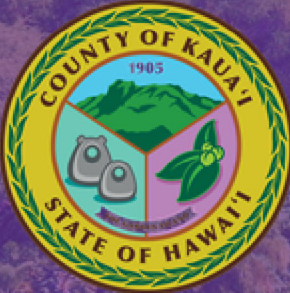




Pak Hook Tong Cemetery near Kikāoala Small Boat Harbor in Waimea. 2021 EagleView

Public Access
Open Space &
Natural Resources
Preservation Fund



2021 Commission Report

COUNTY OF KAUA'I
PUBLIC ACCESS, OPEN SPACE & NATURAL RESOURCES
PRESERVATION FUND COMMISSION

2021, 2019, 2017 BIENNIAL REPORT
TO THE KAUA'I COUNTY COUNCIL
AND MAYOR DEREK S.K. KAWAKAMI

February 2022

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PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES
PRESERVATION FUND COMMISSION REPORT 2017- 2019-2021

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I. Executive Summary

A. Program Background

The Public Access, Open Space, and Natural Resources Preservation Fund (Fund) was established in 2002 by an amendment to the Charter of the County of Kaua'i. The Fund receives a minimum of one-half of one percent (0.5%) of Kauai's annual certified real property taxes. Ordinance No. 936, enacted in 2012, sets aside one point five percent (1.5%) of the certified real property taxes. In 2015, Ordinance No. 986 decreased the amount set aside back to the minimum one-half of one percent (0.5%), which is where it remains currently. The Fund accumulates and can neither lapse nor be utilized for other purposes. Additionally, no more than five percent (5%) of the Fund may be used for administrative purposes. Purposes for which the Fund can be used are outlined in the County of Kaua'i Charter Section 19.15 and Kaua'i County Code Chapter 6, Article 14, which are attached in the Appendices.

B. Status of the Fund

The Fund's balance for Fiscal Year 2019-2020 is **\$3,194,573**.

C. Updates on Commission Priority Recommendation Process

In the Public Access, Open Space, and Natural Resources Preservation Fund Commission's (Commission) 2015 Biennial Report, the Commission described the implementation of a new process to expedite communications and streamline its recommendations by way of a dossier. The dossier process was first initiated in 2012 and aimed to outline the strategies to convert selected recommendations into acquisitions. Prior to the dossier process, there was no clear mechanism in place to accomplish acquisitions once the Commission adopted recommendations.

This dossier process continues to evolve and allow actions, analysis, and discussions between the Planning Department and the Commission and provide greater accountability throughout the process. The dossier process will continue to enable the Commission to respond to opportunities (e.g., property listings on the open market) and timely communicate its recommendations to the County Council after the Commission does minimum due diligence.

In April 2016, the Commission amended its Rules of Practice and Procedures by adding Chapter V to further clarify the processes and respective roles of the Commission and the Department. Specifically, Chapter V added a report-processing component to its recommendation and selection process. Under Chapter V, the Planning Department will draft a preliminary report for any request or recommendation that is received by the Commission. The report will provide a preliminary analysis based on criteria for acquisition and the existence of any prohibitive factors including extremely dangerous

attributes at the property that poses serious risks of injury or death. After consideration of this preliminary report, the Commission may request that the Department provide an additional and final evaluation and recommendation, which the Commission may consider in deciding whether to ultimately recommend or not recommend an acquisition. Thus, Chapter V clarified that the Commission has two means to issue recommendations to the County Council based on an evaluation of criteria for acquisition and the existence of any prohibitive factors: (1) through its dossier recommendation process; and (2) through its Biennial Report.

Subsequent to the adoption of Chapter V of the Commission Rules, in 2018, a majority of votes cast in the General Election created Article XIX, Section 19.15(C) of the Charter of the County of Kaua'i and Ordinance 1048, which amended the Fund to include the funding of improvements associated with acquisitions and coastal accesses. The Commission has begun to shape the process for issuing recommendations for the funding of improvements and will consider formalizing those procedures in an additional amendment to its Rules.

D. Other Updates

The RAIN18 and COVID19 emergency events severely impacted the Planning Department's operations and required key Open Space Commission staff to be temporarily assigned to serve on the emergency incident response team for both emergency events. At the time that both emergencies occurred, the 2017 and 2019 Biennial Reports were near finalization, but work was suspended due to the temporary assignment. This Biennial Report summarizes the Commission's actions that occurred from 2017 to 2021.

Summary of Proposals Considered Prior to the 2021 Biennial Report Year:

PROPERTY NAME:	TAX MAP KEY:	STATUS:
Alekoko Fish Ponds	(4)3-2-001: 001 & (4)3-1-001: 012	Commission approved \$3,000,000 for Acquisition; However, the property was acquired with private funds

Summary of Proposals Considered Prior to the 2019 Biennial Report Year:

PROPERTY NAME:	TAX MAP KEY:	STATUS:
Kalihiwai Vacant Lot	(4)5-3-003:068	Report Received; Commission Requested Future Update
Lāwa'i Kai Beach Access (NTBG)	(4)2-6-004:001	Report Received
Hanapēpē Vacant Lot	(4)1-8-008:071	Report Received
Hanapēpē Vacant Lot	(4)1-8-008:065	Report Received
Kaluanono & Halulu Fishpond (Waipa Foundation)	(4)5-6-004:010 & :017	Approved \$850,000 for Acquisition of Conservation Easement; Project On-Hold by Applicant to Secure Additional Funds
Kalihiwai Vacant Lot	(4)5-3-006:015	Report Approved; Commission Requested Future Update
Kalihiwai Vacant Lot	(4)5-3-006:020	Report Approved; Commission Requested Future Update
Kalihiwai Vacant Lot	(4)5-3-003:029	Report Received
Kekaha Vacant Lot	(4)1-2-013:001; 039; & 040	Report Received

Summary of Proposals Considered Prior to the 2017 Biennial Report Year:

PROPERTY NAME:	TAX MAP KEY:	STATUS:
Access to Kukui'ula Bay	(4)2-6-003:017	Report Received; On-hold for the Office of County Attorney advice
Kekaha Vacant Lot & Park Hook Tong Cemetery	(4)1-2-013:041; 0001 and 0002	Property Acquired Using Fund
Kaluanono & Halulu Fishpond (Waipa Foundation)	(4)5-6-004:010 & :017	Approved \$850,000 for Acquisition of Conservation Easement; Project On-Hold by Applicant to Secure Other Funds
Salt Pond Beach Park Buffer Area for Protection of Hanapēpē Salt Pans	(4)1-8-008;020; 021; 044	Report Received
Ke Kahua o Kāneiolouma Preservation Area Expansion	(4)2-8-017:016;0001; 0002;0003	Report Received; On-hold by requester
Wahi Pana at Kiahuna	(4)2-8-031:199	Report Received
Kekaha Vacant Lot	(4)1-3-005:053	Report Received
Kepuhi Beach Access/ Nava, Joseph/Elizabeth Trust	(4)5-8-012:002	Approved \$799,000 for Acquisition; Council received the money bill on 6/28/2017 (property no longer on the market)
'Aliomanu Vacant Lot	(4)4-9-004:013	Report Received; Commission Requested Future Update
Nihi Kai Associates	(4)2-8-019:016	Report Received

E. Key Highlights

1. Acquisitions Based on Commission Recommendations

Kekaha Vacant Lot & Park Hook Tong Cemetery/KVH Waimea Beachfront, LLC - (4)1-2-013:041; 0001 and 0002 (Waimea District, KONA MOKU)

COMMISSION ACTION: The Commission voted unanimously to recommend acquisition of the subject property to the County Council via the dossier process. On May 17, 2017, the County Council deferred action for an appraisal to be completed before any decisions were made. The Planning Department initiated a third-party consultant to provide an appraisal for an estimated value, which was completed and submitted to Council. In April 2018, the Commission received approval to proceed with the acquisition through Ordinance #B-2018-845. The Office of the County Attorney worked with the Landowner to execute a purchase agreement in November 2018.

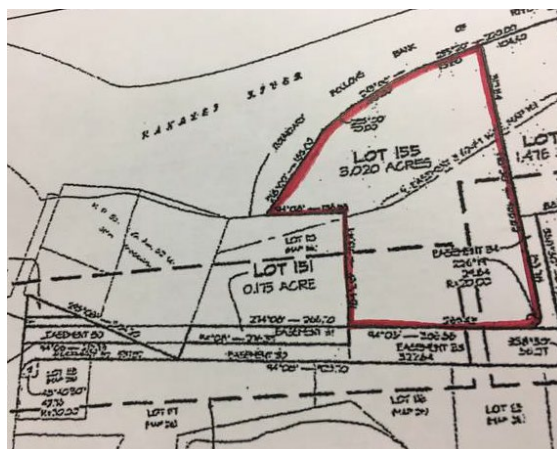


The Commission continues its efforts to formalize a stewardship agreement with a community group for continued maintenance of the property. Several groups on Kaua'i's westside remain interested.

2. Acquisitions Acquired Using the Fund

Sheehan Properties – (4) 5-5-001: 002 (por.) (3.02 acres located adjacent to Black Pot Beach Park, Hanalei District, HALELE'A MOKU)

COMMISSION ACTION: \$5.6M from the Fund was spent to acquire an 3.02 acre coastal property in Hanalei adjacent to Black Pot Beach Park and the Hanalei River, known as the Sheehan Property. After years of litigation, the County Council was presented with a proposal for acquisition and a need to act quickly; therefore, the Commission was not aware of the expenditure of these funds until after the acquisition on May 16, 2018.



II. Recommended Proposals or Proposals “On-Hold”

The primary responsibility of the Commission is to present to the County Council and the Mayor’s Office a biennial list of priority projects for acquisition. The following proposals reflects the properties that the Commission recommended for acquisition and either helped to acquire or is in progress of acquiring or continues to consider for acquisition but is currently “on-hold” during the 2017 through 2021 reporting periods. The Appendix E contains property abstracts with additional diagrams and photos of all the properties considered during the 2017 through 2021 reporting periods, including properties that were not recommended for acquisition.

A. Recommended Proposals

1. ‘Aleko Fish Ponds, TMK Nos. (4)3-2-001: 001 & (4)3-1-001: 012 (Originally recommended in 2015, Līhu‘e District, PUNA MOKU)

Brief Description:

The proposal comprises of two parcels totaling just over 100 acres. Acquisition of these parcels were proposed to support the protection and restoration of a fishpond and to prevent residential and/or resort development that would impact the historical integrity of this wahi pana (important cultural site



The nonprofit organization Mālama Hulē‘ia is currently undertaking the restoration projects for Hulē‘ia River, the adjacent ‘Aleko Fishpond, and Pū‘ali Stream. Their vision and goal is for an improved ‘ainakumuwai (watershed) that helps local ‘ohana (families) re-establish Hulē‘ia as a vital resource for cultural, recreational, educational and sustainable agricultural activities. Efforts include the eradication of red mangrove and replanting with native vegetation, re-establishment of wildlife habitats, re-establishment of traditional forms of productivity and the revitalization of the history and culture of Hulē‘ia.

Commission Action:

During its February 11, 2021 special meeting, the Commission voted unanimously to support a recommendation to acquire the subject property using the Fund. In November 2021, however, the County was informed that the Trust for Public Lands purchased the property and turned it over to Mālama Hulē‘ia for its continuing restoration.

2. Kekaha Vacant Lot & Park Hook Tong Cemetery/KVH Waimea Beachfront, LLC, TMK Nos. (4)1-2-013:041; 0001; and 0002 (Waimea District, KONA MOKU)

Brief Description:

The proposal included the acquisition of an approximately 2.098 acre lot that includes a historic Chinese cemetery 0.9 acres in size. The acquisition was deemed to support furtherance of public outdoor recreation; preservation of the coastal area; and conservation of land, open space, and scenic areas. In addition, the vision was to secure a Stewardship Agreement to preserve and maintain the Pak Hook Tong Cemetery.



Commission Action:

The Commission voted unanimously to recommend acquisition of the subject property to the County Council via the dossier process.

During its meeting on May 17, 2017, the County Council deferred action for an appraisal to be completed before any decisions are made for acquisition. The Planning Department initiated a third-party consultant to provide an appraisal for an estimated value, and an appraisal was completed and submitted to Council. In April 2018, the Commission received approval to proceed with acquisition through Ordinance #B-2018-845. The Office of the County Attorney worked with the Landowner to execute a purchase agreement in November 2018.

The Commission continues its efforts to formalize a stewardship agreement with a community non-profit or group for continued maintenance of the property. Several groups on Kaua'i's westside remain interested.

3. Kepuhi Beach Access/Nava, Joseph/Elizabeth Trust, TMK No. (4)5-8-012:002 (Hanalei District, HALALEA MOKU)



Brief Description:

The proposal was for the acquisition of a 0.3709-acre parcel. The acquisition was deemed to support public outdoor recreation; preserve the coastal area and its resources; and conserve land, open space, and scenic areas. Also, the proposal was especially favorable because the property was on the market for sale and could be considered for outdoor recreation and access to the beach.

Commission Action:

Property was listed for sale and proposed to the Commission for acquisition in December 2016. The Commission unanimously voted to recommend acquisition via its dossier process. Prior to Council receiving the dossier packet, the Commission was informed at its meeting of June 8, 2017, that the property had been sold. Thus, County Council received the measure on June 28, 2017. Subsequently, the County Attorney's Office secured an easement on the adjacent property as a settlement in litigation involving the access.

4. Kukui'ula Bay Access through the Leight Property (formerly Hoban Property), TMK (4)5-3-003: 068 (Originally recommended in 2005, Kōloa District, KONA MOKU)

Brief Description:

The proposal was to acquire a pedestrian shoreline access over an existing drainage easement on the Leight Property, known as the former Hoban property. This existing County of Kaua'i drainage easement at this location was traditionally used by local residents to access the shoreline to exercise gathering rights, fishing, and outdoor recreation. In 1995, the property owner constructed a wall, which blocked access. This access would provide the only safe pedestrian transit to the shoreline between Kukui'ula Harbor and Spouting Horn.



Commission Action:

In 2011, the Commission voted to request Funds be used to acquire the access. In 2015, the Planning Department retained a third-party consultant to provide an appraisal of the estimated value of the proposed easement, which has been provided to the Commission. However, the landowner engaged its own appraiser whose appraised value was approximately three (3) times higher the county's appraised value. The Commission sought other options to fund this endeavor. For example, the following is the discussion from the Commission's status report on the subject property:

The Fund originally could have been supplemented by, if necessary, the funds provided by conditions of Ordinance PM-2004-370 relating to Zoning Designation at Kukui'ula, Kaua'i, Section 2.15e(2). However, those funds have since been provided to the County's Parks and Recreation Department for expansion of Po'ipū Beach Park because no action was taken by the County before 2007 to establish a shoreline easement over a portion of the former Hoban property in Po'ipū, which was the recommendation of the Kōloa Community Association.

Nevertheless, during its meeting on August 9, 2017, County Council voted unanimously in support of the Resolution that authorized the acquisition of a public pedestrian beach access easement for public through Eminent Domain. The matter was referred to the County Attorney's Office for further research and handling.

B. Proposals “On-Hold”

1. ‘Aliomanu Beach Living Trust, TMK (4)4-9-004: 013 (Kawaihau District, KO‘OLAU MOKU)

Brief Description:

The subject lot of record is approximately 1.393 acres in size and is located in ‘Aliomanu, ‘Aliomanu Ahupua‘a, Kaua‘i. The subject lot ends at ‘Aliomanu Road nearing ‘Aliomanu stream where there was once a bridge that connected to the other side of ‘Aliomanu neighborhood referenced as the Old Belt Road Loop. The bridge was destroyed as a result of being washed out by a tsunami in the mid 60’s and was never rebuilt.



The lot of record along with the northeastern boundary closest to the shoreline has a 1-bedroom 1-bath cottage with 646 square feet of living area and is approximately 37 feet from the approximate shoreline. Fronting the cottage is another rectangular structure identified as a garage that is approximately 137 feet from the vegetation of the shoreline.

