

Maryland Coast Smart Council

580 Taylor Avenue, Conference Room C-1
Annapolis, MD 21401

Meeting Minutes

May 16, 2016 1:00-3:00 p.m.

Immediate Action Items

- **Reporting:** A report from State agencies on implementation of coast smart criteria is due October 1st. Staff will develop and circulate proposed reporting guidance to the Council to give agencies ample time to meet the October 2016 deadline.
- **Waivers:** Staff will circulate a proposed technical team and streamlined waiver review process to the Council.
- **Non-tidal Flooding:** Engage Adaptation & Response Working Group for guidance on coastal vs. non-coastal flood risk and purview of the Council's authority.
- **Terms:** Council member terms still need to be addressed.

Council Members in Attendance:

Chair Mark Belton, Secretary of Natural Resources
Dr. Gerry Galloway, Jr., P.E. University of Maryland, College Park
Sepehr Baharlow, P.E., Bayland Consultants and Designers, Inc.
Thomas Lawton, Somerset County
Pat Goucher, Department of Planning
Gary Setzer, Department of the Environment
Fiona Burns, Department of Budget and Management
Meg Andrews, Department of Transportation
Mark James, Maryland Emergency Management Agency
Richard Higgins, Department of Commerce
Dr. Donald Boesch, University of Maryland, Center for Environmental Science
Nick Kelly, Critical Area Commission
Meg Andrews, Department of Transportation

Council Members Not in Attendance:

Chris Elcock, GWWO, Inc. Architects
The Honorable Dennis Dare, Ocean City
Kate Charbonneau, Critical Area Commission
Mostafa Izadi, P.E. , Department of General Service

Council Staff in Attendance:

Joe Abe, Department of Natural Resources
Nicole Carlozo, Department of Natural Resources

Catherine McCall, Department of Natural Resources

Guests in Attendance:

Stacy Schaefer, Department of Natural Resources
Kathleen Maloney, MD Builders Association
Perry Otwell, Department of Natural Resources
Andrew Gray, Department of Legislative Services
Matt Fleming, Department of Natural Resources
Kristen Fleming, Department of Natural Resources
Phillip Stafford, Department of Natural Resources
Emily Vaineri, Department of Natural Resource/Office of Attorney General
Richard Ortt, Department of Natural Resources/Maryland Geological Survey

Welcome/Meeting Objectives

Secretary Mark Belton called the meeting to order and welcomed Council members. Secretary Belton reviewed the meeting agenda and reminded members that the first annual report from state agencies on implementation of siting and design criteria is due to the Council on October 1st.

Review of Coast Smart Construction Program & Council’s Role and Mission

- Joe Abe, DNR, reviewed the Coast Smart Council’s Role and Mission. State capital projects must comply with coast smart criteria, as of July 2015. With the initial Program guidance completed, Abe suggested that the Council’s current charge was to flesh out more details in how the Program will be implemented. This includes: 1) refining and improving the criteria, 2) discussing the addition of new members as Council terms expire, 3) clarifying the categorical exception and criteria waiver processes, and 4) determining meeting schedules, topics and priorities.
- In discussing the implementation of the Coast Smart Construction Program, Abe provided examples of existing state guidance documents that were incorporating the siting and design criteria: the Manual for Professional Services, the Facility Program Manual, and the Maryland State Hazard Mitigation Plan and State Disaster Recovery Plan. Secretary Belton asked: Are there additional state documents that need to incorporate the siting and design criteria? Abe responded affirmatively and gave the Critical Area Buffer Regulations as an example of an additional State guidance that needed to adopt the criteria.
- DNR Engineering & Construction inquired about the level of detail needed for the October 1st report on how agencies are integrating coast smart criteria. There was a brief discussion of what the reports might include such as narrative descriptions and more detailed quantitative data. It was acknowledged that the level of detail may vary from agency to agency. In addition, who is the ultimate audience or user of the agency reports? Shouldn’t the intended audience (e.g. legislative staff) determine the report format and level of detail? Secretary Belton and Council members agreed that further clarification was needed and Secretary Belton charged to staff to develop a report template for the Council to consider.

