

Kaneohe Bay Regional Council
Minutes of July 28, 2016
Windward Community College, Hale Akoakoa #201
Kaneohe, HI

Attendees:

Voting members: Jerry Kaluhiwa, Wayne Tanaka, Judith Lemus, Mo Radke

Non-voting members: Alton Miyasaka, Leo Asuncion, Tiffany Patrick

Public: Rocky Kaluhiwa, Clayton Hanagami, Art Machado, Tom Masterson

Acting Chair (AC) Miyasaka called the meeting to order at 6:50 PM

Opening Pule by Rocky Kaluhiwa (Agenda item #1)

Approval of the agenda (Agenda item #2)

AC Miyasaka proposed making the following changes to the Kaneohe Bay Regional Council (KBRC) agenda:

- 1) Removing item #6 as unnecessary
- 2) Removing item #7 as unnecessary
- 3) Deferring item #8 to the next KBRC meeting per statutory provisions

The members did not have any comments or questions

Public Questions:

Mr. Machado asked what constitutes a quorum of the KBRC. AC Miyasaka responded that four voting members is the quorum. The four voting members present are Jerry Kaluhiwa, Wayne Tanaka, Judith Lemus, Mo Radke.

The public did not have any further questions

The AC called for the motion, Member Tanaka made the motion, Member Lemus seconded

There was no further discussion by the members, all voting members supported the motion to approve the agenda with the suggested changes

Approval of Council minutes of December10, 2015 (Agenda item #3)

A written copy of the draft minutes of December10, 2015 was provided to all present. They are also available on the Division of Aquatic Resources (DAR) website.

There were no questions from the members on the minutes

The AC called for the motion, Member Lemus made the motion, Member Radke seconded

There was no further discussion by the members, all voting members supported the motion to approve the KBRC minutes of December 10, 2015

New KBRC proceedings for this and future meetings (Agenda item #4)

AC Miyasaka provided an overview of the new procedures for conduct of the KBRC meetings. A written copy of the procedures was provided to all present. The purpose of the procedures is to provide a more standardized way of discussing agenda items, having discussions by the members, providing public comments on each item prior to KBRC member voting on any item.

Member Radke asked if these new procedures clarify how the meeting will be conducted, AC Miyasaka responded yes. Member Radke then asked if public comments would be inhibited in any way, AC Miyasaka responded that it clarifies that there will be a specific time during the meeting when public comments would be received. This ensures that the public has an opportunity to provide comments on each agenda item prior to a vote by the members. AC Miyasaka also added that these procedures may be adjusted as needed, depending on the number of persons wishing to speak, and other considerations.

The AC asked if there were any public comments.

Mr Masterson thought the procedures were a good way to conduct the meetings. There was no further question or comment from the public.

Member Lemus added that it would be good to have a sign in sheet to be able to assign names to persons speaking on the record to assist creating accurate records. AC Miyasaka passed a sign-in sheet around the room.

The AC asked for a motion on the proposed new procedures. Member Radke made the motion, Member Tanaka seconded. There was no further discussion by the members. All voting members supported the motion to approve the new procedures.

Commercial Committee Recommendations (Agenda item #5)

AC Miyasaka proceeded to give a report to the Council on the Commercial Committee Recommendations Regarding Whether Kama'aina Kids/Holokai Tours is a Commercial Activity Relative to the Kaneohe Bay Master Plan. The Commercial Committee Recommendations were in a written report that was provided to all present. The AC went over the report of the Commercial Committee recommendations.

Member Lemus clarified that regarding the educational status of Holokai Tours, where there was a majority and minor opinion, but there was no actual vote of the committee members.

AC Miyasaka began to read the major points in the report and gave some additional context on the Commercial Committee discussions than was provided in the written report.

The Commercial Committee decided that Holokai Tours was conducting commercial activities, within the context of the intent of the master plan. AC Miyasaka went on to list

the reasons why the committee thought this. There were four reasons (list four reasons from report here).

The Commercial Committee then discussed if these commercial activities was an expansion on existing activities in the bay. The Commercial Committee thought these activities were an expansion of the existing commercial activities on the bay.

The Commercial Committee then discussed if Holokai Tours qualified for the educational exemption, as provided in the master plan? The specific questions were is the Holokai Tours curriculum given to their clients constituted an educational level of information, did they then qualify as an educational tour and ultimately, did Holokai Tours qualify for the educational exemption. A majority did not consider the information provided to their clients, was enough to qualify as educational. There was a minor opinion that the content of the curriculum as sufficient to qualify as educational.

A majority of the committee thought that while the information provided the Holokai Tours clients was good, it did not meet what was considered educational. There was a question about the ability of the client to take the information provided and to use that information while on the bay. There wasn't enough of a structure in the instructions to qualify as an educational activity. The committee was unclear about whether all the relevant information was provided to all clients equally and whether the clients retained the information to be able to use the information while on the water. Because the information was not considered an educational activity, Holokai Tours did not qualify as an educational entity and did not qualify for the educational exemption.

The Commercial Committee noted that what constitutes educational was a difficult question to answer. For example, that generational information passed from kupuna to keiki does not necessarily fit well into a Western curriculum concept of education but that we did not know how to categorize it within the context of the master plan. These are the kinds of questions that the next group/committee should discuss further.

