

# Marine and Coastal Zone Advocacy Council (MACZAC) / Ke Kahu O Na Kumu Wai

## DRAFT MINUTES

Friday, July 07, 2023: 9:00 am – 12:00 pm

Zoom Virtual Meeting

OPSD Conference Room  
State Office Tower, 6<sup>th</sup> Floor  
235 S. Beretania St.  
Honolulu, HI 96813

## ATTENDANCE

- **Members present (8):** Phil Fernandez, Donna Brown, Rich Brunner, Denver Coon, Taryn Dizon, Robert “Bob” Nishimoto, Scott Sullivan, Kimbal Thompson
- **Office of Planning and Sustainable Development/Coastal Zone Management (OPSD/CZM) staff present (7):** Mary Alice Evans, Justine Nihipali, Sarah Chang, Shichao Li, Lisa Webster, Kristi Kimura, Yuki Terada
- **Others present (7):** Kaliko Chun (Department of Hawaiian Home Lands), Tom Eisen (OPSD/ERP), Kilali Gibson (National Oceanic and Atmospheric Administration), Dawn Hegger-Nordblom, Michael Lindenfeld (Keonenui Bay Foundation), Tara M. Owens (University of Hawai‘i Sea Grant College Program), Cyndi Reese

## DISTRIBUTED MATERIAL

- MACZAC meeting agenda for July 7, 2023
- Draft minutes from April 26, 2023, MACZAC Meeting
- CZM Report to MACZAC (July 7, 2023)

### **I. Call to Order**

MACZAC Chair Phil Fernandez called the meeting to order at 9:03 am and welcomed everyone. Introductions were made for MACZAC members. Chair Fernandez noted compliance with the Sunshine Law, particularly regarding maintaining a quorum and handling disconnected interactive conference technology.

### **II. Approval of April 26, 2023, Meeting Minutes**

The minutes were approved as circulated.

### **III. Welcome from Office of Planning and Sustainable Development Interim Director**

OPSD Interim Director Mary Alice Evans welcomed everyone and asked for updates from MACZAC members. Chair Fernandez responded that their focus is on the Ocean Resources Management Plan, specifically on development and coastal hazards, land-based pollution, and marine ecosystems, and noted that MACZAC intends to regularly rotate its attention and efforts among these focus areas.

#### **IV. Hawai'i Coastal Zone Management (CZM) Program Manager's Report:**

Introductions were made for CZM members, members of the public, and guest speakers.

##### **National Initiatives**

###### **National CZM Program Funding**

The CZM Program has accepted its cooperative agreement for FY23-24 in the amount of \$2,705,500.

###### **CZM Habitat Protection and Restoration Infrastructure Investment and Jobs Act (IIJA)**

The CZM Program has the privilege of administering IIJA funds that support the goals and intent of the Coastal Zone Management Act, the Coastal and Estuarine Land Conservation Program, and the Infrastructure Investment and Jobs Act.

The FY23-24 federal funding opportunity (FFO) was issued on June 13, 2023. CZM will be conducting a "Request for Letters of Intent" process similar to last year. A notice was sent to MACZAC members for distribution to potential interested parties. Current activities are supported by the CZM Program Manager and staff, while the request to establish the position for a CZM IIJA Coordinator is in process.

##### **Hawaii CZM Program Report**

###### **Ocean Resources Management Plan**

Chair Fernandez noted that he or Vice Chair Donna Brown intends to attend the next Coordinated Working Group Meeting in October.

##### **Focus Area I: Development & Coastal Hazards**

###### **On-going projects:**

Chair Fernandez noted that MACZAC has contributed to Phase 1 and encouraged MACZAC members' active participation at the county level for future opportunities.

Chair Fernandez noted that MACZAC would be interested in a future presentation from CZM NOAA Fellow Kristi Kimura regarding her project focuses on the nexus of coastal hazards and social vulnerability in Hawai'i.

MACZAC member Scott Sullivan inquired about the consultants, and Ms. Sarah Chang responded that SSFM International was the lead consultant, with subconsultants including Schlack Ito, Solutions Pacific, and Integral Consulting.

###### **Other Initiatives**

Mr. Sullivan asked about the frequent job vacancies at the CZM Program, and Ms. Nihipali responded that CZM is currently in the recruitment process and anticipates filling the positions before the end of the fall.

