



# Climate Change Commission

CITY AND COUNTY OF HONOLULU

650 South King Street, 11<sup>th</sup> Floor • Honolulu, Hawai'i 96813

## COMMISSIONERS

Charles Fletcher, Ph.D., Chair  
Rosanna Alegado, Ph.D., Vice Chair  
Makena Coffman, Ph.D.  
Melanie Islam, AIA, NCARB, LEED AP BD+C, LFA  
Victoria Keener, Ph.D.

## **Climate Change Commission Tuesday, November 23, 2021, 9:00 AM Zoom Virtual Meeting Meeting Minutes**

**Members Present:** Chair Charles Fletcher, Vice Chair Rosie Alegado, Makena Coffman, Melanie Islam, Victoria Keener

**Public:** Matthew Gonser, Coranne Park-Chun, Isabella Roberson (Office of Climate Change, Sustainability and Resiliency); Courtney Sue-Ako (Corporation Counsel); Katia Balassiano, Elizabeth Kreuger, Christi Keller, Steve Tagawa, Nelson Armitage (Department of Planning and Permitting); Walter Billingsley, Terry Chan (Department of Design and Construction); Justine Nihipali, Shichao Li (Hawai'i Office of Planning and Sustainable Development Coastal Zone Management Program); Melanie Lander (Hawai'i Sea Grant College Program); Amanda Ellis; Colin Lee; Melissa May; Nancy McPherson; Susan Mukai; Kiana Otsuka; Mike Plowman; Robert Porro; Gernot Presting; Ryan Ringuette; Katie Rooney; Tasha Kawamata Ryan; William Tam; Bruce Tsuchida.

1. **Call to Order:** Chair Fletcher called the meeting to order at 9:01 AM.
2. **Roll Call:** All five Commissioners were present. Quorum was established.
3. **Approval of the Minutes: September 16, 2021 and October 28, 2021:** The meeting minutes of September 16, 2021 were adopted as amended. The meeting minutes of October 28, 2021 were unavailable and adoption was deferred until the next meeting.
4. **Communications and Correspondence from the Public:** None.
5. **Report on the Activities of the Office of Climate Change, Sustainability and Resiliency (CCSR):**

Director Matt Gonser presented the following report:

- Since the launch of the City and County of Honolulu's ("City") AmeriCorps VISTA program in 2018, CCSR has hosted more than 40 VISTA members across 7 City agencies. Director Gonser shared a video that looks at the impact of City VISTAs and their experience in the program: <https://youtu.be/3VsL9TX2s4g>.
- Director Gonser provided an update on CCSR's development of a Building Benchmarking Program. Deputy Director Nicola Hedge provided an update to the Honolulu City Council Transportation, Sustainability and Health Committee, and CCSR will provide a written report on the program's development per the Council's request in Resolution 21-229 (<https://hnlidoc.ehawaii.gov/hnlidoc/document-download?id=12096>). CCSR will also be hosting two open houses on benchmarking, the first on January 20, 2022 at 2:00 p.m. and the second on January 26, 2022 at 6:00 p.m.
- The Climate Ready O'ahu Advisory Hui will be meeting on December 7, 2021 from 4:00 – 6:00 p.m. The Advisory Hui has been a tremendous resource at different decision points in the project. CCSR has received additional community engagement funding for the project from the American Cities Climate Challenge to partner with community-based organizations for on-the-

ground engagement. CCSR will be partnering with Mālama Learning Center to serve as a node to connect with other community-based organizations in specific geographies that, to date, engagement data shows have been lacking representation.

- CCSR participated in a team strategy and action planning session to assess capacities and resources and strategize on how to remain focused and effective in the work towards the Resilience Strategy, Climate Action Plan, and forthcoming climate adaptation strategy.