Update on Coast Smart Criteria Incorporation: Facility Program Manual

- Fiona Burns, Maryland Department of Budget and Management, provided an update on incorporation of coast smart guidelines into the Facility Program Manual.
- If funds are requested through the Department of Budget and Management, then projects are reviewed to ensure that they have incorporated coast smart siting and design criteria. Incorporation of criteria occurs in one of two ways: 1) Language is incorporated into Part 2 of the Facility Program Manual, which includes directions to engineers and/or architects; and 2) Climate impact criteria are applied through State & Local Targeted Growth reviews.
- Burns clarified that if DGS is administering the project, then they will review the design documents for compliance with MD codes and regulations. They are pushing incorporation of coast smart criteria into the process as early as possible to aid budgeting.
- Two kinds of projects are common: 1) Projects for state agencies on state land, where the state will budget operating funds for facilities; and 2) Grant programs administered by state agencies. DGS cannot ensure incorporation of coast smart criteria into grant supported projects unless the criteria are incorporated into Grant criteria.
- Burns reiterated that early project review with a broad group of state agencies (i.e. DNR, MHT, MDP, and MDA) will allow for flagging projects for further review by the Council. Projects are available for review on the MD Clearinghouse.

Update on Coast Smart Criteria Incorporation: State Hazard Mitigation and Disaster Recovery Plans

- Mark James, Maryland Emergency Management Agency (MEMA), provided an update on the 2016 State Hazard Mitigation Plan and State Disaster Recovery Plan. The State Hazard Mitigation Plan is updated every 5 years and guidance is sent to County Governments for County Hazard Mitigation Plans. Two County plans have been updated thus far. The final updated Hazard Mitigation Plan will be available in late August.
- State hazard mitigation and disaster recovery guidance is approved at the state and federal level, and coast smart guidance is integrated into the Hazard Mitigation Plan through the strategies and actions that the Plan recommends.
- A State Resiliency Partnership was developed through the most recent Hazard Mitigation Plan update. On May 26th, MEMA is hosting a discussion on actions and strategies to include in the Plan update. Coast smart criteria will be integrated at this time.
- The federal government has established integration procedures. Because state plans are integrated with local county and jurisdiction plans, the State will complete an integration study to develop integration procedures similar to federal efforts.
- The results of the State Hazard Mitigation Plan are smaller scale. Some of the typical projects are less than \$1 million. However, Recovery Plan Updates includes larger dollar/public assistance projects (ex. rebuilding the Crisfield dock following Hurricane Sandy). MEMA is in the beginning stages of the State Disaster Recovery Plan.
- Dr. Gerry Galloway, University of Maryland, inquired about the new federal flood risk standard being considered in the state updates (ex. freeboard for federal facilities considered as standard for the state). James confirmed that any standards specified for Region III will be considered and that many federal standards already align with state standards.

- Dave Guignet, MDE, indicated that problems may arise when it's appropriate for a local standard to be more strict (i.e. higher freeboard).
- James added that critical and state owned facilities were reviewed and updated as part of the State Hazard Mitigation Plan update.
- Secretary Belton asked about transfer to local governments.
- James confirmed that data is transferred to local governments. For example, Coast Smart Grants are provided by DNR for community scale studies and plan updates. Recently, Calvert County was awarded financial and technical assistance and MEMA was able to fund 10 properties to be elevated based on the outcome of the Coast Smart Grant. James recommended that we capitalize on strategies and actions identified in local plans.
- Guignet stated that if a local community or county has more strict freeboard standard, then the state needs to support that standard.
- James mentioned that County plans have more substantive than state plans because projects are identified and developed in local plans. State plans, on the other hand, are policy driven.
- Dr. Don Boesch. UMCES, reminded the group that Coast Smart exists to lead by example.

Update on Coast Smart Criteria Incorporation: Critical Areas Buffer Provisions

- Nick Kelly, Critical Area Commission, provided an update on incorporation of sea level rise criteria into critical area buffer regulations.
- In Dec 2014, the Critical Area Commission (CAC) passed regulations requiring coast smart criteria to be incorporated into Critical Area Review. CAC reviews siting and design, but recognizes that different agencies will meet criteria in different ways. CAC is currently meeting with individual state agencies (starting with DNR) to identify how coast smart siting and criteria are being considered.
- MOUs will be created for each individual agency, with the DNR MOU finalized this summer. Following DNR, SHA or MDTA will most likely be the next agencies.
- Kate Charbonneau, Critical Area Commission, will provide a more detailed update at the next meeting.

