes or facilities. Everyone was supportive of tracking separately although one person expressed concern that these public structures could limit the environmental thresholds for access later in the process. The group also agreed to revisit any implications on existing conditions or cumulative impacts that the new structure might have on the environmental review, which would depend upon the status of that when the shoreline plan environmental review is underway. TRPA will continue processing temporary moorings while more developing more permanent solutions.

Goals for Shoreline Plan

During its first meeting, the committee had a preliminary conversation about goals for shoreline planning. In response to a question by the mediator, the committee suggested that staff develop a draft for the committee to review. Once the committee agreed on the draft goals, they would go to the governing board for discussion and feedback. Ultimately, the governing board will need to endorse the goals

Collaborative Process Design

The Consensus Building Institute (CBI) published the draft assessment report and proposed process design for the collaborative process. CBI based the process design off the joint evaluation of the assessment findings during meeting one of the steering committee meetings. Gina Bartlett summarized the approach for the committee.

Funding

TRPA does not currently have all the funds necessary to complete the planning effort and is working with the two states to secure funds to support the environmental review, public engagement, and collaborative approach and mediation. TRPA's governing board requested that staff explore the possibility of public-private partnerships with key organizations on the Steering Committee as a way to stimulate each state's contributions. The committee discussed this briefly and requested examples of public private partnerships for collaborative processes that might have occurred elsewhere. Gina Bartlett of the Consensus Building Institute offered to check in with colleagues to identify some examples. Concerns exist that this is a public agency responsibility, not a private sector initiative. Nevada will be pursuing through the governor's initiatives. SB 630 funds cannot be used for shoreline planning. The timing for contributions is open. TRPA is hoping Steering Committee members can champion the process and potentially contribute funds.

Shoreline Planning Lessons from the State of Washington

Dan Nickel of The Watershed Company, who is under sub-contract to the Consensus Building Institute, presented lessons learned from completing more than 60 shoreline plans under the State of Washington's regulatory process. Washington's driving principle is to balance water-oriented uses, public access, environmental protection, and private property rights. *No net loss* of natural resources is a state-mandated concept to maintain at least existing conditions, measured at a point in time. Natural resource measures, rather than carrying capacity, balance development and structures with natural resources management, creating a framework for policy and regulations, as well as restoration planning, in regional areas, rather than at the parcel level. Policy decisions address protection and mitigation standards to maintain baseline condition. The planning horizon is typically 20 years and identifies potential development and restoration activities that are likely to occur as part of the plan. This essentially sets the baseline below which the area cannot fall and remain in compliance. The plan includes a restoration component that is voluntary.

The shoreline designation applies to the first 200 feet landward over the high water mark. The baseline inventory and analysis consider the existing condition and facilities. It looks at the existing ecological conditions at the watershed and shoreline-reach scale – it looks at the area, not individual properties. The plans identify distinct shorezone areas with different constraints, setbacks, etc. The plans allow for shoreline modifications, size requirements of structures based on environmental or land use conditions. Jurisdictions have to develop their own plans, but under the umbrella that provides guidance and look for consistency between jurisdictions. Once the state approves plan, then local entities issue permits consistent with the shoreline plan and notify the state agencies. Conditional use permits, appeals, or variances are sent to state. If appealed, they go to the State's Hearing's Board, which is similar to CA Coastal Commission.

Plans are on an 8-year review cycle and need both local jurisdiction and state approval.

The plans typically introduce the concept of mitigation sequencing, which helps drive how development occurs and how mitigation is derived. Upon planning, the attempt is to try and avoid the need for mitigation. Second, the goal is to minimize the potential impact of an effort. And, the last element is to mitigate those impacts. An important distinction is that restoration projects are not used as mitigation. Each area of shoreline development has its own mitigation strategy. The plans also include opportunities for advance mitigation.

Dan emphasized several lessons learned:

- Don't get mired in the details of the inventory: Look at environmental conditions at a broad scale; individual property existing conditions is evaluated at time of application.
- Policies and regulations based on resource management, not carrying capacity: focus on how to allow, limit, or prohibit development and access.
- Promotion of public access.
- Physical access should be promoted for all, but not all areas are appropriate for access.
- Implementation needs monitoring of effectiveness to achieve no net loss: this occurs at the project level and periodically at the regional level.

Discussion

The no net loss concept is analogous to the TRPA regional plan, which provides sideboards and a framework. Local jurisdictions develop Area Plans consistent with the regional plan framework and implement through local permitting. Only certain categories are permitted at the regional level. If existing framework and zones are in place, carrying capacity might be unnecessary. Do we need to look at different development standards for different areas? Do we need additional layer of carrying capacity when we already have framework?

The state, through the Shoreline Management Act, defines the baseline. Someone observed that the take-away from the State of Washington was resource management, not carrying capacity.

Under the Washington guidelines, no net loss is from the resource levels at that point in time. One participant raised the question of whether Lake Tahoe resources are at the desired level or if the goal is to enhance natural resources. Who decides? And how? Another person observed that doing both is possible. Resource management on the shoreline and a broader focus on restoration are possible. The TRPA Environmental Improvement Program is focused on this. EIP is striving to increase thresholds that aren't currently met. One possibility would be to maintain existing threshold requirements as no net loss while continuing to use EIP to advance unmet thresholds.

The advance mitigation program provides incentive.

Participants

Committee Members Present

TRPA: Joanne Marchetta and Alternate Paul Nielsen
California State Lands: Jennifer Lucchesi
Lake Tahoe Marinas Association: Bob Hassett and Alternate Jim Phelan
Lahontan RWQCB: Robert Larson
League to Save Lake Tahoe: Jesse Patterson
Nevada State Lands: Charles Donohue and Alternate Elizabeth Kingsland
Tahoe Lakefront Owners Association: Jan Brisco

Other Participants

TRPA: John Marshall, Lucia Maloney, Brandy McMahon & Rebecca Creeman
FreshTracks: Jenna Holland

Mediator: Gina Bartlett, Consensus Building Institute, gina@cbuilding.org | 415-271-0049