

Hawai'i Ocean Resources Management Plan Working Group

Meeting Summary

March 7, 2013: 9:00am – 12:00pm
Office of Planning, 6th Floor Conference Room
235 S. Beretania Street, Honolulu, HI 96813

Present:

Alex Roy (DLNR – OCCL)	Josh Hekeia (OP–CZM)
April Coloretti (SSFM International)	Katie Ersbek (DLNR–CWRM)
Bethany Morrison (HI Co. Planning)	Kylie Wager (CRest)
Bill Tam (DLNR–CWRM)	Leo Asuncion (OP/CZM)
Brad Romine (UH Sea Grant)	Loren Bullard (WPRFMC)
Brian Gibson (OMPO)	Lucas Mead (HI County)
Charles Kaaiai (WPRFMC)	Lynn Sumida (OP/CZM)
Cheryl Soon (SSFM)	Maria Carnerale (DLNR–PMNM)
Corlyn Orr (HHF Planner – CRest)	Mark Fox (Nature Conservancy)
Debbie Solis (USACE)	Mary Lou Kobayashi (OP)
Dennis Huang (UH Sea Grant)	Matthew Gonser (UH Sea Grant)
Dolan Eversole (UH Sea Grant)	Melissa Iwamoto (PacIOOS)
Doug Codiga (CRest)	Mike Dahilig (Kauai Co. Planning)
Elia Herman (DLNR - Sanctuary)	Miki Lee (Leeway Enterprises)
Emily Gaskin (HIHWNMS)	Randolf Sykes (OMPO)
Emma Anders (DLNR-DAR)	Robyn Loudermilk (OP)
G. Kem Lowry (East West Center)	Sandra Rossetter (DOT – Harbors)
Glenn Martineau (USCG)	Stephen Frano (NOAA -OCRM)
India Heff (CRest)	Sue Sakai (MACZAC)
Jesse Souki (OP)	Wayne Tanaka (OHA)
Jim Buika (Maui Co. Planning)	William Tam (DLNR – CWRM)
Jim Coon (MACZAC)	
Jody Gallinto (Kauai County)	

Welcome

Jesse Souki; CZM Program Manager welcomed the group and provided CZM and legislative updates.

SSFM ORMP Update Report – Administrative Review Draft and One-on-one agency meetings:

Cheryl Soon provided a brief history of the ORMP Update and went over the current timeline. She stated that one of the shortcomings of the 2006 report is that it did not have a framework to track performance measures (metrics).

April Coloretti of SSFM gave an overview of the changes from the original Draft ORMP and the Administrative Review Draft (ARD). The ARD was developed with the feedback of agencies and the public during the review process. The changes are:

- It has been shortened from six chapters to now only four.
- The other sections, as well as additional information, have been placed as appendices.

- List of acronyms has been moved to the front of the document
- A table of contents has been generated.
- The document is more succinct and flows better, and
- Metrics and measures have been better developed and the feedback from both the public and agencies has been addressed.

One-on one-agency interviews are ongoing. DOT and OP have met with the Dept. of Transportation and the Dept. of Health. Interviews are scheduled in March with the County planning agencies, the Dept. of Agriculture and a tentative meeting with the Dept. of Land and Natural Resources.

The baseline metrics will be established for the ORMP during the first reporting period in 2014 (once the ORMP has been finalized).

Questions between agencies in attendance and SSFM included:

- Management #6 (Ocean Economy) – discussion on which agency should be the lead agency
 - Small vessels need support and recognition.
 - Maui has the largest number of small commercial vessels and nowhere to store these boats.
 - Ocean recreational activities should be supplemented.
 - Ecotourism is worth mentioning in lifestyle and accessibility.
 - However, it was pointed out that unless an agency seeks to take ownership of the metrics, collect and distribute the data, and take action on the ideas discussed, it is just a good suggestion but can't be listed in the ORMP.
- The goal for listing metrics and outcomes is to be more accountable to the general public (which is what the public wants to see).

ORMP Integrated Planning Committee - Options for Implementing the Hawai'i State Planning Act Climate Change Adaptation Priority Guidelines.

