

Marine and Coastal Zone Advocacy Council
Ke Kahu O Na Kumu Wai

Wednesday, December 8, 2004
9:30 a.m. - 11:30 a.m.
State Office Tower, 6th Floor, Large Conference Room
235 S. Beretania Street, Honolulu, HI 96813

MINUTES

Members Present: Don Thornburg, Susan Sakai, Scott Sullivan, Arnold Lum, Donna Brown, Jim Coon, Ron Terry, Lawrence Aki, Roland Sagum III, John Ray

Members Absent: Anne Sturgis, Darrell Stokes

OP Staff: Christopher Chung, Christina Meller, Ann Ogata-Deal, Debra Tom, Dawn Omoto

Others Present: John Chang, Department of the Attorney General, Jason Broderson, Tetra Tech

DISTRIBUTED MATERIAL

- Meeting Agenda
- September 22, 2004 Meeting Minutes
- Notice of a Presentation by Biliiana Cicin-Sain, Ph.D., Director, Center for the Study of Marine Policy
- Status of Hawaii Coastal Nonpoint Pollution Control Program - Report by Susan Miller
- Draft Letter to Peter Young Regarding Boating Regulations
- Letter from Jerry Rothstein to Arnold Lum - Two Documents on Shoreline Certification
 - (1) Attorney General Mark J. Bennett's response on State statute and a DLNR rule are contradictory regarding the "shoreline" definition
 - (2) DLNR - order denying appeal of shoreline certification for a property on Kauai signed by Peter Young
- Coastal Services Magazine, September/October 2004

Call to Order

Chair Susan Sakai called the meeting to order at 9:37 a.m. Council members, staff, and members of the public introduced themselves.

Announcements: Lynn Nakagawa indicated the following announcements:

- (1) There is a traditional Hawaiian fishery report sponsored by The Nature Conservancy. It has a lot of good information. They have it on CD, and maybe we could get it for our members.

- (2) One of our Summit keynote speakers is Biliana Cicin-Sain, Ph.D., Director for the Center for the Study of Marine Policy. She will be giving a talk about Integrated Coastal and Ocean Management, and what is happening around the world. This presentation will be on Tuesday, December 14 at 12 noon, at the McCoy Pavillion Dining Room, Ala Moana Beach Park. Chris Meller will e-mail the information to the members.

Approval of September 22, 2004 Meeting Minutes

On page 2 of the minutes, it should be Kua O Ka La instead of Kuaolakala.

Minutes were accepted as amended.

Budget

At the last meeting, there was a discussion on the \$25,000 allocation for the upcoming year. Chris will work with Kem Lowry of the UH Department of Urban and Regional Planning on a contract for services. Scott Sullivan indicated his Working Group could use some of it for the planned coastal erosion video, but did not know how much. The Working Group is meeting next week.

Part of this year's money was to be used to bring the members over for the Summit-to-Sea, which has not happened. It was asked if the money needed to be spent by June 30, 2005. Susan Feeney is trying to see that it gets reprogrammed.

Ron Terry mentioned that the Sierra Club on Hawaii is interested in developing a shoreline inventory, using high resolution photography and video taken from a helicopter, similar to a successful California study, accessible on the web. The person who did the video is willing to donate his services to do the same thing for Hawaii. Funds would be required to rent a helicopter. Hawaii does not have a systematic, one-scale, one-time, one-place shoreline inventory - everything is in parts. If we sponsor this in part, Scott is willing to pursue this and get more information.

Chip Fletcher has done an excellent job for Maui. There is a website showing a series of historical photos. Chip was recently been funded to do Oahu and hopefully will make this website accessible. If we have Maui and Oahu, then we just have the Big Island and the others to do.

The Army Corps of Engineers, roughly every five years, contracts to have the shoreline of all the Islands flown so they have a record of changes. It is not sure if they still have funding for this.

The Sierra Club project is very expensive to do and \$25,000 will not cover any of it. NOAA has been doing satellite imagery. There is money for digital mapping coming through Inouye, through NOAA. It was suggested that MACZAC should go after the NOAA grant money, the USGS mapping should be on a continuous basis, not a one-time thing. Some states on the East Coast have USGS do shoreline surveys every so many years. The Sierra Club shoreline mapping idea should be pursued. Ron Terry will work with Christina Meller to come up with ideas and report at the next meeting.

CZM Hawaii Program Report

Coastal Hazard Mitigation: a Section 309 Enhancement Area

Presentation - Ann Ogata-Deal, CZM Program, Office of Planning

Ann summarized some of the current projects. The Coastal Services Center of NOAA did a cover article on the tsunami program in Hawaii and the Pacific Northwest. The article focused on the value of partnerships developed amongst agencies such as Civil Defense and CZM.

Another project worked on in partnership with the engineering and architectural professions, as well as Civil Defense proposed a third party review system for building permits which will speed the plan approval process and ensure compliance with the county building codes.

