



Hawaiian Islands Humpback Whale National Marine Sanctuary 60th Meeting

NON-GOVERNMENT (Voting)

Tetsuzan Benny Ron
Business Commerce

Cindi Punihaole Kennedy
Citizen-At-Large

Richard Davison
Commercial Shipping

Barbara (Maka'ala) Kaaumoana
Conservation

Liz Kumabe (Vice-Chair)
Education

Philip Fernandez
Fishing

Alex Sheftic
Hawai'i County

John (Jack) Kittinger
Honolulu County

Sharon Pomroy
Kaua'i County

Solomon Pili Kaho'ohalahala
Lana'i Island

Robin Newbold
Maui County

Walter Ritte
Molokai Island

Trisha Kehau Watson
Native Hawaiian

Doug Cole
Ocean Recreation

Adam Pack, Ph.D. (Chair)
Research

Kimokeo Kapahulehua
Tourism

Jim Coon
Whale Watching

Gina McGuire
Youth Member (non-voting)

GOVERNMENT (Non-Voting)

Marnie Meyer
DBEDT - OP

Vacant
DBEDT Science and Technology

Vacant
DLNR - DAR

Vacant
DLNR - Hawaiian Islands Humpback Whale NMS

Vacant
DOH

Sandra Rossetter
DOT - Harbors

Gene Brighthouse
Fagatele Bay NMS

Malia Chow
Hawaiian Islands Humpback Whale NMS

Everett Ohta
OHA-Voting

Take Tomson
NMFS - Law Enforcement

Lisa Van Atta
NMFS - PIRO

'Aulani Wilhelm
Papahānaumokuākea MNM

Eric Kingma
WESPAC-Voting

Athline M. Clark
US ACOE

Eric Roberts
US Coast Guard

Rebecca Hommon
US Navy

April 4 – 5, 2011

10:00 am to 5:00 pm (April 4, 2011)

8:30 am to 4:30 pm (April 5, 2011)

726 South Kihei Road

Kihei, HI 96753

Attendance

Primary Council Members Present: Philip Fernandez, Tetsuzan Benny Ron, Eric Kingma, John “Jack” Kittinger, Richard Davison, Barbara “Maka’ala” Kaaumoana, Cindi Punihaole Kennedy, Becky Hommon, Alex Sheftic, Trisha Kehau Watson, Malia Chow, Liz Kumabe (Vice-Chair), Doug Cole, Marnie Meyer, Everett Ohta, Adam Pack (Chair), Eric Roberts, Kimokeo Kapahulehua, Robin Newbold, Jim Coon, ‘Aulani Wilhelm, Sharon Pomroy, Gina McGuire, Solomon Pili Kaho’ohalahala, Walter Ritte

Alternate Council Members Present: Donna Brown, Rachel Sprague, Hannah Bernard, Cheryl Sterling, Thorne Abbott, Teri Leicher

Excused: Cindy Athline Clark, Gene Brighthouse, Sandra Rossetter, Take Tomson, Lisa Van Atta

ONMS Staff Present: Allen Tom, Joe Paulin, Paul Wong, Brenda Asuncion, Fiona, Langenberger, Micki Ream, Hans Van Tilburg, Kanai Fraizier, Jean Souza, Joey Lecky, Patty Miller, Justin Viezbicke, Nancy Dashbach, Ed Lindelof, Bo Petty, Ed Lyman, Ka’au Abraham, Jerry Norris

DLNR Staff: Earl Miyamoto

Distributed Materials

Additional Meeting Materials Distributed

- Draft DOC and NOAA Aquaculture Policies
- Public comment submitted in advance in writing

Other Materials Distributed via Email and Available Upon Request

- Draft Meeting 59 minutes
- Draft work plans
- Letters from working group chairs to new members
- Links to Draft NOAA and DOC Aquaculture Policies
- Link to Kona Blue Environmental Assessment



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Day 1 - April 4, 2011

Call to Order

Adam Pack calls the meeting to order at 10:15am. Liz Kumabe takes roll.

