

Kāneʻohe Bay Regional Council Meeting
Agenda September 15, 2021
6:00PM-8:00PM
Online or call-in via ZOOM

1. Opening (Introductions)

Brian Neilson - DLNR-DAR, Administrator and Chair of KBRC (non-voting member)
Mo Radke - Kāneʻohe neighborhood board chair/representative. (voting member)
Letani Peltier - OHA, Heʻeia resident (voting member)
Fred Reppun – HIMB (voting member)
Liko Kaluhiwa – Community of Heʻeia, Kāneʻohe bay recreational boating association (voting member)
Cedric Bertlemann – Kāneʻohe bay Fishing (voting member)
Bruce Swartz – Oahu district manager for DOBOR at Keʻehi Lagoon
Josh Hekeka - Office of Planning for Director Mary Alice Evans
Meagan Ostrem – MCBH
Casey Ching – DAR
Kristi Kahale
Ron Tubbs

2. Approval of Agenda (Action Item)

Member Radke moved to approve the agenda. Member Peltier seconded. All were in favor. Motion passed.

3. Approval of Council minutes of July 28, 2021 (Action Item)

Member Radke requested that first dash of the second sentence “Members voted” typo be corrected.

Member Peltier moved to approve council minutes. Member Radke seconded. All were in favor. Motion passed.

4. Holomua: Marine 30x30 Presentation (Non-Action Item)

The presentation was requested by Member Bertlemann to better inform a fishing group he is involved in. Chair Neilson gave a brief overview of the initiative to the group. Member Radke moved to continue past the presentation until Member Bertlemann joined. Seconded by Member Peltier. All were in favor.

Casey Ching from DAR presented about the Holomua: Marine 30x30 Initiative housed within the Division of Aquatic Resources. The goal of Holomua: Marine 30x30 is to effectively manage nearshore waters with 30% established as Marine Management Areas. The four pillars grounding the initiative are:

1. Place-based Planning: Convenes fishers and community members to work with the state to build a cohesive, ecologically connected network of areas for improved management (at least 30% of each main Hawaiian island).
 - Place-based planning establishes MMAs through a community-driven process to ensure they accommodate to the differences in resources, communities, and stakeholders of each place.
 - DAR will reach 30% by supporting community-led initiatives, creating interdisciplinary stakeholder groups, re-evaluating existing MMAs for management effectiveness, and incorporating the areas into a cohesive network.
2. Pono Practices: Increases responsible behavior to minimize the impact of human activities in our nearshore waters through education and outreach, improved regulations, and strengthened enforcement.
 - Education efforts will be used to inform the public about best practices and increase compliance with current rules, allowing enforcement to focus their efforts towards unacceptable violators.
 - Statewide rules will be created to guide behavior that is needed across all of the Hawaiian islands to address issues and concerns to nearshore waters.
3. Monitoring: Measure and document current conditions and use collected data to: inform new and updated management actions; allow for adaptive approaches; and ensure progress can be tracked over time
 - Holomua: Marine 30x30 will use a variety of monitoring approaches, such as survey data collected by multiple agencies as well as community-based monitoring based on traditional knowledge and observances.
4. Protection and Restoration: Build on existing strategies to prevent further damage to fragile nearshore ecosystems and expand efforts to restore and enhance areas in need.
 - DAR's aquatic invasive species team works to manage invasive species (typically through direct removal) and prevent further introductions, such as removal of invasive algae that grows over reefs and outplanting native urchins to prevent regrowth.
 - Protecting nearshore marine resources requires that we manage our places from mauka to makai. 30x30 will collaborate with land-based and watershed-level management actions to reduce erosion, sedimentation, and land-based pollutants.
 - Global threats include climate change impacts that cause warming ocean temperatures and coral bleaching events.

Next steps for Holomua: Marine 30x30 include developing a Management Plan Guide that will serve as a template for communities when creating MMA proposals for their areas. With communities and partners, 30x30 is developing biological, social, and cultural indicators to measure management effectiveness and track improvement with management. DAR is evaluating existing areas and supporting community-led efforts. Holomua: Marine 30x30 will continue to talk story with stakeholders and communities to solidify connections with communities and spread the word about the initiative.

5. Discussion of kayak rentals in Kāneʻohe Bay (Non-Action Item)

Chair Neilson added this agenda item to address previous concerns consistently brought up in past meetings. He reached out to Kama‘āina kids regarding the kayak rentals and a statement was provided by Randy Miyashiro, VP of Kama‘āina kids, for the meeting.

