

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

**MINUTES**

**Friday, March 6, 2015: 9:30 am - 12:30 pm**  
**Office of Planning's Conference Room**  
**235 South Beretania Street, 6<sup>th</sup> Floor, Honolulu, Hawaii 96813**

**ATTENDANCE**

- Members Present: Phil Fernandez, Rich Brunner, Sue Sakai, Kimbal Thompson, Jim Coon, Lori Buchanan, Dawn Hegger, Robin Kaye, Craig Severance
- Members Absent: Donna Brown, Shaylyn Kimura, Rhoda Makanani Libre
- Office of Planning/Coastal Zone Management (OP/CZM) Staff Present: Justine Nihipali, Lisa Webster
- Others Present: Mel Wills (Holo Holo Charters), Dan Purcell (member of the public), Charles Kaaiai (WPRFMC), Cameron Black (DBEDT), Malia Chow (NOAA), Elia Herman (DLNR)

**DISTRIBUTED MATERIAL**

- MACZAC Meeting Agenda for March 6, 2015
- Minutes from December 11, 2014 MACZAC Meeting [Draft]
- CZM Report to MACZAC (March 6, 2015)
- MACZAC Hotspots 3/2015
- "Addressing Overfishing" – [<http://themolokaidispatch.com/addressing-overfishing/>]
- "After Rebuff by Planning Commission, 'Pepe'ekeo Palace' Builder Goes to Court" – Tummons, P. (2015, February 1). After Rebuff by Planning Commission, 'Pepe'ekeo Palace' Builder Goes to Court. *Environment Hawaii*, p. 11.
- "Denby Fawcett: Stop the Malaekahana Development " – [<http://www.civilbeat.com/2015/03/denby-fawcett-stop-the-malaekahana-development/>]
- "Desalination Plant Off the Table for Now"- [<http://www.mauinews.com/page/content.detail/id/594500/Desalination-plant-off-the-table-for-now.html?nav=5161>]
- "Opposition to DLNR Nominee Mounts" – [<http://www.hawaiiinewsnow.com/story/28134116/opposition-to-dlnr-nominee-mounts>]
- "Oregon Attorney to Assist in Kauai Dairy Dispute" – [<http://www.civilbeat.com/2015/02/oregon-attorney-to-assist-in-kauai-dairy-dispute/>]
- "Starwood to build new 390-villa time-share resort on Maui" – [<http://www.bizjournals.com/pacific/news/2015/02/18/starwood-to-build-new-390-villa-time-share-resort.html>]

**I. Call to Order**

MACZAC Chair Sue Sakai called the meeting to order at 9:37 am and welcomed everyone. All those present briefly introduced themselves.

**II. Approval of December 11, 2014 Meeting Minutes**

The December 11, 2014 Meeting Minutes were unanimously approved by all members present.

**III. Hawaii Coastal Zone Management (CZM) Program Report**

Ms. Justine Nihipali, Office of Planning, provided a summary of the March 6, 2015 CZM report highlighting the following:

**National Initiatives**

### National CZM Program Funding

On February 2, 2015, President Obama introduced the FY 2016 President's Budget which proposes budget levels for all federal agencies from October 2016 – September 2017. In the FY 16 budget, an increase is proposed for NOAA, and specifically, proposes level funding for the National CZM Program, plus approximately \$45 million in Resiliency Grants that will be distributed by a competitive proposal process. Final appropriations will not be set by Congress until the end of this calendar year or early 2016.

For FY 2015 (October 2015 – September 2016), the National CZM Program is at level funding from FY 2014, plus an increase of \$5 million in Resiliency Grants (also to be distributed via a competitive proposal process). The Hawaii CZM Program is awaiting final allocation/funding guidance from NOAA for FY 2015.

### **Hawaii CZM Program**

The following is a status summary of the Hawaii CZM Program and its initiatives as of end-of-year 2014.