The Department had concerns with the property because it contains an existing dwelling structure. Given the presence of the dwelling, the subject property would qualify as improved real property and not vacant land. Under Hawaii Revised Statutes 343-5, an Environmental Assessment is required for the use of County funds to acquire improved real property. Additionally, should acquisition occur, the maintenance of not only the site but the existing structures would present additional costs and potential liability to the County.

Commission Action:

On June 8, 2017, the Commission received the preliminary report of the Planning Department. In addition, the Commission voted to explore whether the acquisition of the property could potentially be supported under the Commission’s criteria to support acquisitions where the structure(s) and site be of historic or cultural importance. On February 15, 2018, the Kaua‘i Historic Preservation Review Commission (KHPRC) reviewed the property and concluded that the structures retain no architectural historical significance. The Commission has requested an updated analysis for this project in 2022.

2. Hanapēpē Vacant Lots/Kauaʻi Petroleum Co., LTD, TMK Nos. (4) 1-8-008:065 & (4) 1-8-008:071 (Waimea District, KONA MOKU)



Brief Description:

The subject lot of record is a 0.2764 acre parcel located in Hanapēpē ahupuaʻa, Kona Moku, Kauaʻi Island, Hawaiʻi. It is located within the County of Kauaʻi's Residential (R-6) Zoning District. The site was thought to be the staging area of the Hanapēpē Massacre of 1924. On September 9, 1924, at the height of the Filipino sugar plantation strike in Kauaʻi, sixteen (16) Filipino plantation workers of Visayan ancestry and four (4) policemen died during this violent confrontation along Hanapēpē Road. Thus, the subject lot of record was strongly considered for acquisition for its historical significance.

Commission Action:

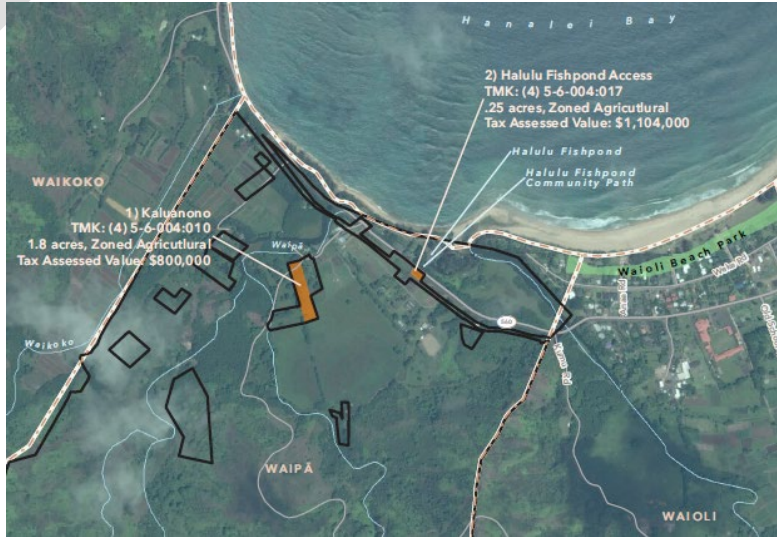
During its meeting on January 11, 2018, the Commission requested the Department to further research this potential acquisition including initiating contact with the landowner to determine their interest in selling the property. The Department held a meeting with the landowner and an appraisal was completed. The Landowner asked for more than double the appraised value. Thus, negotiations are ongoing with no current resolution. The Commission was willing to consider acquiring only parcel (4) 1-8-008:071, should negotiations not be favorable to acquire both parcels.

On October 19, 2019, the Department requested a deferral to contact the Emmy Award winning documentary filmmaker and the Kauaʻi Chapter of the Filipino American National Historical Society that were interested in researching and producing a new documentary, "The Hanapēpē Massacre Mystery." The Department remains interested in working with these groups to further research the Massacre event and determine the appropriateness to acquire the subject vacant properties to commemorate the historic event.

3. Kaluanono and Halulu Fishpond Access, Waipā, TMK Nos. (4)5-6-004:010 & (4)5-6-004:017 (Originally recommended in 2015, Hanalei District, HALELE‘A MOKU)

Brief Description:

Kaluanono is a privately held 1.8-acre property at TMK (4) 5-6-004:010 and Halulu Fishpond Access is a 0.25 acre property at TMK (4) 5-6-004:017 that are both stewarded by Waipā Foundation. Kaluanono is the historic name for the property along Waipā Stream that was traditionally planted in wetland kalo (taro). Halulu Fishpond Access includes the community path to Halulu Fishpond, and part of the fishpond itself.



Each year, thousands of students, and attendees of Waipā Foundation’s Music and Mango Festival, and Kalo Festival, walk through Halulu Fishpond Access property to learn and enjoy Hawaiian cultural elements at Halulu Fishpond.

The Trust for Public Lands and Waipā Foundation are seeking funding for the purchase of two kuleana properties in Waipā. These parcels are currently for sale and their purchase is critical to restoring the entire ahupua‘a to a thriving place that feeds the community both physically and culturally. Waipā Foundation will own and manage the lands as living learning center.

Commission Action:

This parcel was first presented to the Commission at its meeting on April 9, 2015. Since its presentation, the Trust for Public Lands and Waipā Foundation have been working diligently with the landowner to resolve the properties’ title. In addition, the organizations continue to secure funding support of other entities including The Trust for Public Lands and the Legacy Lands Commission since the appraisal involved more money than the Fund contained at the time. The land acquisition action is ready to move forward once these matters are resolved.

**4. Kahua o Kāneiolouma Preservation Area Expansion, TMK (4) 2-8-017: 016; (4) 2-8-017: 001; (4) 2-8-017: 002; (4) 2-8-017: 003
(Originally recommended in 2007 as Kāneiolouma Heiau Complex, Kōloa District, KONA MOKU)**

Brief Description:

Hui Mālama O Kāneiolouma has made significant strides with protecting and clearing this southside treasure. Remarkable progress and solid partnerships have been formed by the Hui while restoring the heiau.

The proposal requests monies from the Fund to assist in the acquisition of the property where Nukumoi Surf Shop is located.



This privately-owned parcel is adjacent to the County-controlled properties, which were transferred to the County from the State in September 2011. The proposal seeks the Nukumoi Surf Shop property to re-establish the traditional entrance for the Kāneiolouma Heiau Complex, which has been significant to the island's culture since the 1400's. Hui Mālama O Kāneiolouma has been maintaining and restoring the heiau complex pursuant to a County of Kaua'i Adopt-A-Park agreement.

Commission Action:

The nonprofit organization, Hui Mālama o Kāneiolouma, continues to steward this expansion project and is in negotiations with the landowners. Hui Mālama O Kāneiolouma was working on access to the complex through alternate means. The Hui provides periodic updates of any progress on the possible land acquisition. Until that time, this project will remain "on-hold"; but the Commission is willing to re-evaluate the situation when necessary.

5. Kalihiwai Vacant Lot (4)5-3-003:068 (Kalihiwai, HALELEA MOKU)



Brief Description:

This 1.15 acre parcel abuts the Kalihiwai river and the size of the land changes with the seasons. This beach area is a very popular beach frequently used by residents and visitors alike. The adjacent property location to the west of the subject property is owned by the State of Hawai'i, which currently grants access to this area. However, restrictions on camping by the landowner on the subject property peaked the interest of community members for a possible acquisition. Also, the acquisition was held to support furtherance of public outdoor recreation; preservation of the coastal area; and conservation of land, open space, and scenic areas.

Commission Action:

The landowner's asking price was between \$2,700,000.00 and \$3,000,000.00; however, the County of Kaua'i Real Property Assessment Division has assessed the property to have a current assessed value of \$345,000.00. On January 10, 2019, the Commission deferred the matter to further research the potential to negotiate a fairer price with the landowner considering the regulatory restrictions that would be faced for any development and based on the Real Property Division's assessment.

6. Kalihiwai Vacant Lot, (4)5-3-006:015 (Kalihiwai, HALELEA MOKU)

Brief Description:

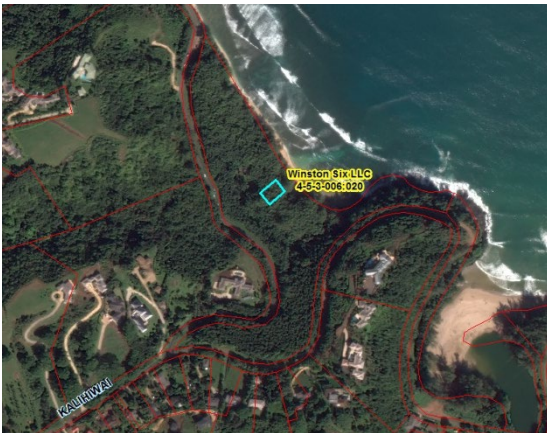
This 14.431 acre parcel in Kalihiwai was brought to the attention of the Commission due to many community complaints of illegal dumping and homelessness in the area. Also, the acquisition was held to support furtherance of public outdoor recreation; preservation of the coastal area; and conservation of land, open space, and scenic areas.

Commission Action:

On February 2, 2018, the Commission received the preliminary report. The landowner had no plans to sell the property or build upon the property at this time. The Commission has expressed interest in re-analyzing this proposal in 2022.



7. Kalihiwai Vacant Lot (4)5-3-006:020 (Kalihiwai, HALELEA MOKU)



Brief Description:

This 0.25 acre parcel in Kalihiwai was brought to the attention of the Commission due to many community complaints of illegal dumping and homelessness in the area. Also, the acquisition was held to support furtherance of public outdoor recreation; preservation of the coastal area; and conservation of land, open space, and scenic areas.

Commission Action:

On February 2, 2018, the Commission received the preliminary report. The landowner had no plans to sell the property or build upon the property at this time. The Commission has expressed interest in re-analyzing this proposal in 2022.

8. Kauapea Beach Access, TMK (4)5-2-004: 071(Hanalei District, HALELE'A MOKU)

Brief Description:

The Commission was concerned about the lack of public access to Kauapea Beach from the east end. This access is one of many that the Commission had identified from the onset of the Commission's existence. The lack of public access at Kauapea from the east end has been exacerbated over the intervening years by private landowner actions. The safety of the public during winter ocean swells (associated with using the existing west shoreline access) continues to be one of several concerns about this access. There



continues to be high levels of public interest and frustration about lost and unfulfilled promises of public access.

Commission Action:

The Commission wishes to resolve access to this area. The Office of the County Attorney informed the Planning Department that the landowner's personal matters have stalled communication on issues relative to access to the eastern portion of Kauapea Beach. The Office of the County Attorney remains hopeful that the landowner's legal team will continue evaluating options to address parking and trail location to this access.

III. Program Background

A. Progression of Enabling Legislation

The following provisions are all included in the Appendices.

1. 2002 Charter Amendment

On November 5, 2002, Kaua‘i’s voters passed an amendment to the Kaua‘i County Charter that created the Public Access, Open Space, Natural Resources Preservation Fund and established the purposes and parameters for using the Fund. The amendment specified that the Fund would receive a minimum of one-half of one percent (0.5%) of Kaua‘i’s certified real property taxes each year for purchasing or otherwise acquiring lands or property entitlements in the County of Kaua‘i. The Charter Amendment also required that any balance remaining in the fund at the end of the fiscal year “shall not lapse, but shall remain in the fund, accumulating from year to year.” The amendment also directed that the “County Council shall by ordinance establish procedures for the administration and priorities for the expenditure of moneys in this fund.”

2. Ordinance No. 812

Ordinance No. 812 was signed into law on December 15, 2003, and it further defined the parameters and procedures for administering and spending monies in the Fund. Namely, the Ordinance established a “fund advisory commission” known as the Public Access, Open Space, and Natural Resources Preservation Fund Commission who was instructed to solicit public input and work with the Planning Department to develop an annual list of priority projects to be considered for funding.

The Commission was officially formed in September 2004. The Commission is made up of four Mayor-appointed members, four County Council-appointed members, and one member appointed by the eight commissioners. Six of the nine commissioners represent specific geographic areas of Kaua‘i (Waimea-Kekaha, Hanapēpē-‘Ele‘ele, Kōloa-Po‘ipū-Kalāheo, Līhu‘e-Hanamā‘ulu, Kapa‘a-Wailua and Anahola-Hā‘ena, and three serve “at large.”

3. Ordinance No. 925

On April 5, 2012, Ordinance No. 925 was signed into law. The Kaua‘i County Council expanded and further clarified the scope of duties of the Commission to align them with the expectations and needs of the people of Kaua‘i. The Commission saw this as an opportunity or their “Call to Action.” Specifically, Ordinance No. 925 expanded the role and authority of the Commission to engage in the following additional duties:

- Prepare an annual report to the Mayor
- Prepare a biennial report to the Council and Administration

- Advocate and be a resource for public access, open space, and natural resource preservation planning
- Provide feedback to the Planning Department on priority recommendations
- Serve as a forum to receive public input and resolve issues related to the nine conservation purposes for the use of the Fund

In addition, Ordinance No. 925 prescribed additional parameters for the use of the Fund including the following:

- Fund monies may be appropriated to other government entity, non-profit organization, or private owner for entitlements that benefit the public and are protected in perpetuity
- The lands or property entitlements secured with the Fund may be held or owned by the County of Kaua'i, a government entity, or non-profit organization if the entitlement benefits the public and is protected in perpetuity
- The lands or property entitlements secured with the Fund may be managed by the County of Kaua'i, a government entity, or non-profit organization if the entitlement benefits the public and is protected in perpetuity

Finally, Ordinance No. 925 added a ninth Fund purpose for “[c]onserving land for open space and scenic values.”

4. Ordinance No. 936 and Ordinance No. 986

Under Charter Section 19.15, “council shall appropriate a minimum of one-half of one percent (0.5%) of the certified real property revenues . . . [to] be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes.” On October 10, 2013, Ordinance No. 936 established a one and one-half of one percent (1.5%) set-aside of certified real property revenues for the Fund. However, on May 7, 2015, the set-aside was restored to one-half of one percent (0.5%) of certified real property revenues for the Fund where it remains today.

5. Chapter V., Report Process, Rules of Practice and Procedure of the County of Kaua'i Public Access, Open Space and Natural Resources Preservation Fund Commission

Between 2005 through 2015, the Commission’s recommendations were originally formulated and submitted annually to the County Council and Mayor’s Office. These recommendations resulted from:

- Commission Meetings
- Input and discussions with members of the public
- Analysis of data collected from public surveys and public meetings
- Study of a wide range of topics relevant to open space preservation and public access protection; and

- Efforts and cooperation of Commissioners, program staff, and other Administration officials

On April 4, 2016, the Commission's rules were amended when Chapter V, Report Process of its Rules of Practice and Procedures was adopted. Chapter V added a report-processing component to its recommendation and selection process. Under Chapter V, the Planning Department will draft a preliminary report for any request or recommendation that is received by the Commission. The report will provide a preliminary analysis based on criteria for acquisition and the existence of any prohibitive factors including extremely dangerous attributes that poses serious risks of injury or death. After consideration of this preliminary report, the Commission may request that the Department provide an additional and final evaluation and recommendation, which the Commission may consider in deciding on whether to ultimately recommend or not recommend an acquisition. Thus, Chapter V clarified that the Commission has two means to issue recommendations to the County Council based on an evaluation of criteria for acquisition and the existence of any prohibitive factors: (1) through its dossier recommendation process; and (2) through its Biennial Report.

Chapter V allowed greater flexibility in the public input process by requiring the Planning Department to review and analyze proposals year-round by applying the criteria for acquisition.

6. 2018 Charter Amendment and Ordinance 1048

After the adoption of Chapter V of the Commission Rules, in 2018, a majority of votes cast in the General Election created Article XIX, Section 19.15(C) of the Charter of the County of Kaua'i and Ordinance 1048, which amended the Fund to include the funding of improvements associated with acquisitions and coastal accesses.

