

Kāneʻohe Bay Regional Council Meeting

Agenda

March 1, 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 – DLNR DAR, Chairperson

Liko Kaluhiwa – Kāneʻohe Boating Association (voting member)

Clifford Loo - Kahaluʻu Neighborhood board (voting member)

Fred Reppun – HIMB, Heʻeia NERR (voting member)

Elena Bryant – Kāneʻohe Neighborhood board (voting member)

Cedric Bertelmann – Kāneʻohe Bay Fishing (voting member)

Sylvia Hussey – OHA (voting member)

Joe Pickard – Commercial Tours (voting member)

Aunty Rocky Kaluhiwa

Kristi Kaluhiwa

Dawn Chang – DLNR Chair Nominee

Meagan Ostrem – MCBH

Jesse Boor – DLNR DAR

Josh Hekekoa - Office of Planning

Casey Ching – Heʻeia NERR

Jessica Jimenez - MCBH

2. Meeting ground rules (Non-Action Item)

Chair Neilson shared the ground rules with the group.

3. Approval of March 1, 2023 Agenda (Action Item)

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

4. Approval of Council minutes of the February 9, 2023 meetings (Action Item)

Member Reppun moved to approve. Member Kaluhiwa seconded. All were in favor. Motion passed.

5. DLNR Chair Nominee Dawn Chang Introduction to the Council (Non-Action Item)

Chair Neilson introduced Dawn Chang, the nominee for the Chair of DLNR. She shared about her personal ties to area, including how her 'ohana are from the ahupua'a of He'eia and had kuleana lands nearby, how her grandfather was a lawai'a of Kāne'ohe Bay, and how she previously served as the Chair of the Board on Key Project. She worked with DLNR as a Deputy Attorney General from the late 80s into the early 2000s and witnessed many events such as Kaho'olawe being returned in 1994, Act 306 burial laws being established in 1990, Nā Ala Hele trails being implemented with the State, and many instances of litigation on Native Hawaiian lands and rights. She explained how often, the community will hear about contentious issues at the late-stage board meetings creating confusing, anger, and frustration by community and decision-makers alike. However, she always believed DLNR and its staff to have passion, commitment, and dedication to natural resources. She then created a small consulting firm and facilitated contentious issues to fulfill a kuleana to create safe spaces for good conversations and culturally sensitive engagement processes that uplift Native Hawaiians and communities historically disenfranchised.

She expressed appreciation for being nominated as Chair of DLNR and how she is positioned well alongside Kaleo Manuel and Laura Kaakua to work towards healing communities, Native Hawaiian communities, hunters, gatherers, and people who have been stewarding our land for many generations in a kākou effort. As Chair of DLNR, she plans to provide support to the stewardship work that is currently being done.

Member Bryant thanked Dawn Chang for lending time to speak with KBRC. She addressed the issue of commercial illegal activity and asked Dawn Chang for her support in working towards a solution. Member Bryant explained that although Dawn Chang is known to prioritize community voices and have community be part of the process, it can be frustrating when those concerns are voiced and fall on deaf ears. She agreed that an iterative process for community to work directly with managers to find a solution is ideal. She followed up asking Dawn Chang about her work with TMT and if she still supports construction on Mauna Kea.

Dawn Chang responded that she was hired by the University of Hawaii in 2007 to provide a comprehensive management plan. She put together a team including the Edith Kanaka'ole Foundation to prepare a management plan to preserve the cultural resources on conservation lands. She was approached by TMT, but refused to do any work for them. 3-4 years ago, she did an independent assessment of UH to see if they implemented actions according to the plan. She had over 200 meetings with community members to identify natural and cultural resources and the impacts of human activities, any development or telescope uses, cultural activities, commercial activities, and management actions. UH had not implemented 3 action items: 1) timely adoption of administrative rules 2) genuine community engagement with the Native Hawaiian community 3) recognition of cultural significance of Mauna Kea. With BLNR, she has a seat on the Authority and chose to delegate that seat to Laura Kaakua due to her work with the issue.

