

Deep Creek Lake Management Strategy Options for Improved Coordination and Accountability

Presented by the Deep Creek Lake Watershed Plan Accountability and Public Participation Subcommittee

The Subcommittee reviewed the following categories of options for potential future governance of the Deep Creek Lake and its watershed at their meeting on January 24, 2014. This document provides an executive summary of the options considered followed by a detailed review of benefits and challenges of those options along with examples of where those structures are in place in the US. Through this document is Subcommittee is requesting a review and discussion of the options by the Steering Committee and guidance for focusing their future work.

Executive Summary of Options

1. Do Nothing Option: Maintain current structure, funding and staffing

2. Augment the Current Governance:

- A. Add staffing to the State and County who are focused on Deep Creek Lake and its watershed management issues
- B. Augment and expand responsibilities for the Deep Creek Lake Policy and Review Board {aka PRB} to include advisory to the County Commissioners.

3. Sign a Cooperative Agreement

The agreement would identify and establish a long term approach for cooperative management of the lake and its watershed among the signatory entities. Current authorities would be retained by all signatories but a commitment for action can be defined in the agreement, through annual work plans or longer term action plans. (An agreement could be combined with other options as well)

4. Establish or augment an existing 501c3-Non-Profit

A non-profit organization could be responsible for education programs, monitoring, restoration actions and coordinating among responsible parties. Non-profits can also raise funds and receive grants for certain types of work. Two formats could be considered:

- A. Non-profit independent of a homeowners association
- B. Non-profit organized and managed by homeowners as an HOA

5. Create a Watershed District Authority

This structure would establish an independent governmental entity but would require legislative action

Detailed Strategy Options and Examples

1. **Do Nothing Option**: Maintain current structure, funding and staffing.

2. **Augment the Current Governance**:

A. Add staffing to the State and County who are focused on Deep Creek Lake and its watershed management issues

Current Structure:

- One DNR Lake Management position, 2-3 seasonal DNR staff. One full time Zoning Admin. for the County (works mainly on Deep Creek Lake)

Benefits:

- Does not require legislative changes or other formal agreement.
- Current structure is familiar to lake owners and would be an improvement over the current staffing level and responsiveness.

Challenges:

- Funding for staff needed.
- Will need to develop and strengthen mechanisms to connect gaps and improve coordination.

B. Augment and expand responsibilities for the Deep Creek Lake Policy and Review Board {aka PRB}

Benefits:

- Uses existing structure.
- Potentially more politically acceptable approach.

Challenges:

- Funding for staff will be needed
- Would need to be changed/alterd by the MD State Legislature

Current Structure:

- There are 10 members of the PRB, five of which are positions appointed by the Governor. The other members are: one Garrett County Senator from Legislative District 1, one Garrett County Delegate representing District 1A; one Garrett County Commissioner; Chair of the Garrett County Chamber of Commerce; and the president of the DCL Property Owners' Association.

<http://msa.maryland.gov/msa/mdmanual/21dnr/html/dnr.html#deep>

Augmented Structure:

- Advisory to the County and State on policies and programs
- Additional positions and staff for the PRB
- Oversight of watershed plan
- Could include signing a Watershed Agreement to refine the duties. (may not be needed if spelled out in State Law)

Current Duties:

- Meets a minimum of four times a year for 2 hours max.
- The Board shall review and advise the Secretary on matters that relate to the Deep Creek Lake Recreation Maintenance and Management Fund and the Deep Creek Lake management program.
- The Board may review and make recommendations to the Secretary on budgetary matters that concern the management and maintenance of the lake and buffer area.
- Garrett County Planning sends all new zoning and policies to them for review as well.

Augmented Duties:

- Augmented duties could include: monthly or every other month meetings, an additional sub-committee under the PRB. (Citizens Advisory Committee and/or Technical Sub-committee)
- Formalize the current advisory role to the County Commissioners on land use issues.

Funding:

- DNR funded Lake Management Director currently staffs the PRB.

3. Sign a Cooperative Agreement

Benefits:

- Provides a clear path for operations related to the Lake.
- All parties are agreeing to specific terms and commitments..
- Higher likelihood of being acceptable approach to State and local government.

Challenges:

- Getting all parties to agree to the Agreement language.
- Annual work plan or action strategy would need to be developed and agreed to.
- Oversight would still need to be assigned/accepted by some entity (NGO, State or County agency)
- Staffing still needed to support the implementation oversight.
- Additional funding is still needed and can be part of the agreement—if it is not, there needs to be a way to obtain/create funding from another format type (such as a non-profit).
- Authorities would not change.