**Questions and comments that followed:** None.

**Comments and public testimony that followed:** None.

**6. Updates on the Hawai'i Coastal Zone Management Program from Justine Nihipali, Planning Program Manager, Coastal Zone Management Program, State of Hawai'i Office of Planning and Sustainable Development (OPSD-CZM)**

- Justine discussed changes that recently occurred relating to Hawai'i Revised Statutes (HRS) Chapter 205A (coastal zone management law) and other State legislation.
- She shared the four main amendments to 205A, made through Act 16, which passed in the 2020 State legislative session:
  - Amending the list of what is and is not considered development.
  - Amending the minimum shoreline setback from 20 feet to 40 feet.
  - Adding "sea level rise" to the definition of coastal hazards and a definition of "beach".
  - Adding a prohibition of shoreline hardening structures for private property at sites with beaches.
- She noted that single-family residences are now considered development if they are on a shoreline parcel or on a non-shoreline parcel that is impacted by waves, storm surge, high tide, or shoreline erosion. This means those single-family residences are now required to receive a Special Management Area (SMA) permit.
- For changes to shoreline setbacks, the law no longer allows the reduction of the shoreline setback to less than 40 feet for any of the shoreline parcels, and therefore requires a shoreline setback variance for non-minor structures that are located within the shoreline area.
- "Beach" is now defined for the first time in Hawai'i State Law. The definition was developed with colleagues at the Office of Conservation and Coastal Lands and University of Hawai'i Sea Grant, and is defined as a coastal land form composed of sand, that is established and shaped by wave action and tidal processes; includes sand deposits at near shore submerged areas, sand dunes, or upland beach deposits landward of the shoreline that provide benefits for public use and recreation, for coastal ecosystems, and as a natural buffer against coastal hazards.
- New beach protection policies include the prohibition of construction of private shoreline hardening structures to protect beaches, as well as minimizing construction of shoreline hardening structures where shoreline hardening structures interfere with existing recreational activities. This means no more sea walls or revetments in areas with beaches unless clearly in the interest of the general public.
- Nihipali noted that the prohibition of sea walls for areas with beaches presents some challenges to property owners and that there may be other adaption options that are not easily accomplished by a single parcel owner. OPSD-CZM currently has a request for funding proposals to do a scoping study for a regional approach to shoreline management to better understand how to apply regional approaches for more mid-term and softer solutions for shoreline management. She noted they are looking into similar models in Cape Cod, California, and Washington state.
- Amendments to 205A came into effect in September 2020 and OPSD-CZM has just started tracking permit activity.
- Nihipali discussed the sea level rise disclosure law enacted in 2020, which requires seller disclosures for areas that will be impacted by sea level rise within the sea level rise exposure area as designated by the Hawai'i Climate Mitigation and Adaptation Commission or its successor. The law comes into effect May 1, 2022 and will be included in the real estate property transactions standard form.
- Nihipali discussed Act 178 (2021), in effect as of July 1, 2021, which required OPSD to coordinate with state agencies with operational and management responsibilities for facilities to identify those that are impacted by sea level rise and other natural hazards. She noted that it is

an unfunded mandate but OPSD worked with state agencies to create an inventory of their facilities. They are working on cleaning the data and intend to use the information with overlays of the sea level rise exposure area (SLR-XA) scenarios of inundation to identify the numbers of facilities that will be impacted by sea level rise. She noted that Hawai'i Department of Transportation (HDOT) highways infrastructure is not included in the law but HDOT has a climate adaptation plan in which they've done analyses for vulnerabilities of highway infrastructure assets. OPSD is required to submit to the legislature and Hawai'i Climate Commission an annual report 20 days before the start of the legislative session.

- Nihipali shared that through regular evaluation for funding through the National Oceanic and Atmospheric Administration (NOAA), OPSD-CZM received feedback to define what cumulative impacts within the SMA mean, which is not easily defined at any national or local scale. OPSD-CZM is working on developing guidance with the counties intended for use for county planning departments to set some clear guidelines that might be applied to permitting in this area.
- OPSD-CZM has started to highlight its work with the counties on its website to improve the way information is shared for important projects (<https://storymaps.arcgis.com/stories/363b55b369f14ab5b7d69b3fd37add2e>).
- Nihipali shared that the Ocean Resources Management Plan (<https://storymaps.arcgis.com/stories/4bccfb29485b41939fdec6e99f5894760>) will be how OPSD-CZM will house its work and share information moving forward.