Member Bryant followed up by asking that should a circumstance arise where community does not want development, whether they would have the support of Dawn Chang as DLNR Chair. Dawn Chang responded that it is not her decision to make, but up to the Mauna Kea Authority. The Authority is administratively attached to DLNR, so DLNR will provide support to their

needs, but Dawn Chang is optimistic that the authority and its members will genuinely engage the community, ask the hard questions, and decide what is best for Mauna Kea and its future.

Member Hussey asked about the timing of Dawn Chang's confirmation. Dawn Chang replied that she thinks she will be towards the end, but has not been given notice of when her hearing will be. She added that the longer they take, the more of an opportunity she has to demonstrate what she can do and bring to DLNR. She is hopeful and optimistic. First Deputy, Laura Kaakua, will have her hearing on March 8th.

Member Reppun asked Dawn Chang if she has had any interactions with KBRC in the past, either professionally or as a community member. Dawn Chang responded that most of her contact with KBRC has been peripherally to facilitate the development of the He'eia NERR management plan. During this time, she worked on a team and had many direct conversations with NOAA, Ko'olaupoko Hawaiian Civic Club, Kāko'o 'Ōiwi, Paepae o He'eia, and UH. She would like to use the He'eia NERR management model for future mauka to makai management. Her history with He'eia goes back to the 70s with He'eia State Park.

Meagan Ostrem shared about her position as a bridge between the community and MCBH. She asked if Dawn Chang has a process for bringing community in earlier to decision making. Dawn Chang shared that BLNR meetings are governed by sunshine law and she wants to use them as a platform for informational updates and non-action items. For example, Red Hill will be coming to provide an update at Water Commission Meetings. She is an advocate for informed decision making and would prefer communities have access to good, current, information and opportunities to be engaged early and often. The earlier in the process that communities are involved, the better positioned DLNR will be to make modifications to address those comments. BLNR meetings occur twice a month, the Water Commission meets once a month, there are roughly 15 boards and commissions, but all will comply with sunshine law, be open to the public, and will be used for information to be disseminated and received.

Kristi Kaluhiwa volunteered to work with Meagan Ostrem and coordinate a visit for Dawn Chang to MCBH. Dawn Chang agreed. Aunty Rocky Kaluhiwa added that she looks forward to seeing the testimonies in support.

Dawn Chang addressed the longstanding issue of Kāne'ōhe Bay boating activities that were made known to her by Chair Neilson and from her time with the He'eia NERR. She suggested KBRC make recommendations to BLNR to find a path forward. Member Bryant shared that KBRC put together a PIG to address commercial activities in the hopes of making future recommendations that are implemented. Dawn Chang replied that He'eia seems to cross all the divisions within DLNR and she would like to pull them together to address Kāne'ōhe Bay issues. She suggested putting something in writing to DLNR, so we can strategize on what will be the best course.

Member Reppun followed up by sharing that in addition to commercial activity, KBRC is also working to address environmental issues and incorporate updates into the Master Plan. The pulling of different divisions together can help KBRC build communication with other divisions

to gather information needed to update the master plan. KBRC will likely be sending requests for folks to provide updates to put into the Kāneʻohe Bay Master Plan.

Dawn Chang spoke of her experience working with NOAA on the Heʻeia NERR management plan, where they had difficulty pushing for loʻi kalo and traditional resource management with federal folks, but the community stood their ground. She compared that to DLNR, also wanting to work with communities to do what is right and hear what communities have to say to create a pathway. Aunty Rocky Kaluhiwa added that because of Dawn Chang, the Heʻeia NERR is the only NERR in the entire nation with a cultural component and Dawn Chang helped them fight for that.