Charles Fletcher (Univ. of Hawaii School of Ocean and Earth Science and Technology) provided an overview of the Climate Change Adaptation Policy.

Project Goals: To produce a guide that assists state and county decision-makers in making “on-the-ground” planning and regulatory decisions that implement the Climate Change Adaptation Priority Guidelines, Act 286 (2012)

- Key assumptions to minimize political uncertainty:
 - Focusing on adaptation strategies that address impacts for which there is adequate technical information.
 - Incorporating adaptation strategies into existing state and county management programs (e.g. SMA).
 - Considering the initial adaptation strategies as the first of several phases for climate change adaptation.
 - Incorporating both bottom-up and top-down adaptation strategies — but emphasizing the need for local variation.

- Designing an explicit “learning strategy” that ensures we are assessing management efforts and making adjustments based on practice, experience, and new technical data.

- Evolving Adaptation Strategy (Phased Approach)
 - The report comprises part of Phase 1, which also involves
 - Identifying/engaging implementing agencies.
 - Further developing implementation tools.
 - Building agency consensus.
 - Phase 2 potentially incorporates a sea-level rise inundation area, which would involve:
 - Applying technical data and agency-based sea-level rise adaptation strategies.
 - Conducting community-based, first-generation vulnerability assessments.
 - Building technical support for private sector adaptation.
 - Expanding capacity and technical research.
 - Phase 3 potentially involves:
 - Conducting community-based vulnerability assessments for all climate change impacts.
 - Analyzing/addressing public and private vulnerabilities.
 - Developing accommodation, protection, and retreat strategies.

- Phase I approach:
 - “No regrets” adaptation strategies
 - Flexible/reversible adaptation strategies
 - Safety margin strategies
 - Defining a “no regret approach.”
 - Flexible/robust
 - Achieves benefits independent of climate change
 - Addresses local priorities
 - Considers levels of risk
 - Includes timeframes for decision-making
 - Considers economic viability and administrative feasibility
 - Publically acceptable
 - Defining a Flexible / Reversible Approach
 - Adaptation strategies that address current or probable impacts, but can be easily updated or modified based on new or improved information.
 - Costs of being “wrong” are relatively low.

- Examples include long-range infrastructure siting or reconstruction plans and plans for constructing dikes for surface water capture.
- Defining a safety margin approach.
 - Changes in engineering or regulatory standards in the interest of reducing risk of specific impacts.
 - Examples include adding sea-level rise projections to erosion rates to increase the shoreline setback or enhancing coastal drainage infrastructure to reduce the risk of coastal flooding.

➤ Assessing Report Options

- Identify priority Phase 1 options.
- Add/remove/modify list of Phase 1 options.
- Assess implementation tools.
- PART A: COMPREHENSIVE PLANNING
 - Evaluate the extent to which current plans address climate change impacts.
 - Incorporate policies and priority guidelines regarding climate change impacts, generally, and sea-level rise, in particular, into plans.
- PART B: REGULATORY PROCESS
 - Use the model SMA permit evaluation checklist (Appendix B.1) as a component of the SMA permit application and review process.
 - SMA Permit Program
 - Develop a shoreline setback ordinance that accounts for accelerated shoreline erosion due to future sea-level rise based on available methods.
 - In evaluating shoreline variance applications, consider the model guidance for “hardship” variance evaluation.
 - Shoreline Setback Laws
- Floodplain Regulations
 - Work with FEMA to update federal flood insurance maps to incorporate best-available information on climate change and sea-level rise, eventually including a 100-year storm event under future sea-level rise scenarios.
 - Apply 100-year floodplain regulations to 500-year floodplain.
 - Develop building standards in existing 100-year floodplain that are more protective than the federal minimum standards.
 - Adopt or expand county-administered community rating system programs.
 - Develop an overlay zone adjacent to existing special flood hazard areas by overlaying sea-level rise inundation maps with federal flood insurance maps.

