

TAHOE REGIONAL PLANNING AGENCY
REGIONAL PLAN IMPLEMENTATION COMMITTEE

TRPA
Stateline, NV

January 22, 2020

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chair Mr. Bruce called the meeting to order at 8:32 a.m.

Members present: Ms. Aldean, Mr. Bruce, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Mr. Shute (by phone), Mr. Yeates

II. PUBLIC INTEREST COMMENTS

None.

III. APPROVAL OF AGENDA

Vice Chair Mr. Bruce deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES

Ms. Aldean said she provided her clerical edits to Ms. Ambler and moved approval of the December 18, 2019 minutes as amended.

Motion carried.

V. Item No. 4: Discussion and possible recommendation for Amendments to Chapter 84 of the TRPA Code of Ordinances regarding development standards for Stream Mouth Protection Zones

TRPA team member Mr. Conger provided the presentation.

Mr. Conger said the proposal is an amendment to the Code of Ordinances to help with the implementation of the shoreline plan. This amendment addresses the utility infrastructure located within a stream mouth protection zone. Stream mouth protection zones are adopted as an official regional plan map and have corresponding standards in Chapter 84 of the Code of Ordinances. These zones were established in relation to the historical meander of tributary streams where they meet Lake Tahoe. These areas are typically associated with fish migration. During the shoreline plan adoption in 2018, TRPA revised restrictions on development in stream mouth protection zones. New structures are prohibited, and existing structures are limited to repair and maintenance activities only. The shoreline plan targets structures related to recreational boating, the code is written in a way that applies to all structures, not just boat ramps, piers, and moorings. The application of this standard to essential utilities was inadvertent and had not been contemplated when the standard was written. Utility lines submerged in Lake

Tahoe is a common occurrence and in some cases these lines pass through the designated stream mouth protection zones. An unintended consequence of applying stream mouth protection zones restrictions broadly is that utility providers are precluded from upgrading, modifying, and reconstructing existing lines. Often modifying and upgrading existing lines is in the best public interest and in many cases, there are no other routing options. Modifications to upgrade construction quality or to respond to technology changes are part of standard industry practices. These practices help to ensure that utility lines will maintain their integrity. Deferring maintenance could result in potential environmental consequences. For example, a wastewater line that could not be reconstructed or feasibly relocated could degrade overtime and discharge sewage into the Lake. To address this staff is bringing the proposed code amendment forward for consideration and add an exception to the limitation on reconstruction, expansion, and modification of existing structures. This exception would apply to both public utilities and private water intake lines.

The proposal would modify the current stream mouth protection zone development restrictions in Chapter 84. This standard is housed in the code section that pertains to piers and the code references this section throughout Chapter 84 in relation to other shorezone structures. As written, the standard would allow repair, replacement, upgrading, reconstruction, and expansion of existing utility infrastructure within a stream mouth protection zone. Staff reviewed the proposal in relation to the shoreline plan. The shoreline plan project description considered continuing preexisting prohibitions on piers, boat ramps, buoys, floating platforms, and general multiple-use facilities within stream mouth protection zones and expanding those restrictions to cover all other types of moorings. The description didn't contemplate placing restrictions on utilities. The proposed amendment was reviewed in an initial environmental checklist. The IEC concludes that with incorporation of the shoreline plan provisions no impacts would occur. Utility projects in stream mouth protection zones would still need to comply with mitigation requirements established in Chapter 84 of the Code of Ordinances.

There was an errata sheet that was distributed that made a slight modification to the opening text (heading) on the adopting ordinance. Also, the adopting ordinance in Exhibit A had 2019 rather than 2020.

Presentation can be found at:

[RPIC-Agenda-Item-No.-4-Shorezone-Amendments.pdf](#)

Committee Comments & Questions

Ms. Aldean said she didn't find a definition of stream mouth protection zones in Chapter 90.

Mr. Conger said stream mouth protection zones are defined in Chapter 10 that address the official maps.

Ms. Aldean asked if it should be crossed referenced in Chapter 90.