State and Local Case Studies: Program Open Space and Resilience Easements

- Stacey Schaefer and Kelly Collins, DNR, presented on Coastal Resiliency Considerations in Land Conservation. POS Stateside is the program from which DNR purchases lands. Targeting is based on Targeted Ecological Areas (TEAs), which includes climate change data. Areas subject to 2ft SLR by 2050 are not considered for acquisition. TEAs were updated in 2011 to remove SLR vulnerable areas and add areas that will be important for climate resiliency.
- Coastal data is available on the Coastal Atlas for project review.
- The first resilience easement was acquired for Harriet Tubman National Park and Byway. Wetland migration areas were considered to plan for wetland migration and resilience. Resilience Easements are applied to protect the landowner from coastal hazards while protecting and ensuring long term resilience of coastal habitats. Easements include buffers around high priority wetland migration areas, impervious surface limit restrictions, and a review of shoreline stabilization projects. DNR offers the development of a Resilience Action Plan, which provides recommendations for wetland restoration, invasive species management, living

shoreline projects, etc. This plan also offers guidance on coast smart construction and removal of migration barriers.

- The Council inquired about the SLR projections used in project review. Schaefer clarified that a 2 foot projection by 2050 is used as a cut off for purchases and these SLR vulnerable areas have been removed from the TEAs. However, these lands can be protected via easement if they are important for cultural/historic reasons, wetland adaptation, etc.
- Secretary Belton asked about the resolution of the SLR data and if it needs to be made available to realtors and their clients. Schaefer indicated that SLR data is used to evaluate risk at the parcel level. Property owners and buyers can view the state's SLR data on the Coastal Atlas. Collins clarified that it is not required for realtors to share this information with their clients.
- Dr. Don Boesch mentioned that the Climate Change Commission will update the state's SLR projections based on more recent science later this year. The updates will include a "business as usual" scenario, and a scenario with temperatures kept below a 2 degree rise. The most dramatic sea level rise projections will occur post 2100.
- Boesch added that many wetland areas have the potential to accrete/grow and keep up with SLR. Research is underway to understand the degree to which tidal wetlands will be conserved through accretion and migration. He expressed the importance of protecting areas for wetlands to retreat.
- Thomas Lawton, Somerset County, discussed the impact of saltwater intrusion on productivity of agricultural lands. The county identified a potential easement a few years ago that was flooded by Hurricane Sandy, but zoning issues prevented the easement.
- Rich Ortt, DNR, asked if land subsidence is incorporated into SLR projections since the southern portion of Chesapeake Bay is more vulnerable to subsidence. Boesch confirmed that land subsidence is incorporated into projections, but one consistent rate is used for the entire state. The southern portion of Bay (i.e. Hampton Roads) does have a higher rate of subsidence due to water withdraws and there may be local hot spots due to historical groundwater withdraws.

State and Local Case Studies: Coastal Resiliency Assessment

- Nicole Carlozo, DNR, presented on DNR's Coastal Resiliency Assessment, which will be available on the Coastal Atlas in June. This tool will help DNR to be more proactive in identifying restoration/conservation projects to protect coastal communities from flooding and erosion (focus on how natural features can protect people). Data products include community flood risk areas, a shoreline hazard index, shoreline restoration/conservation priorities, and marshes ranked from low to high protection potential. DNR is working to integrate the results into existing state programs, including Land Acquisition. A training will be offered in June for state agencies and partners interested in applying Assessment data products.
- Galloway asked for clarification on the social data. Carlozo clarified that social data were downloaded from the US Census Bureau and that the 2013 American Community Survey 5-year estimates were used. Percent of the population ≤ 17 or ≥ 65 years of age, percent of the population with income below poverty, and percent of the population that speaks English less than "very well," were highlighted.
- Boesch added that the marsh protection data has implications to Bay Clean up since marshes may be unable to keep pace with SLR. Dredge material management may become important

since it can be applied as a beneficial use to build islands and marshes. However, the US COE is skeptical about acquiring funding.

- Sepehr Baharlou, Bayland Consultants & Designers, indicated that consulting companies will be interested in the Resiliency data and future trainings