County of Maui, Mayor's Office: Rob Parsons

Rob Parsons discusses several specific topics.

- Open ocean aquaculture. Agrees that nearshore fisheries are under pressure, but advocates more cautionary approach.
 - Highlights article in West Hawaii Today (3/29/11): "Towed aquaculture fish pens break free"
 - Encourages members to look at draft NOAA Aquaculture Policies
 - Believes that aquaculture should feed local communities
 - Notes that Hawaii Ocean Technology has proposed feeder buoys off Kawaihae (just outside sanctuary), but these aren't in the EIS
 - False killer whales' behavior alterations
- Revival of inter-island ferry going through State Legislature
- Whale watching tours chase pods: anything the council can do for enforcement or education is worthwhile effort
- Marine debris: need to highlight individual behavior
- Undersea cable: individual islands should be able to move towards own alternative energy
- Collaboration: County, NOAA, DLNR worked together to provide pump-out services at Ma'alaea. There was initial effort in 2006 but there has been a delay current delay
 - Notes Florida Keys policy that prevents dumping in sanctuary waters
- AllenTom: Mayor's opinion on Superferry or cable?
 - Mayor Arakawa submitted testimony opposed to cable, unsure if anything was submitted for Superferry bill
- Cindy Punihaoale: Kona Blue is going to put another one cage in 30 days, isn't it dangerous to have the other one floating around still?
 - NOAA has asked to extend deadline
 - Gary Hooser asked for posting in OEQC and then 30 day notice
 - Rob Parsons disclaimer: works with Food and Water Watch... "need to safeguard our oceans first"
- Hannah Bernard: injection wells, do you see nexus for the sanctuary and county to address this?
 - Rob Parsons stated that this is an important issue for this administration. There are compelling methods of re-use for the water. It would help for the county to just have opinion/support from NOAA in writing.
 - Cindy Punihaoale: same problem in Kona, loves collaboration for studies



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- Ke‘eaumoku Kapu: what is the county planning to do about the pending developments (e.g., subdivisions) which have injection wells in their plans?
- Rob Parsons: County planning is a long process involving a lot of collaboration.
 - Sol Kaho‘ohalahala: let us know the budget appropriations so we can contact the appropriate representatives.

Member Introductions

All council members introduce themselves.

Purpose of the Meeting

Adam Pack briefly summarizes the goals and objectives of the two-day meeting: Sanctuary Advisory Council working groups will present work plans for discussion and approval by the full council.

Staff Introductions

Sanctuary staff briefly introduce themselves.

Working Lunch

Adam Pack calls for a working lunch at 12:38.

Management Plan Review (MPR)

Malia Chow briefly reviews MPR timeline.

Intro to Management Plans

Micki Ream provided an overview of management plans and an assessment of the 2002 management plan

- Adam Pack: What are the highlights of assessment report? Natural resource protection – action plan had good outcome as well as research and monitoring action plan
- How did you do the evaluation? – Internal process, staff took old management plan performance indicators to see how they were met. Many goals and objectives have changed.
- Management plans are periodically reviewed and revised to stay current. In 2008 a letter from Linda Lingle was received supporting consideration of new species.

Scoping Report

Brenda Asuncion provided an overview of the scoping report.

- How were petitions weighed? – All submissions are treated equally. Every comment is weighted the same. The petition was considered as a single comment.
- How to get the word out – Press Release and website
- Were responses send to all submissions? – No, only the ones that asked for response



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- How were petitions counted? – The total number of signatures in the petition were counted separately in the tally of submissions, but the petition language counted as only one comment
- How were submissions categorized? –Methodology was summarized

Overarching Considerations

- Malia Chow described the Community Engagement
- Kehau Watson described Native Hawaiian Traditional Perspectives
 - Idea: recommend cultural expert for working groups to address specific things
- Phil Fernandez described Ocean Users
 - Emphasizes: physical / socio-economic / emotional sustenance from the ocean
 - Idea: working groups should ask themselves particular questions when they're considering recommendations
- Ed Lindelof described Environmental Impacts
 - Working groups: Experts vs. public engagement
 - Hannah Bernard: If there's no agreement, does the agency make the decision? It's a set of checks and balances, an iterative process
- Mana'o needs to really be accounted for, can't push native perspectives away
- Earl Miyamoto clarifies that DLNR / the state will be involved along the way, but the final decision (and how it's decided) is ultimately up to the Governor, for those activities proposed in state waters.