Specifically, Section 19.15C.(1) of the Charter now specifies that:

The monies in this [Public access, open space, natural resources preservation fund] shall be utilized for purchasing or otherwise acquiring lands or property entitlements and any corresponding improvement of those lands or property entitlements for land conservation purposes . . .

Also, Charter Section 19.15C.(3) now states that:

The money in this fund may also be used to improve public pedestrian access to coastal areas.

In addition, Kaua'i County Code (KCC) §6-14.1 was subsequently amended to specify the following:

. . . The monies in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements and any corresponding

improvement of those lands or property entitlements for land conservation purposes . . .

(c) The moneys in this fund may also be used to improve public pedestrian access to coastal areas.

Currently, the Commission has begun discussing possible further procedures, priorities, and possible rules for analyzing and recommended the use of the Fund for improvements associated with acquisitions or coastal accesses. In addition, the Commission is currently guiding a project with the assistance of the NOAA Coastal Zone Management (CZM) program funding to update their Kaua'i Beach Access list and facilitate the creation of a geodatabase. The generation of this list may lead to further Commission discussions that may prioritize and determine the scopes of coastal access improvements projects in the future. Any recommendations for improvements using the Fund will be presented to the County Council in subsequent biennial reports or other means.

B. Commissioner Positions

Of the commission's 9 available positions, 6 positions are currently filled with the following appointee vacancies:

- Hanapēpē-'Ele'ele (Council appointed)
- At-Large (Council appointed)
- Kapa'a-Wailua (Mayor appointed)
- *Līhu'e-Hanamā'ulu (Mayor appointed) (currently position being held over until March 31, 2022)*

During 2017 through 2019, the Commission faced some challenges with holding its monthly meeting due to its current vacancies. At the time, the Commission had six (6) seated members of its nine (9) member commission. Six (6) of its monthly meetings were canceled due to lack of quorum. During that period, the Commission engaged in additional outreach efforts for the 2017 survey period and conducted field trips associated with acquisition recommendations to make up for the periods it did not engage in meetings.

IV. 2017 Through 2021 Public Input Process

Public input was welcomed throughout the 2017 through 2021 period and was essential to the Commission's deliberations and recommendations. The public was invited to submit proposals or inquiries to the Commission through the Planning Department. With the amendment and adoption of the Commission's newly established Rules of Practices and Procedures, the Commission sought recommendations all year long.

In addition to the open line of communication afforded to the public, the Commission met once monthly on the 2nd Thursday of the month at duly noticed public meetings in publicly-accessible meeting rooms in the County's Civic Center Complex in Līhu'e. The public was allowed to participate during Commission meetings with each agenda item and during the announcements segment.

Also, during 2017 through 2019, representatives from the Commission attended numerous public meetings to discuss the Commission's purpose and mission and hear any suggestions from the community. Specifically, representatives attended neighborhood association groups and their existing monthly community meetings that were held at the Kīlauea Neighborhood Center and Hanapēpē Neighborhood Center.

Finally, after the Commission amended its Rules of Practices and Procedures to allow it to receive input and proposals throughout the year, the Commission phased out its former system of soliciting public input during certain periods of time and at certain events. The Commission, however, has distributed paper survey forms throughout the island at all public libraries and neighborhood centers. In addition, survey forms were distributed during community outreach events when representatives attended the community associations meetings. These forms are received by the Commission throughout the year. A sample survey form is included in Appendix J.

V. Commission's Vision & Goals

A. Supporting the 2018 General Plan Policies

1. Heritage Resources

Under Sector VII, entitled, "Heritage Resources," the 2018 General Plan emphasized the importance of protecting Kaua'i's archaeological, cultural, historic, and scenic resources. Preservation of Kaua'i's heritage resources was recognized as paramount to "symbolize Kaua'i's history, showcase Kaua'i's diversity, and perpetuate a unique sense of place." Several objectives and action recommendations were enumerated in this sector to support the preservation of Kaua'i's heritage resources, including the objectives to:

- Preserve and enhance historic buildings, structures, and places
- Recognize and protect the resources and places important to Kaua'i's history and people like wahi pana, cultural sites, and resources
- Preserve important landmarks and protect scenic resources

The Commission's purposes, priorities, and past actions has supported these objectives. Specifically, the Commission's recommendations have prioritized projects that preserves scenic resources and culturally important wahi pana. In addition, the Commission actively seeks the input of and to partner with community groups and other government entities to enhance its ability to preserve cultural sites and scenic resources. For instance, the Commission continues to stand ready to support the restoration efforts at Kāneiolouma and continues to formalize a stewardship agreement to maintain and protect the Park Hook Tong Cemetery that was recently acquired. The Commission will continue to implement the policies and objectives prioritized in Sector VII of the 2018 General Plan in all of its recommendations.

2. Shared Spaces

Under Sector V, "Shared Spaces," the General Plan prioritized fostering the community's connection to place by enhancing the public realm, shared spaces, or "civic spaces" for everyday community activities. The Commission's purposes, priorities, and past actions has supported these objectives. Particularly, nearly all of the proposals the Commission considers have the potential to add to the public realm including parks and recreational facilities, as well as improve access to Kaua'i's shared use paths, trails, and beaches.

In addition to the proposals and recommendations it considers, the Commission had the opportunity to send three (3) commissioners to a Placemaking Conference entitled "Project for Public Spaces" that was held in Chattanooga, Tennessee in October of 2019. The conference allowed the commissioners an opportunity to gain knowledge and see firsthand how placemaking enhances the community's connection to place,

supports the 2018 General Plan policies, and connect how the Commission's actions may support those objectives.

The Commission will continue to implement the "Shared Spaces" General Plan policies in every recommendation it considers.

B. Undertaking Upcoming Challenges

The Commission has come a long way from its inception and first report in 2005 to present. However, the Commission faces many challenges to successfully balance the competing needs for the Fund and accomplish acquisitions that are consistent with its priority recommendations. To date, the Commission has succeeded in acquiring only two of its recommendations for the Fund. The two acquisitions were: (1) the Black Pot Beach Park Expansion – aka the Hodge Property (Hanalei District, HALELE'A MOKU) in 2009 (prior to this reporting period); and (2) the KVH Waimea Beachfront LLC (Waimea District, KONA MOKU) in 2018. The Sheehan Property adjacent to Black Pot Beach Pot and the Hanalei River (Hanalei District, HALELE'A MOKU) was also acquired using the Fund in 2018 without the Commission's input.

To achieve greater success, the Commission will continue to implement the procedures instituted under Chapter V of its amended Rules of Practices and Procedures. The criteria for acquisition has also allowed the Commission to prioritize its recommendations among the many proposals it receives from the public throughout the year. Also, the procedures have provided clearer and more streamlined communication between the Planning Department, County Departments, County Council, and Mayor's Office. Thus, the procedures have eased some of the delays in getting speedy recommendations to the County Council, especially when it must timely react to key opportunities that appear on the open market.

Going forward, the Commission will begin to shape the process for issuing recommendations to fund improvements. The Commission has already begun to review proposals that may result in the use of the Fund for coastal improvements. The Commission will consider formalizing procedures in an additional amendment to its Rules after this first "learning experience."

VI. Increase the Public Access, Open Space, and Natural Resources Preservation Fund

The Commission strongly supports increasing the current minimum one-half of one percent (0.5) of the annual certified real property taxes to one point five percent (1.5%). The resulting addition of annual funds received would allow the Commission to continue its mission and goals for Kaua'i's community.

APPENDIX A

2002 CHARTER AMENDMENT

OFFICE OF THE COUNTY CLERK

2002 AMENDMENT The Charter of the County of Kauai

"Section 19.15. Fund Administration.

A. Deposit of Funds. Money received by officers and employees shall be deposited promptly to the county's account in depositories authorized by law.

B. Creation of Funds. In addition to the funds established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of funds exists. Nothing in this section shall preclude the council from introducing and adopting other funds by ordinance.

C. Public Access, Open Space, Natural Resources Preservation Fund.

(1) In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one-half of one percent of the certified real property tax revenues to a fund known as the public access, open space, natural resources preservation fund. The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Kauai for the following purposes: public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality and water supply; conserving land in order to reduce erosion, floods, landslides, and runoff; improving disabled and public access to, and enjoyment of, public land, and open space; acquiring disabled and public access to public land, and open space.

(2) The moneys in this fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part – for the purposes enumerated in paragraph (1) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(3) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses

(4) Any balance remaining in this fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.

(5) The Council shall by ordinance establish procedures for the administration and priorities for the expenditure of moneys in this fund."

"Section 19.08. Administration and Enforcement of the Annual Budget Ordinance.

A. The enactment of the annual budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year, except that appropriations to the fund established by paragraph C of section 19.15 shall not lapse, but shall remain in the fund, accumulating from year-to-year. Agencies authorized to make expenditures under the annual budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available and as allotted.

B. Immediately following the enactment of the annual budget ordinance, the heads of all agencies shall submit to the director of finance schedules showing the expenditures anticipated for each quarter of the fiscal year.

C. The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies and the director of finance shall approve or issue no requisition, purchase order, voucher or warrant that is not in accordance with such allotment.

D. The allotment herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.

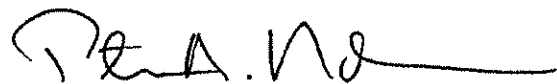
E. Any part of an allotment which is not expended or encumbered shall be deemed re-allotted for the next allotment period.

F. The mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division or between divisions in the same department. Transfers between departments, boards or commissions shall be made only by the council by ordinance adopted pursuant to Section 19.07B, upon the recommendations of the mayor."

"Section 19.12. Lapse of Appropriations. Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered, except appropriations to the fund established by paragraph C of section 19.15 and appropriations for capital budget items where any portion of said appropriation has been expended."

These Amendments to Sections 19.15, 19.08, and 19.12 of The Charter of the County of Kauai were duly adopted by the voters at the November 2002 General Election.

Lihue, Hawaii
November 26, 2002



Peter A. Nakamura
County Clerk, County of Kauai

Appendix B

Ordinance 812

**A BILL FOR AN ORDINANCE TO ADMINISTER THE PUBLIC ACCESS,
OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. A new Article 14, entitled "Public Access, Open Space and Natural Resources Preservation Fund" is hereby added to Title III, Chapter 6, of the Kaua'i County Code 1987, as amended, to read as follows:

"TITLE III.

TAXATION AND FINANCIAL ADMINISTRATION

CHAPTER

6 GENERAL PROVISIONS RELATING TO FINANCE

(The purpose of this Chapter is to accommodate those non-tax ordinances that deal with the subject of county fiscal administration.)

Article 14	Public Access, Open Space, and Natural Resources Preservation Fund.
Sec. 6-14.1	Purpose.
Sec. 6-14.2	Administration.
Sec. 6-14.3	Appropriation of Funds.

**ARTICLE 14. PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES
PRESERVATION FUND**

Sec. 6-14.1 Purpose.

(a) In adopting each fiscal year's budget and capital program, the Council shall appropriate a minimum of one-half of one percent (0.5%) of the certified real property tax revenues to a fund known as the Public Access, Open Space, and Natural Resources Preservation Fund ("Fund"). The moneys in this Fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the County of Kaua'i for the following purposes:

- (1) Public outdoor recreation and education, including access to beaches and mountains;
- (2) Preservation of historic or culturally important land areas and sites;
- (3) Protection of significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural lands;
- (5) Protecting watershed lands to preserve water quality and water supply;
- (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
- (7) Improving disabled and public access to, and enjoyment of, public land and open space;
- (8) Acquiring disabled and public access to public land, and open space.

(b) The moneys in this Fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part – for the purposes enumerated

in paragraph (a) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) Any balance remaining in this Fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this Fund shall not be used for any purpose except those listed in this section.

“Sec. 6-14.2 Administration.

(a) A community-based process that incorporates countywide community input for the purposes of establishing annual recommended priorities of lands or other property entitlements to be acquired for those land conservation purposes described in Section 6-14.1(a) of this article and paragraph C of Section 19.15 of the Charter shall be utilized by the County.

To meet this intent, a fund advisory commission (‘Commission’) shall be established consisting of [seven (7)] nine (9) appointees. [The Mayor shall appoint three (3) members, the Council shall appoint three (3) members, and the seventh member shall be appointed by the appointed six (6). If there is no agreement on the selection of the seventh member within forty-five (45) days of the appointment of the sixth member, the seventh member shall be appointed by the Mayor and confirmed by the Council. The appointing authorities shall consider representation from each of the following six (6) development plan areas when making appointments to the Commission:

- (1) Waimea – Kekaha;
- (2) Hanapēpē – ‘Ele‘ele;
- (3) Kōloa – Po‘ipū – Kalāheo
- (4) Līhu‘e – Hanamā‘ulu;
- (5) Kapa‘a – Wailua; and
- (6) North Shore (Anahola to Hā‘ena)]

(1) The Mayor shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Waimea – Kekaha;
- (B) Līhu‘e – Hanamā‘ulu; and
- (C) Kapa‘a – Wailua.

(2) The Council shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Hanapēpē – ‘Ele‘ele,
- (B) Kōloa – Po‘ipū – Kalāheo; and
- (C) North Shore (Anahola to Hā‘ena)

(3) One (1) island wide, at-large appointee shall be selected by the appointed eight (8). If there is no agreement on the selection of the one (1) additional member within forty-five (45) days of the appointment of the eight member, the one (1) additional member shall be appointed by the Mayor and confirmed by the Council.

(4) Initial terms of appointment shall be as follows:

- (A) All at-large appointees shall serve initial terms of one (1) year.
- (B) Two (2) Mayoral district appointees shall serve three-year terms.
- (C) One (1) Mayoral district appointee shall serve an initial one-year term.
- (D) Two Council district appointees shall serve initial terms of two (2) years.
- (E) One Council district appointee shall serve a three-year term.

- Pursuant to Charter Section 23.02(B), all subsequent appointments shall serve for staggered terms of three (3) years and until their successors are appointed. However, no holdover term shall extend beyond ninety (90) days.

- (5) The role of the Commission shall be to:

- (A) Work with the Planning Department to develop an annual list of priority projects to be considered for funding; and

- (B) Solicit public input on development of the annual list of priority projects to be considered for funding.

(b) The Commission shall establish annual recommended priorities of lands or property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) For administrative purposes, this Commission shall be attached to the Planning Department.

(d) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

(e) Meetings of this Commission shall comply with requirements of Chapter 92, Hawai'i Revised Statutes (the 'Sunshine Law').

(f) The Commission shall adopt administrative rules of procedure pursuant to Chapter 91, Hawai'i Revised Statutes (the 'Hawai'i Administrative Procedures Act') within one hundred and eighty (180) days of the full appointment of the Commission's membership.

Sec. 6-14.3 Appropriation of Funds.

(a) Appropriations for expenditure from this fund shall be made by ordinance.

(b) The Commission shall transmit annual recommendations to the Council for priorities of lands or other property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article."

SECTION 2. Severability. If any provision of this ordinance, or the application thereof to any person or property or circumstances is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3. Effective Date. This ordinance shall take effect upon its enactment.

INTRODUCED BY: /s/ BILL "KAIPO" ASING

DATE OF INTRODUCTION:

July 17, 2003

Lihu'e, Kaua'i, Hawai'i

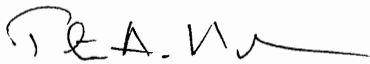
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CERTIFICATE OF THE COUNTY CLERK

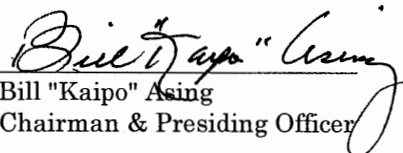
I hereby certify that heretofore attached is a true and correct copy of Bill No. 2078, Draft 1, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on December 8, 2003, by the following vote:

FOR ADOPTION: Furfaro, Munechika, Rapozo, Tokioka, Yukimura, Asing	TOTAL - 6,
AGAINST ADOPTION: None	TOTAL - 0,
EXCUSED & NOT VOTING: Kaneshiro	TOTAL - 1.