Those rules were adopted by the City and County of Honolulu in October. They set up a system where architects and engineers can be certified by the City and County to review building plans. A similar proposal is now before the County Council on the Big Island. Kauai County has also shown an interest in a third party review system.

Yesterday the CZM Program received approval from the Governor's office for a Hurricane Atlas covering the years 1996 to 2003. It will be used for decision-making and planning by the civil defense agencies and by the National Weather Service for forecasting.

Another project is the evaluation of Hurricane Iniki data. The data will be analyzed against HAZUS-MH, which is a FEMA loss estimation model based on East Coast geography so it may not be accurate for Hawaii. The consultant will do an analysis and verification study to determine if we can use the model. If not, we need to customize it to fit Hawaii's topography.

Ann confirmed that the insurance companies would be interested in this and that the CZM Program is working with the State Insurance Commissioner on the issue.

A third project looks at the HAZUS 99 Earthquake model. The customization process of that model has been going on for several years and we are now at the final stages. In February 2005,

the findings will be presented to the County of Hawaii, where there is the greatest earthquake risk.

The last project is due in large part to Arnold Lum, in his capacity as professor of the Environmental Law Clinic at the University of Hawaii School of Law. He and his students took on one of our research projects on lava flow mitigation for the Big Island. They did a very detailed research memorandum that covers the history of relocation efforts of victims of lava flows on the Big Island, as well as research throughout the nation on the issues of construction and reconstruction in areas that have been hit by hazards.

Arnold Lum recommended that the Big Island adopt, through its zoning policies, a moratorium on development in Category 1 areas. Category 1 is the area most likely to be inundated by lava flows. There have been four major relocation efforts over the last 80 years. Current law authorizes DLNR to relocate victims of lava flow disasters on State land. People do not necessarily want to move to DLNR land. The County is requiring that the relocation efforts include the provision of infrastructure for residential relocation. The law does not require infrastructure for business relocation, so it has been easier for businesses to relocate.

If a moratorium becomes a part of CZM's policy, it has been suggested that this issue should be taken out to the affected communities. There could be public meetings in Category 1 areas. Appropriate government officials should be notified of these meetings.

All Islands CZM Program Managers Meeting

MACZAC offered to help with the Program Managers Meeting in October 2005. It was suggested that MACZAC schedule a meeting in conjunction with the All Islands Meeting.

Public Forum

Arnold Lum provided a packet of materials from Jerry Rothstein that was distributed to all members. (See Distributed Materials)

Working Group Reports

Coastal Erosion Working Group: - Scott Sullivan: A meeting is scheduled for next week, and there was one in the middle of October. Scott noted that shoreline erosion problems and issues are increasing in numbers and complexity. All the Counties continue to have shoreline issues, for example, the east shore of Oahu and north shore of Maui. There's about a call a week from the Spreckelsville area. Hawaii County is reporting problems with the Hamakua cliffs area where people want to build on top of the cliffs. Erosion is undermining the cliffs, and sections could collapse and fall off. The County wants to do some stability studies because they are not

sure how to handle building permit requests. At Kapoho, a lot of privately owned lands are basically inter-tidal, and at really high tides are flooded with salt water. They can't now get building permits from anybody. The County is trying to figure out how to handle building permit requests.

The Erosion Control Guidebook, primarily assembled by Dennis Wong, is intended as a land use and permitting planning guide. It is a pretty comprehensive guide which has been revised and re-reviewed for over a year, and should be available soon.

Sam Lemmo is working toward developing a statewide integrated shoreline policy. This would involve DLNR, the Department of Transportation, Department of Health, and the counties. This is in the works and is recognized as something that is needed.

The State programmatic general permit for small scale beach nourishment may be signed by now. This is a one-stop permitting process for small scale, under 10,000 cubic yards, beach nourishment projects. It is mainly for homeowners and maybe condo associations.

Sea Grant has some ongoing projects including an erosion management alternative guidebook. They are also working on a real estate guide tailored for shoreline home or property buyers.

The Working Group continues to discuss a video to educate the public about shoreline issues. It would be a 20 to 30 minute video. A freelance video producer did a presentation; she felt that a good video could be produced for about \$50,000.

Waikiki Beach Restoration. Scott reported that the small scale beach restoration project was to have been done in November but it hasn't started. The permits were not completed. He said that they should find out the status at their meeting next week.

Commercial Boating/Harbor Improvements and Regulations: - Jim Coon: Jim reported that DOBOR was holding a scoping meeting that evening in Lahaina to talk about all the changes they want to do there. Inouye was able to get millions of dollars for Maui. (A year ago, \$5 million was going to lapse.) Jim reported that they got the County of Maui and DOBOR involved, and improvements to Manele Harbor will now proceed. Additional monies (\$7 million) received will be spent for infrastructure at Maalaea instead of Lahaina. Other projects requested by the boating community have not been funded.

The Legislature separately funded the sewage pump-out system at Maalaea. It will be a simple station pump-out system rather than a collateral one. In 2006-2007, money will hopefully be allocated for Lahaina Harbor.