Randy Miyashiro’s statement summarized how Kama‘āina kids discontinued their tours in 2020 and entered an agreement to only offer rentals of marine equipment, snorkeling gear, kayaks, and other recreational items. They have a lease agreement with the DLNR Division of State Parks for operations at He‘eia. Every kayak renter receives a briefing of weather conditions, hazards in the bay, and proper protocols on anchoring and use. They are each given a waterproof map, highlight the restricted and highly trafficked areas of Kāne‘ohe Bay, and a life jacket. Many of their employees have worked at the state park for a number of years and have special water-based trainings, but do not accompany renters into the water. They have received approvals from the necessary administrators at DLNR (DOBOR and State Parks) and do not violate any ordinances of the bay. They will continue their operations in a manner that is safe and compliant. The map they distribute to renters was also provided to KBRC.

Member Radke questioned if the approval statement in the letter was true. Chair Neilson responded that the statement was referencing DOBOR (commercial use) and State Parks (use of State Park), not DAR. However, Chair Neilson has been involved in similar discussions and his understanding is that it is illegal to provide tours without commercial use permits, but kayak rentals are allowed. The decisions in the letter would have involved DOBOR, State Parks, and DLNR Chair.

Member Reppun asked if there are permits issued for kayak rentals throughout the bay.

- Bruce Swartz responded that commercial use permits are limited and no longer issued within Kāne‘ohe Bay. If someone rents a kayak and brings it into the harbor, it is not considered a commercial activity and therefore, a commercial use permit would not be required. Commercial companies that bring kayaks into He‘eia and solicit business or deliver kayaks to customers would be an enforceable action and can be cited by DOCARE.
- B. Swartz clarified that Kama‘āina kids is the only business permitted to rent kayaks into the bay. Other rental companies exist in Kailua, but it is uncertain whether others are present at the harbor.

Member Peltier requested clarification that the ability to rent kayaks is dependent on Kama‘āina kids lease with the State Park and their close proximity to Kāne‘ohe Bay.

- B. Swartz replied that it would require the Division of State Parks to clarify the agreement, but that impacts of rental activities are apparent and a concern for DOBOR.

Member Reppun summarized that no permitting system is in place for renting the kayaks and questioned if other business are also managing rentals.

- Chair Neilson shared that he has heard of other company’s renting kayaks for use in the Bay.
- B. Swartz reiterated that DOBOR issues commercial use permits but does not regulate equipment rental companies. However, if a commercial use permit is in place, companies are required to register equipment associated with the permitted activities. He looked at the list of permitting and confirmed that no one has a permit to rent kayaks on the water in Kāne‘ohe Bay. There are some permitted companies handling kayak rentals in Kailua, but Kama‘āina kids is the only entity in the bay.

- Member Liko Kaluhiwa offered to share the Kama‘āina kids lease with the State Park to the rest of the council.

Members recollected recent events where unacceptable behavior was seen by kayak renters.

- Member Reppun shared that he recently saw 3-4 kayaks launching for the State Park, dropping anchor on reef 9, and walking around on the reef.
- Member Radke witnessed a similar situation while paddling.
- Chair Neilson shared that coral damage is under DAR’s jurisdiction and has been receiving reports of coral damage due to kayak rentals. DAR staff went out on a Sunday a few weeks ago and did not see any kayak rentals, but did see many boats anchoring on the reef and their passengers and fishers standing on the reef. Staff have been asked to repeat the survey on other days of the week to see if they see issues with kayaks.
- Member Reppun volunteered to let DAR know when unacceptable behavior is seen.
- Chair Neilson agreed and explained that DAR is planning to create outreach materials for people renting kayaks. Rental companies can give these out to educate recreational users about it being illegal to damage coral.
- Member Bertlemann recalled seeing people at that same reef – around 10-12 kayaks from Kama‘āina kids. Regulars at the pier have seen them go to the sandbar or halfway out to the patch reef. He also noticed other kayaks launching by the canoe shack from TwoGood kayaks in Kailua. He is concerned that they are taking a lot of parking at the harbor and it could be an issue with the boaters.

B. Swartz shared that it is legal for someone to rent a kayak in Kailua and bring it over to Kāne‘ohe as an individual, but if there is a trailer of kayaks being brought over and offered out, that is enforceable. He suggested collecting evidence to make a database of wrongful users that he can present to BLNR. However, the harbor is an open, and public space.

Member Radke brought up the Kāne‘ohe Bay Master Plan and suggested that some committees would be interested in knowing the loop holes of commercial use. Though it is difficult to regulate rentals from other parts of the island, he would like to see people being held accountable for stepping on the reef and causing damage. It could be a lack of understanding.

