

Kāneʻohe Bay Regional Council Meeting

Agenda

February 9, 2023

6:00 PM-8:00 PM

Online or call-in via ZOOM
(Zoom info listed below)

or

In-person at:

The Key Project, RM 105
47-200 Waihee Rd, Kaneohe, HI 96744

1. Opening (Non-Action Item)

Brian Neilson – Chairperson, DLNR-DAR

Sylvia Hussey – OHA (voting member)

Cedric Bertelmann – Kāneʻohe Bay Fishing (voting member)

Fred Reppun – HIMB (voting member)

Elena Bryant – Kāneʻohe Neighborhood board (voting member)

Liko Kaluhiwa – Kāneʻohe Boating Association (voting member)

Clifford Loo – Kahaluʻu Neighborhood board (voting member)

Joe Pickard - Kāneʻohe Bay Commercial Operators (voting member)

Rocky Kaluhiwa

Trevor Johannsen – DLNR-DAR

Casey Ching – Heʻeia NERR

2. Meeting ground rules (Non-Action Item)

Chair Neilson reviewed ground rules with the group.

3. Approval of Agenda (Action Item)

Member Bryant moved to approve. Member Hussey seconded. All were in favor. Motion passed.

4. Approval of Council minutes of the January 18, 2023 meetings (Action Item)

Member Hussey moved to approve. Member Bryant seconded. All were in favor. Motion passed.

5. Update from the Permitted Interaction Group (PIG) to evaluate and make recommendations to the Council regarding commercial activity in Kāneʻohe Bay (Non-Action Item)

Member Bryant explained the intent of the PIG to address repetitive concerns over the lack of enforcement on illegal commercial activity in Kāneʻohe Bay. The PIG received information on vessels, permitted activities, and locations. Chair Neilson volunteered to distribute the information that was acquired thus far. Following the information sent by Bruce Swartz of DOBOR, another information request was made based on the January 18th meeting.

Member Bertelmann asked if permitted activities and operators are also up for discussion, due to inconsistencies between the Master Plan and what is currently happening. Member Bryant replied that her understanding was the same, that permits should decrease from one generation to the next due to attrition.

Member Bryant proposed the group discuss 1) What is allowed 2) What is going on 3) What DLNR can be asked to help with.

Member Loo reiterated that there are more activities on the bay of those who don't have permits, but that the first step is to see who has permits. He recalled Shaggy bringing up that the number of permits is not decreasing as it was supposed to by the Master Plan. Member Bertelmann added that they want to see the documented numbers of permits and more enforcement of the regulations.

Member Bryant shared the process for civil DLNR/DOCARE enforcement actions, including a violation being brought before the board which requires a lot of work and effort. She suggested implementing the Civil Resource Violation System (CRVS), if DLNR can adopt a fee/fine schedule for tickets to be issued to violators at the discretion of DOCARE. Chair Neilson added that the groundwork is laid, but it is still in development. Criminal citations can be issued, but may get thrown out in court..

Aunty Rocky shared about her latest experiences at the legislature, including bills addressing privatization of harbors, funding for DOCARE recruits, lottery systems for Kāneʻohe Bay businesses, kayak stickers to accompany permits, and aquarium fishing. Member Reppun added that HB1134, prohibiting the advertisement of commercial activity without a permit could target the actual advertising of tours and suggested KBRC provide a recommendation.

The group discussed legislative bills to be aware of including:

- SB505 prohibiting the harvesting of aquatic life for commercial aquarium purposes, regardless of the method of collection
- HB200 requiring rental kayaks to be registered and numbered with the department of land and natural resources and have the identification number affixed to the rental kayak. Requires the department to establish fees for registration and registration renewal of rental kayaks.
- HB848 appropriating funds for three support staff positions for HIMB
- SB680 Establishing the Ahu o Laka State Monument. Prohibits certain activities at the Ahu o Laka State Monument.

Member Bryant summarized the previous discussion that CRVS might be an option to streamline enforcement.

Member Bertelmann requested clarification of permit transfers from the Master Plan. Member Bryant responded that the working groups are discussing how to address that, but agreed that the transfer of businesses should be looked into. Chair Neilson added that Joe Pickard could provide some information on that, but that he still needs to be confirmed by the Senate as part of KBRC.

Referring to the spreadsheet of permits, Member Reppun suggested looking at the original vessel capacity and the HA number tied to it to compare how the capacity has changed over time. Member Reppun also addressed the “not in service” permits, and how some people have suggested having the permit split up to run smaller businesses, so it should be a discussion among the council.

Member Bertelmann asked if the capacity is on a daily basis or based on an average. Member Bryant agreed that anything vague or needing clarification should be hashed out, including how permit transfers and capacity limits are handled.

Member Pickard explained that the capacity is a daily limit. If you carry 90 people out of your allowed capacity of 150 for one day, you cannot exceed 150 on any other day. Operators are required to report the numbers of people per day and it should not exceed the limit to each permit type. The recent law change requiring \$1 for each individual as an environmental fee, means reporting the number of people each month and the revenue each month. DOBOR can audit commercial operators at any time. In the permit, it states you have to keep a log of all the people on your vessel every day for safety reasons.

Member Bryant suggested DOBOR ask for these daily logs to address capacity concerns. Member Pickard agreed and explained that all operators know they have a limit and understand what their limits are, so if the state requires them to produce their records, they have to. The Master Plan was a recommendation, but there was a law that was enacted to incorporate the capacity limit.