Lihue, Hawaii
December 9, 2003


Peter A. Nakamura
County Clerk, County of Kauai

ATTEST:

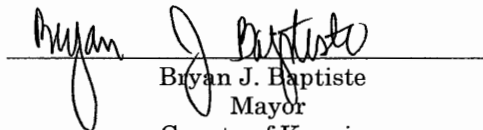

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

December 9, 2003

Approved this 15th day of

December, 2003.


Bryan J. Baptiste
Mayor
County of Kauai

Appendix C

Ordinance 925

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC
ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE
OF HAWAII:

SECTION 1. Findings and purpose. The Council of the County of
Kauai finds that to better manage the Public Access and Open Space on Kauai, the
Council should expand the scope of duties of this Commission.

The Council finds that it needs to improve the Commission's operational
efficiencies and bring the scope of the Commission's duties in alignment with the
expectations and needs of the people of the County of Kauai.

SECTION 2. Chapter 6, Article 14 of the Kauai County Code 1987, as
amended, is hereby amended to read as follows:

"Sec. 6-14.1 Purpose.

(a) In adopting each fiscal year's budget and capital program, the
Council shall appropriate a minimum of one-half of one percent (0.5%) of the
certified real property tax revenues to a fund known as the Public Access,
Open Space, and Natural Resources Preservation Fund ("Fund"). The
moneys in this Fund shall be utilized for purchasing or otherwise acquiring
lands or property entitlements for land conservation purposes in the County
of Kauai for the following purposes:

- (1) Public outdoor recreation and education, including access
to beaches and mountains;
- (2) Preservation of historic or culturally important land areas
and sites;
- (3) Protection of significant habitats or ecosystems, including
buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural
lands;
- (5) Protecting watershed lands to preserve water quality and
water supply;
- (6) Conserving land in order to reduce erosion, floods,
landslides, and runoff;

- (7) Improving [disabled and] public access to, and enjoyment of, public land and open space;
- (8) Acquiring [disabled and] public access to public land, and open space.
- (9) Conserving land for open space and scenic values.

(b) The moneys in this Fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part – for the purposes enumerated in paragraph (a) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) Any balance remaining in this Fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this Fund shall not be used for any purpose except those listed in this section.

Sec. 6-14.2 Administration.

(a) A community-based process that incorporates countywide community input for the purposes of establishing [annual] biennial recommended priorities of lands or other property entitlements to be acquired for those land conservation purposes described in Section 6-14.1(a) of this article and paragraph C of Section 19.15 of the Charter shall be utilized by the County.

To meet this intent, a fund advisory commission (“Commission”) shall be established consisting of nine (9) appointees.

(1) The Mayor shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Waimea – Kekaha;
- (B) Līhu‘e – Hanamā‘ulu; and
- (C) Kapa‘a – Wailua.

(2) The Council shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Hanapēpē – ‘Ele‘ele,
- (B) Kōloa – Po‘ipū – Kalāheo; and
- (C) North Shore (Anahola to Hā‘ena)

(3) One (1) island wide, at-large appointee shall be selected by the [appointed eight (8)] seated members. If there is no agreement on the selection of the one (1) additional member within [forty-five (45)] seventy-five (75) days of the [appointment of the eight member] vacancy, [the one (1) additional member shall be appointed by] the power to fill that vacancy shall fall to the Mayor and confirmed by the Council.

[(4) Initial terms of appointment shall be as follows:

(A) All at-large appointees shall serve initial terms of one (1) year.

(B) Two (2) Mayoral district appointees shall serve three-year terms.

(C) One (1) Mayoral district appointee shall serve an initial one-year term.

(D) Two Council district appointees shall serve initial terms of two (2) years.

(E) One Council district appointee shall serve a three-year term.]

(4) Pursuant to Charter Section 23.02(B), all subsequent appointments shall serve for staggered terms of three (3) years and until their successors are appointed. However, no holdover term shall extend beyond ninety (90) days.

(5) The role of the Commission shall be to:

(A) Work with the Planning Department to develop a [annual] biennial list of priority projects to be considered for funding; and

(B) Solicit public input on development of the [annual] biennial list of priority projects to be considered for funding.

(C) Prepare an annual report for the Mayor and Council's review. This report should include, but not be limited to, a list of:

(i) Accomplishments;

(ii) Challenges;

(iii) Future goals and objectives; and

(iv) Recommendations.

(6) The Commission is also authorized to:

(A) Advocate and be a resource for public access, open space, and natural resources preservation planning for the County of Kaua'i;

(B) Provide feedback on Department's implementation of priority recommendations;

(C) Serve as a forum to receive public input on issues relating to the nine land conservation purposes outlined in Section 6-14.1 (a) (1) through (9);

(D) Assist with the resolution of issues relating to the nine land conservation purposes outlined in Section 6-14.1 (a) (1) through (9); and

(E) Biennially report the balance and review the sufficiency of the Public Access, Open Space and Natural Resources Preservation Fund to the Council and the Administration.

(b) The Commission shall establish [annual] biennial recommended priorities of lands or property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) For administrative purposes, this Commission shall be attached to the Planning Department.

(d) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

(e) Meetings of this Commission shall comply with requirements of Chapter 92, Hawai'i Revised Statutes (the "Sunshine Law").

(f) The Commission shall adopt administrative rules of procedure pursuant to Chapter 91, Hawai'i Revised Statutes (the "Hawai'i Administrative Procedures Act") within one hundred and eighty (180) days of the full appointment of the Commission's membership.

Sec. 6-14.3 Appropriation of Funds.

(a) Appropriations for expenditure from this fund shall be made by ordinance.

(b) The Commission shall transmit [annual] biennial recommendations to the Council for priorities of lands or other property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) Funds may be appropriated to another government entity, private owner, or nonprofit organization and used to acquire an interest in property with the requirement that lands or entitlements benefit the public and are protected in perpetuity.

(d) Lands or other property entitlements to be acquired may be owned or held by the County of Kaua'i, other government entity, or nonprofit organization with the requirement that lands or entitlements benefit the public and are protected in perpetuity.

(e) Lands or other property entitlements to be acquired may be managed by the County of Kaua'i, other government entity, private owner, or nonprofit organization with the requirement that lands or entitlements benefit the public and are protected in perpetuity."

SECTION 3. If any provision of this ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Kaua'i County Code, 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This ordinance shall take effect upon approval.

INTRODUCED BY:

/s/ NADINE K. NAKAMURA
(By Request)

DATE OF INTRODUCTION:

December 1, 2011

Lihu'e, Kaua'i, Hawai'i


(V:\CS OFFICE FILES\BILLS\2010-2012 term\Public Access Open Space Natural Resources Preservation Fund Bill 2423, D1(SS)_ds.doc)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2423, Draft 1, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on March 28, 2012 and continued on March 29, 2012 by the following vote:

FOR ADOPTION: Bynum, Chang, Kualii, Nakamura, Rapozo	
Yukimura, Furfaro	TOTAL -7,
AGAINST ADOPTION: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0,
RECUSED & NOT VOTING: None	TOTAL - 0.

Lihu'e, Hawai'i
March 30, 2012


Ricky Watanabe
County Clerk, County of Kaua'i

ATTEST:

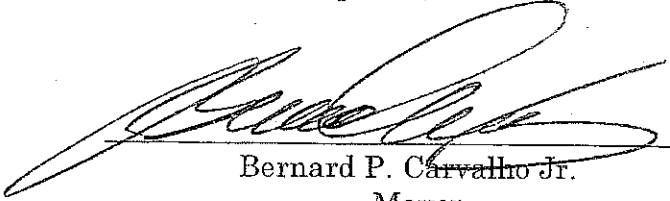

Jay Furfaro
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

April 3, 2012

Approved this 5th day of

April , 2012.


Bernard P. Carvalho Jr.
Mayor
County of Kaua'i

APPENDIX D

Ordinance 936

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PUBLIC
ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE
OF HAWAII:

SECTION 1. Findings and purpose. The Council of the County of
Kauai finds that areas of Public Access and Open Space are of immense importance
to the community of Kauai.

The Council finds that, in order to provide the community of Kauai with
adequate areas of Public Access and Open Space, the annual allocation made to the
Public Access, Open Space, and Natural Resources Preservation Fund should be
increased from a minimum of one-half of one percent (0.5%) to one and one-half of
one percent (1.5%) of the County's certified real property tax revenue.

SECTION 2. Chapter 6, Article 14 of the Kauai County Code 1987, as
amended, is hereby amended to read as follows:

"Sec. 6-14.1 Purpose.

(a) In adopting each fiscal year's budget and capital program, the
Council shall appropriate a minimum of [one-half of one percent (0.5%)]
one and one-half of one percent (1.5%) of the certified real property tax
revenues to a fund known as the Public Access, Open Space, and Natural
Resources Preservation Fund ("Fund"). The moneys in this Fund shall be
utilized for purchasing or otherwise acquiring lands or property entitlements
for land conservation purposes in the County of Kauai for the following
purposes:

- (1) Public outdoor recreation and education, including access
to beaches and mountains;
- (2) Preservation of historic or culturally important land areas
and sites;
- (3) Protection of significant habitats or ecosystems, including
buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural
lands;
- (5) Protecting watershed lands to preserve water quality and
water supply;

- (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
- (7) Improving public access to, and enjoyment of, public land and open space;
- (8) Acquiring public access to public land, and open space.
- (9) Conserving land for open space and scenic values.

(b) The moneys in this Fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part – for the purposes enumerated in paragraph (a) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) Any balance remaining in this Fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this Fund shall not be used for any purpose except those listed in this section.

Sec. 6-14.2 Administration.

(a) A community-based process that incorporates countywide community input for the purposes of establishing biennial recommended priorities of lands or other property entitlements to be acquired for those land conservation purposes described in Section 6-14.1(a) of this article and paragraph C of Section 19.15 of the Charter shall be utilized by the County.

To meet this intent, a fund advisory commission (“Commission”) shall be established consisting of nine (9) appointees.

(1) The Mayor shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Waimea – Kekaha;
- (B) Līhu‘e – Hanamā‘ulu; and
- (C) Kapa‘a – Wailua.

(2) The Council shall select four (4) appointees, with at least one (1) from each of the following development plan areas and one (1) at-large:

- (A) Hanapēpē – ‘Ele‘ele,
- (B) Kōloa – Po‘ipū – Kalāheo; and
- (C) North Shore (Anahola to Hā‘ena)

(3) One (1) island wide, at-large appointee shall be selected by the seated members. If there is no agreement on the selection of the one (1) additional member within seventy-five (75) days of the vacancy, the power to fill that vacancy shall fall to the Mayor and confirmed by the Council.

(4) Pursuant to Charter Section 23.02(B), all subsequent appointments shall serve for staggered terms of three (3) years and until their successors are appointed. However, no holdover term shall extend beyond ninety (90) days.

(5) The role of the Commission shall be to:

(A) Work with the Planning Department to develop a biennial list of priority projects to be considered for funding; and

(B) Solicit public input on development of the biennial list of priority projects to be considered for funding.

(C) Prepare an annual report for the Mayor's and Council's review. This report should include, but not be limited to, a list of:

(i) Accomplishments;

(ii) Challenges;

(iii) Future goals and objectives; and

(iv) Recommendations.

(6) The Commission is also authorized to:

(A) Advocate and be a resource for public access, open space, and natural resources preservation planning for the County of Kaua'i;

(B) Provide feedback on Department's implementation of priority recommendations;

(C) Serve as a forum to receive public input on issues relating to the nine land conservation purposes outlined in Section 6-14.1 (a) (1) through (9);

(D) Assist with the resolution of issues relating to the nine land conservation purposes outlined in Section 6-14.1 (a) (1) through (9); and

(E) Biennially report the balance and review the sufficiency of the Public Access, Open Space and Natural Resources Preservation Fund to the Council and the Administration.

(b) The Commission shall establish biennial recommended priorities of lands or property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) For administrative purposes, this Commission shall be attached to the Planning Department.

(d) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

(e) Meetings of this Commission shall comply with requirements of Chapter 92, Hawai'i Revised Statutes (the "Sunshine Law").

(f) The Commission shall adopt administrative rules of procedure pursuant to Chapter 91, Hawai'i Revised Statutes (the "Hawai'i Administrative Procedures Act") within one hundred and eighty (180) days of the full appointment of the Commission's membership.

Sec. 6-14.3 Appropriation of Funds.

(a) Appropriations for expenditure from this fund shall be made by ordinance.

(b) The Commission shall transmit biennial recommendations to the Council for priorities of lands or other property entitlements to be acquired, or for the funding of projects directly related to the purposes of this article.

(c) Funds may be appropriated to another government entity, private owner, or nonprofit organization and used to acquire an interest in property with the requirement that lands or entitlements benefit the public and are protected in perpetuity.

(d) Lands or other property entitlements to be acquired may be owned or held by the County of Kaua'i, other government entity, or nonprofit organization with the requirement that lands or entitlements benefit the public and are protected in perpetuity.

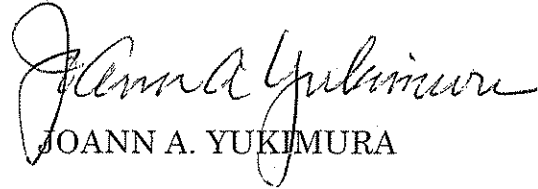
(e) Lands or other property entitlements to be acquired may be managed by the County of Kaua'i, other government entity, private owner, or nonprofit organization with the requirement that lands or entitlements benefit the public and are protected in perpetuity."

SECTION 3. If any provision of this ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Kaua'i County Code, 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This ordinance shall take effect on July 1, 2013.

INTRODUCED BY:


JOANN A. YUKIMURA


TIM BYNUM

DATE OF INTRODUCTION:

October 10, 2012

Lihu'e, Kaua'i, Hawai'i

V\Bills\Open Space preservation fund/2010-2012 term\JY-TB/GG_lc

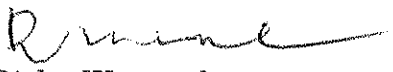
4/8/13

CERTIFICATE OF THE COUNTY CLERK

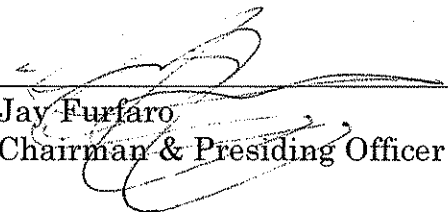
I hereby certify that heretofore attached is a true and correct copy of Bill No. 2453, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on November 28, 2012, by the following vote:

FOR ADOPTION: Bynum, Chang, Kualii, Nakamura, Rapozo Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.

Lihu'e, Hawaii
November 30, 2012


Ricky Watanabe
County Clerk, County of Kauai

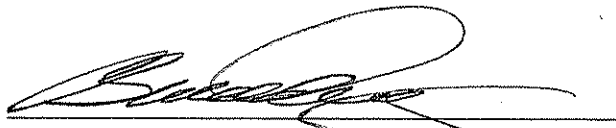
ATTEST:


Jay Furfaro
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

November 30, 2012

Approved this 14th day of
December _____, 2012.


Bernard P. Carvalho Jr.
Mayor
County of Kauai

APPENDIX E

Ordinance 986

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE
PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES
PRESERVATION FUND**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and purpose. The Council of the County of Kaua'i finds that areas of Public Access and Open Space are of immense importance to the community of Kaua'i County. The Council of Kaua'i also finds that fiscal responsibility and appropriate budget practices are essential for an efficient government.

The Council finds that, in order to balance its duty to provide the community of Kaua'i County with adequate areas of Public Access and Open Space and to practice fiscally responsible management, the annual allocation made to the Public Access, Open Space, Natural Resources Preservation Fund should be set at a minimum of one-half of one percent (0.5%) of the County's certified real property tax revenue.