A. Tri-County Lake Commission (Smith Mountain Lake and Lake, VA): Example 1

http://www.co.campbell.va.us/bos/Documents/board_agendas/2014/2014.01.07/11%20AI%20-%20Laurell%20-%20TLAC%20Agreement%20-%20TAgreement.pdf

Structure:

- Tri-County Lakes Administrative Commission (TLAC) functions as an administrative commission to assist with programs and projects related to the Lakes.
- The Boards of Supervisors from each County are represented on and work with the Commission. The County Boards of Supervisors can, at times, direct them on specific tasks. The TLAC has citizen and Board members, with three members from each County participating with a two year term. One non-voting member is from the Power Company.

Duties:

- Coordinate volunteers; address water quality issues including monitoring, lake debris and grasses; coordinate with the Power Co.
- Develops an annual work plan that that directs the work of the Commission staff The Board of Directors (County Administrators) meets monthly and provides oversight and program direction.
- Has a fiscal agent to handle budget.

Funding:

- The three counties all fund the Commission based on the shoreline miles that are owned by each County.

B. Baltimore Watershed Agreement: Example 2

<http://www.baltimorecountymd.gov/Agencies/environment/watershedagreement/index.html>

Structure:

- Baltimore Watershed Agreement signed in 2002 and re-affirmed in 2006 by Baltimore County and Baltimore City to manage and monitor their shared watersheds.
- The Agreement created a “Committee of Principals” composed of agency heads and citizens; a set of workgroups were also created to oversee efforts to develop goals and action strategies including: Development and Redevelopment, Community Greening, Storm water, Public Health and Trash.
- They hold semi-regular State of the Watersheds conferences, as well as a State of the Watersheds report.

Duties:

- The formulation of a Phase 1 Action Plan (<http://resources.baltimorecountymd.gov/Documents/Environment/Watersheds/bwaactionplanfinal09.pdf>) was done in 2009. This reflects agreed upon goals and high-priority, short term actions for Baltimore County and Baltimore City to pursue. The Plan is

organized by common categories: Implementation, Policy & Regulation, Planning & collaboration, Education, and Outreach & Awareness.

- The County in conjunction with the City has developed many “Small Watershed Action Plans” (SWAPs) that assess small scale watersheds and lay out a priority list for implementation.
- Implementing water quality projects that address bacteria and TMDLs is a high priority; this includes storm water management, tree canopy goals, and education/outreach to the public.

Funding:

- Both and County and the City have dedicated staff to work specifically on watershed-related programs, projects and monitoring of the waters.
- Funding for watershed studies and “SWAPs” come from a combination of grant funding and capital budget from with the county/city.

C. Baltimore Reservoir Agreement - Example 3

<http://www.baltometro.org/watershed-management-program/reservoir-watershed-management-program-details>

The Baltimore Reservoir Agreement was first adopted in 1979 as part of the Clean Water Act Areawide Water Quality Planning efforts under section 208 of the Act. The Agreement was substantially reinforced in 1984 and has been reaffirmed over the years with the most recent in 2005.

Structure:

- The Agreement establishes a Reservoir Protection Committee appointed by the elected officials from signatory jurisdictions of Baltimore City, Anne Arundel, Baltimore, Carroll, Harford and Howard Counties; the Soil Conservation districts of Baltimore and Carroll Counties; the Maryland Departments of Agriculture and the Environment and the Baltimore Metropolitan Council of Governments (BMC). This group meets once per year
- There is a Reservoir Technical Committee representing the signatory which meets monthly or as needed
- Staff support is provided by the BMC.
- Implementation is conducted by the member jurisdiction as presented in the *Action Strategy*.

Duties:

- Develop, implement, and amend as needed an action strategy .
- The agreement signatories commit themselves to the expeditious adoption and/or execution of policies, initiatives, investigations, and projects listed in the Action Strategy.
- Prepare a biennial progress report that summarizes trends and recent changes in reservoir quality, emerging issues of concern and critical needs.
- The RTG reviews and may address land use programs, policies, plans and proposals including master plans and zoning changes. .

Funding :

- The BMC will provide staff support for the purposes of program coordination and administration, using funds provided by Baltimore City and the aforementioned five counties. The formula is based on an apportionment of the annual budget to each County based on population. Currently, staffing at the BMC is one part time employee.

4. Establish or augment an existing 501c3-Non-Profit:

Benefits:

- Provides a level of independence from State or local government but includes them as partners at a high level through the Board of Directors.
- Provides broader options for fund raising and financing which can include donations and endowments
- Provides independent oversight of all partner's actions in implementing the action plan.
- Can support state and local policies and funding.