**Questions and comments that followed:**

1. Chair Fletcher asked Nihipali to discuss the reorganization of the Office of Planning. Nihipali responded that the Office of Planning is now renamed as the Office of Planning and Sustainable Development. She shared that the former Office of Environmental Quality Control, which used to be housed within the Department of Health, is now housed under OPSD and is renamed the Environmental Review Program. She noted that the program continues to facilitate the HRS 343 (Environmental Impact Statements) process and support the Environmental Council. OPSD-CZM, Land Use Division, and Sustainability program are still separately reviewing and responding to Environmental Assessment and Environmental Impact Statement reviews. She also noted the Land Use Commission is now also attached to OPSD for administrative purposes.
2. Commissioner Coffman asked Nihipali to reflect on any changes in decision-making since the changes to 205A have gone into effect. Nihipali responded that there is no hard data but she is seeing more development come in for SMA permits through the Department of Planning and Permitting and noted that there may be a need for more capacity on processing permits to do the things we want to see on the shoreline, which will continue as climate adaptation moves forward in different ways. She also noted that through comments through the HRS Chapter 343 process, OPSD-CZM has been able to provide awareness to property owners about potential impacts to their property relating to landward migration of their lots and sea level rise.
3. Commissioner Keener asked for clarification on when the sea level rise disclosure law goes into effect. Nihipali confirmed the law goes into effect May 1, 2022 and is supposed to coincide with a regular updating of some of the real estate industry association forms. Commissioner Coffman asked how the form will differ from the voluntary disclosure form created by the realtor's association. Nihipali responded that she is unsure as she was not involved in the process only tracking the bill.
4. Chair Fletcher asked if there are plans for more studies on managed retreat. Nihipali responded that OPSD-CZM is currently drafting a grant proposal to take another step towards understanding what current policies might serve as tools to help facilitate managed retreat or what amendments may need to occur or programs may need to be set up to help facilitate those projects. OPSD-CZM does not currently have any funds to do a study but are continuing the discussions and considerations for retreat to long-term planning.

**Comments and public testimony that followed:**

- Mike Plowman introduced himself as an Ewa Beach resident and shared his concerns regarding a major shoreline hardening project by the Marine Corps. He commented that the plan did not undergo a consistency review by OPSD-CZM because it is covered by the Navy and Marine Corps de minimis list, which is for projects on Marine Corps property, but acknowledged that shoreline hardening impacts adjacent properties as well. Plowman asked what can be done to

revisit the de minimis list and exempt shoreline hardening from the list. Nihipali responded that she is not directly familiar with the administrative process of amending the list and would check with and defer to federal consistency staff. Chair Fletcher commented that situations where unprotected shorelines or unarmored shorelines adjacent to hardening structures experience accelerated erosion is called flanking.

#### **7. Update on Revisions to the City's Shoreline Management Regulations from Katia Balassiano, Land Use Permits Division Chief, City and County of Honolulu Department of Planning and Permitting (DPP)**