## **V. Guest Presentation: Managing Maui's Dynamic Shorelines in the Face of Sea Level Rise - Recent Updates**

**Tara M. Owens**, *Coastal Processes and Hazards Specialist - University of Hawai'i Sea Grant College Program, Science and Technical Advisor to the County of Maui Planning Department*

Tara Owens stated that there is agreement on the importance of managing coasts and addressing sea level rise; however, there is significant disagreement on the approaches to achieving those goals. She presented compelling examples of severe sea level rise and its impact on the shoreline.

Rising sea levels and tidal erosion lead to the depletion of sand and beaches, causing soil and sediment to enter the ocean and adversely impact water quality. Consequently, marine life and the environment are negatively affected.

The Hawai'i Sea Level Report and Viewer, developed by the legislature, provides a valuable tool for property-scale planning and policy discussions, surpassing expectations for addressing sea level rise impacts on coastal areas. Initial scientific projections for 2100 suggested a 3.2-foot sea level rise, but the latest local tide gauge data indicates an intermediate scenario of nearly 4 feet (3.97 feet), signaling potentially greater impacts. The University of Hawai'i Climate Resilience Collaborative is updating the Hawai'i Sea Level Rise Viewer with new mapping over the next few years. This update will allow viewing sea level exposure in one-foot increments, aiding in more precise planning and policy development.

Effective strategies and solutions for sea level rise hazards require an appropriate toolbox and legislation, which is a major influencer. Considering multiple factors is crucial in developing those strategies to address the challenges posed by rising sea levels.

In the coastal management toolbox, the three preferred strategies are:

1. Accommodation: elevating or reconfiguring coastal structures to cope with rising sea levels.
2. Ecosystem-based Adaptation: implementing restoration projects for dunes, beaches, reefs, and wetlands to enhance natural resilience.
3. Managed retreat: establishing setbacks or relocating structures and infrastructure from hazardous areas to reduce vulnerability to sea level rise.

Undesirable toolbox options relating to beach protection in coastal management strategies include:

1. Protection: building permanent rock seawalls (armoring), which negatively impacts the shoreline and environment.

2. Do Nothing: allowing the ocean to engulf buildings and infrastructure without any action or retreat.

The Hawai'i Sea Level Rise Viewer has provided valuable scientific information for decision-making, leading to positive progress in implementing and institutionalizing policies to address the issue. However, there are still challenges to overcome, and further solutions need to be explored.

Two significant acts were implemented in Hawai'i at the State level:

Act 16 (2020): Coastal Zone Management Act: Prohibits private hardening of shorelines with sand beaches. Single-family homes on the shoreline must obtain an SMA permit and undergo a public hearing for any construction.

Act 179 (2021): requires home sellers to submit a Sea Level Rise (SLR) disclosure if their property is in the sea level rise exposure area based on the Hawai'i Sea Level Rise Viewer.

In 2003, Maui County adopted erosion-based setbacks, which lacked consideration for future sea level rise impacts. In March 2023, after involving a 5-year+ process including community meetings and public hearings, the Maui Planning Commission approved amendments to establish the shoreline setback as the Erosion Hazard Line, representing safety for properties from the erosion line landward with 80% confidence. A potential Sunshine Law violation occurred when some of the testimony was accidentally not transmitted to the Maui Planning Commission in March. As a result, a repeat hearing is scheduled for July 25th to vote again on the shoreline rule change, indicating that the decision is not final.

Beach restoration projects in West Maui, particularly in Kahana Bay, Kā'anapali Beach and Napili Bay, are essential due to the impact of rising sea levels and erosion. However, these projects encounter challenges in gathering community support due to mixed benefits, drawbacks, and funding concerns.

Kā'anapali Beach experiences seasonal dynamic erosion and long-term chronic erosion. A beach restoration project, to be funded through a partnership between Kā'anapali Resorts and the State, was planned to replenish the beach using offshore sand. However, community objections led the State to decide against funding half of the project. The funding agreement would have required renewal by the Board of Land and Natural Resources (BLNR), but the Maui community opposed the use of public funds that would only benefit the resorts, leading BLNR to vote against funding the project.

The Kahana Project involves nine condominiums that are imminently threatened by erosion. They were constructed in the 1970s before Coastal Zone Management regulations or shoreline setbacks were in place. The beach restoration was proposed, and the condominium owners asked the county to create a tax district so that they could tax themselves to fund the project. The County Council enacted legislation to create the special tax district known as the Community Facilities District (CFD). Cost of the project is estimated at \$40 million, which is equivalent to each of the 961 condominium unit

owner being billed approximately \$225 per month for 30 years. There are ongoing discussions among the County Council and community around whether it is appropriate to use this funding mechanism for this type of project.