- Environmental Review
 - When evaluating a project under the “significance” criteria, consider whether a proposed action is likely to suffer damage from or exacerbate impacts from climate change and sea-level rise, as indicated by a climate change hazard assessment (Appendix B.3).
 - When considering project alternatives, evaluate relocation, elevation, and “soft” protection.
 - When proposing mitigation measures, incorporate climate-resilient precautions.
- State Land Use Classification
 - Require climate change hazard assessments in Land Use District boundary amendment petitions. Exempt smaller projects or repairs that do not increase risks to public safety.
 - For approved boundary amendments, require safety buffers that run with the land along seaward boundaries and around natural inundation buffers, as necessary. Permit low-impact activities, such as access, within the buffer zones.
 - Based on assessment of climate change impacts, risks, and vulnerabilities, include recommendations for down-zoning lands, where appropriate, to protect public health and safety; also, include options for compensating landowners or incentivizing landowners to relocate.
- Possible Next Steps
 - Update list of priority Phase 1 options.
 - Based on priority options, refine applicable implementation tools, e.g., model goals and policies for comprehensive plans, SMA permit checklists, and hazard assessments.
 - Identify possible consultants/partners for refining implementation tools.
 - Identify possible partners/communities for implementing one or more of the tools as a case study.
 - Develop a community outreach strategy.

Comments, concerns, and discussion expressed by Integrated Planning Committee on climate change adaptation guidelines:

- We are looking at the complex issues of managing land (land use). Next steps will involve working with each planning department who will take this to their councils.
- With a no-regrets approach we can take steps now without creating a big campaign or drafting bills.
- We need to learn from other jurisdictions.
- We need a comparative analysis. Not just what other places are doing, but also acknowledging what we are doing here (our regulatory and planning framework)

and then recommending what we can do.

- We are organizing people to help us figure out how to deal with people that are flooded (New Orleans and NY lessons learned). Kauai has some public finance issues.
- On the windward side (of Oahu), there is a lot of knowledge about climate change. The question we can't answer is: "what do we do about it." As a planner, we need to get information out to the public about our strategy before we start too many assumptions about what needs to be done. There was not a lot of knowledge on the south shore (of Oahu).
- The Kailua Beach management plan focuses on strategies, exploring retreat, which includes implementation strategies. We are "stuck" with actually implementing the plan. The plan included a public survey of "what can be done?" There are surprising support for beach nourishment and willing to pay into a "beach fund" (OCCL). I plan means nothing unless some of the recommendations are implemented. You need a "community champion" to move the plan forward.
- Who will implement some of these options? Will it be state lead, county lead, a new working group?
- Across the state people are making decisions about our land / development. We want to work with people that are on the ground (current planners). We need on the ground best practices (doable actions) guidance to implement Act 286 / Climate Adaptation Policy.
- Gap analysis. How science is implemented in the community / through governance. A lack of best management practices is what we need. The report provides a flexible approach, using the existing authority and development process.
- Science and policy recommendation and the regulators (we need to bring in the people that regulate).
- We are already addressing erosion.
- We need to get everyone in the room for a "working meeting."
- One of our challenges is to know, what we need to do to get everyone together, so that people can come to the meeting able to make decisions.
- Tailoring to the island conditions and politics. This "Options Report" creates for the agencies. As planners, we have opportunities to meet with our planning commissions, when we have an opportunity to create an "expert group" that can give presentations to each commission / council.
- On Maui we are adopting 286 in our community development plans, it would help to have the experts to "back-us up."