SECTION 2. Chapter 6, Article 14 of the Kaua'i County Code 1987, as amended is hereby amended by amending its title to read as follows:

"Article 14. Public Access, Open Space, [and] Natural Resources Preservation Fund"

SECTION 3. Section 6-14.1 of the Kaua'i County Code 1987, as amended is hereby amended by amending subsection (a) to read as follows:

"(a) In adopting each fiscal year's budget and capital program, the Council shall appropriate a minimum of [one and one-half percent (1.5%)] one-half of one percent (0.5%) of the certified real property tax revenues to a fund known as the public access, open space, [and] natural resources preservation fund ("fund"). The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the County of Kaua'i for the following purposes:

- (1) Public outdoor recreation and education, including access to beaches and mountains;
- (2) Preservation of historic or culturally important land areas and sites;
- (3) Protection of significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas and agricultural lands;
- (5) Protecting watershed lands to preserve water quality and water supply;

(6) Conserving land in order to reduce erosion, floods, landslides, and runoff;

(7) Improving public access to, and enjoyment of, public land, and open space;

(8) Acquiring public access to public land, and open space[.];

(9) Conserving land for open space and scenic values.”

SECTION 4. Section 6-14.2 of the Kaua‘i County Code 1987, as amended is hereby amended by amending subsection (a)(6) to read as follows:

“(6) The Commission is also authorized to:

(A) Advocate and be a resource for public access, open space, and natural resources preservation planning for the County of Kaua‘i;

(B) Provide feedback on the Department’s implementation of priority recommendations;

(C) Serve as a forum to receive public input on issues relating to the nine (9) land conservation purposes outlined in Sec. 6-14.1(a)(1) through (9);

(D) Assist with the resolution of issues relating to the nine (9) land conservation purposes outlined in Sec. 6-14.1(a)(1) through (9); and

(E) Biennially report the balance and review the sufficiency of the public access, open space, [and] natural resources preservation fund to the Council and the Administration.”

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance, the brackets, bracketed material, and underscoring need not be included.

SECTION 7. This Ordinance shall take effect upon its approval.

Introduced by:



MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

March 25, 2015

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2014-2016 TERM\Bill Amend Open Space Fund 2015 JA:aa

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2585, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on March 25, 2015, by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7*
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Hooser and Councilmember Yukimura were noted as voting silent, but shall be recorded as an affirmative for the motion.

Līhu'e, Hawai'i
March 27, 2015



Jade K. Fountain-Tanigawa
Deputy County Clerk, County of Kaua'i

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2585, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on May 6, 2015, by the following vote:

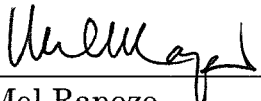
FOR ADOPTION:	Kagawa, Kaneshiro, Kualii, Rapozo	TOTAL - 4,
AGAINST ADOPTION:	Chock, Hooser, Yukimura	TOTAL - 3,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
May 7, 2015



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

ATTEST:



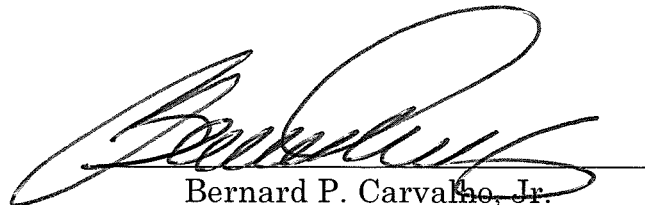
Mel Rapozo
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

May 7, 2015

Approved this 13th day of

May _____, 2015.



Bernard P. Carvalho, Jr.
Mayor
County of Kaua'i

APPENDIX F

Ordinance 1048 and 2018 Charter Amendment

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE
PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES
PRESERVATION FUND**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and purpose. It is the Public Access, Open Space, Natural Resources Preservation Fund Commission's duty to provide biennial recommendations to the County Council regarding lands or entitlements proposed for acquisition. Currently the Public Access, Open Space, Natural Resources Preservation Fund may only be used for the acquisition of land or property entitlements for conservation purposes. This amendment would expand the permissible uses of the fund to include paying for improvements to: (1) lands or entitlements acquired by the fund that are corresponding to the acquisition and completed at the time of or shortly after acquisition; (2) newly-acquired public pedestrian accesses to coastal areas, whether or not acquired using fund moneys; and (3) existing public pedestrian accesses to coastal areas, whether or not originally acquired using fund moneys.

Because the acquisition of land or public easements often requires expenditures to improve the acquired land or easement, review of potential acquisition sites have been discontinued because no additional funding could be found for the necessary and accompanying improvements.

On November 6, 2018, by a majority of votes cast in the General Election, Article XIX, Section 19.15(C) of the Charter of the County of Kaua'i was amended to permit the Public Access, Open Space, Natural Preservation Fund to include improvements.

SECTION 2. Section 6-14.1 of the Kaua'i County Code 1987, as amended is hereby amended to read as follows:

"(a) In adopting each fiscal year's budget and capital program, the Council shall appropriate a minimum of one-half of one percent (0.5%) of the certified real property tax revenues to a fund known as the public access, open space, natural resources preservation fund ("fund"). The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements and any corresponding improvement of those lands or property entitlements for land conservation purposes in the County of Kaua'i for the following purposes:

- (1) Public outdoor recreation and education, including access to beaches and mountains;
- (2) Preservation of historic or culturally important land areas and sites;
- (3) Protection of significant habitats or ecosystems, including buffer zones;
- (4) Preserving forests, beaches, coastal areas, and agricultural lands;

(5) Protecting watershed lands to preserve water quality and water supply;

(6) Conserving land in order to reduce erosion, floods, landslides, and runoff;

(7) Improving public access to, and enjoyment of, public land, and open space;

(8) Acquiring public access to public land, and open space;

(9) Conserving land for open space and scenic values.

(b) The moneys in this fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part, for the purposes enumerated in Subsection (a) of this Section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(c) The moneys in this fund may also be used to improve public pedestrian access to coastal areas.

~~(c)~~ (d) Any balance remaining in this fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this fund shall not be used for any purpose except those listed in this Section.”

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 4. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance, the brackets, bracketed material, and underscoring need not be included.

SECTION 5. This Ordinance shall take effect upon its approval.

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

April 24, 2019

Lihu'e, Kaua'i, Hawai'i

V:\BILLS\2018-2020 TERM\Bill 2747, Draft 1 JA_ks.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2747, Draft 1 which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on June 13, 2019 by the following vote:

FOR ADOPTION:	Brun, Cowden, Evslin, Kagawa, Kaneshiro	TOTAL - 5,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Chock, Kualii	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
June 13, 2019



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

ATTEST:



Arryl Kaneshiro
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

June 13, 2019

Approved this 14 day of

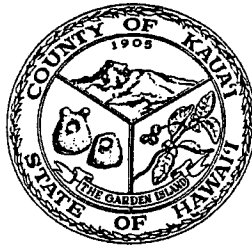
June, 2019.



Derek S.K. Kawakami,
Mayor
County of Kaua'i

JADE K. FOUNTAIN-TANIGAWA
County Clerk

Telephone: (808) 241-4800
TTY: (808) 241-5116



SCOTT K. SATO
Deputy County Clerk

Facsimile: (808) 241-6207
E-mail: elections@kauai.gov

**ELECTIONS DIVISION
OFFICE OF THE COUNTY CLERK
4386 RICE STREET, SUITE 101
LIHU'E, KAUA'I, HAWAII 96766**

November 27, 2018

The Honorable Scott T. Nago
Chief Election Officer
State of Hawai'i, Office of Elections
802 Lehua Avenue
Pearl City, Hawai'i 96782

Dear Mr. Nago:

**RE: CERTIFICATE OF RESULTS, 2018 CHARTER AMENDMENTS,
COUNTY OF KAUA'I**

Enclosed is the Certificate of Results for the 2018 Charter Amendments that were duly adopted by a majority of votes cast in the General Election held on Tuesday, November 6, 2018, in the County of Kaua'i.

Should you have any questions, please feel free to contact the Office of the County Clerk, Elections Division at (808) 241-4800. Thank you for your attention to this matter.

Sincerely,

JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kaua'i

SS:dmc

Enclosure

cc: Office of the County Clerk, Elections Division
County of Kaua'i, Office of Boards and Commissions

**CERTIFICATE OF RESULTS
2018 CHARTER AMENDMENTS
COUNTY OF KAUAI**

I, Jade K. Fountain-Tanigawa, County Clerk of the County of Kauai, do hereby certify that the following Charter Amendments were duly adopted by a majority of votes cast on the questions at the General Election held on Tuesday, November 6, 2018, in the County of Kauai:

RELATING TO THE PUBLIC DEFENDER

“Shall the Charter be amended by repealing Article IX, Public Defender, as this function is already provided by the State?”

Article IX of The Charter of the County of Kauai is amended to read as follows:

Note: Charter material to be repealed is bracketed and stricken.

YES 10,002
NO 9,875

**[ARTICLE IX
PUBLIC DEFENDER]**

~~[Section 9.01. Counsel for Defense. Any person accused of any felony or misdemeanor under the laws of the state or the county shall be entitled to representation or assistance by counsel. The council may by ordinance establish a system to provide counsel for the defense of any person accused of any crime who is financially unable to afford counsel.]~~

RELATING TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND

“Shall Article XIX, Financial Procedures, Section 19.15(C) be amended to permit the Public Access, Open Space, Natural Resources Preservation Fund to include improvements?”

Article XIX, Section 19.15(C) of The Charter of the County of Kauai is amended to read as follows:

Note: Charter material to be repealed is bracketed and stricken. New charter material is underscored.

YES 14,261
NO 6,883

**ARTICLE XIX
FINANCIAL PROCEDURES**

Section 19.15. Fund Administration.

A. Deposit of funds. Money received by officers and employees shall be deposited promptly to the county's account in depositories authorized by law.

B. Creation of funds. In addition to the funds established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of funds exists. Nothing in this section shall preclude the council from introducing and adopting other funds by ordinance.

C. Public access, open space, natural resources preservation fund.

(1) In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one-half of one percent of the certified real property tax revenues to a fund known as the public access, open space, natural resources preservation fund. The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements and any corresponding improvement of those lands or property entitlements for land conservation purposes in the County of Kaua'i for the following purposes: public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; preserving forests, beaches, coastal areas, and agricultural lands; protecting watershed lands to preserve water quality and water supply; conserving land in order to reduce erosion, floods, landslides, and runoff; improving disabled and public access to, and enjoyment of, public land, and open space; acquiring disabled and public access to public land, and open space.

(2) The moneys in this fund may also be used for the payment of interest, principal, and premium, if any, due with respect to bonds issued pursuant to sections 3.13, 3.14, or 3.15 of the charter, in whole or in part for the purposes enumerated in paragraph (1) of this section and for the payment of costs associated with the purchase, redemption, or refunding of such bonds.

(3) The moneys in this fund may also be used to improve public pedestrian access to coastal areas.

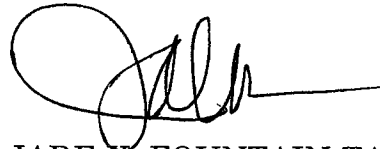
~~[(3)]~~ (4) At any given time, no more than 5 percent of this fund shall be used for administrative expenses.

~~[(4)]~~ (5) Any balance remaining in this fund at the end of any fiscal year shall not lapse but shall remain in the fund, accumulating from year to year. The money in this fund shall not be used for any purpose except those listed in this section.

~~(5)~~ (6) The council shall by ordinance establish procedures for the administration and priorities for the expenditure of moneys in this fund. Such ordinances shall include the following provisions:

(a) Utilizing a community-based process that incorporates countywide community input, for the purposes of establishing annual recommended priorities of lands or other property entitlements to be acquired for those land conservation purposes described in paragraph C of section 19.15 of the charter. (Amended 1992, 2002)

In witness whereof, I have hereunto set my hand and caused the Seal of the County of Kaua'i, State of Hawai'i, to be affixed on this 27th day of November 2018.



JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kaua'i

APPENDIX G

Rules of Practice and Procedure of the County of Kaua'i Public Access, Open Space, and Natural Resources Preservation Fund Commission, as Amended

**RULES OF PRACTICE AND PROCEDURE OF
THE COUNTY OF KAUAI
PUBLIC ACCESS, OPEN SPACE, AND NATURAL
RESOURCES PRESERVATION FUND COMMISSION**



ADOPTED AUGUST 10, 2005

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**[PROPOSED] RULES OF PRACTICE AND PROCEDURE
OF THE KAUAI COUNTY PUBLIC ACCESS, OPEN SPACE AND NATURAL
RESOURCES PRESERVATION FUND COMMISSION**

Chapter I. General Provisions

1-1-1 Purpose. The intent and purpose of the Rules of Practice and Procedure of the Kauai County Public Access, Open Space, and Natural Resources Preservation Fund Commission is to provide a systematic and democratic method of conducting meetings and hearings in order to insure that all persons and parties will have an opportunity to participate in an open, productive, and orderly manner.

1-1-2 Definitions. As used in these Rules, except as otherwise required by context:

- (1) "Agency" means the Planning Department of the County of Kauai or its authorized representative.
- (2) "Commission," "Chairperson" and the "Commissioner" means the Public Access, Open Space and Natural Resources Preservation Fund Commission of the County of Kauai, State of Hawaii, its Chairperson, and a member thereof, respectively.
- (3) "Director" means the Planning Director of the County of Kauai.
- (4) "Ex parte communication" means private communications or arguments with members of the Commission or its hearing officer as to the merits of a proceeding with a view towards influencing the outcome of a proceeding.
- (5) "HRS" means Hawaii Revised Statutes.
- (6) "Meetings" means the convening of the Commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the Commission has advisory power.
- (7) "Person" means when appropriate to the context, not only individuals, but corporations, firms, associations, societies, and federal, state and county departments or agencies.
- (8) "Presiding Officer" means and shall include any member of the Commission or a hearing officer duly designated as such. Unless otherwise designated, the Chairperson shall be the presiding officer.
- (9) "Proceeding" means any matter that is brought before the Commission in which it has advisory authority.

- (10) "Public Record" means the same as defined in Chapter 92, HRS, and shall include maps, rules and regulations, written statements of policy or interpretation formulated, adopted or used by the Commission in its functions, all decisions, orders, minutes of the Commission meetings and records of any docket on file with the Commission but shall not include records which invades the right of privacy of an individual.
- (11) "Rules" means the Rules of Practice and Procedure before the Commission.

Chapter II. Organization & Parliamentary Rules

1-2-1 Organization. At the regular September meeting of each year, the Commission shall elect a Chairperson and Vice-Chairperson from among its members. They shall serve for a term of one year or until their successors are duly elected. No member shall succeed himself or herself as chairperson. In the event the Commission is not able to elect a regular Chairperson or Vice-Chairperson from among its members at its first September meeting, the incumbent chair may serve on a hold-over basis for a term not to exceed ninety (90) days.

1-2-2 Meetings.

- (a) Regular meetings of the Commission shall be held every first Wednesday or on such day as the Commission may designate. The place of meeting shall be the Lihue Civic Center, or such other place as may be designated by the Commission.
- (b) Subject to the conditions prescribed by these rules, special meetings may be called at any time by the chairperson, the director, or a majority of the Commission, who shall state the subject thereof, and the acts and business of the Commission at such special meeting shall be confined to such matters.
- (c) Each member shall be given oral or written notice at least five (5) working days prior to a special meeting, unless waived by such member.
- (d) The Commission shall prepare and post an agenda for all meetings of the Commission and its committees identifying the date, time, place, and subjects to be considered in compliance with the provisions of Chapter 91 and 92, HRS.

1-2-3 Adjournment. Meetings may be adjourned at any time by vote, and unless otherwise specified in the motion, every adjournment shall be deemed to be the next meeting of the Commission.

1-2-4 Quorum and Number of Votes Necessary for a Decision. Unless otherwise provided by law, a majority of all the members to which the Commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the Commission is entitled five (5) shall be necessary to make a Commission decision valid, failing which there shall have been no valid action taken.

1-2-5 Continuation of Decision Making. Any matter which fails to be validated by a majority concurrence of the Commission may be continued to any subsequent regular meeting.