- Katia Balassiano introduced herself and her DPP colleagues Liz Krieger, Christi Keller, Steve Tagawa, and Nelson Armitage.
- Balassiano noted that community has collectively been calling for stronger regulations to protect our beaches. The City's regional development and sustainable communities plans include guidance with regards to how to better deal with shorelines, and proposals for updating Chapters 23 and 25—shoreline setback and SMA regulations—are included in the O'ahu Resilience Strategy and Climate Ready O'ahu.
- Balassiano commented that DPP has been working on updates to Chapters 23 and 25 for about two years. The work has been unfunded and DPP created an internal working group including individuals from the Commission, Sea Grant, and CCSR.
- Balassiano shared the purpose of the proposed revisions are to reflect the changes in established in Act 16 (2020)—although DPP is already implementing Act 16—, use an erosion-based setback for certain parcels, and provide flexibility for shallow lots, as well as make some housekeeping changes based on DPP's experience implementing existing regulations.
- Balassiano discussed the details of the revisions including:
  - Recommendation that the coastal hazards definition includes hurricanes wind, storm surge, high tide, and sea level rise.
  - Amendments such that protected beach areas include coastal dunes and coral reefs.
  - Stronger prohibitions against shoreline hardening.
  - Requirement for SMA permits for construction and reconstruction of homes—regardless of their size—on shoreline lots or lots impacted by waves, storm surge, high tide, or shoreline erosion.
  - Increased shoreline setback of 60 feet for properties along the highly urbanized and densely developed south shore Primary Urban Center (PUC) area and a setback of 60 feet plus 70 multiplied by the annual coastal erosion rate up to a maximum setback of 125 feet outside of the PUC.
  - Reduced setbacks for shallow lots such that ensure there is a 1,500 square foot buildable area with requirements for structures to be placed in the farthest mauka location and maintain the 60-foot minimum setback.
  - Clarification of definitions for repair and reconstruction and inclusion of definitions for cumulative and significant events.
  - Prohibition on concurrent processing of SMA permits with environmental disclosure documents.
- Balassiano shared that CCSR has supported producing graphics of the revisions that can be shared when DPP forwards the staff report and ordinance to the Commission at a later date.
- Balassiano discussed how Act 16 has impacted DPP and noted that there has been a vast increase in SMA permit applications, in addition to a large number of building permits that the division reviews that involve shoreline issues. She noted DPP is experiencing a large vacancy rate for staff of about 25-30% and staff are overwhelmed by the quantity of work that exists.
- Balassiano shared that DPP has put into place new procedures to help the public and staff, including an SMA determination form for individuals to get advance guidance in regards to whether or not they are located in the SMA and how it might affect their building plans. Additionally, DPP recently hired Nelson who will serve as the Coastal Zone Manager thanks to Federal Emergency Management Agency funds secured by CCSR. DPP is also considering requesting of the City Council a new branch to assist with permitting within the SMA and near the shoreline as the public asks for greater attention to this area.
- Balassiano shared that there is other work beyond updating Chapters 23 and 25. DPP is in the process of updating the zoning code to include a permit that will allow for the transfer of

development rights mauka away from the shoreline. DPP is also trying to encourage greater density in areas that can handle it, including recommending that housing be allowed in business zones above the commercial ground floor activity, ideally further away from sensitive environmental areas.

**Questions and comments that followed:**

1. Commissioner Coffman asked Balassiano to further discuss the transfer of development rights mechanism and how it would function. Balassiano responded that with transfer of development rights, there is traditionally a neutral broker that encourages and facilitates the redevelopment or development of property in an area where it is wanted and away from the area that it's not wanted. She noted that DPP is looking to structure it with a conditional use permit such that an individual could transfer the existing density they have in the SMA to an area located outside of the SMA. She shared it is currently a bare bones program with small incentive and no neutral broker in place at the moment, but she hopes the structure might become more robust in the future and that there will be an organization that steps up to become an advocate and facilitator.
2. Commissioner Coffman asked if the updated definitions of features in both Chapter 205A and Chapters 23 and 25 include an ability to differentiate ecological integrity and quality of beaches, i.e., highly engineered beach versus relatively natural shorelines. Balassiano responded that from the permitting perspective, types of soils are taken into account in regards for preservation of beaches, cultural and historic sites, permeability for stormwater recharge, and recreational access to the beaches. She did note that DPP does not have an engineer assisting with the review of the organic material itself to provide more site-specific guidance. Nihipali shared that there is no differentiation between beaches written into the law in Act 16.
3. Commissioner Islam asked how the transfer of development rights program might impact the form and imagery of communities. Balassiano responded that DPP has started to look at how it would impact existing communities and concluded that the fairly low level of incentive at this point in time would not have an adverse impact on existing neighborhoods in general, but the process would require a conditional use permit through which DPP would have an opportunity to take a closer look on a case-by-case basis.
4. Chair Fletcher asked if there would be changes for granting variances in Chapter 23. Balassiano responded that of the vast majority of hardening structures in existence, the majority were approved prior to CZM regulations. She noted that variances are difficult to obtain and are usually associated with a particular situation that needs rectification.
5. Commissioner Coffman asked Balassiano to expand on DPP proposals for repairs. Balassiano shared the proposed definitions of repair and reconstruction:
  - a. Repair would mean renovating or fixing ordinary damage to a structure where the cost thereof is valued by a licensed professional engineer or architect at less than 50% of the current replacement cost of the structure. Repairs do not enlarge add to or expand the structure, increased size or degree of the nonconformity, or intensify the use of the structure or its impact on coastal processes.
  - b. Reconstruction would mean rebuilding a lawfully established structure when the reconstruction is valued by a licensed professional engineer architect at 50% or more of the current replacement cost structure, or where significant portions of the structure are proposed to be replaced, including exterior walls, support beams, floors, ceilings, and the foundation.Liz Krueger shared that another proposed change regarding non-conforming structures is to add a 10 year time period of which the cumulative replacement cost is measured, such that an entire sea wall could not be incrementally replaced. She noted that in practice, sea wall repairs are very expensive and DPP does not see individuals doing such repairs very much.
6. Chair Fletcher asked about the timeframe for rolling out the new setback. Balassiano responded that the staff report would be submitted to the City Council by the end of the year, and DPP is looking at an effective date a year from now in order to give property owners time to prepare and adjust.
7. Chair Fletcher shared a link to a senior research thesis by Korey Wong in the Global Environmental Science Program of the Oceanography Department at UH Mānoa (<https://www.soest.hawaii.edu/oceanography/oceanwp/wp-content/uploads/2021/05/Wong-Korey-1.pdf>).