- Fully staffed with 10 individuals
- 1 contractor (via RCUH) for two project areas (MACZAC Admin and Sub-Regional Ocean Partnership (Sub-ROP))
- CZM Website updated periodically (<http://planning.hawaii.gov/czm/>)

#### Section 309 Assessment and Strategy / 2016-2020

- CZM staff completed Assessment portion of report
- Draft Strategy currently available for public review (<http://planning.hawaii.gov/czm/czm-news/section-309-enhancement-program-assessment-strategy-2016-2020/>)
- Final Assessment and Strategy due for submission to NOAA by June 30, 2015
- CZM Staff contact is Justine Nihipali

#### Ocean Resources Management Plan (ORMP)

- Implementation underway with 2 Action Teams established (Appropriate Coastal Development/Coastal Hazards, and Coral Reef)

#### Alternative Funding Mechanisms for Acquisition and Maintenance of Shoreline Public Access

- Project completed July 2014
- Copy of report can be found online at ([http://files.hawaii.gov/dbedt/op/czm/initiative/Public\\_Access/2014\\_AlternativeFundingMechanismsForShorelinePublicAccess\\_FinalReport.pdf](http://files.hawaii.gov/dbedt/op/czm/initiative/Public_Access/2014_AlternativeFundingMechanismsForShorelinePublicAccess_FinalReport.pdf))
- CZM Staff contact is Nathalie Morison

#### National Estuarine Research Reserve in Hawaii

- CZM staff prepared the Site Selection Document which served as former Governor Abercrombie's nomination of the preferred site He'eia to NOAA. Nomination forwarded to NOAA in May 2014
- NOAA approval of nomination received on October 27, 2014
- Currently, designation process is in third phase – development of a Management Plan, Boundary Delineation, and a National Environmental Protection Act (NEPA) document.
- Third phase projected to be completed in December 2015
- Latest information on NERRS Designation Process can be found on-line at (<http://planning.hawaii.gov/czm/initiatives/nerrs-site-proposal-process/>)
- CZM Staff contact is Rebecka Arbin

#### Coastal and Marine Spatial Planning (CMSP)

- Currently in the process of completing a CMSP Analysis Tool (web and GIS-based tool)

- Project to be completed no later than March 31, 2015
- CZM Staff contact is Josh Hekeka

#### Climate Change Adaptation

- One of the ORMP Management Priorities
- Current focus is on the implementation of Act 83 (2014) – Inter-agency Climate Adaptation Committee (ICAC); DLNR and OP are co-chairs of the ICAC
- ICAC projected to have its inaugural meeting in May or June 2015 with focus on sea level rise
- Information on Climate Change Adaptation can be found on-line at (<http://planning.hawaii.gov/czm/initiatives/adapting-to-climate-change-2/>)
- CZM Staff contact is Nathalie Morison

MACZAC member Phil Fernandez brought up his involvement with the Monk Seal Recovery Team, which is working on a multi-year management plan which incorporates climate change adaptation. Sea level rise and coastal development are both threats to Monk Seal recovery. ORMP recognizes endangered species as an issue. Mr. Fernandez suggested that Endangered Species folks at NOAA and DLNR will have to put together plans that work with each other. Climate change needs to recognize habitat of endangered species. NOAA contact: Rachel Sprague. Maybe endangered species folks could present to the ICAC people so that the ICAC and Monk Seal plans are aligned. Maybe endangered species folks should make a presentation to an ORMP Action Team as well?

#### Crest Project

- OP-CZM Program received funding from the Coastal Resilience Networks Grant Program to examine existing county building codes and how such codes may incorporate climate change adaptation measures
- Primarily working with the City and County of Honolulu, Department of Planning and Permitting on the project.
- Consultant recently selected; currently undergoing contracting
- Project will run, and final report to be published, no later than June 30, 2016
- CZM Staff contact is Nathalie Morison

MACZAC member Robin Kaye brought up the question of whether HCDA has set any sea level rise conditions in the recent developments in Kaka'ako. MACZAC member Dawn Hegger said she thought it was up to the contractors to address sea level rise in their applications, and that there is a place for public input early in the process. The baseline is the city and county code, and then the state code. Mr. Kaye then asked if the city and county and/or state codes address sea level rise, and then asked if this might be an issue MACZAC could address through a letter. Ms. Sakai suggested the topic might lend itself more to an in-house discussion between MACZAC members and Office of Planning.

Dan Purcell, member of the public, commented that it was MACZAC's responsibility to advocate for the public. Mr. Purcell encouraged MACZAC members to create an agenda item and formally address the issue.