Available Information

Joey Lecky provided an overview on spatial information available to support working groups.

- Certain sensitive data can be used just for working groups (e.g., maritime heritage sites)

Working Group Chair Presentations and Work Plan Discussions

Eric Kingma – Climate Change Working Group

- Note: with respect to ecosystem-based approach

Adam Pack – Ecosystem Protections Working Group

- Jack Kittinger: one of the objectives was about the mission of the sanctuary (with regard to ecosystem management)? Clarification that that this does not just apply to the mission statement; but would also apply to the management strategies.
- Walter Ritte: How is this going to get done without money / commitment? We could push the limits of this sanctuary...
 - Kehau Watson notes that she is looking for outside funds because meaningful participation is necessary and conference calls wouldn't work for Native Hawaiians. She feels it's her role to be active in increasing participation; it's also an equity issue for participation.



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- Budget restrictions shouldn't prevent us from working hard to make this a comprehensive plan.
- SAC could do a motion to request NOAA to provide funds for this process.
- What are the determinants for a successful working group process? Ed Lindelof explains that working group recommendations generally have very few changes made by the council. Tribes act as governmental agencies and they actually have staff. We recognize the challenge of being on multiple islands. Hannah Bernard: re-allocation of money? (e.g., from international conferences to local activities).
- 'Aulani Wilhelm: Clarity on membership is really important because expectations needed to be managed. Open-ended membership is difficult because someone can come in late in the process and intentionally or unintentionally stop momentum. Face-to-face on each island to conference call also worked. This shouldn't be a false boundary.
 - OHA supports the Monument's cultural working group.
- Sol Kaho'ohalahala: when "equal treatment" under the law gets taken into account, it could undermine traditional perspectives. We really have to understand what innovative thinking means.

Becky Hommon– Enforcement Working Group

- Emphasizes the big overlap with education. Walter Ritte notes that on Moloka'i, education helps with long-term enforcement, it's really the key

Jim Coon– Humpback Whale Protections Working Group

- Maka'ala Ka'aumoana: process to communicate with tour groups? Jim Coon notes that they have targeted individuals that have strong networks (e.g., Kaua'i)

Public Comment

Adam Pack asks to postpone the rest of the work plans until Tuesday morning. Public comment period starts at 3:48pm.

John Meston: participates in tagging program for bottomfish, also genetic sampling. Time for the state and people of Hawaii to make decisions about ocean policy, not the National Ocean Service. I would say no to cable, no to superferry, no to sanctuary, no to open ocean aquaculture.

Mel Wills III: Kaua'i Ocean Users Group, submitted written testimony. Reading testimony (main points): diversified members. Listed as fishermen, but include many more groups. Invites WGs to contact us in considering the overarching topics. States the petition statement. We don't want federal laws through ecosystem management; we want local state species management. Regarding ship strikes, it's not the speed of the vessel, it's the size of the vessel's propeller.



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Ke'eaumoku Kapu: it's horrendous to understand the scope of what we're trying to accomplish. I stand with the Kaua'i petition. I would like to be considered as quality control; I try to come to meetings like these to monitor the process. The federal government doesn't even recognize Native Hawaiians as a tribe...it's not gonna work. Passed through Maui County Council just now: resolution to investigate agreement between Lili'uokalani and President Cleveland...have to recognize the past context. Today, we're all facing genocide because there's no description for me standing here. Your management perspective is not for us; maka'ainana still don't have a voice at the table. Legislation still neglects the way to incorporate traditions in county / state / federal policies. We never have an opportunity to voice our opinions based on Act 212. SB 23 is going through as we speak. An act WAS created to open the door for traditional input...but the agencies neglect that. Need clear transparency in this process. I see the coming of a revolution ; when recession comes, people will go to the ocean and mountains. If you put your trust in the people and open your doors, people will come and follow. Right now the Kaua'i petition is small, but imagine if all the islands combine...the council can collapse overnight. We will read and cross-check this process as it proceeds.