1-2-6 Effective Date of Commission Decision. Unless a specific effective date is set forth, the effective date of a decision rendered by the Commission shall be the date of the meeting at which such valid decision was made.

1-2-7 Minutes and Transcripts.

- (a) Meetings. In accordance to HRS 92-9, the Commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the members.
- (b) Copies of Recordings. In cases where copies of prerecorded tapes are requested, a fee of \$5.00 per hour (rounded off to the nearest half hour) of recording time shall be assessed in addition to the costs of the tapes used (rounded off to the nearest \$.50). Charges may be waived or modified when the requesting person provides the recording equipment, tapes, and performs the recording subject to conditions and supervision by the Planning Department.

1-2-8 Officers and Their Duties.

- (a) Presiding Officer. The Chairperson shall be the presiding officer of the Commission and the Vice-Chairperson shall be the presiding officer in the absence of the Chairperson.
The presiding officer shall:
 - (1) Open all meeting of the Commission at the appointed hour by taking the chair and calling the meeting to order;
 - (2) Call for the approval of the minutes of any preceding meetings when a quorum is present;
 - (3) Maintain order and proper decorum;
 - (4) Announce the business before the Commission in the order prescribed by these rules;
 - (5) Review all matters properly brought before the Commission, call for votes upon the same and announce the results;
 - (6) Appoint all committees unless otherwise ordered by the Commission;

- (7) Authenticate by signature all acts of the Commission as may be required by law, unless delegated to the Planning Director;
 - (8) Do and perform such other duties as may be required by law, or such as may be properly appertain to such office;
 - (9) Make known all rules of order when so requested, and to decide all questions of order, subject to an appeal to the Commission;
 - (10) Take into consideration such matters as shall not be within the scope of the duties or powers of any standing committee of the Commission; or as may be referred by the Commission, and to report thereon, together with such recommendations relative thereto as deemed advisable; and
 - (11) Represent the Commission in all functions, not otherwise directed by the Commission as the titular head of the Commission.
- (b) Clerk. The Planning Director shall serve as Clerk of the Commission and shall be directly responsible, or through staff members, to provide the following services;
- (1) To receive, submit, and coordinate all matters properly brought before the Commission in consultation with the chairperson;
 - (2) To provide the agenda support materials for all meetings;
 - (3) To read bills, resolutions, and other matters to the Commission, if so required;
 - (4) To forward at once to the proper parties all communications and other matters, either directly or through a committee, as the case may be;
 - (5) To deliver immediately to the chairperson of the appropriate committee all petitions, resolutions, bills or other matters as may be duly referred to such committee;
 - (6) To serve in all matters as ex-officio clerk of the Commission and to do and perform all clerical duties and services pertaining to such position as the Commission shall from time to time direct, and such as shall by law or the rules, or rules hereafter

adopted, be assigned or such as properly pertain to such position;

(7) To have charge of all records of the Commission and be responsible for the same.

1-2-9 Committees. There shall be two kinds of committee:

1. Standing Committees, which shall not exceed five (5) members each.
2. Select Committees, which shall not exceed five (5) members each.

1-2-10 Committee Organization.

- (a) All committees of the Commission, contemplated under these rules, shall be appointed by the Chairperson subject to confirmation by a majority vote of the members of the Commission.
- (b) The first person named on a committee shall be the chairperson unless otherwise designated. The Committee Chairperson shall call and preside over committee meetings and may designate temporary alternate members in order to achieve a quorum and to take action in cases where members are absent.
- (c) No member shall serve as chairperson of more than one Standing Committee of the Commission.
- (d) No committee shall meet while the Commission is in session.
- (e) Committees shall be under the control and subject to the orders and appropriate rules of the Commission, and shall faithfully carry out such orders.
- (f) Vacancies on the standing committees shall be filled by the Chairperson of the Commission unless otherwise designated in subsection (b) above and no member of the standing committee shall resign therefrom without the consent and approval of the Commission.
- (g) A majority of the entire membership to which the committee is entitled shall constitute a quorum and the majority vote of the membership present shall be necessary to take any action.

1-2-11 Standing Committees. The Commission may establish the necessary standing committees to further the responsibilities and functions of the Public Access, Open Space, and Natural Resources Preservation Fund Commission.

1-2-12 Select Committees. A Select Committee shall consist of up to five (5) members, unless otherwise ordered by the Commission and shall be appointed from time to time as the occasion requires, serving until discharged after finally reporting on the special matter referred to it.

1-2-13 Committee Reports.

- (a) Every committee shall be responsible for writing and submitting a meeting summary to include a list of attendees, topics covered, decisions and/or recommendations to the Commission as a whole.
- (b) Committee chairpersons or other committee members shall report to the whole Commission at its meetings about the Committee's work on matters referred to them.
- (c) Select Committees shall report as required by the Commission upon all matters referred to them, unless further time is allowed by vote of the Commission.
- (d) Whenever any matter is referred to a committee, it shall be the duty of such committee to make diligent inquiry into all of the facts and circumstances connected with such matter. If necessary, the County Attorney may be consulted, documents and records searched, and everything done to bring all facts pertaining to such matter before the Commission.
- (e) The report of the committee on any matter shall provide an evaluation and recommendation as to the disposal of such matter.

1-2-14 Voting.

- (a) There shall be three methods of ascertaining the decision of the Commission upon any matter:
 - 1st, by call of the roll of the members and a record made by the Clerk of the vote of each member;
 - 2nd, by viva voca vote;
 - 3rd, by unanimous consent.

- (b) Whenever the Commission is ready to vote on any question, the Chairperson, after stating the question, shall put such question to a vote, then announce the result of the vote to the Commission. Upon the request if any member of the Commission, the Clerk shall call the role. Unless a member is excused from voting, his silence shall be recorded as an affirmative vote.
- (c) No member shall refrain from voting unless excused by the Commission.
- (d) Whenever the ayes and noes are called, no one, without the unanimous consent, shall be permitted to explain his vote; and after the announcement of the result, no one shall be permitted to vote or to change his vote.

1-2-15 Standards of Conduct.

- (a) **Disclosure of Interest.** Whenever a possible direct personal financial interest on any matter pending before the Commission or any of its committees becomes apparent, the affected member shall promptly make a disclosure to the Commission. When a member has made a disclosure of interest and is deemed by the Commission to have as conflict of interest, such conflict shall apply to all subsequent actions relating to said matter. A member with conflict of interest shall refrain from voting except where the member's vote is required to constitute a quorum to act in which event he shall be permitted to vote.
- (b) **Code of Ethics.** All Commission members and officers and employees of the Agency shall be subject and comply with the provisions of Chapter 3, Article I, of the Kauai County Code, as amended.

1-2-16 Petitions and Submittals to the Commission. Any person may petition the Commission. Petitions and other submittals shall be in writing, signed by the petitioners or persons presenting them.

1-2-17 Motions and Amendments. Motions and amendments may be verbal, but shall be reduced to writing if requested by the Chair, and shall be read from the Clerk's desk, if so desired.

1-2-18 Motions and Priorities.

- (a) No motion shall be received and considered by the Commission until the same has been seconded.

- (b) After a motion is stated or read by the Chair, it shall be deemed in the possession of, and shall be disposed of by vote of the Commission. However, it may be withdrawn by the mover with the consent of the second at any time before a vote or amendment.
- (c) Whenever any question shall be under discussion, the motions in order relative thereto prior to a vote shall be: first, to table; second, to previous question; third, to modify debate; fourth, to postpone definitely; fifth, to commit or recommit; and sixth, to amend; which motions shall have precedence in the order named. The first four (4) motions shall be decided without debate, and shall be put as soon as made.
- (d) When any of said motions shall be decided in the negative, the same shall not be revived at the same meeting relative to the main question under discussion. If all are negative as aforementioned, the only remaining question shall be as to the passage or adoption of the application or any other main question.
- (e) No member shall speak longer than five (5) minutes, nor more than twice on the same question without leave of the Commission, unless the member is the mover of the question pending, in which case the member shall be permitted to speak in reply, but not until every member choosing to speak shall have had the opportunity to speak.

1-2-19 Reconsideration. When a motion has been once made and carried in the affirmative or negative, only a member who voted with the prevailing side may move, at the same meeting, or at the next meeting, to reconsider it, and such motion shall take precedence over all other questions except a motion to adjourn.

1-2-20 Order and Decorum.

- (a) No person shall sit at the desk of the presiding officer or clerk, except by permission of the Chairperson, or at the desk of any commissioner, except by permission of that commissioner.
- (b) While the Chair is putting any question or addressing the Commission, no one shall walk out of the meeting room or across the floor; nor shall anyone entertain a private discourse, or pass between the member and Chair while the member is speaking.
- (c) When members are about to speak, they shall address themselves to the Chair, and shall confine their comments to the question under discussion, avoiding personalities.

- (d) If any member, in speaking or otherwise, transgresses these rules of procedure, the Chair, or any member, may call him to order, and when so called to order, he shall immediately quiet down. The Chair shall then decide the question of order without debate, subject to an appeal to the Commission. In addition, the Chair may call for the sense of the Commission on any question of order.
- (e) Whenever any person shall be called to order while speaking, the member shall be deemed to be in possession of the floor when the question of order is decided, and may proceed with the matter under discussion within the ruling made on the question of order.
- (f) No unauthorized person shall enter the floor of Commission except by permission of the presiding officer. The term "floor of Commission" shall mean that portion of the meeting room generally occupied by the Commission and as may be specifically designated by the presiding officer. The presiding officer shall determine, with concurrence of Commissioners, when members of the public may speak on topics being discussed and whether any time limitation per speaker will be set.
- (g) Any person or persons who willfully disrupt a meeting or hearing to prevent and compromise the conduct of the meeting may be removed from the room.

1-2-21 Order of Business.

- (a) After roll-call and the approval of the agenda and minutes, the Presiding Officer shall call for business in the following order:
 - 1. General business matters before the Commission and announcements
 - 2. Communications
 - 3. Committee Reports
 - 4. Unfinished Business or Old Business
 - 5. New Business
- (b) The Commission may, by previous motion, direct that any matter be made a special order of business, which shall take precedence as indicated in the order.

- (c) The unfinished business or old business in which the Commission was engaged at the time of the last adjournment shall have the preference in the order of the day except for general business and announcements, communications, and committee reports, and invited speakers, and no other business shall be received until such unfinished business is disposed of, unless by special leave of the Commission.
- (d) All questions relating to priority of business to be acted upon by the Commission shall be decided without debate.

1-2-22 Question of Order. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. Such question shall be decided by the Chair, without debate, subject to an appeal to the Commission.

1-2-23 Computation of Time. In computing any period of time under the rules herein, by notice, or by any order or regulation of the Commission, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the close of the business of the next day which is not a Saturday, Sunday, or holiday.

1-2-24 Attendance. No member shall be absent from the service of the Commission, unless the member has so advised the Chair prior to the meeting or be sick and unable to attend.

1-2-25 News Reporters. News reporters wishing to take notes of the business of the Commission may be assigned such places by the Chair without interfering with the convenience of the Commission.

1-2-26 New Rules and Amendments. No rule of the Commission shall be altered or rescinded, nor shall any new rules be adopted without the affirmative vote of at least five (5) members of the Commission.

1-2-27 When Rules Are Silent. For good cause, the Commission may vote to suspend the rules.

1-2-28 Severability. If any provision of these Rules of Practice and Procedures or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of these Rules of Practice and Procedures which can be given effect without the invalid provision or application, and to this end the provisions of these Rules of Practice and Procedures are severable.

Chapter III. Public Records, Inspection and Availability

1-3-1 Inspection of Public Records. All public records shall be available for inspection and copying by any person during established office hours and within reasonable timelines unless public inspection of such records is in violation of any other state or federal law.

1-3-2 Where Available.

- (a) The public may obtain information on matters within the jurisdiction of the Planning Department and Commission for the County of Kauai, by inquiring at the principle place of business of the Planning Department. All rules, orders or opinions of the agency are on file and available for public inspection at this office during business 4444 Rice Street, Suite A473, Lihue, Kauai 96766-1326.
- (b) Inquiry may be made in person at the agency during business hours or by submitting a request for information in writing to the Planning Director, Planning Department, Kapule Building, 4444 Rice Street, Suite A473, Lihue, Hawaii 96766-1326.

1-3-3 Copies of Public Records. Copies of public records printed or reproduced for persons other than governmental agencies shall be given to any person provided the applicable fees or costs for publication, research, and postage are paid.

1-3-4 Denial of Inspection. Any person aggrieved by the denial by the officer having custody of any public record of the right to inspect the record or to obtain copies of extracts thereof may seek enforcement action pursuant to HRS Chapter 92.

Chapter IV. Rule Adoption, Amendment, or Repeal Procedures

1-4-1 Initiation of Rule-Making Proceedings.

- (a) **Motion by Commission.** The Commission may, at time on its own motion, initiate proceeding for the adoption, amendment, or repeal of any rule or regulation of the Commission.
- (b) **Petition by Person or Agency.** Any interested person may petition the Commission for the adoption, amendment, or repeal of any rule or regulation of the Commission. Petitions for rule making filed with the Commission will become matters of public record.

1-4-2 Form and Contents. Petitions for rule making shall contain the name, address, and telephone number of each petitioner; the signature of each petitioner; a draft of the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired; a statement of the petitioner's interest in the subject matter; a statement of the reasons in support of the proposed rule, amendment, or repeal and shall deposit with the County funds sufficient to cover appropriate meeting publication costs.

1-4-3 Action on Petition. The Commission shall, within thirty (30) days after the filing of a petition for rule making, either deny the petition in writing, stating its reasons for denial or initiate proceedings in accordance with Section 91-3 HRS.

- (a) **Denial of Petition.** Any petition that fails in material respect to comply with the requirements herein or that fails to disclose sufficient reasons to justify the institution of public rule-making proceedings will not be considered by the Commission. The Commission shall notify the petitioner in writing of such denial, stating the reasons thereto. Denial of a petition shall not operate to prevent the Commission from acting, on its own motion, on any matter disclosed in the petition.
- (b) **Acceptance of Petition.** If the Commission determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rule making to justify the institution of rule-making proceedings, the following procedure set forth and applicable statutes and law shall apply.

1-4-4 Notice of Public Hearing to Discuss Rule Adoption, Amendment, or Repeal.

- (a) **Publication and Mailing.** When, pursuant to a petition therefore or upon its own motion, the Commission proposes to adopt, amend, or repeal a rule or regulation, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation which is

published and issued within the County of Kauai; and such notice shall also be mailed to all persons or agencies who have made timely written requests for advance notice of the Commission's rulemaking proceedings at their last recorded address. The notices shall be published at least thirty (30) days prior to the date set for public hearing.

- (b) Form. A notice of the proposed adoption, amendment, or repeal of a rule or regulation shall include the requirements set forth in HRS Chapter 91-3.

1-4-5 Commission Action. The Commission shall consider all relevant testimony and documents of record before taking final action in a rule-making proceeding. Final action should be taken within forty-five (45) days after the end of period for submission of written comments or recommendations.

1-4-6 Effective Date. All rules shall be filed and take effect pursuant to HRS 91-4.

1-4-7 Emergency Rule Making. Notwithstanding the foregoing rules, the Commission may adopt emergency rules in accordance to the provisions of HRS 91-3 and 4 if the Commission finds that an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule or regulation upon less than thirty (30) days notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule or regulation to be effective for a period not longer than one hundred twenty (120) days without renewal. The emergency rule shall become effective upon filing with the County Clerk.

Chapter V. Report Process

1-5-1 Authority. This rule governs the procedures of the Public Access, Open Space and Natural Resources Preservation Fund Commission pursuant to the authority conferred under Chapter 6, Article 14, Kauai County Code 1987 as amended (KCC).

