

Kāneʻohe Bay Regional Council Meeting

Agenda

April 9, 2024

6:00 PM-8:00 PM

Online or call-in via ZOOM

(Zoom info listed below)

or

In-person at:

The Key Project, RM 202

47-200 Waihee Rd, Kaneohe, HI 96744

1. Call to Order (Non-Action Item)

Brian Neilson – DLNR DAR, Chairperson and non-voting member

Clifford Loo – Kahaluʻu Neighborhood Board Rep, voting member

Joe Pickard – Kāneʻohe Bay commercial operators, voting member

Elena Bryant – Kāneʻohe Neighborhood Board Rep, KBRC Legislative Chair, voting member

Kendall Tucker – DLNR DAR

Josh Hekeka – Office of Planning

Kirk Deitschman – DOCARE, Makai Watch

Casey Ching – Heʻeia NERR, Makai Watch

Ashley McGowan – Kāneʻohe Bay Makai Watch

Sebastian Sievert – Kāneʻohe Bay Makai Watch

Mo Radke

Ron Tubbs

Rallen Caya

Meeting called to order at 6:20pm.

2. Meeting ground rules (Non-Action Item)

Chairperson Neilson reviewed ground rules for the meeting.

3. Approval of April 9, 2024 Agenda (Action Item)

Quorum not present to pass Agenda item.

4. Approval of Council minutes of the March 12, 2024 meetings (Action Item)

Quorum not present to pass Agenda item.

5. DLNR update on enforcement of illegal commercial activity in Kāneʻohe Bay (Non-Action Item)

Chair Neilson shared that a citation was issued for the Ohana Kayak Rental operation. In addition, DOCARE is looking into the “Boat for hire” companies operating in the bay DOBOR confirmed that these operations are considered illegal commercial activity, including AirBNBs for boats.

Chair Neilson addressed a previous request from Member Pickard to have a meeting with DLNR Chair Chang to discuss the implementation of Act 232. Chair Neilson volunteered to look into setting up this meeting with DLNR Chair Chang, DOBOR, and DOCARE.

6. Review of Hawai'i State Legislative Bills related Kāne'ōhe Bay introduced in the 2024 Legislative Session: HB1546, SB2329, HB2626/SB513, HB2690, SB2296, SB3327, HB2703, HB1544, HB1900, SB2814, HB2695 (Non-Action Item)

Legislative Chair, Elena Bryant, shared that since KBRC provided testimony on SB 3327, the bill has died. However, the language from that bill was incorporated into HB 2690, which is continuing to be tracked. The Legislative Chair submitted testimony on behalf of KBRC and the testimony is available on the Legislative website. HB 2690 passed and is in conference committee.

7. Update on reef damage of Navy P-8A aircraft grounding in Kāne'ōhe Bay (Non-Action Item)

Chair Neilson shared that DAR is continuing the investigation and damage assessment. Fieldwork was completed and the data is being analyzed and written up. Surveys were limited to weekends where runway activity was decreased in addition to being restricted by windy weather. Fieldwork teams did coral colony counts of damage to impact and adjacent sites to estimate the coral loss. The report will inform how to recoup some of the cost to recover the site and mitigation actions.

Legislative Chair Bryant inquired about when the report will be finished. Chair Neilson replied that he estimates it may take a few months to do the analysis, write up, and internal review process. Legislative Chair Bryant asked the agenda item remain so KBRC can be briefed when the report is done.

8. Update from the Division of Aquatic Resources in pursuing Ch. 91 Rule Making to ban commercial aquarium harvest statewide (Non-Action Item)

Chair Neilson updated KBRC about the agenda item being presented to BLNR regarding aquarium fishing. It is a non-action item requesting clarification from BLNR on the petition decision. During the December 8th, 2023 BLNR meeting, BLNR accepted the petition but the AG weighed in during executive session advising BLNR that they did not have authority to ban aquarium fishing. BLNR then accepted the petition, but requested DAR to move forward with HRS §188-31, taking into consideration the sentiment of BLNR and testimony provided. DAR intends to get clarification from BLNR about the testimony and sentiment they are referring to before moving forward with any rule-making. Testimony can be submitted for this non-action item.

Legislative Chair Bryant voiced her disappointment that BLNR unanimously voted to accept the petition and the AG only chimed in during the last few minutes of the meeting. In addition, she

noted that the petition was previously withdrawn due to the AG's office needing more time for review. She shared concern that the new submittal being put forward by DAR is creating a permitting regime for aquarium collection through this petition, using it to open doors for a rule-making mechanism allowing it under the alternative EIS. She voiced appreciation for DAR trying to move this forward, but is concerned it is not being addressed appropriately.