Dennis Fitzpatrick: submitted written testimony. Involved with Pump Don't Dump. More enforcement is needed. Should be equal focus on education and also need teeth on protection. I have never been able to get a budget for over two years, although I've been told that it should be readily available. It shouldn't be me against you or you against us. I'd like to see more transparency in the budget, so that's it's readily accessible too (e.g, website). Most of it is for facilities and staff, but there needs to be balance between facilities, staff, and protection. Most sanctuaries have no discharge zones. We asked for that and never got it, I hope you work hard for it (the pumping station at Ma'alaea got taken out of the Mayor's budget right now)...I firmly believe that you should make sanctuary water's a no discharge zone. I note that the two whale watching seats are the two largest players; I think the people should be involved too. People can be vigilant, and the players can be held accountable. We're all in this together, and the public needs to have more access to it. I only got a 3 day notice to this meeting. Agendas should be posted for a long time (2-3 weeks), more testimony time.

- Discussion: media posting, we are able to purchase ads, SAC executive group develops the agenda, we can do a better job

U'ilani Kapu: we don't mean to offend people, we work diligently with the community and we speak on their behalf at these meetings. We do our homework. We want to see things happen with everybody's say. I agree that you have to change with times, but you have to do it in a smart / pono way, need kupuna at the table. They come from all ethnic backgrounds too. There are also visitors who share with us. We speak out and do testimony because we care; I speak for my grandchildren. Everyone needs to walk the land lightly.

Adam Pack closes the meeting at 5:00pm.



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Day 2 – April 5, 2011

Call to Order

Adam Pack commences meeting at 8:32am. Liz Kumabe takes roll.

Attendance

Primary Council Members Present: Philip Fernandez, Tetsuzan Benny Ron, Eric Kingma, John “Jack” Kittinger, Richard Davison, Barbara “Maka‘ala” Kaaumoana, Cindi Punihaole Kennedy, Becky Hommon, Alex Sheftic, Trisha Kehau Watson, Malia Chow, Liz Kumabe (Vice-Chair), Doug Cole, Allen Tom, Marnie Meyer, Adam Pack (Chair), Eric Roberts, Kimokeo Kapahulehua, Robin Newbold, Lisa White, Jim Coon, ‘Aulani Wilhelm, Sharon Pomroy, Gina McGuire, Solomon Pili Kaho‘ohalahala, Walter Ritte

Alternate Council Members Present: Donna Brown, Rachel Sprague, Hannah Bernard, Cheryl Sterling, Thorne Abbott, Teri Leicher, Jeff Kent

Excused: Cindy Athline Clark, Gene Brighthouse, Sandra Rossetter, Take Tomson, Lisa Van Atta

ONMS Staff Present: Allen Tom, Joe Paulin, Paul Wong, Brenda Asuncion, Fiona, Langenberger, Micki Ream, Hans Van Tilburg, Kanai Fraizier, Jean Souza, Joey Lecky, Patty Miller, Justin Viezbicke, Nancy Dashbach, Ed Lindelof, Bo Petty, Ed Lyman, Ka‘au Abraham, Jerry Norris

DLNR Staff: Earl Miyamoto

Working Group Chair Presentations and Work Plan Discussions Continued

Teri Leicher – Maritime Heritage Working Group

- Regarding the inclusion of fishponds in this working group: we don’t want to ignore them, we definitely have to communicate with the Native Hawaiian Working Group to work together.
- Do you have a plan to include fishermen? Some members may fish; we also communicate with fishermen through existing networks (e.g., Kohala Center)
- Would need to develop policy statement about how they’re going to report out their information. There’s definitely concern about what’s shared...need to be inclusive about information that we need, but sensitive about how it gets shared.
 - There is work that has been done, there are good statements / models out there (e.g., ‘Iliuokalani)
 - Hans Van Tilburg: as an agency, we can be FOIA’ed. But through an existing maritime heritage policy, if the release of information can be harmful to the site, the information can be withheld.