The County Council also created a Managed Retreat Revolving Fund in 2022 that involves taking 20% of the Maui County Transient Accommodations Tax or roughly \$60 million per year. The purpose of the bill is to optimize opportunities for shifting development inland. This fund is not focused on buyouts of private property, but buyouts could occur with a two-thirds vote in favor of the buyout. Debates and unsolved issues continue.

Chair Fernandez opened the floor for discussion to the Maui members. MACZAC member Denver Coon inquired if the Kā'anapali Beach Resorts could provide funding for the project, but Ms. Owens explained that the State's funding was dissolved by BLNR, and there is an extensive permitting process to go through. In addition, Mr. Coon pointed out the public perception that the project primarily benefits the Resorts. Ms. Owens stated the complexity of the issue and potential opposition to any solution, highlighting the importance of proactive beach management tools before emergencies arise.

Vice Chair Donna Brown noted that she would consider submitting testimony to the Maui Planning Commission prior to the meeting to vote again on erosion-based setbacks. MACZAC member Rich Brunner asked if all the property owners involved in the Kahana project support the proposed improvements, and Ms. Owens responded that the property owners need to petition the County to create the CFD and are asking for approval of this approach.

Michael Lindenfeld, a member of the public, who is a homeowner at the Kahana Sunset on West Maui noted that eight feet of sand has been lost vertically over 40 years. According to the Kahului tidal gauge, the total rise of the sea level during that time has been three inches. All the damage that has taken place cannot solely be due to sea level rise, but tremendous runoff from former pineapple fields above killed 99% of the coral so that there is nothing left offshore. Mr. Lindenfeld noted that the death and absence of coral reefs as natural protection has contributed to increased wave energy and sea level rise. He asked if Ms. Owens believed that the shoreline damage was not due to sea level rise, but increased wave action. She agreed that there are other contributing factors such as the lack of coral reefs but believed that the rise in sea level continues to be a factor and noted that there are some new projects at the University of Hawai'i regarding the building of artificial reef structures. Mr. Lindenfeld stated that coral reef restoration may not be practical in dealing with the shoreline damage because he believes that natural coral reef growth and restoration (nursery approach) will take centuries to be effective.

Chair Fernandez stated that a resolution was passed to consider coral reefs as a natural infrastructure during the 2023 legislature. That designation helps with funding from various sources, including FEMA in the event of damage from a natural disaster.

Mr. Sullivan suggested carefully balancing all solutions and opinions on those issues. Chair Fernandez suggested considering creating a PIG. MACZAC has representation from all segments of Hawai'i's communities and is tasked with balancing various points of view.

## **VI. Guest Presentation: Update of Monk Seals on Kaimana Beach in Waikīkī and NOAA's Action Plans**

***Kilali Gibson, O'ahu Marine Life Response Coordinator – National Oceanic and Atmospheric Administration (NOAA)***

Kilali Gibson discussed Hawaiian monk seal pupping at Kaimana Beach, covering biology and operations. To protect marine mammals on O'ahu, NOAA highlighted a two-sided approach: a response side for rescuing animals and a prevention side to collaborate with partners and communities to address and prevent issues.

Hawaiian Monk Seals, or 'ilio holo kai, are endemic to Hawaii and endangered. The population has increased by about 2% per year since 2013, with the current population estimated at over 1,600 individuals, with the majority in Papahānaumokuākea. Approximately 70 of them are on O'ahu, and seven pups were born (one passed away) this year on O'ahu. They are generally gentle, but females with pups become protective, especially during their five- to seven-week nursing period. After that period, pups are relocated by NOAA to quieter beaches to become independent and avoid human interaction.

In the history of Kaimana Beach pupping, two females alternately gave birth to four pups. Challenges include managing a congested beach with protective females, providing desired space for them, managing perimeter setup, and addressing diverse community needs. NOAA, the State, and City and County of Honolulu agencies collaborated to ensure the safety of the public and wildlife under the operation '2023 Solutions' by adopting joint press conferences and releases through various types of media, introducing new signage, and developing a flag system. Feedback from the community was mainly positive. For next year, they intend to maintain a partnership approach and incorporate early planning, adjust the perimeter setup, and engage with the community regularly.