Mr. Marshall said there isn't an expressed need to. He suggested the commission discuss stream mouth protection zones writ large as opposed to just this language. The definition is more of the basis upon which the zone is designated.

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Ms. Aldean said under general standards where it states that "A designated area shall include all portions of the shorezone including areas lakeward." How far lakeward, is there any established standard for how far it projects into the lake?

Mr. Marshall said the mapped zones are mapped. He believes it extends out to the point at the "circles." The dimension out into the lake is the radius that is essentially the setback. Each one has a designated setback of 200 feet, 1,000 feet, for example. It will extend out into the lake up to the maximum of that diameter.

Ms. Aldean asked if the projection lines impact a property's ability to drop an additional buoy block to compensate for low water conditions.

Mr. Marshall said that would be an independent item. That's not governed by this change. That's asking about what is the operation of the stream mouth protection zone generally vis a vis shorezone structures. It is not directly raised by this amendment. This is providing an exception to the reconstruction, expansion, and modification limitation to apply to public utilities and private water intakes.

Ms. Aldean asked if there's a further need to amend this to take into account other structures that might be impacted by these projection lines.

Mr. Marshall said they've been working to address that question as well as the operation of the stream mouth protection zone prohibitions and restrictions. The Shoreline Steering Committee had discussions about this and were unsuccessful in negotiating an overall compromise between all the parties. TRPA's intent is to implement it as written for the time being. That means you can't put a new structure in a stream mouth protection zone. If someone was going to be dropping a buoy block or something that's not already there, that is prohibited.

Ms. Aldean asked if discussions are being continued to see if there can be a resolution to this.

Mr. Marshall said they've spent a lot of time on this and have come to a point where they cannot see a path forward for reconciling all the different party's interest despite significant effort.

Ms. Aldean doesn't feel that dropping a second buoy anchor is a significant impact.

Public Comments & Questions

Jan Brisco, Lakefront Homeowners Associations said she supported the proposed amendments. It's a very important component to what we are doing here at Lake Tahoe. She agreed with Ms. Aldean in that this conversation needs to be continued. This is a problem; this was not well thought out when they were putting the finishing touches on the shoreline plan. She applauds staff's efforts; this is something we need to continue to address. She doesn't feel that the door should be closed on further discussions such as bank stabilization projects that might occur in the shorezone. The shorezone is up beyond the high water mark in some of these areas. They don't know exactly what might come out of buoy fields that are in these zones that might want to relocate buoy anchor blocks. They're also concerned because they have a number of structures that are close in proximity to a stream mouth that the owners wanted to change, modify, and relocate within their property but further away from the stream mouth, that would be precluded.

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Even reconstructions are precluded. This is not the spirit in which they were negotiating originally on this topic.

Committee Comments & Questions

Mr. Shute said the amended language includes wastewater discharges. He thought wastewater discharges are prohibited and asked why that language was in the amendment.

Mr. Marshall said there are wastewater lines in the lake. They're not permitting discharges from that. They're permitting repairs, expansions, and modifications to those facilities. They have to exist; no new ones are allowed.

Mr. Shute asked what kind of wastewater is being discharged.

Mr. Marshall said no wastewater is being discharged but the routing of the line goes through the shorezone.

Mr. Shute asked how many private intake water lines are there.

Mr. Conger said he doesn't know the exact number of intake lines.

Mr. Lawrence said for the Nevada side, there are a fair number of water intake lines that the Division of State Lands has permitted over the years. He likes this proposed recommendation because it aligns with how the Nevada Division of State Lands operates. They do have permitted water intake lines that are mostly private but do have some public lines as well. A lot of the old permits for these were easements which are typical for utility lines and would have been surveyed. Part of the permit is that they have to maintain them in good condition. This recommendation aligns, they're grandfathered in and they want to be able to repair them.

Mr. Marshall said maintenance and repairs are already allowed. This addresses reconstruction, modifications, and expansions. The types of potential projects for example, is a project that would replace a pump and alter the pad that it's sitting on. It would still have to meet all the mitigation requirements, offset any issues regarding fish habitat, etc.