Challenges

- Fundraising and finding annual funding could be difficult and requires a dedicated staff.
- Would need a paid Executive Director and/or staff to run the non-profit and provide fiscal management
- Authority is limited. Responsibilities can include monitoring, educational programs, and advisory to the State and County.

Structure 1 - Non-profit independent of Homeowners Association

A. Maryland Coastal Bays - Example 1

<http://www.mdcoastalbays.org/>

Structure:

- Executive Board of Directors; Science and Technical Committee that meets quarterly. Staff and partners include the County, State, Federal agencies, including Assateague National Refuge, and towns within the Coastal Bays (Ocean City, Berlin).
- Coastal Bays Program's Mission: "The Maryland Coastal Bays Foundation exists to protect and conserve the waters and surrounding watershed of Maryland's coastal bays to enhance their ecological values and sustainable use for both present and future generations"
- Local governments, Federal agencies and the State retain authorities for all planning, zoning and enforcement.

Duties:

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- MD Coastal Bays Program has an Executive Director and 5 staff people, and a solid volunteer program. Their Board of Directors meets quarterly and makes programmatic and policy decisions for the Coastal Bays, as well as managing fiduciary operations.
- Has a thorough 5-Year Management Plan for all aspects of the Coastal Bays.
- Conducts educational programs, sponsors restoration projects, and reviews and comments on land use programs and policies.

Funding:

- Funding is obtained via grants from various public and private sources; MD Coastal Bays receives funding from EPA's Estuaries Program; The MDCBP holds fundraisers and applies for grants several times a year for projects as well as programs that they run. The annual budget is approximately \$2 million with \$500,000 from EPA under the National Estuaries Program.
- Hiring a Watershed Specialists or full-time staff position would increase exposure and help with fundraising and outreach/awareness.

B. Lake Wallenpaupack Management District - Example 2

<http://wallenpaupackwatershed.org/>

<http://wallenpaupackwatershed.org/wp-content/uploads/2013/07/2012-Annual-Report.pdf>

Structure:

- They have an Executive Director for the non-profit with an Executive Board.
- The Power Company owns the Lake to high water mark.
- The Management is District is a non-profit corporation multi-governmental representation on the Board. The Counties also work with the District on environmental issues.

Duties:

- The Management District assists on Education, Water Monitoring, restoration and protection projects, including storm water. They also have a cost-share program that they manage to help foster more work being done in the lake community.
<http://wallenpaupackwatershed.org/news-and-events/>

Funding:

- Because they are a non-profit corporation, they can apply for and receive grant funding, as well as private and public funding.
- Total Revenues and Gains in 2012 was \$105,744.
- They have an on-line donation process on their web site.

Structure 2 - Non-profit organized and managed by homeowners as an HOA

A. Lake Barcroft Watershed Improvement District

<http://www.lakebarcroftwid.com/>

Structure:

- Lake Barcroft Watershed Improvement District (LBWID) was created in 1973 as a quasi-governmental entity established under Virginia state law (VA code Title 10.1 - Chapter 6, Articles 614 – 635); it is managed under the Northern Virginia Soil and Water Conservation District
- LBWID is managed by a Board of Trustees composed of three Lake Barcroft residents
- There are 5 permanent staff members, including Operations Director, Dam Superintendent, Project Director, Dredging Manager, and Office Manager
- Lake Barcroft Association (LBA) holds title to the Lake, the dam and common properties (including 5 beaches) on behalf of the community property owners; liaison with LBWID is provided via this organization

Duties:

- Conservation of Lake Barcroft and its environmental qualities
- Operation and maintenance of the dam, and monitoring its discharge
- Monitoring water quality and depth (by law it must be maintained at a certain level)
- Dredging, trash removal
- Advocate for environmental integrity of the watershed above the Lake and installation of structures to control the flow of sediment and debris into the Lake
- Watershed planning for Lake Barcroft is included in the Cameron Run Watershed Management Plan completed in 2007

Funding:

- LBWID operations are funded via a special tax on the community's residents originally established to retire the bonds and other financing that allowed restoration of the dam after it was breached during Hurricane Agnes in 1972; residents voted in 2003 to continue the tax in order to fully fund and expand LBWID operations
- A 6-year EPA grant was received to identify and demonstrate BMPs to improve water quality, provide temporary storm water retention, and reduce flooding, pollution, sediment and debris flow into the Lake

2. Create a Watershed District Authority

Benefits

- Creates an independent governmental entity (third party) to develop and oversee policies, programs, and funding.
- Allows for more stringent rules and regulations with local enforcement.