KBRC brought up the need to confirm the seats of Member Hussey and Member Pickard at the Senate level. Aunty Rocky Kaluhiwa shared that she went to the legislature and they were unaware of this, but now they know. Dawn Chang added that they appoint Director first, then Deputy Director, then boards and commissions are next on the list. She asked that KBRC let her know if nomination are pending to be confirmed. Chair Neilson said the HIMB/University of Hawaiʻi seat expires, but Member Reppun was sent the application for the UH nomination. 3 seats will need to be confirmed.

6. Appointment of Legislative Chair of the Kāneʻohe Bay Regional Council (Action Item)

Last meeting, it was suggested that someone be at-the-ready to provide testimony for Kāneʻohe Bay at the legislative level. This person would be the Legislative Chair and track bills for KBRC, coordinate with the council on a position, and provide testimony at the legislature. This person would need to wordsmith testimony with the 48 hour notice given to hearings and provide the testimony.

Aunty Rocky Kaluhiwa suggested Member Bryant. Member Reppun agreed and moved to approve the appointment of Elena Bryant as the KBRC Legislative Chair. Member Pickard seconded. All were in favor. Motion passed.

7. Identification of State of Hawaii Legislative Bills for the Council to track and general position (Action Item)

Chair Neilson opened the floor for the council to identify and discuss legislative bills. He explained that the role of the Legislative Chair will also be to make the call if a bill is amended in a way that the council would no longer support and will need to switch positions.

Aunty Rocky Kaluhiwa shared that SB 1265 and HB1134 are moving along. SB1265 prohibits commercial activity use without a permit. If it doesn't get a hearing by Friday with WAM or CPM, it's dead. HB1134, prohibits commercial ocean use activity without a permit, prohibits any person from advertising any commercial use activity for which does not have any permit, lease or license. This one will cross over to the house and that one has the best chance of surviving. The Ahu o Laka bill to establish the state monument died.

Member Bryant asked with her role as the Legislative Chair, what would be the best way to discuss KBRC's position on bills as they move along but don't line up with KBRC meetings. Member Hussey shared that OHA has a spreadsheet which can help them track the bills. She added that SB1265 will be dead, so HB1134 should be tracked, and suggested that the council provide a one-page testimony, but if there are any changes, the process be to email everyone. Chair Neilson suggested discussing the general position of the council at this meeting, but once it gets called, sending out an email to everyone and passing on comments to Member Bryant. Member Hussey added that if its support, unless there are substantial changes, once the council agrees on a position it would be fairly easy to track.

Aunty Rocky Kaluhiwa suggested having somebody there in person to testify to make sure the bill gets heard.

Member Reppun brought up HB200, the kayak bill. Member Hussey added that it crossed the second reading and was referred to committee hearing.

Member Hussey shared a <https://kawaiola.news/> featured piece about Ahu o Laka.

Member Hussey recapped bills

- **SB 1265** Prohibits commercial ocean use activity in Kaneohe Bay waters without a permit and prohibits advertising of commercial ocean use activity in Kaneohe Bay waters for which the person does not have a permit, lease, or license. Companion bill HB1134
- **HB200** Requires rental kayaks to be registered and numbered and have the identification number affixed to the rental kayak. Requires the department to establish fees for registration and registration renewal of rental kayaks.
- **HB1136** Funds for the sewage system repair and seawall and pier repair at HIMB
- **HB 848** Funds for three support staff positions at HIMB
- **HB1089** State boating facility lease pilot program with DLNR where private partner under lease or contract with the department may assist with development, management, and maintenance of a state small boat harbor.
 - o Public/private partnership, similar to kewalos, where you have a private company that leases the harbor and manages it instead of the state managing it themselves. Came from governor's package, has a companion SB1387. Administrative bill.
 - o Member Pickard explained that Ed Underwood with DOBOR is trying to alleviate DOBOR from having to manage harbors so they can be more involved in enforcement and other types of boating activities. They can manage harbors more easily when partnered with private entities. Member Pickard expressed general support for this if He'eia Pier is excluded.
 - o Member Hussey explained that OHA has positions of support, support with amendments, oppose, and comments, as well as a status of "monitor" if they don't know enough about it to take a position. She suggested they monitor until they find more information about this bill.
- **HB245** Prohibits a vessel from being fumigated on ocean waters
- **SB505** Prohibits the harvesting of aquatic life for commercial aquarium purposes. The recommendation was not adopted.