Chair Fernandez opened the floor for discussion. MACZAC member Bob Nishimoto asked about why monk seals are being killed, and Ms. Gibson responded that it is under investigation. Chair Fernandez noted that there is misunderstanding in the native Hawaiian community, believing that monk seals were brought to Hawaii by the federal government; in the fishing community, there are major concerns about seals consuming an excessive number of fish. NOAA has tried to dispel those beliefs; however, such misunderstandings and negative reactions towards monk seals persist.

MACZAC member Taryn Dizon expressed concerns about monk seals affecting fishermen on Kaua'i due to their substantial fish consumption of 25 to 35 pounds per day as well as the fact that fishermen's nets are often broken into by monk seals. Mr.

Coon noted that he is interested in the population of monk seals on each island of Hawai'i.

Vice Chair Brown stressed the importance of educating the public about monk seals being endemic to Hawai'i. Ms. Gibson noted that NOAA is providing ongoing outreach, engaging with the community, and sharing scientific data to address incorrect information about coexistence between humans and monk seals.

Chair Fernandez noted that the majority of Section 6 of the Endangered Species Act (ESA) grant goes to the NGOs in Hawaii for education and outreach; NOAA is making significant efforts to enhance their communication strategies to effectively reach their intended audience.

Ms. Dizon questioned that outreach from a tourism standpoint. Chair Fernandez stated the State has been funding efforts through the HTA (Hawai'i Tourism Authority) to better educate visitors in videos on flights to Hawai'i and at the airports about the proper behavior of humans in relation to ocean wildlife.

**VII. Discussion, decision-making, and dissolution of Muliwai PIG**  
**Muliwai PIG (Permitted Interaction Group) review and approve draft letter of recommendations to OPSD based on the proposal presented by Dr. Bob Nishimoto at the April 26<sup>th</sup> Quarterly MACZAC Meeting**

Dr. Nishimoto requested input from MACZAC members and inquired about the process of producing outreach materials to increase awareness of the importance of the muliwai as a fish nursery habitat. Chair Fernandez and Ms. Dizon expressed their support for the content of the letter; the Chair additionally responded that the letter of recommendations would be sent to Ms. Evans, the OPSD Interim Director and that OPSD/CZM would respond with their intended actions or next steps. Chair Fernandez also recommended cc'ing Dawn Chang, the DLNR Chairperson, to inform her about MACZAC's recommendations to OPSD.

Ms. Nihipali offered to speak on behalf of Ms. Evans, who left the meeting due to a scheduling conflict, and noted that CZM would include the response in the next CZM Report to MACZAC.

Dr. Nishimoto noted that one of DLNR-DAR's outreach materials, produced by Dr. Kim Peyton, provided detailed information on estuaries in Maui. Dr. Nishimoto proposed getting the fishing community involved in discussions to collectively address fisheries-related issues. Vice Chair Brown expressed her intention to use outreach products for education and offered her assistance in future development of outreach materials.

Chair Fernandez asked for a motion to approve the letter of recommendations. Ms. Brown made the motion, which was seconded by MACZAC member Mr. Kimbal Thompson. With no objections, the letter was unanimously approved.

**VIII. Discussion and decision-making on CZM's 2021 *Identifying Frameworks for Land-Based Pollution Management in the Hawaiian Islands* MACZAC review and approve draft letter for recommendations to OPSD based on the discussion at the April 26, 2023, Quarterly MACZAC Meeting**

Mr. Sullivan emphasized the significance of supporting CZM in its efforts to enhance land-based pollution management, and the letter was intended to endorse and support CZM's ongoing actions to address the issue.

Chair Fernandez supported the content of the letter and suggested including the Chair of the Department of Health (DOH) in a copy of the letter due to MACZAC's recommendation for CZM to partner with DOH on their Clean Water Act Section 319 program. Ms. Nihipali suggested including the Department of Land and Natural Resources and the DOH Clean Water Branch in the CC. MACZAC member Kimbal Thompson suggested including outside organizations such as the U.S. Army Corps of Engineers, engineering councils, or landscape architects. Ms. Nihipali suggested that Chair Fernandez, Mr. Sullivan, and Mr. Thompson agree on the specific agencies to be added to both the State agencies and outside organizations, with MACZAC voting as a body or granting discretion for the decision.