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- Living cultural heritage sites (e.g., tied to a family); there is a need to protect those.
- Best Practices from UNESCO is a helpful resource. There are documents posted on the Native Hawaiian WG website. The link has been provided to the SAC (<http://nawahipanaonakohola.blogspot.com/>).
- According to Hawaiian Laws of 1841 and 1842, king ___ gave fishing rights to areas to the people. This should be included in the consideration of historic heritage. (Kilohe'e, Luhe'e, Mololo)

Liz Kumabe – Ocean Literacy Working Group

- Cross-cutting because it's about decision-making on the individual level.
- Can the working group address how to reach out the people who “don't show up”? Curriculum with the DOE allows us to get into the schools
- Maka'ala Ka'aumoana notes that there is place-based curriculum out there (e.g., Hanalei) and the working group should recognize and utilize that. Also look at how you can support the NOAA offices rather than adding tasks on top of what they're already responsible for.
- Is there a relationship between NOAA education and commercial whale watching businesses? Patty Miller explains the Ocean Protection And Cultural Awareness (OPACA) training.
- Walter Ritte initiates discussion about Pacific Whale Foundation giving money to the sanctuary: if they are making a profit from the sanctuary and “taking”, why don't they give something back. Jim Coon explains that commercial operators also pay 3% of their revenue to the DLNR; emphasizes that Trilogy will continue to support the sanctuary. Is there room for improvement of the relationship? Discussion about effectiveness of education and outreach. It's difficult for non-profits to have space / money for outreach and education, but for the most part, they give back to the community (e.g., PWF).

Phil Fernandez – Offshore Development Working Group

- Mentions UH Aquaculture workshop and notes that it's not specific to the sanctuary. Benny Ron explains more about the workshop.
- Discussion about states that do ocean leasing...there are some (e.g., California). For federal waters, it's not really leasing, but it's through a permit process (although there's no specific permit for offshore aquaculture...e.g., Kona Blue applied for a fishing permit). There's no zoning right now, but it's something coming down the pipe. Army Corps of Engineers also has a permitting process. Rachel Sprague also notes that there is a step for consultations with Protected Species Division regarding ESA and MMPA.



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Robin Newbold – Water Quality Working Group

- Gina McGuire asks if there is any way to influence what goes on on the land since it starts from land (e.g., pollution coming from point, non-point sources)? Robin Newbold: work with counties (e.g., stop building during winter when it rains, washing cars, cesspools)
- Cindy Punihaole: Kahalu‘u Bay in Kona, have been doing water chemistry since 2009, all data on UH shared with Chris Ostrander. Collaboration of organizations along the coast to see impacts and create a model of climate change with GIS to assist good decision making.
- Maka‘ala Ka‘aumoana: EPA watershed planning model, makai-mauka planning, developing an implementation plan for best practices in Hanalei. Certain communities have already initiated and can provide guidance, some don't do as we did. One of the things we learned is to really bring in the agricultural community. They have the kuleana. Its in your mandate to not pollute. Need some polluters onto the committee.
- Jack Kittinger: Even if assessment isn't possible, take existing data to get a better picture. This is a problem everywhere, look at examples (i.e. Great Barrier Reef also stops at the shore, but have pursued anyway), State of water quality, places that are chronically bad.
- Hannah Bernard: might be helpful to have a primer on what's legal, what's not. We have a lot of good laws, but not necessarily being enforced. Monitoring is good, but it is not necessarily the solution. Sanctuary established for Humpback Whale and its habitat. Look at violations of clean water act, share enforcement, and which laws are being violated.
- Becky Hommon: noted comments, add Water Quality to list of issues enforcement will be looking at
- Robin Newbold: new issues include traditional watershed quality, ocean water quality