Mr. Lawrence said sometimes the best repair requires some modification in order to get it up to newer standards. It's not just a repair in kind.

Ms. Aldean made a motion to recommend approval the Required Findings, as described in Attachment B, including a Finding of No Significant Effect, for adoption of the Code of Ordinance amendments as described in the staff summary.

Motion carried.

Ms. Aldean made a motion to recommend adoption of Ordinance 2019-__, amending Ordinance 87-9, to amend the Code of Ordinances as shown in Attachment A as modified to reflect the correct year.

Motion carried.

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Ms. Aldean suggested that staff and others come to consensus on items such as the dropping additional anchors in order to accommodate low lake levels and the stabilization of banks in stream mouth protection zones.

VI. Item No. 5: Discussion and possible recommendation for Amendments to Chapter 61: Vegetation Management and Forest Health, Sections 61.1 (Tree Removal) and 61.2 (Prescribed Fire)

TRPA team member Ms. McIntyre provided the presentation.

Ms. McIntyre said the proposal is for amendments to the Code of Ordinances to help meet the intentions of Chapter 61 while increasing pace and scale forest restoration within the Tahoe Basin. These amendments pertain to prescribed burning and tree removal.

The focus of Chapter 61 is reorganization. For example, sections for protections are scattered throughout the chapter. There's also a need to eliminate any redundancy. An example is reasons for tree removal are currently found in two separate sections. The goal of this update is to facilitate that increase the pace and scale of restoration within the basin. Thus far, they've been working with the Forest Health and Wildfire Committee to vet these updates and edits. They've engaged with the regulations working group through the Tahoe Fire and Fuels Team to vet all of these to ensure that there's a collaborative approach to this code update.

Chapter 61.1 Tree Removal:

Quote from the Lake Tahoe Watershed Assessment in 2000. "The Tahoe Basin was dominated by giant pine trees with so much room on the forest floor that riders could travel at a full gallop without losing their hats." This exemplifies that we had far less trees and much more of a heterogenous structure in the forest.

There are a variety of benefits from tree thinning and removal. It can increase diverse wildlife habitat, decrease tree density and increase structural heterogeneity. This will allow for the reintroduction of prescribed fire post treatment and allows us to protect homes, infrastructure, and fire fighter safety.

The proposed amendments fall into three major categories: Modifying language for clarity, renumbering and reorganization, and minor deletions.

Section 61.1.4.A hazard tree removal has a new section that now relies more on memorandums of understanding with our partner agencies.

Section 61.1.5 general tree removal standards is another substantive modification in terms of adding language that states that TRPA can consider plans developed pursuant to the California Forest Practice Rules or the California Environmental Quality Act documents completed by a qualified forester to meet the intention of this section provided that all required elements are addressed.

Section 61.1.8.B public parcels substantial tree removal. If there's a memorandum of understanding with TRPA, it can be used to take care of substantial tree removal. If there's no MOU, then there's a process outlined for private parcels.

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There was also the renumbering of sections for clerical edits, reorganization, and moving items to different sections. There was also the deletion of a section and the addition of new subsections. Staff is proposing that restocking be deleted and then added is ecosystem management goals and environmental improvement program projects as a subsection. Public utility rights of way were removed from ski areas and became its own subsection.

Committee Comments & Questions on Section 61.1

Mr. Yeates asked if the language that's underlined is being moved around due to redundancies and is not new.

Ms. McIntyre said correct. For example, there were several pieces that had to do more with protections, so they've been moved to 61.3. It changed the entire structure due to renumbering.

Mr. Yeates referred to 61.1.4.E.2 on page 98 of the staff packet. He asked what the green strike through on item two represents.

Mr. Marshall said E.2 was moved up to D.

Ms. Aldean suggested to staff that for future amendments that the first attachment be the consolidated language with the changes and rationale and then the second attachment would be the new code as it will appear in the appropriate code sections. This will help to understand the flow of information better.