Chair Fernandez suggested approving the motion on the condition that Mr. Sullivan decides on additional organizations at his discretion, with potential organizations provided by Mr. Thompson. Mr. Thompson moved, Vice Chair Brown seconded, and with no objections, the motion was approved.

**IX. Hotspots**

- Kā'anapali Beach Restoration Project (Maui)

Mr. Coon expressed difficulty in taking a position due to conflicting groups and community opposition during the BLNR hearing and emphasized the need to consider multiple perspectives, and noted that he sought input from others to find a balanced approach to the issue.

**X. Public input on all agenda items**

Dawn Hegger-Nordblom, a member of the public, expressed confidence in Maui County residents' awareness of the hotspots and ongoing programs to remedy them. She was involved in assisting Kahana Sunset with a managed retreat plan and emphasized relying on scientific knowledge and relocating infrastructure from the shoreline area due to rising sea levels. She also stressed the increasing involvement of government officials in addressing sea level rise and aiding homeowners and landowners. She concluded that there was a need for a common understanding among stakeholders regarding the future implications of sea level rise for the State.



Mr. Brunner expressed concerns about highway issues on West Maui, particularly Honoapiʻilani Highway (State Route 30), being affected by high tide, leading to water reaching the road. Kaliko Chun (DHHL), a member of the public, raised concerns about water systems located on shoreline areas across all the islands, particularly problems associated with cesspools, and emphasized the importance of avoiding constructing new sewage treatment plants near the coastline due to rising sea levels.

## **XI. New business**

1. Chair Fernandez suggested including Kahana Bay, Maui as a hotspot, and Mr. Sullivan stressed its wide-ranging impact in West Maui, involving resorts, hotels, condominiums, and private homeowners. Chair Fernandez highlighted that it would be significant for MACZAC to monitor and update various types of audiences quarterly due to the enormous issues. Mr. Sullivan emphasized that those coastal hazards are becoming controversial issues across all the islands, so MACZAC should regard them as a perpetual hotspot.
2. Chair Fernandez announced his relocation from Kona to Oʻahu and sought guidance on transitioning representation from West Hawaiʻi Island to Oʻahu upon Sue Sakai's resignation. Ms. Nihipali noted that there is no statutory requirement and suggested discussing and voting on that as an agenda item for the next meeting.
3. Mr. Sullivan suggested considering the Windward coast on Oʻahu as a hotspot due to erosion affecting Kamehameha Highway, specifically from Kualoa to Lāʻie, and evolving community concerns. Chair Fernandez supported and suggested obtaining updates from the Department of Transportation (DOT) or relevant agencies, and emphasized the significance of being enlightened on both East Oʻahu and West Maui issues.
4. Ms. Dizon noted that DLNR Chairperson Dawn Chang and DAR representatives will visit Kauaʻi on August 5th to engage with the fishing community and address enforcement issues. Fishermen stressed the importance of enforcing existing rules before adding additional regulations.
5. Ms. Dizon raised a significant issue on Kauaʻi with H.B. No.1090 expected to be vetoed by Governor Green. Kikiola Harbor in Kekaha faces a permit problem, with the State issuing 28 commercial permits instead of the allowed 10, some exceeding passenger limits. This is causing environmental impacts on the Na Pali coastline and straining Kekaha Harbor's infrastructure. Half of the permit holders are not registered with the DCCA (Department of Commerce and Consumer Affairs), adding to the concern. Ms. Dizon plans to meet with government leaders, including Senate Chair Ron Kouchi and DLNR Chair Dawn Chang, to address the issue.

Chair Fernandez noted that he has been in contact with the governor's office regarding H.B. No.1090, and there is a good chance that the bill is intended to be vetoed. Mr. Coon noted that the bill proposed a lottery system for issuing permits,

and faced opposition from long-time businesses advocating for a seniority-based approach. He noted that he will be involved in finding a solution adapted for all islands if Governor Green vetoes this bill. Chiar Fernandez suggested that MACZAC monitor H.B. No.1090 as a potential agenda item for the next MACZAC meeting.

6. Mr. Thompson noted that the Genki-ball project has received high publicity in Ala Wai Canal, in Honolulu. However, he has not observed any change in water quality since the project began, and he would raise that ongoing issue as a hotspot to monitor at the next meeting.
7. The next MACZAC Quarterly Meeting is tentatively scheduled for Friday, October 20, 2023, 9:00 am – 12:00 pm.

## **XII. Adjournment**

The meeting was adjourned at 11:47 am.