Member Bryant clarified that capacity and activities are set with the Master Plan. Member Pickard confirmed using the example that if a permit is for 3 kayaks, 4 cannot be used.

Member Bryant suggested identification stickers to know activities are in accordance with the Master Plan. Member Pickard responded you can have a vessel upwards of 10% longer from when the law enacted in 1992, since it is difficult to find vessels of the same dimension. He added that when you renew your permit, you receive an ORMA sticker identifying commercial operators. It's small, but required to be next to the registration sticker for the vessel. ORMA stickers are circles and State registration vessel stickers are square.

Chair Neilson asked if a vessel isn't in service, what would happen. Member Pickard responded that he and his brother bought the Coral Queen from Tropic Ocean Sports when they were struggling, but it has downgraded and is no longer a certified vessel. When the Master Plan was implemented, the concern was power boats, jetskis, towing, banana boats, etc. over passive activities. When the rules were written, there was a requirement that if a designated a full-service operator's permit was transferred, the permit holder would lose "active" types of uses, unless it was being transferred from one family member to another. Coral Queen was a family owned business and they would lose their livelihood. Tropical Ocean Sports was a large full service operator carrying up to 150 people per day, when the ownership transferred, the owner could not conduct "active" types of activities. If you transferred ownership of a permit, of that type of activity, after 1992, those activities are eliminated from the permit. There have been 2-3 instances where that occurred.

Member Pickard shared that permits are annually renewed. Member Bryant volunteered to review the permit information to see how they were transferred throughout the years, between family and outside transfers. Member Joe Pickard briefly recounted changes in permit ownership, including Kāne'ōhe Bay Ocean Sports run by Kimo Hogue, sold to Paul Yip. Bob Dole that owned Captain Bob's sold his company to Gabriel Siu. Another permit holder, Ralph Shreyder went out of business and his permit was not reissued. Tropical Sports run by Toshi, sold the permit to Marcus Yip, where the carrying capacity went from 150 to 70 with all active operations lost. Kualoa had a land-based operation, but conducted jetski operations as well.

Member Pickard explained that ORMA permits were issued before, where groups of companies were operating under one permit or groups under full service permits. He suggested asking for the ORMA list and to explore which of the companies are under other smaller entities due to needing permits for activities under their operation. For example, a permit used to be needed to use the harbor.

Member Reppun asked if max capacity is tied to the one ORMA permit and not small companies with their own capacity. Member Pickard confirmed. Kāne'ōhe Cruises Inc holds separate distinct businesses, so Tropic Sports sold to two different companies. They had two permits. Kāne'ōhe Bay Cruises Coral Queen glass bottom boat was under one permit and Tropic Ocean Sports had a full service permit. Aunty Rocky Kaluhiwa added that the Coral Queen is a historical boat on Kāne'ōhe Bay. It was first offered to the Kaluhiwa family, but then used to do tours for schools and the community by Tropic Ocean Sports. At first there was only 8 businesses, but now there are 10-12. There is not supposed to be more. I see the Shreyders running theirs from the hotel in Kahalu'u.

Member Pickard replied that his understanding was if you don't renew your permit, it expires. He has spoken to Tanya who said when Ralph Shreyder died, they no longer renewed the permit so they are not allowed to run this activity.

Member Bryant summarized next steps, including tracking HB 1134, HB200, SB505, SB680, HB1136, in case any members want to propose testimony which can be considered at the next

council meeting. Chair Neilson will provide more information on CRVS. The group wants to clarify information on the Kāma'āina Kids state parks permit, the ORMA list, the daily capacity limits and permit transfers outlined in the Master Plan. In addition, daily carrying capacity logs should be made more publicly available.

Kirk Deitschman explained that the way CRVS is set up, the agents of the department have the authority to give CRVS citations out. DLNR will have sworn commission officers and the administrative division (DAR and DOBOR) will have individuals able to go through the process and issue citations. Aquatic resources needs to get the fee schedule approved by BLNR. Only officers will get CRVS authority. Makai Watch is meant to be eyes and ears and not enforcement. There is a lot of testimony that people are against CRVS because they don't want it to just be civilian volunteers, so we leave kuleana up to commissioned officers and employees of the state. The department creates the fee and bill schedule, but some divisions are having issues transitioning from criminal to civil, so we need to change rules before doing CRVS. DOBOR is working on theirs now.

Aunty Rocky Kaluhiwa added that another bill is introduced by our representatives addressing fumigation of boats in the waters, but it is unanimous that they will not allow that to happen. Another is privatization of the piers. I would like to put on the next agenda - HB1089

Member Loo asked about the small businesses using the bay, renting out kayaks on the side of the road without permits. Member Bryan responded that kayak registration would help prevent that.

Member Reppun brought up marine base rentals of the pontoon boats as topic for future discussion, given that they are greater in number than originally intended. Member Bertelmann agreed. Chair Neilson suggested requesting information from Megan Ostrem regarding this.

Member Reppun asked if KBRC plans to circulate anything to submit for testimony. Member Bryant suggested drafting a letter of support and include any suggested amendments. Member Reppun added that some of the language of the bills came out of the letters written by KBRC in collaboration between the council and neighborhood boards. Chair Neilson suggested going through Kāne'ōhe-related bills and voting on positions.

Aunty Rocky Kaluhiwa suggested getting the new appointees confirmed.

6. Adjournment (Action Item)

Member Bryant moved to adjourn. Member Loo seconded. All were in favor. Motion passed.