Mr. Shute said he's concerned with delegating a lot of the authority that were in these codes to something that's unclear. He's unclear what's in them, what standards they have to meet, or if they're existing or proposed. Second, there seems to be a general weakening of standards referring to 51.1.6, item 4 that states that "Damage shall be avoided to the extent feasible." Then substantive standards about trees being felled in line with being untouched or eliminated.

Ms. McIntyre said we have memorandums of understanding with the majority of our land managers in the basin. They do have different standards in terms of who is exempt, such as the Forest Service being exempt, whereas, other agencies might be qualified exempt and would have more of a process they have to go through to get approval from TRPA. They intend to open those MOUs back up after the code update is done to standardize them across the board.

Mr. Shute asked if those memorandums of understanding will come back to TRPA for approval.

Ms. McIntyre said yes.

Mr. Marshall said they're not delegation memorandums of understanding in sense of delegating TRPA's authority. They are exemption MOUs that if an agency does the project within certain parameters, it is qualified exempt from TRPA review. These are standard MOUs that we have with almost all utilities in the basin and land managers about routine activities that occur. There's a desire to have more activities take place under those exempt MOUs. Those MOUs become part of the code. Staff can bring back those MOUs if that's the pleasure of the board. The process that's being contemplated is trying to set up the MOU process that is used more to describe the criteria under which these activities will move forward. TRPA essentially makes a generic call that

those activities if done within those constraints are exempt from further TRPA review.

Mr. Shute said he's still concerned about the qualified exempt without knowing the details and the weakening of standards.

Ms. McIntyre said in terms of the weakening of standards, these were edits that were developed in collaboration with the regulations working group through the Tahoe Fire and Fuels Team. The intention of those edits is that those agencies are already doing those items and then having them in the Code of Ordinances is redundant and unnecessary. A forester would follow those guidelines to begin with but are not tied to that if we need to step back and review it.

Mr. Hicks said the Forest Health and Wildfire Committee reviewed this and unanimously recommended that these changes be adopted. Mr. Shute has raised a fair question about the memorandums of understanding and we need to keep an eye on them. The proposed language is the recommendation of the committee.

Ms. Gustafson said if these code amendments are made now and then the memorandums of understanding is reopened which would apply if there's a project submitted. How quickly will the MOUs be reviewed?

Ms. McIntyre said that the current memorandums of understanding would apply while working on drafting new ones.

Mr. Lawrence said the memorandums of understanding for the Division of Forestry and State Lands that are for taking care of the urban lots, the back country, Lake Tahoe Nevada State Parks, and Van Sickle Bi-State Park. Largely those MOUs have language that mirrors the Code of Ordinances. From his standpoint, they don't weaken the code, it just makes it clear on how to move forward together to get this work done on the ground. The proposed language standardizes what's already occurring in order to get work done expeditiously. There's a need to ensure that we're not getting in our own way of getting this work done. We do need to work with our partners on what is a healthy forest and urban lot and mimic that in the Code of Ordinances. Right now, the thresholds and standards are siloed with specific species and activities. His concern initially, was putting the cart before the horse. In his opinion, he doesn't believe so, but doesn't want to lose sight of what he thinks is needed which is standards and indicators regarding a healthy forest.

Mr. Yeates said the Regional Plan Implementation Committee's role is to ensure that the language being amended is adequate. The substantive issue that Mr. Shute has raised is that the memorandums of understanding are brought to the board when these amendments are proposed for approval. He's comfortable with the way the language is proposed but agreed that these MOUs should go to the board so they can be compared to the code.

Ms. Marchetta said staff will bring the memorandums of understanding when this goes to the full board.

Public Comments & Questions

None.