Kehau Watson - Native Hawaiian Working Group

- Facilitate our issues and plus overarching consideration work. Took complex issue paragraph and distilled it out. Need to write a section on traditional histories and frameworks as a primer. Lots of efforts to include Native Hawaiian perspectives, so want to gather the background information to make that possible. The potential is to give historical context. Number one issue is going to be access. Some critical issues: submerged/ceded land, resource protection (what does that mean for fishponds). Last issue is co-management and co-governance. Overarching considerations: three issues 1. Significant and meaningful input, 2. Making sure each committee has the right expertise 3. Making sure both sides of issue are represented. Find resources to be actively and meaningfully involved.
- Jack Kittinger: Need for so many working groups to have this as a central issue, how do we prevent overloading? Kehau Watson notes that the responsibility starts with her. Working group ultimately has accountability to larger community
- Adam Pack: Work plan that appears in the binder is still relevant? Yes
- Everyone notes that the Native Hawaiian Working Group website is listed in binder.



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Conclusion: Adam Pack thanks working group chairs for all of their work.

Break

Adam Pack calls for a break at 10:45.

Call to Order

Council reconvenes at 11:05.

MOTION: Jim Coon moves to accept the work plans and all feedback that was provided by the full council. Phil Fernandez seconds. Discussion suggests vote on draft work plans as written in the binder to allow working groups to meet and discuss since many groups have new members now.

AMENDED MOTION: Jim Coon moves to adopt all draft work plans as they appear in the binder; Kimokeo Kapahulehua seconds, and unanimous vote support the motion.

Discussion about distinction between milestone 1 (work plan) and the work afterwards for milestone 2.

Ed Lindelof: working group chairs need the time to incorporate their changes, but it shouldn't wait until the next meeting which is likely not until September. Recommends that there should be room for evolution. Ultimately, it's the working group that's accountable and responsible for justifying their decisions and bringing it back to the whole council.

Two things yesterday that were identified as critical issues: membership and resources.

As with any planning process, timelines are developed as guidance but there is some flexibility. Discussion about scope of recommendations: action items vs. recommendations for issues that we should do research on. Stellwagen example:

- Working groups often provide basis of action plans which, when combined, create a draft management plan.
 - Allen Tom asks for an example of one of the working groups and what they could do over the next year. Short example about Ocean Literacy at Stellwagen: Assess current sanctuary programs, identify things that may be needed.
- Discussion about clarification between single-species to ecosystem-based and how that affects the working group. Decision versus presumption.
 - Malia Chow reiterates how we got here today: Congressional mandate, scientific mandate, NMSA, Governor Lingle's letter of support. There are several key steps that occurred to get us to this place. We're not making a pre-determined decision, but we're planning to develop a proposal for an ecosystem-based sanctuary...the working groups should plan for that, and maybe in their process tell us why we shouldn't do ecosystem-based.



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- Phil Fernandez notes that fishing community will be opposed, to vote on this without the discussion of the public is a travesty. Adam Pack notes the importance of accounting for public input, notes the necessity of the ecosystem working group to assess the concept of ecosystem-based management.
- Sol Kaho‘ohalahala: The idea of mauka to makai is integral, incite that vision. If we don’t accept these premises of mauka to makai, then we’re here for nothing. It’s already clear in some working groups that you can’t avoid that. Trying to support the long-term vision...in that process, may need to reconsider some of my own stakeholders’ interests.
- Phil Fernandez questions whether adopting ecosystem approach implies full archipelago expansion? No, work within current boundaries unless working groups have strong support for boundary adjustments in particular areas.
- Just because someone has jurisdiction doesn’t mean they have full authority to manage things...not only in terms of regulations, but programs as well. Need to be careful to distinguish between “piling on” and “adding value.”
- As working groups, we have discretion to move with ecosystem approach.

NOAA Office of Law Enforcement

Alexa Cole summarizes updates on OLE prosecutions (the process, efforts, and recent cases).

Working Lunch

Adam Pack calls for a working lunch at 12:45.

NOAA and DOC Draft Aquaculture policies, and Kona Blue Aquaculture Permit

Phil Fernandez –Drafted proposed SAC Comments

Clarification for the Kona Blue Environmental Assessment comment process – it’s closed for the public, but it’s been extended for federal agencies, so if the SAC provides comment to the sanctuary, the sanctuary would consider it in its comment to PIRO.