1-5-2 Public Input

- (a) The Commission shall solicit public input for proposals to be considered for funding. Strategies to solicit public input shall include but not be limited to discussion during Commission meetings, community outreach to various groups, and participation in community events.
- (b) The Department shall solicit public input for proposals to be considered for funding. Strategies to solicit public input shall include but not be limited to community outreach to various groups and participation in community events.
- (c) The Department shall maintain a website to inform the public of the Commission's purposes and provide a mechanism for the public to provide input on proposals.

1-5-3 Department Review and Recommendation

- (a) Within 45 days of receiving a proposal(s), the Department shall transmit a preliminary report on the public proposal(s) to the Commission. In the report, the Department shall provide a preliminary evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
- (b) At least 90 days prior to the first Commission meeting in January of odd calendar years, the Department shall provide a final evaluation and recommendation for the proposal(s) received subsequent to the adoption of the last preceding biennial report. The recommendation shall be based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules.
- (c) After further research, should the Department determine that a preliminarily approved recommendation for acquisition does not meet the criteria of Section 1-5-4 or has a prohibitive factor, the Department shall transmit an additional report to the Commission providing an amended evaluation and recommendation.

1-5-4 Criteria for Acquisition. In the event that a proposal does not meet one or more of the following criteria, the proposed acquisition shall not be recommended. The Department shall submit a recommendation for acquisition only if all criteria established in subsections (a) through (d) of this section are met:

- (a) The proposal fulfills at least one of the Commission's purposes to provide:

- (1) Public outdoor recreation and education, including access to beaches and mountains;
 - (2) Preservation of historic or culturally important land areas and sites;
 - (3) Protection of significant habitats or ecosystems, including buffer zones;
 - (4) Preserving forests, beaches, coastal areas and agricultural lands;
 - (5) Protecting watershed lands to preserve water quality and water supply;
 - (6) Conserving land in order to reduce erosion, floods, landslides, and runoff;
 - (7) Improving disabled and public access to, and enjoyment of, public land and open space;
 - (8) Acquiring disabled and public access to public land, and open space;
 - (9) Conserving land open space and scenic values.
- (b) The cost for the acquisition is commensurate to the public interest served. The cost may be shared by other parties.
- (c) The process for the acquisition is commensurate to the public interest served. Factors may include, but are not limited to:
- (1) The type of property interest that is proposed for acquisition (for example, an easement versus fee simple ownership);
 - (2) Whether or not the acquisition will be an adversarial process.
- (d) The lack of any maintenance requirements; or in the event there are maintenance requirements, the maintenance requirements have cost implications that are commensurate to the public interest served.

1-5-5 **Prohibitive Factor.** Any proposed acquisition that contains extremely dangerous attributes in the land or that poses a risk of serious injury or death shall not be recommended.

1-5-6 **Biennial Report**

- (a) The Commission shall adopt a biennial report that:
- (1) Reports the balance and reviews the sufficiency of the fund;

- (2) Prioritizes land or property entitlements or proposals that were recommended for acquisition and are directly related to the purpose of Chapter 6 Article 14 of the KCC;
- (3) Provides an acquisition plan for each proposal that is recommended for acquisition.
- (b) The biennial report shall be adopted by a majority vote of the Commission on the first meeting held in January of odd calendar years. In the event that no action is taken (for example, due to a lack of a majority vote), review and action on the biennial report shall be scheduled at each subsequent Commission meeting until action is taken.
- (c) The Commission shall attempt to prioritize the recommended projects, and the biennial report shall reflect the adopted prioritization of projects. In the event that no consensus is achieved on the prioritization of projects, the report shall reflect as such.
- (d) The biennial report shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.
- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of the biennial report. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

1-5-7 Dossier Recommendation Process

- (a) A Commission recommendation for acquisition outside of the biennial report (“dossier recommendation”) may be adopted and transmitted to Council and Mayor only when the Commission determines all of the following:
 - (1) The proposal meets the criteria for acquisition established under Section 1-5-4 of these rules;
 - (2) The proposal does not have a prohibitive factor under Section 1-5-5 of these rules;
 - (3) There is a demonstrable urgency concerning the timing of acquisition where delaying action to the upcoming biennial report will result in significantly more expense, an adversarial acquisition process, or both.
- (b) The dossier recommendation shall provide an acquisition plan for the proposal.
- (c) No more than 90 days after the Commission initiates a dossier recommendation process, the Department shall provide the Commission with an evaluation and recommendation based on the criteria or prohibitive factor for acquisition established in Section 1-5-4 and 1-5-5 of these rules. The Commission may extend the time line requirements to allow the Department additional time for further research.

- (d) The dossier recommendation shall be transmitted to the Council and Mayor within 30 days of adoption. The transmittal shall request a response from the Council within 120 days of its receipt of the transmittal.

- (e) The Chairperson, or a commissioner appointed by the Chairperson, shall represent the Commission before the Council during the presentation of a dossier recommendation. At the discretion of the Planning Director, a representative of the Planning Department may accompany the Commission representative during the presentation.

AMENDMENT TO THE RULES OF PRACTICE AND PROCEDURE OF THE COUNTY OF KAUAI
PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES
PRESERVATION FUND COMMISISON

FOR	AGAINST	ABSTAIN/ABSENT
Figaroa, Ono, Blake, Hayashi, Kimura	None	Gegen, Blake, Jasper

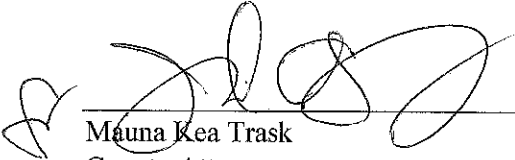
The amendments shall become effective ten (10) days upon filing with the County Clerk of the County of Kauai.

BY ORDER OF THE COUNTY OF KAUAI PUBLIC ACCESS, OPEN SPACE, AND
NATURAL RESOURCES PRESERVATION FUND COMMISSION.



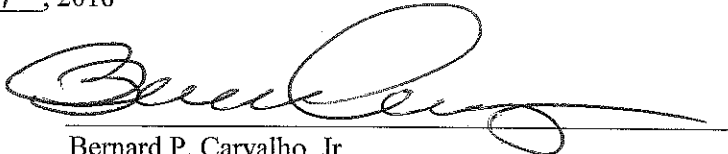
Joseph Figaroa, Chair

APPROVED AS TO FORM AND LEGALITY:



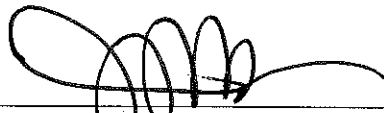
Mauna Kea Trask
County Attorney

APPROVED THIS 19th DAY OF Sept, 2016



Bernard P. Carvalho, Jr.
Mayor of the County of Kauai

I HEREBY CERTIFY THAT THE FOREGOING RULES WERE RECEIVED AND FILED IN THE
OFFICE OF THE COUNTY CLERK THIS 21st DAY OF September 2016



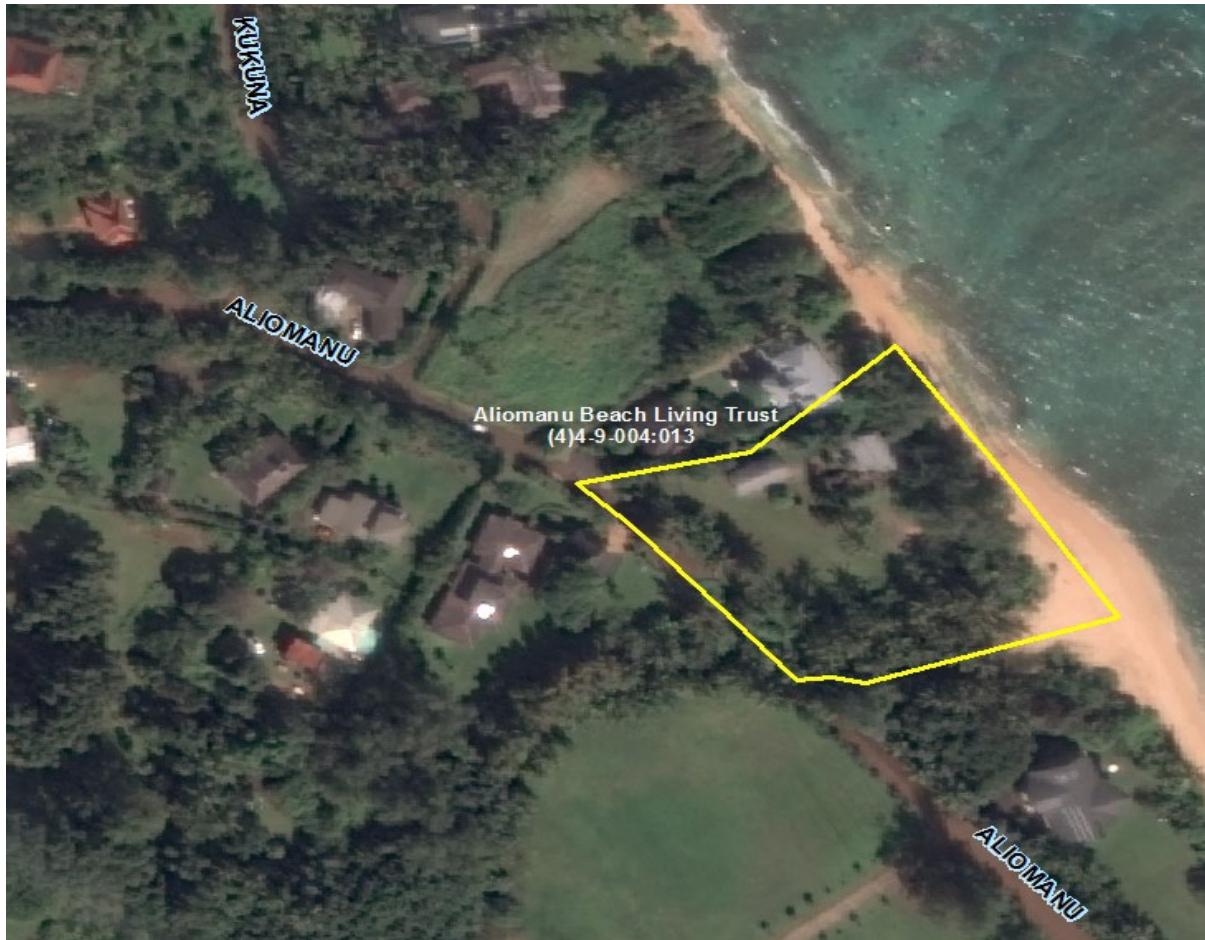
Jade K. Fountain-Fanigawa
County Clerk

PUBLIC NOTICE: 2/5/16 (Posted with Office of County Clerk) 2/8/16 (Publication, Garden Island Newspaper)
PUBLIC HEARING: 3/10/16; 4/14/16

APPENDIX H

Abstracts for Proposals that Were Considered

'Aliomanu Beach Living Trust (Kawaihau District, KONA MOKU)



Owner	TMK	Address	Acres	Assessment
'Aliomanu Beach Living Trust	(4)4-9-004:013	5032 'Aliomanu Road	1.393	\$1,362,200

Summary:

- Given the subject lot's proximity to the shoreline, the acquisition of the property could fulfill the Commission's purposes to provide public outdoor recreation and education, including access to beaches and mountains.
- The subject lot of record was for sale on the open market.
- Expanding the interpretation of the "Public Access, Open Space, and Natural Resources Preservation Fund" to include improved and developed properties could potentially reduce the Fund balance in manner that could not sustain review of future projects. In addition, ongoing management and maintenance of the property would present additional complications and burdens on the County.
- The Commission received the preliminary report and voted to explore whether the acquisition with existing its structures may be supported under the Commission's criteria for acquisition should the structure(s) and site be of historic or cultural importance.
- The Kaua'i Historic Preservation Review Commission reviewed the property and concluded that the structures retain no architectural historical significance.
- The Commission has requested an updated analysis for this project in 2022.

*Parcel boundaries appearing in aerial images are approximate.

Alekoko Fish Ponds (Līhu‘e District, PUNA MOKU)



Owner	TMK	Address	Acres	Assessment
Okada Trucking Co. Ltd.	(4)3-1-001:012	n/a	46.641	\$87,500
Okada Trucking Co. Ltd.	(4)3-2-001:001	n/a	55.4080	\$1,553,800

Summary:

- During its February 11, 2021 special meeting, the Commission voted unanimously to support a recommendation to acquire the subject property using the Fund.
- In November 2021, however, the County was informed that the Trust for Public Lands purchased the property and turned it over to Mālama Hulē‘ia for its continuing restoration.

*Parcel boundaries appearing in aerial images are approximate.

Hanapēpē Vacant Lot/Kaua‘i Petroleum Co., LTD Hanapēpē (Waimea District, KONA MOKU)



Owner	TMK	Address	Acres	Assessment
Kaua‘i Petroleum Co., LTD	(4)1-8-008:065	Moi Road	0.2764	\$397,300
Kaua‘i Petroleum Co., LTD	(4)1-8-008:071	Moi Road	0.3709	\$412,200

Summary:

- Acquisition of this subject lot of record fulfills the Commissions criteria of preservation of historic or culturally important land areas.
- The Hanapēpē Massacre played a pivotal role in Kaua‘i’s history and Philippine history by recognizing the labor struggles in the State of Hawai‘i. During the massacre, and at the height of the Filipino sugar plantation strike, 16 Filipino workers and 4 policemen were killed.
- Although, the Commission was very interested in the acquisition, the landowner requested more than double the appraised value.
- The Planning Department continues to try to work with the landowner on more favorable acquisition cost.
- In addition, the Planning Department continues to research whether the site of parcel 071 was the exact staging area of the Hanapēpē Massacre of 1924.

*Parcel boundaries appearing in aerial images are approximate.

Kahua o Kāneiolouma Preservation Area Expansion (originally listed as Kāneiolouma Heiau Complex Preservation Area Expansion (South) also known as Nukumoi [sic] Surf Shop Property (Kōloa District, KONA MOKU))



Owner	TMK	Address	Acres	Assessment
Kaha Kai Condominium	(4)2-8-017:016	2080 Hoone Rd	(1.202)	\$0
Kaha Kai LLC	(4)2-8-017:016;0001	Hoone Rd	.21	\$622,300
Kaha Kai LLC	(4)2-8-017:016;0002	Hoone Rd	.484	\$1,010,200
Kaha Kai LLC	(4)2-8-017:016;0003	Hoone Rd	.484	\$1,866,100
			1.202	\$3,498,600

Summary:

- This parcel is adjacent to County owned land and is part of the culturally significant Kaneiolouma Heiau Complex of Po'ipū.
- The proposal sought funds for Hui Mālama o Kāneiolouma to acquire the land lease or other encumbrances, or purchase the fee to expand efforts to restore, interpret, and protect this important cultural place.
- Hui Mālama o Kāneiolouma continues to steward this expansion project and look into access to the heiau complex through alternate means. The Hui provides periodic updates of any progress on the possible land acquisition. Until that time, this project will remain “on-hold”; but, the Commission is willing to re-evaluate the situation when necessary.

*Parcel boundaries appearing in aerial images are approximate.

Kalihiwai Vacant Lot/Winston Six LLC (Kalihiwai, HALELEA MOKU)



Owner	TMK	Address	Acres	Assessment
WINSTON SIX LLC	(4) 5-3-006:015	Anini Road	14.431	\$5,665,100

Summary:

- This 14.431 acre parcel in Kalihiwai was brought to the attention of the Commission due to many community complaints of illegal dumping and homelessness in the area.
- On February 2, 2018, the Commission received the preliminary report.
- The landowner had no plans to sell the property or build upon the property at this time.
- The Commission has expressed interest in re-analyzing this proposal in 2022.

*Parcel boundaries appearing in aerial images are approximate.

Kalihiwai Vacant Lot/Winston Six LLC (Kalihiwai, HALELEA MOKU)



Owner	TMK	Address	Acres	Assessment
WINSTON SIX LLC	(4) 5-3-006:020	Anini Road	0.2500	\$521,300

Summary:

- This 0.25 acre parcel in Kalihiwai was brought to the attention of the Commission due to many community complaints of illegal dumping and homelessness in the area.
- On February 2, 2018, the Commission received the preliminary report.
- The landowner had no plans to sell the property or build upon the property at this time.
- The Commission has expressed interest in re-analyzing this proposal in 2022.