- Chair Neilson suggested developing ways for kayak renters to know first before the damage was done such as having signs at the harbor or handing out educational pamphlets with rentals.
- Member Radke added that the enforceable components should be communicated. The education and enforcement committees of the master plan are brainstorming a patrol program to provide understanding to others about what is right and wrong.
- The group agreed that it could be similar to a ranger or creating a Makai Watch program.

Member Reppun asked how a coral damage rule is enforced. Chair Neilson explained that most civil violations regarding coral damage is due to big events, like yachts dropping anchor on large corals, but there is no precedent for individual damage at a small scale.

- Member Reppun inquired about enforcing cumulative damage by one company, and Chair Neilson responded that there is no precedent for that either.

- Chair Neilson emphasized that corals are being lost quickly to coral bleaching events, so these accidental things could be easy to avoid with education and enforcement.

Kristi Kahale raised concerns about Kama'āina kids being a part of the state park, but open during inconsistent hours of the park's operation. Nobody in community could utilize the park during Sunday and Monday (Labor Day). She also requested to see the timestamp of the Kama'āina kids lease with the State Park, due to inconsistencies with what was told to the Friends of He'eia at the time they submitted a request for a lease.

Member Rocky Kaluhiwa stated that DOCARE should review the master plan because the law is being broken. Kama'āina kids are causing other kayak businesses to catch on and she has seen crowds of people at the pier waiting for kayaks. There are vans of kayaks at Kualoa. She requested an action item to revisit the lease be put on the next agenda. DLNR is not enforcing the illegal commercial activity that the master plan was meant to protect the bay against. Something needs to be done because it is discouraging for the community.

Chair Neilson suggested a decal system, similar to the Mokulua Islands, where any kayak rental needs to pay \$1/rental that goes to DLNR to manage the islands. The system could manage the number of kayaks and the entities renting out those kayaks.

- B. Swartz shared that if kayaks are registered with a commercial operation, they have stickers to indicate they are designated for that ocean recreational purpose. If they are associated with that commercial use permit, a fee is charged and decals are given to be affixed to the equipment that DOCARE can verify.

Member Peltier requested clarification that commercial use permits are applicable to operators of commercial vessels and watersports equipment, but rentals will fall outside of that. B. Swartz replied that companies renting out equipment for water-related activities on the beach have a permit for visitors, but rental companies off the water can rent out their equipment to be taken anywhere.

Member Radke suggested a lottery or permitting system to restrict the canoe load in Kāne'ohe Bay.

- Member Liko Kaluhiwa expressed concerns for local recreators, such as one-man paddlers that might have to enter the lottery with renters.
- Member Radke clarified that he was only referring to rentals.

Member Liko Kaluhiwa suggested no more rentals. There are pictures of renters damaging the reef and they should be held accountable.

- Member Bertlemann agreed with Member Kaluhiwa and Member Radke to come up with a way to limit the amount of kayaks, but is concerned that a lottery is opening up the bay to more commercial activity.
- Member Radke agreed to restricting activity for anyone who's renting a kayak but other recreational users shouldn't be affected and pondered the feasibility of regulating kayak rentals that come in from other places.

- K. Kahale suggested coming up with a way to clearly identify someone who owns recreational equipment and are utilizing it, as opposed to someone who is renting that equipment.
- Member Reppun added that they already have stickers if they're used for commercial use, so the sticker could identify the company it belongs to and separate out the local people from the renters. It also puts the responsibility on the commercial companies to manage their renters.

Member Radke speculated that administrative rules may need to be generated and volunteered to share the meeting minutes out to the committees working on the master plan to communicate the council's frustration with this issue.

- Member Radke requested the minutes be sent out earlier in the future. Preferably, within 7 days.
- Chair Neilson and Casey Ching agreed.

Chair Neilson asked if commercial activities need to be better defined to cover the kayak rentals coming from other places.

- Member Liko Kaluhiwa suggested Senator McCartney do a presentation since he worked on the original master plan.

Member Reppun inquired about the Kama'āina kids lease and B. Swartz clarified they are not permitted to do tours, but he assumes rentals are in their lease. B. Swartz confirmed that commercial permits are issued within ocean waters, shoreline to 3 miles out and within the ORMAs. There are 100 commercial use permits and the area requested is included in the permit.

K. Kahale shared that Kama'āina kids doesn't have a permit. Their lease from the State Park doesn't have anything in-water, but does clarify that they only have 6 kayaks to use for their educational program.