MACZAC member Jim Coon moved to have MACZAC write a letter to Office of Planning (OP) in support of OP's efforts to make sure that sea level rise is considered broadly. Mr. Kaye seconded. MACZAC member Lori Buchanan suggested discussing the issue with OP before writing the letter. Ms. Buchanan stated that she is also curious to hear what OHA has to say since OHA knew the Kaka'ako land was no-build when they got it. Mr. Coon also suggested forwarding Eugene Dashiell's email with a cover letter expressing MACZAC's support of OP's efforts. (Mr. Dashiell's email, handed out as public input at the December 11, 2014 MACZAC meeting, had requested that *Status of State Planning for Climate Change and Sea Level Rise* be added as an upcoming MACZAC agenda item.) Ms. Sakai offered to write the cover letter, and Ms. Hegger offered to help with it. Motion to write letter was unanimously approved by all members present.

Ms. Hegger and Ms. Sakai would like to have HCDA and OHA give a presentation to MACZAC about how they are incorporating climate change and sea level rise into their building codes.

#### **IV. Reports from MACZAC Working Groups**

- Education and Website Working Group
  - Ms. Lisa Webster, MACZAC Administrative Assistant, reported that all meeting handouts have been uploaded to MACZAC website going back to the beginning of 2013.
  - Additional suggestions for website improvement included adding dates to White Papers, uploading advocacy letters from MACZAC, and uploading pictures.
- Ocean Resources Working Group
  - MACZAC member Craig Severance continues to work on a White Paper based on both the outline Mr. Fernandez created as well as the paper Mr. Coon sent him.
- Legislative Working Group
  - Ms. Sakai noted that those MACZAC members who are able will be visiting the state legislature after today's meeting.
  - Mr. Coon noted that he spoke to both Kaniela Ing and Laura Thielen, and that he's been advocating for a number of legislative bills, especially those that relate to Elia Herman's position as State Co-Manager of the Hawaiian Islands Humpback Whale National Marine Sanctuary. Mr. Coon stated that funding Ms. Herman's position is really important, and Hawaii needs to carefully consider its own interests. Dr. Severance added that in other settings, sanctuary management has been heavy-handed, a classic case being American Samoa.
  - Ms. Nihipali went over ORMP-related bills that OP has been tracking:
    - HB629 – Bill to formally establish the Papahānauōkū National Monument formally – dead
    - HB1478 HD1- Bill that establishes Sanctuary Co-Manager position and appropriates monies as well – heard in finance on 2/26 and passed un-amended, will cross over. The bill added a defective date of 12/24/2088 to encourage further discussion.
    - SB1165 – Omnibus bill that included both sanctuary and monument, appropriated funds via both general and special funds. There was a senate draft that clarified some language, but it has since died, was never heard in WAM.
  - Mr. Kaye, as well as several other MACZAC members, noted that it would be helpful for MACZAC members to receive a list of 'bills of interest', as they have in the past, so that they can advocate more effectively at the legislature.

#### **V. Discussion Highlighting Critical Marine and Coastal Hotspot Issues, By Island**

- East Hawaii (Big Island) – Dr. Severance revisited the “Pepeekeo Palace” saga. He noted that this is potentially an important case, if they win.
- Lanai - Mr. Kaye stated that there have been a number of testimonies over the last few days at the House in which Nextera and HECO have been talking about the undersea cable. Nextera testified that if the PUC came to them and asked for an undersea cable to Lanai they would have to consider it. Mr. Kaye added that Friends of Lanai is an intervener in the Nextera merger.

#### **VI. Guest Presentation: Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) Management Plan Update**

Dr. Malia Chow, Superintendent, HIHWNMS, NOAA, gave a short presentation about the HIHWNMS Management Plan Update.

- Dr. Chow stated that pursuant to the National Marine Sanctuaries Act, the purpose of a sanctuary is to set aside 'special places'.
- Within a sanctuary it is necessary to manage multiple uses.
- State of Hawaii resources are held in trust by the people.