Two and a half years ago, the Small Business Regulatory Review Board, attached to DBEDT, and DLNR had meetings in which they revised the entire rules package for the small boating program. It was a lengthy project. They completed it and went out for public hearings; it was accepted by the user groups and returned for final approval to the Land Board. However the AG found that the whole section on fees has been eliminated. The Land Board directed that the rules package had to go back out for public hearings.

A few weeks ago, the fee package was returned to the Board. Board members explained that the package was considered during the previous administration and that it was very important to move it forward. The Chair declined. The Land Board, Mayor, and the Governor's Advisory Committee for Maui have all expressed support.

MACZAC approved a motion to write a letter to the Land Board Chair expressing support for the small boating rules package, to include cc's to Land Board members, the Governor, and the Small Business Regulatory Review Board.

Ocean Resources Plan Implementation: - Jim Coon: It was reported that the Summit-to-Sea conference was postponed by the Governor's directive. The reason given was that other Directors could not attend due to the conflict with other conferences. (None of the conferences occurred during our scheduled time.) The conference has been postponed till next year, with an April, May, or June time frame. It was reported that a meeting was scheduled to discuss whether the conference should be held.

Concern was expressed about whether the conference agenda would include emerging topics or "hot" issues.

Concern was also expressed about the hundreds of hours spent to date on planning the conference, the funding, and the extensive efforts of the partners--OHA and the Association of Hawaiian Civic Clubs - in conducting the statewide meetings.

Ron Terry suggested a viewpoint article to the press to express our point across to the Administration. Sue Sakai mentioned the latest issue of "Environment Hawaii", which covers almost every ocean issue that we should be concerned about. The majority is under DLNR's jurisdiction.

NOAA is going to take an interest in this because it will impact our Section 309 Five Year Strategy. The five-year goal was not to just have the conference, but also conduct follow-up focus sessions to determine how the ORMP should be updated.

Jim Coon inquired if MACZAC can take a more pro-active role in taking a stand about where CZM is housed and the oversight provided. It was suggested that legislation could be introduced this year that says the CZM Program should not be overseen by DLNR. A bill in the last

Legislative session regarding this issue was vetoed by the Governor. The idea of supporting reintroduction of the bill was discussed, and it was noted that Kokubun and Inouye would be receptive. One idea is that they be asked to sponsor a Concurrent Resolution.

We agreed that MACZAC would submit an annual report to the Legislature and raise these issues and concerns.

John Ray mentioned that he was meeting Dan Davidson of DLNR and would bring up the MACZAC concerns.

Water Quality Working Group: - Ron Terry: Nothing to report. A memo from Susan Miller was acknowledged. (See Distributed Materials List)

Shoreline Certification Working Group: - Donna Brown: We decided not to submit legislation but focus more on promoting compliance with the existing rules. We will emphasize not using the vegetation line to determine the shoreline, and make a list of the salt-tolerant plants that shouldn't be used as a basis for shoreline certifications.

Regarding the letter from Jerry Rothstein, there are serious problems since DLNR has stated that the vegetation line takes precedence and they aren't looking at the debris line (high wash of the waves).

We discussed seeking a rule change through the Land Board and including it in MACZAC's annual report to the Legislature. Another proposal was to prepare a video or presentation to promote public awareness if this issue.

It was suggested we get OHA (Heidi), Russell Kokubun, or Mina Morita involved to help in advocating for a rule change. OHA is a good idea because they are a partner on the ORMP and shoreline certification. OHA testified in favor of the bill. OHA should be asked to attend the next Shoreline Working Group meeting.

Coastal Parking Access Working Group: - Arnold Lum: Arnold reported that he e-mailed Helen Felsing of NPS but received no response; no further work is being done.

Coastal Resource Management Working Group: - Arnold will defer to Ron. We all read the information provided by Keiki. The University is reluctant to enter into a Memorandum of Agreement allowing his family to be caretakers of the site. This is because all of the burials are alleged to be on University property. They are concerned that if for some reason Keiki's family cannot maintain the burial, the University will be stuck with it.

Legislative Working Group: - No report.

Old Business

None

New Business

None

MACZAC Members' Terms

The terms of several MACZAC members are expiring. Members can be reappointed. A question was asked whether DLNR would review the appointments. So far, Ted Liu has been responsible for the appointments. It was clarified that this is an administrative issue to the decision should remain with DBEDT. Arnold Lum, Sue Sakai, Roland Sagum, Ron Terry, and Jim Coon have terms that are expiring and all are willing to continue.

February Meeting Date

The next meeting should be a four-hour meeting instead of a two-hour meeting. The Legislature opens on the third week of January and there's a period during which all the bills are being lined up. There is a cut-off date for bills which is about two weeks after the opening session.

We should think about having a MACZAC retreat. There are a lot of things to work out and two-hour meetings are not enough.

The next meeting is scheduled on Wednesday, February 2, 2005, 10:00 a.m. to 4:00 p.m.

Adjournment

The meeting was adjourned at 11:35 a.m.