- Clarification in map: the EA specifically says that they wouldn’t operate in the sanctuary boundaries or in state waters (except for transit in state waters).
- MOTION: Kehau Watson moves to discuss the proposed comments in new business, Jim Coon seconds, unanimous vote in favor of the motion.
- Clarify: a SAC resolution would be approved by the SAC and considered for inclusion in any comments developed by the sanctuary.
 - Could an ad hoc working group be formed in order to address this by April 11?
 - Phil Fernandez has drafted a resolution for the NOAA draft aquaculture policy; an ad hoc committee could look at it, email it to the whole council.
 - This process of dealing with decisions between SAC meetings should also be dealt with in new business.



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- 'Aulani clarifies that there's a difference between an advisory body and a policy-making body. Since it's a point of advice, it's not required to be officially noticed because there's no binding effect on the public.

Public Comment

Public comment period commences at 2:15; Adam Pack notes that individuals providing public comment are allowed six minutes due to time constraints.

Ke'eumoku Kapu: introduces himself more to provide context. Kuleana Ku'ikahi LLC. Keen to understand all kinds of policies. Requests that Kuleana Ku'ikahi requests to be a part of all nine working groups. The agenda approval is an issue. Doesn't want the council to operate at a micro-managing level. Especially interested in the Native Hawaiian perspective of these working groups; Ke'eumoku will be the representative from the LLC for this group.

- ORMP: judicial data is not appropriate...it's based on 1940 data. E.g., there are 12 moku for Maui but there are only 5 recognized in the plan.

Mike Moran: on the public process...public comment should be first so that they can be accounted for before votes. It's worth questioning why there wasn't public comment at the last meeting. I don't see SAC efforts to engage the public in the same way that the sanctuary did for scoping. Is this a sanctuary in name only, since there aren't rules and regulations specific to the sanctuary distinguishing it from elsewhere outside the sanctuary. The county council resolution regarding dumping in the sanctuary...nothing has happened. Vessel strikes: there are no speed prohibitions in the sanctuary...think about the land, there's zones (e.g., school zones) where you have to go slower. Give credit to PWF for giving suggestions about slowing boats down, way more than the sanctuary has done. I see the precautionary principle lacking in general.

John Metson: Is your end result going to be to take over all the state waters?

- Adam Pack notes that it's not a Q&A session, but Malia is willing to talk with John at the break.
- Reminds the SAC that not everyone is pro-sanctuary.

David Jung: Moloka'i ferry. Discusses HB 1239, the reinstatement of the Superferry in the legislature. Currently waiting to be heard by Ways and Means. Their PR about whale avoidance is no good. Notes that the SAC has a responsibility to comment, and that the sanctuary refused to comment the last time around.

- Discussion about the SAC's recommendations for the Superferry's operations. E.g., The Superferry agreed to travel at 25 knots rather than 40, and although they did travel on the north side of Moloka'i sometimes, they also went south sometimes.
- Walter Ritte wants to see what the SAC had in writing, and what the results were...so if the Superferry comes back, it would be good to know what has happened already.



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Mel Wills III: alarmed about the lack of awareness for the new members. Notes population growth for humpback whales. Notes that the education and public awareness is working...encourages work to continue in that direction. Points out that most of the public comment was from Kaua'i. The public wants to know what direction you're going and what it's going to mean to them, in terms of access, rules, laws, restrictions. Encourage you to keep that avenue open.

Rob Parsons: regarding the aquaculture draft policies and the Kona Blue EA. I haven't seen what "sustainable aquaculture" means. Regarding the need to designate where it would be appropriate...the state hasn't been able to do it, good luck with a federal process...this is assuming that it's appropriate. The precautionary approach should be at the top. The approval process hasn't been transparent thus far...why are they slipping the Kona Blue thing in under fishing permit. The Kona Blue EA is to investigate feasibility, but look at what's happened in 2 days. Area is too big. I think you could reserve the right to make full recommendations on the NOAA draft policy beyond April 11...in new business. As you develop extensive comments...I'd direct you to Pono Aquaculture website for criteria to conduct aquaculture ventures. Kona Blue wasn't in OEQC bulletin...Gary Hooser asked for it to be in state bulletin. Their argument against it was that it's in federal waters. As an advisory body, you should be able to ask them to slow down since it's moving too fast.