Member Pickard moved to support the bills above with the exception of HB1089, which will be monitored until KBRC has more information to form a position. Member Bryant seconded. Member Reppun asked what the process would be to suggest an additional amendment or comment following this meeting. Member Hussey replied that it depends if the position is switched or if it just for general information and suggested establishing a process to make sure Member Bryant receives the information to know when to consider moving positions or moving to comment. Chair Neilson suggested KBRC members read the bill itself, read the testimony submitted, and send recommendations or feedback directly to Member Bryant.

Member Hussey suggested setting a standing time every Wednesday at 6pm for one hour to make any changes or receive any updated information on legislation. If its not needed, it can be canceled, but it will be a placeholder for a discussion if it is needed. Other KBRC members agreed. Chair Neilson requested that weekly legislative check-ins occur in Kalanimoku, due to a requirement to have an in-person venue according to Sunshine Law and a lack of funding to rent the Key Project room out each week. Aunty Rocky Kaluhiwa and Kristi Kaluhiwa volunteered the Ko‘olaupoko Hawaiian Civic Club venue to be used free of charge.

Aunty Rocky Kaluhiwa expressed that it would be nice for testimony from KBRC to be in-person and how there is always the possibility that bills can be brought back next session, giving us time to work on it for the following year. Member Hussey agreed and added that bills can also come back in the form of resolutions. Resolutions don’t carry as much weight as a bill, but it will be on the community’s radar.

Member Bryant requested to amend the standing motion to include setting weekly meetings to cover the legislative agenda items with the option of canceling if there is nothing to discuss that week. Member Reppun added that Member Bryant, as the Legislative Chair, should have the say in whether the meeting is held or canceled.

Chair Neilson summarized the motion of the following: KBRC supports all the bills except HB1089, weekly meetings on Wednesday at 6pm for legislative updates, Member Bryant has the authority to cancel the meetings if they are not needed.

Member Reppun moved to approve. Member Pickard seconded. All were in favor. Motion passed.

Member Bryant added that once she starts working with Member Hussey, she will have a consistent timeframe to cancel the meetings. Member Hussey shared that hearing notices go out over the weekends, so the tracker should be updated on Monday determining whether to meet or not.

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

Member Bryant shared that the meeting was productive with action items needing follow up. The group hasn’t received any additional information since the meeting, but requested more information on permit transfers and the ORMA list. In addition, they have some thoughts on

clarifying language regarding capacity limits and permit transfers. They will be following up with DOBOR and making more recommendations to KBRC once they have all the information they need. Chair Neilson volunteered to make an information request from DOBOR and work with Member Bryant to figure out what is still needed.

9. Announcements (Non-Action Item)

Aunty Rocky Kaluhiwa asked about the recent Aquarium fishing issue. Chair Neilson shared that the injunction set by the courts was lifted for the aquarium fishers in West Hawaii that comply with HEPA. Fishers still need to obtain a permit from DLNR before they are allowed to fish and any other fisherman in the State needs to be in compliance with HEPA, in addition to lifting the injunction, before they can aquarium fish. The 7 West Hawai'i fishers involved need to request a permit from DLNR and go in front of BLNR to receive those permits, which will be a public process where testimony will be heard before making any decision. If the permits are approved, they will be able to aquarium fish, but there is still a long way to go before aquarium fishing can resume throughout the state.