Challenges

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- Must be strongly funded, structured, and staffed.
- Requires legislative action
- Usurps some state and local authority which would be challenged, and most likely not supported, by either the State or the County governments.
- Most examples of this type of authority were established in the 1960's and 70's when local zoning and regulatory authority was not strong. The evolution of local authority for land use decision has been added to and strengthened over the years in Maryland which would be difficult to change through State legislation

A. Lake Tahoe - Example 1

<http://www.trpa.org/>

Structure:

- Tahoe Regional Planning Authority (TRPA) operates under the authority of the states of California and Nevada and the federal government through the Bi-State Compact, which was ratified by Congress and signed by the President of the United States.
- TRPA uses two main tools to protect and restore Lake Tahoe:
 - An Environmental Improvement Program that implements restoration projects to heal past damage to the ecosystem
 - A regulatory program that works to minimize the impact of developed properties on the watershed
- The Agency's top priorities and basic operational strategy is set by a Strategic Plan.
- There are eight committees associated with the TRPA Governing Board. Committees allow for a small working group of board members to meet publicly on technical items and then to make recommendations to the full board for final action.

Duties:

- The TRPA has authority to oversee their code of ordinances, permitting, transportation and environmental planning, scenic regulations, and MOUs. Some of their Programs include Forest Management, Tahoe Keepers, Air Quality and Invasive Management.

Funding:

- On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion \$75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay \$18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay \$12,500 to the agency, from any funds available therefore. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the States of California and Nevada. Requests for State

funds must be apportioned two-third from California and one-third from Nevada. The current budget for Fiscal Year 2011-2012 is \$16 million

B. Minnesota Watershed Management District Example 2

http://www.bwsr.state.mn.us/planning/WD-WMO_overview.html

Structure:

- Watershed districts are formed at the request of local citizens, county boards or cities by petitioning the Minnesota Board of Water and Soil Resources (BWSR) under the procedures set forth in the Watershed Act.
- The Minnesota Legislature authorized the creation of watershed districts in 1955, through the Watershed Act, with the idea that water management policies should be developed on a watershed basis, because water does not follow political boundaries.
- Minnesota Association of Watershed Districts represents Minnesota's watershed districts. The association provides administrative and lobbying services for watershed districts.

Duties:

- The Minnesota Watershed districts have been given broad authorities, including the authority to:
 - Adopt rules with the power of law to regulate, conserve, and control the use of water resources within the district.
 - Contract with units of government and private and public corporations to carry out water resource management projects.
 - Hire staff and contract with consultants.
 - Assess properties for benefits received and levy taxes to finance district administration.
 - Accept grant funds, both public and private, and encumber debt.
 - Acquire property needed for projects.
 - Acquire, construct, and operate drainage systems, dams, dikes, reservoirs, and water supply systems.
 - Enter upon lands within and without the district to make surveys and conduct investigations.
- Minnesota Association of Watershed Districts Inc. provides educational opportunities, information and training for watershed district managers and staff through yearly tours, meetings and quarterly newsletters

Funding:

- A District's (via the Minnesota Association of Watershed Districts Inc.) dues shall be based upon the total market value of real estate and personal property multiplied by .0002418 to determine the maximum levy - not to exceed \$125,000. (1 mil equivalent).

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Then multiply the maximum District levy amount by .016 to determine MAWD dues - not to exceed \$2,000.

- In addition to the annual dues, the Board of directors may levy a special assessment for legislative purposes only, based upon the annual levy for administrative funds for each of said watershed districts, as follows:

\$ 0 to \$ 5,000.00		Special Assessment of \$ 25.00
Above \$ 5,000.00	to \$ 10,000.00	Special Assessment of \$ 50.00
Above \$ 10,000.00	to \$ 20,000.00	Special Assessment of \$ 75.00
Above \$ 20,000.00		Special Assessment of \$ 100.00

Attachment

Deep Creek Lake Watershed Plan Development Accountability and Public Participation Subcommittee

Draft Problem Statements

Topic – Accountability, agency coordination and lake management responsibility

1. Citizens expressed a lack of understanding, clarity and accountability regarding who/what agency is responsible for different management actions on and around the lake and in the watershed.
2. Citizens also felt the agencies are not working together in a coordinated fashion and a localized management authority is needed.

Topic – Public understanding and participation

1. Concern was expressed for the lack of participation from watershed residents as opposed to lake residents.
2. There is a lack of access to information on the lake governance as well as information on the watershed and the lake.

Draft Goals

Improve the management structure, coordination and accountability of governance for the lake and its watershed.

Nurture an informed and engaged citizenry regarding the lake and its watershed.