Chair Neilson responded that in the BLNR submittal, they provide an example of how they may move forward with rule making, but it does not represent a decision of how they will move forward. He encouraged that people provide testimony personally and reference resolutions BLNR has passed previously.

9. Community concerns (Non-Action Item)

Member Loo shared that he spoke with a lady running kayak rentals, who mentioned she has permission from DLNR to operate, even though that is not allowed in the neighborhood. He heard she went to court and is interested in hearing the results. Kirk Deischman responded that the lady was cited by DOCARE and did go to court, but her case is still pending. DOCARE has nothing to report, but she and other kayak rentals are under a microscope with DOCARE. Chair Neilson added that DOBOR issued her a Cease and Desist in October 2023.

Member Pickard shared that one of the fingers on He'eia Pier is getting badly eroded, the finger opposite of the one closest to the deli. The concrete face of the abutment is caving in and that area of the pier may collapse. He is concerned because that area is heavily used by boaters. Member Loo added that the planks on the walkways are not smooth, with some of the joints coming out.

Casey Ching introduced two new members of Kāne'ohe Bay Makai Watch, Ashley McGowan and Sebastian Sievert, who are funded by DLNR DAR as part of the Na Manu Elele program to position stewards to heavily visited areas around the State.

Ashley McGowan shared that they have been out at He'eia Harbor during the weekends for about 2 months. They've witnessed illegal charters a majority of those days, ranging from 1-5 operating boats per day, with some doing morning and afternoon charters to the sandbar. They've documented 15 different boats running illegal tours, with half of them being seen multiple days and multiple weekends. They will continue monitoring to build cases for these operators. Sebastian Sievert emphasized the safety issue by adding that these charters often go during storm advisories.

Chair Neilson inquired about their duties on the job. Sebastian Sievert responded that they collect as much information as possible, taking photos of suspected vessels and talking to passengers who book these tours. They gather this information and relay it to Tanya, the He'eia Harbor Master, and DOCARE. They focus on educating the groups that come to the harbor. Some of the visitors are told how to talk with officials at the harbor, but will divulge some information as they keep talking. Many of the boaters are repeat sitings, so it is easy to tell when they are there every single day and weekend with different groups that it is unlikely they are all friends.

Chair Neilson asked if they know how the illegal charters are advertised. Sebastian Sievert responded that some of the first ones were through Boatsetter.com, but others are likely through social media and it has been harder to track that information.

Member Pickard asked if a request was made to have DOCARE come to a KBRC meeting to provide a status update on Act 232. Chair Neilson responded that a request was made and that Makai Watch Coordinator, Kirk Deitschman, can also extend the invitation for the next meeting. Member Pickard reiterated the need for this, given that many community members spent time to get the law passed and that they need support from Chair Chang and enforcement to implement it. Kirk Deitschman responded that he asked Chief Redulla, who said he would follow up with the Oahu Branch Chief, and that DOCARE should have a response by then. They can put in a request to Chair Dawn Chang in an official capacity.

Member Loo asked if the cameras at He'eia Pier are working. Sebastian Sievert responded that they are working, but they also walk the harbor in addition to checking the monitor. Ashley McGowan added that the cameras are good to give them a bigger picture of what is going on, but in terms of building evidence, the pictures are too grainy to get HA numbers from the photos. Kirk Deitschman added that a lot of our community members are there more often and are able to collect information, so he encouraged folks to email any information to Ashley and Sebastian to try to document illegal behavior and build a better case.

Member Pickard asked about the process to schedule a meeting between some of the KBRC members with DLNR Chair Chang. He shared that in the past, it was required to make a case and prove that the operator was operating illegally or without a permit, whereas the new law creates a civil violation where burden of proof is shifted to the operator to demonstrate legal operations. The new law means it is allowable to require the suspect to prove they are operating legally and gave enforcement the ability to seize the boat. He inquired if a couple of KBRC members can have a meeting with Chair Chang to discuss this. Chair Neilson asked Member Pickard to send an email so he can coordinate a meeting. However, only a certain number of KBRC members can attend to be in compliance with sunshine law. Chair Neilson will also invite DOBOR and DOCARE to join.

10. Announcements (Non-Action Item)

Legislative Chair Bryant shared that she was invited to an informal meeting with OHA and representatives from the Gov's office and DLNR about transferring ownership of He'eia State Park to OHA to manage. Discussions are in the very beginning stages, but initial meetings were to put this on the radar of various stakeholders, including Paepae o He'eia, Kāko'o 'Ōiwi, Ko'olaupoko Hawaiian Civic Club.

Chair Neilson added that MCBH will be starting a NEPA study on doing wetland restoration at the base and perhaps some of the reps from MCBH can provide an update at the next meeting.

Next KBRC meeting scheduled for May 14th.

11. Adjournment (Action Item)