(presentation continued)

Chapter 61.2 Prescribed burning:

The Blue Ribbon Commission and the Lake Tahoe Basin Multi-jurisdictional Fuel Reduction and Wildfire Prevention Strategy all point to prescribed burning and getting more prescribed burning done as a key component to a healthy forest. There's a variety of benefits from prescribed burning. It's a key ecological process that's been excluded for the past several decades. It helps reduce fuels and wildfire risk. There's data that shows that smoke impacts from a prescribed fire is much smaller than if we allowed catastrophic wildfire to move through the same landscape. In 2017, 867 acres were burned in the basin and in 2018, it was 732 acres. These are average number in terms of what they've been able to accomplish in the basin but the numbers need to go up. The majority of those acres are pile burns and not broadcast burns where there's a slow creeping fire in the understory that get those ecological benefits. Currently agencies within the basin must comply with strict state regulations to conduct prescribed burning and these regulations are stringent or more stringent than TRPA regulations.

There are two amendments that focus on deletions. One is to delete 61.2.3.B limitations. This is redundant with a sentence in another subsection. The other is to delete 61.2.5.B.7 that is a sentence that doesn't preclude TRPA from requesting additional information from anyone seeking a permit. Additionally, there is a memorandum of understanding process that they want to put in place to standardize the review process within the MOUs with partner agencies. Currently, the Forest Service is exempt and other land manager agencies are qualified exempt. They want to ensure that all the agencies are operating under the same type of MOU and criteria. An exempt activity would be if two criteria are met: One, does the partner agency have an MOU with TRPA or have they conducted a pre project consultation. This would include submitting plans and permits to TRPA prior to conducting a burn.

Presentation can be found at:

[RPIC-Agenda-Item-No.-5-Forest-Health-Code-Amendments.pdf](#)

Committee Comments & Questions:

Vegetation Management and Forest Health, Sections 61.1 (Tree Removal)

Committee Comments & Questions

Ms. Gustafson said if an agency participates in the pre project consultation with staff and if there's disagreement between the partner agency and TRPA, then does it go back to the "must comply."

Ms. McIntyre said yes.

Ms. Gustafson said she wanted to ensure that it's an automatic yes in that situation.

Public Comments & Questions

Bruce Barr, TRPA Forester said a lot of work has gone into these considerations for code rewrites. If we make the rules easy to follow, then they will be followed. Chapter 61 is one that we get

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mired in sometimes because the language is not clear and redundant. Staff received input from all the partner agencies. The memorandums of understanding work well within in the basin. There are land managers doing major projects and doing them well. The large projects get reviewed by himself and or Ms. McIntyre to determine if they're in compliance with the Code of Ordinances. MOUs don't make the partner agencies exempt from the code. The rewrite of the MOUs will have to reference the correct code sections.

Committee Comments & Questions

Ms. Aldean made a motion to recommend approval of the Required Findings, as described in Attachment B, including a Finding of No Significant Effect, for adoption of the Code of Ordinance amendments as described in the staff summary.

Ayes: Ms. Aldean, Mr. Bruce, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Mr. Yeates

Abstained: Mr. Shute

Motion carried.

Ms. Aldean said she had a discussion with Ms. McIntyre yesterday about a number of clerical non-substantive changes that staff agreed to which will be incorporated into the second motion.

Ms. Aldean made a motion to recommend adoption of the Ordinance 2019 - __, amending Ordinance 87-9, to amend the Code of Ordinances as shown in Attachment A as amended. In addition, a direction has been given to staff to have the existing MOUs accompany these amendments when presented to the Governing Board at a subsequent meeting.

Ayes: Ms. Aldean, Mr. Bruce, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Mr. Yeates

Abstained: Mr. Shute

Motion carried.

VII. Item No. 5: Upcoming Topics

Mr. Hester said depending on the Local Government and Housing Committee's work on a potential item to address California's legislation related to housing, there may be items for the Regional Plan Implementation Committee to consider in February.

VIII. COMMITTEE MEMBER COMMENTS

None.

IX. PUBLIC INTEREST COMMENTS

None.

X. ADJOURNMENT

Vice Chair Mr. Bruce adjourned the meeting at 9:28 a.m.

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Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler".

Marja Ambler
Clerk to the Board

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review