State and Local Case Studies: Waiver Application Case Study

- Joe Abe shared a waiver application from the University of Maryland College Park for a project within the 500 year floodplain. Staff decided that the waiver was not required because riverine flooding is not tidal and not specified in the coast smart documentation. Abe suggested that the Council could explore addressing riverine and pluvial flooding since 1/3rd of flood events around the world are considered pluvial flooding.
- Guignet commented that the Governor's 2-foot freeboard does not stipulate between coastal and noncoastal areas, and suggested that the Council offer an addendum so that coast smart criteria apply in non-coastal areas if the area is at risk to flooding.
- Secretary Belton inquired about a map of non-coastal areas at risk to flooding.
- Guignet relayed that that breaklines were developed in some cases. However, floodplains are not specifically designated as coastal vs noncoastal. Also, the State does not regulate the coastal floodplain, so in coastal areas, we are relying on locals.
- Boesch commented that we climate change will most likely cause more severe/frequent/intense floods. The 100-year floodplain may not be technical enough when identifying areas at risk to flooding. A regional basis exists for projecting how SLR will change, but not for the maximum flood height.
- Secretary Belton asked if the Council can assume a wider purview or if greater authority is needed to address non-coastal flooding.
- Matthew Fleming, DNR, suggested updating coast smart regulations, and Kristen Fleming, DNR, commented that changes would need to be made at the statute level because tidal flooding is specifically referenced in the statute.
- Joe Abe, DNR, mentioned that coastal models do not take into consideration situations where tidal flooding and riverine flooding coincide, and Guignet responded that the probability of co-occurrence is much higher than what the FEMA flood insurance rate maps show. Dr. Boesch added that coincidence of riverine and tidal flooding is best captured in the Potomac. Previous record floods have been riverine, and Hurricane Sandy brought significant surge. Some modeling has occurred in upper Potomac, but hurricane rainfall on western watersheds is less prevalent.
- Guignet added that FEMA does not allow for future conditions to be considered in their floodplain maps because they are used for flood insurance.
- Rich Ortt (MGS) further added that the State is mitigating for 2050 SLR, but not for 2050 flooding.

General Discussion

- Council members requested information on the timing for the waiver process.

- Secretary Belton reminded the Council that agencies need to report back to the Council on how coast smart criteria are being implemented. The Council was unsure of the final audience of the reports and if information on implementation needs to be reported to anyone else. If reports are shared, could the Council use them as justification to widen its purview?
- Dr. Don Boesch recommended that the Adaptation & Response Working Group could address the issue of coastal vs. non-coastal flooding and provide guidance to the Council.
- Guignet noted the expense of updating maps for a projected floodplain.
- Joe Abe discussed the waiver process and the need for a defined process of bringing projects to the Smart Growth Coordinating Committee, which will approve or deny waiver. The formation of a technical team was recommended to evaluate projects and provide recommendations for the Committee.
- DNR Engineering & Construction stated the need for a list of criteria that can be used when reviewing a waiver.
- Matthew Fleming recommended the formation of a team of agency technical experts to develop a streamlined process. Staff will report on the technical team and process at the next meeting.
- Sandi Olek, DNR, asked that the Council include representation from the Smart Growth Coordinating Committee and Smart Growth Council.
- Abe suggested that the Council provide examples of Natural and Nature-Based Features (NNBF) techniques to applicants and clarify the value and effectiveness of NNBF features in mitigating hazards.
- Secretary Belton asked if technical support is needed for coast smart projects and Ortt responded that guidance would be helpful to practitioners trying to implement coast smart projects (similar to stormwater management guidance).
- Abe suggested that the Council address open water measures (i.e. oyster reefs) that might complement shore- (e.g. living shoreline) and land-based features (e.g., migrating wetlands) and forests) in mitigating hazards.
- Matt Fleming called for initial feedback for a general framework of reporting for the October deadline. Data driven? Narrative? What is the most useful for the Council?
- Secretary Belton responded that some agencies may have more data driven reports than others.
- DNR Engineering & Construction asked if the Council is looking for reporting on the number of structures built above flood elevation, or just a general idea of how each agency is implementing criteria.
- Matthew Fleming replied that the Council would like to better understand what agencies are already capturing before creating a specific reporting template.
- Sepehr Baharlou noted that the Council needs to understand the impact of the regulations on state agencies, projects, budgeting, etc.
- DNR Engineering & Construction Raising commented that raising structures impacts ADA ramps. Visual and Economic impacts are important factors that can be described in a report. MHT will be involved in raising historic structure and waivers may be sought due to the historic nature of building.
- Secretary Belton requests as much information as possible within agency reports to ensure that the exercise is meaningful.
- Matthew Fleming suggested that agencies stress the impacts of criteria within their reports. The Council can revisit reporting requirements based on the usefulness of reported information.

- Boesch elaborated that the Council needs to showcase seriousness of this effort through reporting requirements.
- Secretary Belton clarified that the report is to the Council from agencies, but it is also a public document.
- Abe suggested referring to similar reports from other states for a framework.

Wrap Up

- Matthew Fleming and Joe Abe closed the meeting by discussing future Council agendas. The Council will meet quarterly and then re-evaluate usefulness of quarterly meetings. Should future meetings stress collaborations between agencies or invite local governments or private entities to share their perspectives? Secretary Belton suggested invitations to local governments. Abe suggested updates from Critical Area Commission. Other Council members were interested in hearing from Maryland Historical Trust (MHT).
- With reports due in October, the next Council meeting should occur before mid-September.
- Dr. Boesch agreed to report on the latest science at the next Council meeting.