- Are there any other ocean projects that we should be aware of? Maui Fresh Island Fish LLC has been holding meetings on Lanai, and is looking to have cages off southwest side (sanctuary waters). The other one isn't in sanctuary, off Black Point in Kawaihae, much bigger than Kona Blue (12 ocean spheres for ahi, Hawaii Oceanic Technology Inc).
- Adam Pack encourages all council members to be familiar with the history of the SAC and what opinions they have presented in the past.
- Do we have lawyers / legal representation? We use the Office of General Counsel. Where are our teeth? Regulations.

Council Discussion: Overarching Considerations

Ed Lindelof facilitates a discussion about the overarching considerations.

Kehau Watson notes that she's developed some questions that the working groups can ask themselves in order to think about Native Hawaiian Overarching Consideration (i.e., guidance) document. Phil Fernandez could do the same because he also serves a facilitating role.

Walter Ritte talked about "ocean users" as a group: fishing, weekend warriors, native rights (Article 12) – this is the most complex, also Hawaii Revised Statutes. There's a hierarchy of access.

Jim Coon: When the sanctuary was first mandated, sanctuary was not going to be a weight on ocean users (fishing, operators etc). Need to be careful to switch direction at this junction, make sure that major stakeholders are not opposed of the sanctuary – Would be unfortunate if state government would decide eventually against the sanctuary.

Who is going to protect resources – leadership role needed, time to step up to protect resources. We need kuleana, passion about protecting resources.



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Phil Fernandez will take lead on the “socioeconomic...” guidance document, and will be proofed by executive committee meeting. Malia Chow and Ed Lindelof can work on guidance document (for Community Engagement and Environmental Impacts, respectively).

New Business

Kona Blue EA

Eric Kingma offers an update (the permit was not awarded to Kona Blue, they’ve submitted a proposal to modify the operation, scaling it down. NOAA Fisheries is considering modifying the Finding of No Significant Impact (FONSI). They’re not going to put out a new EA or accept new public comments.)

- How about ask staff for more information, send to the conservation committee to draft something, send to executive committee for review, then send to sanctuary.

NOAA Draft Aquaculture Policy

Agreement that background information for possible action items should be available to the council as well as members of the public. Both sides of the issues should be presented.

- Since there’s a lot of information and members represent different constituencies, there may not be SAC agreement. Perhaps council members could submit their own comments as individuals.
- There has already been internal comment on this draft.
- Can Malia Chow coordinate with Adam Pack to write a letter expressing that the SAC feels that there wasn’t enough time, but they want to comment.
- **MOTION:** Kehau Watson proposes motion that Malia Chow coordinate with Adam Pack to write a letter expressing that there are concerns and questions and not enough time to provide comment as a council. Jack Kittinger seconds. Council votes unanimously in support.

Next SAC meeting may be in September, how will issues be addressed between meetings to make decisions?

- If we use go-to meeting in small groups, also need to allow the public to be there.
- Who’s the gatekeeper? Executive committee.
- How many voting members need to be present? One more than half the members, and voting is by majority. There are 19 voting members...10 is quorum, need 6 votes to pass a motion.
- Walter Ritte requests that OHA is removed from voting seat. (e.g, there has been previous conflict of issues on Molokai). This would take a charter amendment, and it would go up to director of ONMS. We could raise issue at next meeting, but explore the options in the meantime.



Hawaiian Islands Humpback Whale National Marine Sanctuary

Dates for next meeting

- Could be a two day meeting or more frequent one day meetings
- RAC meetings –efficient to have working groups meet on first day and report to full council on second day
- Choose week of September 12 and later decide whether one or two days, and then specific dates

Adam Pack closes meeting at 4:21 pm