- Member Peltier reviewed the lease and did not see any language regarding commercial renting. He summarized that there are two problems: 1. Kama'āina kids pursuant to their lease and 2. Anyone who rents kayaks, launches in Kāne'ōhe Bay, and damages the reef.

6. Discussion of mooring buoys in Kāne'ōhe Bay (Non-Action Item)

Chair Neilson shared that this agenda item was added to request more information about DOBOR's mooring buoy plan. Member Bertlemann added that he may have misinterpreted the situation, but was under the impression that more moorings were going to be added.

B. Swartz shared that there is not a mooring plan or plan to add in more moorings, but within the rules, people can apply to install a mooring in a designated mooring area, of which there are 4 in Kāne'ōhe Bay.

- The two closest to the harbor don't have any moorings currently, but they are designated mooring areas where persons can apply. It hasn't been approved or advertised.
- DOBOR has a process available for people to apply including approvals from the Army Corps of Engineers and BLNR.
- Transit vessels are permitted to come in and anchor for under 72 hours as long as they are in the sandy bottom area and not disturbing coral or wildlife throughout all islands throughout Hawaii.
- DOBOR has mooring balls at Keehi, Maunalua Bay, and Maui has a few, but those are preestablished. There are no plans to install on our side and no mooring development plan.

- Member Bertlemann clarified that none of the moorings in Kāneʻohe Bay are liveboards. B. Swartz replied that they may be stayboards, but need to be registered with the harbor master. Visiting/transit vessels may be on temporary permit in the harbors, too.
- Temporary mooring permits can allow anchor for 128 days.

K. Kahale questioned how many are in Kāneʻohe Bay, used or not. B. Swartz replied that he doesn't have a proper count because there are private moorings through the yacht club, but there is a map of the designated mooring areas in the rules.

K. Kahale inquired about the requirements to apply for a mooring buoy and whether they are accessible online. B. Swartz responded that he was unsure if it was available online, but involved guidelines and procedures are outlined in the rules.

Member Liko Kaluhiwa shared that he's worked in the bay and has seen mooring buoys break off. He asked if there are inspections, changing of mooring lines, or ways to prevent that from happening. He also raised concerns about how the yacht club can put in private moorings.

- B. Swartz replied that boaters are seen in trouble every day. He shared the file that lays out the procedures for mooring installations with the council.
- Member Liko Kaluhiwa reiterated that if the jurisdiction of the Kāneʻohe Bay Regional Council is the entire bay, how it could be possible that the yacht club has it privatized. He requested a future action item regarding management and liability of those moorings.
- Member Reppun asked about how the master plan addresses the area. There are designated mooring areas and some moorings for small vessels that were grandfathered in, not needing permits. He inquired if anyone in the committees are from the yacht club and requested they give an update about how many moorings there are and if they can be addressed in the master plan.

Member Liko Kaluhiwa suggested capping the number of moorings and the size of the vessels to avoid future damage.

- Member Rocky Kaluhiwa agreed, saying the ocean doesn't belong to everybody and needs mālama.

Member Rocky Kaluhiwa suggested to put on the next agenda that Heʻeia Kea is being earmarked for Kahaluʻu lagoon contamination.

7. Permitted Interaction Group update on status of the Kāneʻohe Bay Master Plan Update (Non-Action Item)

Member Radke shared that August 30 was the date for first committee meetings and by the 30th, some already had two or more meetings. MCBH committee is going to merge with the enforcement committee, but still bring their recommendations with them. The climate change committee is going to fold into the environmental committee since many issues overlap and many are the same people. They are probably 20% complete at this point.

8. Suggestions of future agenda items (Non-Action Item)

Chair Neilson recalled a request for Mike McCartney to give a presentation on the original master plan and the council's recommendation to cap the number of mooring buoys and size of the vessels they support.

Member Radke added to reach out to the yacht club and ask how many mooring buoys they support.

Member Liko Kaluhiwa added the dredging from Kahalu'u to He'eia.

Member Reppun requested an update on wastewater systems and having somebody from the City and County present to the council or the environmental issues committee.

Member Radke requested to put a kayak resolution on the next agenda.

Chair Neilson added an outreach plan for the xmas tree burning at the sandbar, which could include a letter to the yacht club or a press release, to get ahead of it this year.

9. Scheduling of next Council Meeting (Non-Action Item)

Wednesday, November 17th for the next meeting.

10. Adjournment (Action Item)

Member Radke moved to adjourn the meeting. Member Bertlemann seconded. All were in favor. Meeting adjourned.