- Dr. Chow stated that NOAA supports state co-management, and that NOAA has been funding the State Co-Manager position and will continue to do so at least until September 30, 2015. Dr. Chow added that Hawaii is the only state that gets funding from NOAA for co-management.
- Currently, the HIHWNMS is made up of five separate, protected areas around the Hawaiian Islands, from shoreline to a depth of 100 fathoms (600 feet). The total protected area is 1,370 square miles of federal and state waters, with federal/state co-management.
- The Sanctuary Management Plan Review began in 2010, and included public scoping as well as thousands of volunteer hours from Sanctuary Advisory Council members (community-based advisors) to help characterize priority issues and determine future direction.
- Proposed changes to the Sanctuary Management Plan include:
  - The HIHWNMS is currently focused on a single species, the Humpback Whale. One of the changes proposed in the Management Plan Update is to move to ecosystem-based protections. A proposed name-change will reflect this new direction.
  - There are a few boundary changes, including adding Ni‘ihau (both culturally and ecologically important), expanding the Hanalei, Kauai boundary both eastward and westward, and expanding the North Shore, Oahu boundary westward.
  - There will be a transition from depth-based to digital boundaries.
  - Inclusion of Sanctuary Focus Areas – discrete areas with specific place-based management actions. Proposed Sanctuary Focus Areas are Ni‘ihau, Pila‘a, Southern Maui Nui, and Maunalua Bay.
  - Inclusion of Special Sanctuary Management Areas – discrete areas within the sanctuary with targeted regulations. Proposed Special Sanctuary Management Areas are Penguin Banks (federal waters), Maui Nui (federal waters), and Maunalua Bay (state waters).
  - The Sanctuary will have the ability to grant permits (example: undersea cable).
- There will be a 100-day public comment period, from mid-March to mid-June, 2015, to allow for input on the updated plan. Statewide public hearings will be held in April and May, 2015. The Governor’s office will be briefed in the summer of 2015. The Governor can pick and choose which parts of the plan to approve for state waters. The final plan is expected to come out in 2016.

Ms. Elia Herman, State Co-Manager, HIHWNMS, DLNR, added the following:

- The State has been somewhat engaged in the federal review process, but will do its own analysis of impacts of proposed changes to resources and cultural practices, incorporating public comments in the analysis.

Ms. Buchanan brought up NEPA, Section 106 of the National Historic Preservation Act, and Hawaii Revised Statutes Chapter 343 as they relate to indigenous people’s protections. Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation a reasonable opportunity to comment on those undertakings. HRS Chapter 343 relates to Environmental Impact Statements and when they are required. Per HRS Chapter 343, “...an environmental assessment shall be required for actions which propose: the use of state or county lands..., any use within any land classified as conservation district..., any use within the shoreline area..., any use within any historic site..., any amendments to existing county general plans..., or any reclassification of any land classified as conservation district...”. Ms. Buchanan stated that the State Historic Preservation Officer (the Chair of DLNR) has the final say on signing off on Section 106 consultations. Ms. Buchanan added that this process is not perfect, and that having the Sanctuary transition to ecosystem-based management might offer an alternative route for protection of Native Hawaiian resources.

Ms. Sakai and Mr. Kaye suggested to the group that MACZAC members should review the proposed Sanctuary Management Plan Update before the next MACZAC meeting, have a group discussion at the next meeting, and submit group comments from MACZAC during the public comment period.

## **VII. Public Input**

- Mr. Dan Purcell, member of the public, stated that there is a need for a body that addresses coastal issues. An example would be the California Coastal Commission, which deals with coastal issues – planning and development. They are made up of governor appointees, county representatives, and state representatives.

- Ms. Sakai responded to Mr. Purcell by sharing her memories from approximately 1970, when a coastal commission was proposed in Hawaii, and the mayors of each county came out against the idea, stating that this work should be done at the county level.
- Mr. Mel Wills, Holo Holo Charters, Kauai, re-stated that the resources belong to the people. Mr. Wills collected more than 7,000 signatures from residents of Kauai on a petition stating that the residents are opposed to any expansion of the Sanctuary, including expansion into Ni‘ihau. Mr. Wills added that Kauai County Council approved a resolution last year (Resolution 2014-10). The resolution asks state lawmakers and DLNR to cease all legislation seeking to regulate coastal and marine resources around Ni‘ihau.
- Ms. Buchanan asked Mr. Wills how many Ni‘ihau residents signed the petition, and Mr. Wills was unable to give an exact number.

#### **VIII. New Business**

- Agenda item: Create guidance for MACZAC member meeting attendance requirements. Include definition of ‘excused absence’.
- Agenda item: Discussion of MACZAC response to HIHWNMS Management Plan Update.
- The next MACZAC Quarterly Meeting will be held the first week in June. Ms. Webster will send out a Doodle Poll to all MACZAC members to determine the best date.

#### **IX. Adjournment**

MACZAC Chair, Sue Sakai, adjourned the meeting at 12:24 pm.