**Comments and public testimony that followed:**

- Nancy McPherson asked if OPSD-CZM has to request additional funding from NOAA for expansion

of CZM-funded county planner positions as the permit volume will continue to grow. Nihipali responded that CZM is currently unable to fund a position for the City right now because it would require a request for an increase in funding from Congress, and those increases cannot be directed specifically for a state. She noted that CZM receives its funding based on weighted allocations based on miles of shoreline. She shared that accommodating for one position at the City would require losing positions in the other counties. She noted that CZM provides project funding from time to time but recognizes that it is not a consistent funding mechanism for DPP's capacity needs and has shared the challenge in reports to NOAA.

- McPherson asked if money coming to the state from recent federal bills can be used to give the City a jumpstart, understanding the funds cannot be used for ongoing positions. Director Gonser responded that there are still a lot of questions both at the City and in federal agencies as to how the money from the Infrastructure Bill and the Build Back Better Bill will be received and deployed and commented that it is unlikely that the bills would be able to address the discussion at hand.

#### **8. Updates on the 2021 United Nations (UN) Climate Change Conference (COP26) from Chair Fletcher**

- Chair Fletcher described the environment of the COP where many nations and non-governmental organizations met and listened to panel discussions on a variety of topics including equity, Indigenous rights, and the Brazilian rainforest. There was also a seating area to hear report-outs on the ongoing climate negotiations.
- Chair Fletcher noted that during the event, the Washington Post reported a study on under-reporting emissions, which found that on average 23% of total greenhouse gas emissions (as much as 8.5 to 13 billion tons of carbon dioxide (CO<sub>2</sub>) equivalent) are not reported.
- Chair Fletcher shared that the UN Environment Programme published an addendum to its annual Emissions Gap Report, which indicates the gap between what global emissions must be in order to stop warming at 1.5°C and what global emissions actually are. The addendum identified that current policies put warming on a pathway to 2.8°C at two-thirds probability and national pledges leading up to and during COP put warming on a pathway to between 1.9°C and 2.1°C at two-thirds probability. He noted this information was released as nations are making pledges on slowing deforestation and ramping down the use of coal, among others.
- Chair Fletcher noted that he summarized his reflections in an essay published in The Hill (<https://thehill.com/opinion/energy-environment/582048-cop26-has-failed-our-children-political-compromise-cannot-be-the?rl=1>) and commented that the COP is a process of compromise, but compromise does not go well with safety of people, children, and grandchildren.
- Chair Fletcher noted that he plans to attend the next COP in Egypt.
- Chair Fletcher shared that an article was published in Civil Beat about Governor Ige's experience at COP (<https://www.civilbeat.org/2021/11/hawaiis-message-at-cop26-the-world-must-move-beyond-zero-emissions/>) where he shared with state and regional leaders that net zero is not good enough as identified by Hawai'i's net negative law.

**Questions and comments that followed:** None.

**Comments and public testimony that followed:** None.

**9. Public Input for Matters Not on the Agenda:** None.

**10. Next Meeting Date:** The next meeting date is scheduled for December 17, 2021 at 9:00 AM via Zoom.

**11. Announcements:** None.

**12. Adjournment:** The meeting was adjourned at 10:32 AM.