- Next step: identify “windows of opportunity,” when plans are going before the commissions / council to review / approve plans.
- How will we implement this within existing entitlements?
- Doug’s regulatory takings paper.
- Implementing SLR into the regulatory decisions. I don’t have SLR in any of my policy documents. I will face a “taking” if I don’t have this in my policy document. We have it at the state level, but not at the county level.
- We need to open up the “window” for adding SLR into the county policy documents.
- Part of this project is looking for the “wiggle room.” Where do we have existing policies, to the extent to which we can talk about SLR in terms of coastal hazards, because we already have the policy for coastal hazards?
- We don’t need to use the language “SLR.”
- Need: our policy documents have not caught up to the science. From a “patch” process, rather than waiting for the plan updates.
- We can still look for opportunities as they arise within each update. Recommendations can be made that are not yet regulated.
- At OCCL we rarely make recommendations. As a coastal scientist and planner, I took the time to try and educate a property owner of the hazards (including climate). We deal with this issue every day. We need something to do now (future and existing development). Rolling setbacks and “long-range” planning issues are important, but we also need the best practices/options for existing and future development which is in a hazard-prone area.
- If you are going to add policy into GP and CDP / SCP. You will need to make the decision as easy as possible for the council members. Since climate / SLR manifest itself as erosion and inundation, we can focus on policies for being hazard safety.
- We need to use “local experience” from extreme events. Hilo tsunami created a retreat zone following this “window of opportunity.”
- On the “takings issue,” we have a published report that addresses this concern. There is the “threat of litigation” and “actual litigation.” The report concludes that the likelihood of a successful claim of takings on government is unlikely. There have been few successful cases.
- On the “takings issue,” people should not be afraid of this. The case law protects the public interest.

- This is why we need to work with the development process, starting with “subdivision level.”
- Not everyone agrees that the climate change issues are health and safety issues. I will need a policy document to show that my decisions are align with a document showing that climate is a planning issue. Need policy alignment.
- We are experiencing the impacts of SLR in terms of existing development falling into the ocean. A mile of beach is being hard armored. West Maui is falling into the ocean because of outdated development strategies.
- I believe that there are more options than retreat. We need to invest in different types of “protection strategies” (on the topic of sea-level rise).
- We presented options in the report. We have regulatory and policy-level options. What would be most helpful to help the counties change their plans (would it be top-down or bottom-up)? Both. If the commission hears that people are being impacted.
- What can we do with you (agencies) to make your task easier? How do we collectively design policies or initiatives, new regulatory mechanisms...or other types of support for the planning departments?
- We need constant messaging. We need a lot of education for our council/commissioners.
- We need to go into the communities, each type of planners, each commission, and each council member to make it the #1 priority in the county in light of all the other issues. When you go to the council, one of the questions is “what is priority.” It is one thing to have the tools, but you need to work locally, to identify areas where the policies may be helpful to avoid climate change impacts.
- We have heard from all of you, what is needed. Can we start working with you too?
- In a known hazard zone, what is the responsibility for government permitting “unsafe” development (rock-fall issue)?
- Protecting public harm and safety is the basis for placing conditions on permits. Does that trump all other property rights?
- Does the hardship variance all come into the issue? No one has outlawed sea-walls.
- Most cases are not even close to a “takings” issue. Using the “public harm and safety” as the basis for regulating is very strong. In terms of liability for the government, is providing more planning information.
- Planning information is “place-based” hazard information. The magnitude, frequency and location of a specific hazard for a specific area.

- The Legacy Lands Program has funds. We need to buy critical lots as “sand supply.” We need to prohibit sea walls (the hardship variance allows for seawalls on every property).
- Where would you “draw the line” during permit review. Where do I have the expertise to make this decision? On an SMA, based on exemptions (minor and non-confirming structures- small garages).
- Do you let someone repair an old plantation home that is 18 feet from the shoreline?
- 1 foot of SLR by 2030, but a hurricane is expected to hit the shorelines every 15 years. We need to take advantage of Setback, XX are not in the ordinance so they don't go to the council (see Jim).
- OMPO already identified vulnerable areas statewide.
- In regard to infrastructure, we have “windows of opportunity,” because funds spent on CIP and other infrastructure is considering climate / hazard vulnerabilities.
- We need to change the development rights after a hazard (they are buying a diminishing asset). The financial incentives from the banks / mortgage may already start reducing the value of XX. Using non-conforming uses of development.

Next steps for Climate Change Adaptation Policy:

- Identify windows of opportunity for each county

Implementation Barriers:

- “takings”
- Specific best practices for current planning
- Policies in
- “An expert group” able to present to county councils/commissions
- “tools” to place conditions to permit
- Policy alignment

Next Steps for Working Group

The next Working Group meeting is scheduled for Thursday, April 4, 2013, from 9:00 am – 12:00 pm. Location is the Office of Planning Conference Room, 6th Floor of the State Office Tower.