The committee also thought there was more discussion needed to determine what should be the total impact of all activities on the bay and to consider creating a cap on all activities, not just the commercial activities.

Member Kaluhiwa commented that a number of activities are already happening on the bay that should be stopped and rules need to be made to manage these. Some people are walking on the reefs and these kinds of damaging activities need to stop.

Member Tanaka noted that the Commercial Committee recommendations are focused on Holokai Tours but the task of the committee was to consider Kama'aina Kids as well and why was there no recommendation for them. AC Miyasaka responded that the focus was on Holokai Tours because this entity was the one that DOBOR received complaints about. Member Radke added that the Commercial Committee did consider Kama'aina Kids and determined that they were not impacting the bay within the context of the master plan.

Miyasaka opened the discussion to the public.

Rocky Kaluhiwa reminded the KBRC that there already is a cap on commercial activities on the bay. The community felt there were enough businesses on the bay, there should be a cap, that there would be no new businesses started, existing businesses that closed would not be replaced, and all commercial activities should eventually be eliminated.

She recommended that the KBRC should spend more time filling the remaining vacancies. The commercial and fishing representatives should be filled as soon as possible. The matter of Holokai Tours is taking too long.

Mrs. Kaluhiwa wanted to inform the KBRC that she was told the marine base had to rescue Holokai Tours clients twice so she questioned the educational information their clients were being provided.

Mr. Machado, Kahalu'u Neighborhood Board and past chair of this committee (KBRC), had a concern about what information Mr. Sanborn tells the Kahaluu Board and what he actually does. Is this a tourist thing or a local thing? If it's a tourist thing, then it's a big money maker.

Member Lemus addressed Mrs. Kaluhiwa's comments on the cap. While the committee was aware of the cap on commercial activities, there is an open-ended educational exemption. We were concerned that you might reach a point where, given all the educational exemptions, there would still be more activities than was good for the bay.

Mrs. Kaluhiwa responded that she agreed that Lemus was correct but that we should stop the commercial activities on the bay now to set the precedence. Member Radke added that we addressed the activity. Holokai Tours does not qualify for the exemption and should not continue to operate on the bay.

Mr. Masterson, having extensive experience on the water and issues around the bay, had some thoughts on how to define "commercial" and "educational" that may be useful for the future discussions of the KBRC. Member Lemus noted that the committee discussion was exactly what Mr. Masterson was describing, how to include skills training in the curriculum for the educational definition. Mr. Masterson added that persons should go through the Ocean Safety training provided at Windward Community College.

Mr. Masterson provided a written comment from the Friends of Kaneohe Bay on the commercial activities of Holokai Tours. Their thoughts were that Holokai Tours was operating as an illegal activity and should forward this recommendation to the Division of Boating and Ocean Recreation. The letter is from a group of fishermen and concerned citizens but was not able at this time to identify who these persons were. He needed to consult with all co-signers to get their approval to be identified.

Member Radke wanted the KBRC to know that the committee members had to consider what was the original intent and thoughts of the KBRC back in the 1990s when thinking about what was happening in the bay today. Their concerns back then needed to be brought into these discussions to know that things were in the plan for specific reasons and we also thought this was important in our discussions today. It was, and still is, a well conceived plan.

Mrs. Kaluhiwa wanted to thank the committee for their efforts on this issue.

Mr Hanagami asked if Kama'aina Kids has a permit? AC Miyasaka responded that the answer is unclear. There was the opinion that no permit was needed. Mr. Hanagami asked if they have ORMA stickers? Mr. Carre responded yes, they do. Mr. Hanagami noted that to be on the bay, one needs a permit. His permit is annually renewed.

Member Lemus added that educational entities are not required to have permits, per the master plan. When Kama'aina Kids first operated in the bay, they were educational and did not require a permit. Since that time, Holokai Tours has been operating, they are determined to be commercial and do not qualify for the educational exemption. The Commercial Committee is making these recommendations to the KBRC, who will then make their recommendations to DOBOR, because KBRC is an advisory body to the Department.

AC Miyasaka clarified that the determination of whether Holokai Tours is in violation of the Department rule is not for the committee or the KBRC to determine. It's for the Department to determine.

Member Tanaka noted that there is a petition process where anyone may ask the Department to consider if Holokai Tours is in violation of their rules.

AC Miyasaka said that this item does not require an action by the KBRC. The decision of the KBRC will be made at a different meeting from tonight.

Member Lemus added that at the next KBRC hearing, the KBRC will decide to accept, reject, or amend the Commercial Committee recommendations and subsequent actions may be taken at that time.

Discussion of future agenda items (Agenda item #9)

AC Miyasaka proceeded to agenda item 9, items for future KBRC hearings. Are there any suggestions for future items?

Member Lemus clarified that the KBRC is always interested to know what issues are of concern to the community so that we may schedule them for discussions at future hearings.

Mr. Masterson asked if the public can ask to bring up agenda items. AC Miyasaka responded that public suggestions for agenda items may be brought up with the KBRC members or the chair.

The hearing was adjourned at 7:40PM.