Member Bryant was present at the hearing and shared a recap. It was a joint hearing between Water and Land and Agriculture and Environment Committees. It passed WTL and was one vote short of AEN, with one of the Senators opposing this being Brenton Awa. Senator Awa said 1. Nobody brought the issue of aquarium fishing to his office and 2. The people of Kahalu'u strongly oppose a ban on commercial aquarium collection. Member Bryant shared that she reached out to his office multiple times and did not receive a response. In addition, the fact that many windward organizations passed resolutions supporting a ban contradicts his second point strongly. Member Bryant suggested we make a resolution to exempt commercial aquarium collection from Kāne'ohe Bay, since O'ahu folks are already mobilizing EIS documents to lift the ban here and have reached out for community engagement. It is something to monitor and be aware of. Aunty Rocky Kaluhiwa added that it may set a precedent for KBRC.

Aunty Rocky Kaluhiwa shared that she heard there was a meeting on Hawai'i Island pertaining to sharks where DLNR spoke of a cultural committee on mano, permitting people to do hammerhead sharks monitoring. She asked who is on the committee and what is the committee's purpose. Chair Neilson responded that DAR doesn't have a cultural committee, but they do reach out to cultural practitioners of the area where shark research is being done to advise on shark research permits. They had a request for Kona, so they met with practitioners North to South Kona to review the research application and receive their comments. There is no formal committee. Aunty Rocky Kaluhiwa suggested not using the language of a cultural committee.

Member Pickard added that in addition to asking DOBOR for a list of permittees, they should also receive feedback from State Parks on what they believe is commercial recreation. They have a bigger impact on the commercial use of the bay despite not issuing permits. Chair Neilson volunteered to recruit someone from State Parks to attend the next meeting.

Member Bryant directed a question to Meagan Ostrem regarding the number of pontoon boat rentals and how its grown since the original handshake agreement. Meagan Ostrem shared that it was her understanding the numbers have not grown since the deal with DLNR, when they did a

review of the training program for those who rent and use the boats. MCBH currently has 9 boston whalers and 21 pontoon boats, with no room to grow. About a year ago, she shared a presentation to KBRC about required procedures and volunteered to share the presentation with Member Bryant. She also volunteered to have KBRC to the base to see operations, if that is of interest to the group.

Member Reppun shared that he tracked down the biodiversity assessment done in 2017 by a team of people from HIMB per request from the last meeting. Mary Hagedorn, who is an HIMB faculty member, sent it to share with the council. A lot of the data is still being looked over as well as the genetic work to understand how many species are present. They identified 100 different species of fish, 80 species of meiofauna, 1400 species of invertebrates, and 85 species of limu. The numbers don't mean much without a comparison, but it is a good baseline. They plan to put this information on a website soon.

Meagan Ostrem shared that last month, through the DOD Readiness and Environmental Protection Program coming from the Office of Secretary of Defense in DC, organizations were awarded funds to support conservation-based efforts. DAR was awarded \$1.3mil to protect aquatic species in Kāne'ōhe bay and support community efforts. There are some fact sheets and press releases to share. They are looking for what projects would be of interest for the next proposal and how to get some of those funds again.

Meagan Ostrem also shared that it will be her last meeting representing MCBH with KBRC, as she will be moving to a permanent position with the Navy. However, she will continue to be an advocate for Kāne'ōhe Bay. Jessica Jimenez on the call will be stepping in for community relations.

Member Bertelmann thanked Meagan Ostrem for her time on the council and asked if there is a process for permitting MCBH uses, since they don't seem to be included in the master plan. He requested hearing from the department side what the agreement is. Chair Neilson suggested including it in the agenda for the next meeting.

Chair Neilson set the date for the next council meeting for May 3. Kristi Kaluhiwa requested the Ko'olaupoko Hawaiian Civic Club for the in-person location.

10. Adjournment (Action Item)

Member Bryant moved to adjourn. Member Reppun seconded. All were in favor. Motion Passed.