*Parcel boundaries appearing in aerial images are approximate.

Kalihiwai Vacant Lot/State of Hawai'i (Kalihiwai, HALELEA MOKU)



Owner	TMK	Address	Acres	Assessment
State of Hawai'i	(4) 5-3-003:029	3471 KALIHUAI RD	1.00	\$1,300,000

Summary:

- This 1-acre parcel in Kalihiwai is owned by the State of Hawai'i.
- On August 9, 2018, the Commission received the measure and requested the Planning Department to draft a letter requesting an Executive Order be issued to the County of Kaua'i.

*Parcel boundaries appearing in aerial images are approximate.

Kalihiwai Vacant Lot/Princeville Development LLC (Kalihiwai, HALELEA MOKU)



Owner	TMK	Address	Acres	Assessment
Princeville Development LLC	(4) 5-3-003:068	n/a	1.1500	\$337,200

Summary:

- This 1.15 acre parcel abuts the Kalihiwai river and the size of the land changes with the seasons. This beach area is a very popular beach frequently used by residents and visitors alike. Restrictions on camping by the landowner on the subject property peaked the interest of community members for a possible acquisition.
- The asking price was between \$2,700,000.00 and \$3,000,000.00; however, the County of Kaua‘i Real Property Assessment Division has assessed the property to have a current assessed value of \$345,000.00.
- The adjacent property location to the west of the subject property is owned by the State of Hawai‘i, which currently grants access to this area.
- On January 10, 2019, the Commission deferred the matter.

*Parcel boundaries appearing in aerial images are approximate.

Kaluanono and Halulu Fishpond Access – Waipā (Hanalei District, HALALEA MOKU)



Owners	TMK	Address	Acres	Total Market Value
Waioli Corporation	(4)5-6-004:010	n/a	1.8	\$1,080,000
Waioli Corporation	(4)5-6-004:017	n/a	.25	\$1,012,000
			2.5	\$2,092,000

Summary:

- Kaluanono is a 1.8 acre property along Waipā Stream that was traditionally planted in wetland kalo. Halulu Fishpond access is a 0.25 acre property that includes the community path to Halulu Fishpond and serves as an educational area during Waipā Foundation’s Music and Mango Festival and Kalo Festival.
- The Trust for Public Lands and Waipā Foundation seeks to purchase two kuleana properties to fortify Waipā Foundation’s ability to achieve its goal of restoring the entire ahupua`a to feed the community both physically and culturally.
- The Trust for Public Lands and Waipā Foundation have been working diligently with the landowner to resolve the properties’ title. In addition, the organizations continue to secure the funding support of other entities including The Trust for Public Lands and the Legacy Lands Commission since the appraisal involved more money the Fund contained at the time.

*Parcel boundaries appearing in aerial images are approximate.

Kauapea Beach Access (Hanalei District, HALALEA MOKU)



Owner	TMK	Address	Acres	Assessment
KAPHA North Shore LLC	(4)5-2-004:071	Kauapea Road		

Summary:

- The lack of public access at Kauapea from the east end has been exacerbated over the intervening years by private landowner actions. The safety of the public during winter ocean swells (associated with using the existing west shoreline access) continues to be one of several concerns about this access.
- The Commission wishes to resolve access to this area. The Office of the County Attorney informed the Planning Department that the landowner's personal matters have stalled communication on issues relative to access to the eastern portion of Kauapea Beach. The Office of the County Attorney remains hopeful that the landowner's legal team will continue evaluating options to address parking and trail location to this access.

*Parcel boundaries appearing in aerial images are approximate.

**Kekaha Vacant Lot & Park Hook Tong Cemetery/KVM Waimea Beachfront LLC
(Waimea District, KONA MOKU)**



Owner	TMK	Address	Acres	Assessment
KVM Waimea Beachfront LLC	(4)1-2-013:041	Kaumuali'i Highway	1.256	

Summary:

- Acquisition of the subject property fulfilled at least one of the Commission’s purposes for public access, open space, and natural resources preservation.
- The subject lot of record was for sale on the open market.
- The adjacent historical Chinese cemetery was not included in the current real estate listing of the subject property; however, the land owner was willing to include the historical Chinese cemetery in the acquisition at no additional cost.
- Acquisition to include the historical Chinese Cemetery fulfilled the Commission’s purpose to preserve historical or culturally important land areas and sites.
- There is an expressed interest in support of a Stewardship Agreement from a Kekaha non-profit association and their willingness to care for the Chinese Cemetery with their primary interest for preservation.
- Property was acquired using the Fund.

*Parcel boundaries appearing in aerial images are approximate.

Evslin, Lee A Trust & Monica C Trust - Formely Evslin Property (Kekaha District, KONA MOKU)



Owner	TMK	Address	Acres	Assessment
Evslin, Lee A Trust & Monica C Trust	(4)1-3-005:053	Kaumuali'i Highway	1.681	\$851,200

Summary:

- The Commission determined that even with the consideration of a willing landowner, the property's purchase price, history, and its location would not be appropriate for acquisition.

*Parcel boundaries appearing in aerial images are approximate.

Kepuhi Beach Access / Nava, Joseph/Elizabeth Trust (Hanalei District, HALALEA MOKU)



Owner	TMK	Address	Acres	Assessment
Nava, Joseph/Elizabeth Trust	(4)5-8-012:002	5-6910 Kūhiō Highway	0.3709	\$761,600

Summary:

- The Commission received its preliminary report on this recommendation in December of 2016. Subsequently, the property was listed on the open market for sale; thus a supplemental report was also received in January 2017.
- In April 2017, the Commission unanimously voted to recommend acquisition to County Council via its dossier process.
- Prior to Council receiving the dossier packet, the Commission was informed at its meeting of June 8, 2017, that the property sold.
- Thus, County Council received the measure on June 28, 2017.

*Parcel boundaries appearing in aerial images are approximate.

Kukui'ula Bay Access through the former Hoban property (Kōloa District, KONA MOKU)



Owner	TMK	Address	Acres	Assessment
2001 Leight Family Trust	(4)2-6-003:017	4432 Lāwa'i Beach Rd	0.2842	\$4,191,100

Recommendation:

- The proposal involved acquiring a pedestrian easement from Lāwa'i Beach Road to shoreline along southwest property line.
- There is an existing County of Kaua'i drainage easement at this location, which was traditionally used by local residents to access the shoreline. The property owner now prohibits access.
- Additional funding for the creation of a pedestrian easement for beach access through Conditions of Ordinance PM-2004-370 relating to Zoning Designation at Kukui'ula, Kaua'i, Section 2.15e(2) was researched. However, those funds have since been provided to the County's Parks and Recreation Department for expansion of Po'ipū Beach Park.
- During its meeting on August 9, 2017, County Council voted unanimously in support of the Resolution that authorized the acquisition of a public pedestrian beach access easement for public through Eminent Domain. The matter has now been referred to the County Attorney's office for handling.

*Parcel boundaries appearing in aerial images are approximate.

Lāwa'i Kai to Port Allen (Kōloa District, KONA MOKU)



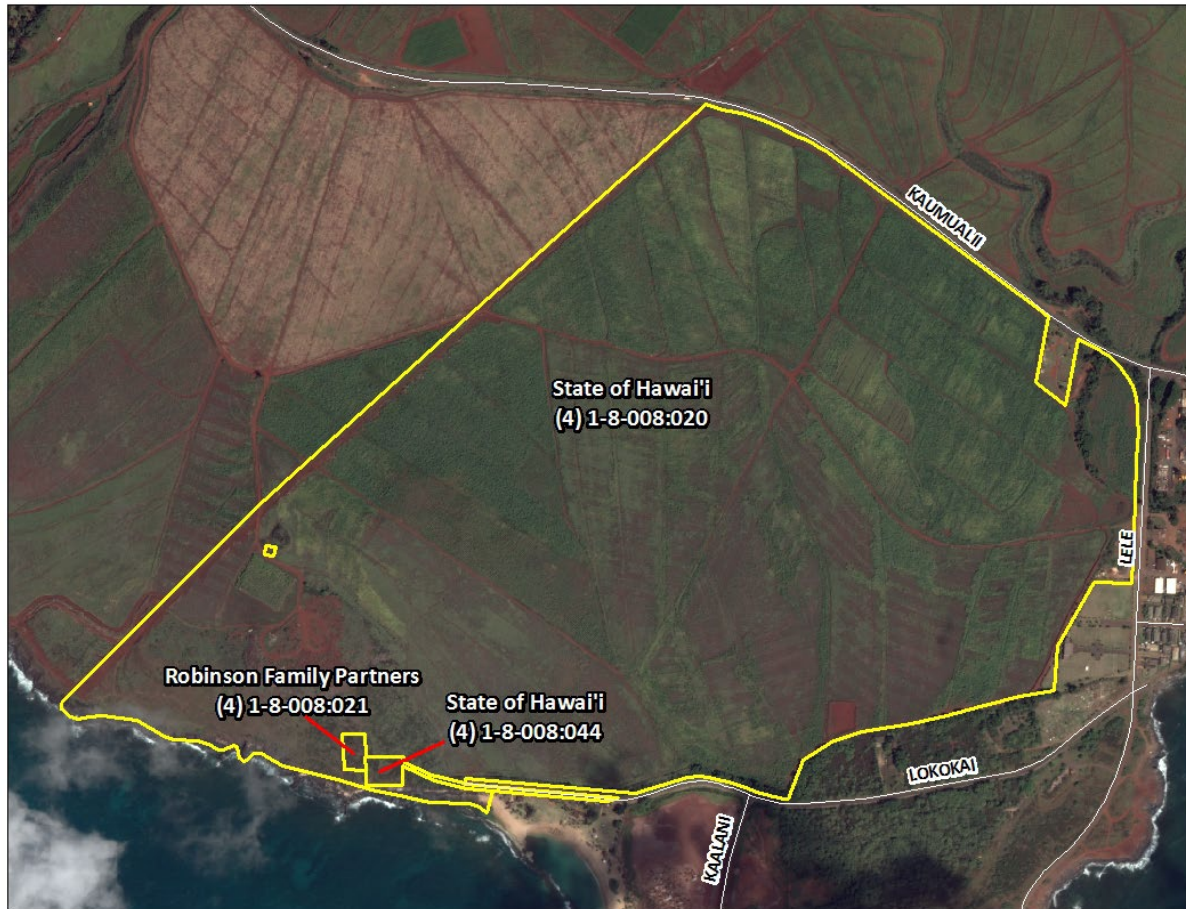
Owners	TMK	Address	Acres	Assessment
McBryde Sugar Company LLC	(4)2-3-010:001	Niho Rd.	1504.928	\$8,076,800
State of Hawai'i	(4)2-3-010:004		18	\$0
McBryde Sugar Company LLC (Lessee, Kaua'i Coffee Company LLC)	(4)2-3-010:010		56.96	\$0
McBryde Sugar Co. Ltd.	(4)2-1-001:003	Halewili Rd.	233.499	\$13,835,800
			1813.387	\$21,912,600

Summary:

- Public shoreline access along this coastline has become increasingly restricted by the landowner including the imposition of a no public entry period every year.
- The proposal aimed to restore and expand shoreline accesses for fisherman and other coastal users from Halewili Road along a narrow coastal corridor stretching parallel along the shoreline.
- The Planning Department and Commission were open to facilitate future negotiations to secure access through the National Tropical Botanical Garden's property.

*Parcel boundaries appearing in aerial images are approximate.

Salt Pond Beach Park Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District, KONA MOKU)



Owners	TMK	Address	Acres	Assessment
State of Hawai'i(Gay & Robinson Inc, Lessee)	(4)1-8-008:020	Kaumuali'i Hwy	373.060	\$2,537,600
Robinson Family Partners	(4)1-8-008:021	Kaumuali'i Hwy	.900	\$231,600
State of Hawai'i(County of Kaua'i, Lessee)	(4)1-8-008:044	Off Lokokai Rd	1.906	\$291,300
			375.866	\$3,060,500

Summary:

- The culturally significant Hanapēpē Salt Pans continue to be threatened by agricultural runoff and potential contamination. In addition, as the only major public beach park between Po'ipū and Polihale, Salt Pond Beach Park is heavily used. A park expansion both westward and mauka of the current park boundaries could serve the public vastly.
- Creating a clear buffer zone between the park and the salt pans along with park would allow improved protection and establishment of buffers to protect the salt pans.
- As part of the Department of Parks and Recreation Master Plan, the Commission continues to support acquisition of this area; however, via Executive Order from the State.

*Parcel boundaries appearing in aerial images are approximate.

Wahi Pana at Kiahuna (Kōloa District, KONA MOKU)



Owners	TMK	Address	Acres	Assessment
Laubsch, Angelina C K Rev Trust	(4)2-8-031:199	Halalu Street	4.86	\$500

Summary:

- The 4.86-acre archeological designated parcel is located in the Kiahuna area. The historic name of this area is known as Wahi Pana ‘Ehā. This parcel made up a portion of the Kōloa field system and features many wahi pana (sacred or celebrated places). The field system was a thriving agricultural enterprise for over 500 years. One unique feature is that 100 miles of an ‘auwai that irrigated lo’i kalo and other crops and to irrigate the entire 750 acres of the Kōloa hema. This stretched from Lāwa’i Valley to the Kōloa/Weliweli boundary and north up to Waikomo Road. ‘Auwai ran on ground level, through lava tubes underground and on aqueducts.
- The proposal involved the purchase or establishment of a conservation easement through partnerships with non-profit organizations to restore this archeological designated parcel.
- At its meeting of April 13, 2017, the commission voted no further action as the landowner expressed no interest in selling and requested the commission leave this area untouched.

*Parcel boundaries appearing in aerial images are approximate.

APPENDIX I

Current and Prior Year's Priority Recommendations

Current and Previous Years' Priority Recommendations

Year 2021

- **Properties Recommended (acquired using Fund or otherwise)**
 - 'Alekoko Fish Ponds (Originally recommended in 2015, Līhu'e District, PUNA MOKU)
 - Kekaha Vacant Lot & Park Hook Tong/KVH Waimea Beachfront LLC (Waimea District, KONA MOKU)

Year 2019

- **Current Properties in the Dossier Process:**
 - Kukui'ula Bay Access (Kōloa District, KONA MOKU)
 - Kekaha Vacant Lot & Park Hook Tong/KVH Waimea Beachfront LLC (Waimea District, KONA MOKU)
- **Current Properties previously discussed by "ON HOLD"**
 - 'Aliomanu Beach Living Trust (Kawaihau District, KOOLAU MOKU) Kaliihiwai Vacant Lot (4)5-3-003:068 (Kaliihiwai, HALELEA MOKU)
 - Kaliihiwai Vacant Lot, (4)5-3-006:015 (Kaliihiwai, HALELEA MOKU)
 - Kaliihiwai Vacant Lot (4)5-3-006:020 (Kaliihiwai, HALELEA MOKU)
- **Current Properties previously discussed but "NO LONGER ACTIVE"**
 - Evslin Property (Waimea District, KONA MOKU) (Previously listed as CGB/Evslin Property)
 - Wahi Pana at Kiahuna (Kōloa District, KONA MOKU)
 - Nava, Joseph/Elizabeth Trust (aka Kepuhi Beach Access) (Hanalei District, HALALEA MOKU)
 - Nihi Kai Associates (Kōloa District, KONA MOKU)

Year 2017

- **Current Properties in the Dossier Process:**
 - Kukui'ula Bay Access (Kōloa District, KONA MOKU)
 - Kekaha Vacant Lot & Park Hook Tong/KVH Waimea Beachfront LLC (Waimea District, KONA MOKU)
- **Current properties up for Commission action:**
 - 'Aliomanu Beach Living Trust (Kawaihau District, KOOLAU MOKU)
- **Current Properties previously discussed by "ON HOLD"**
 - Kauapea Beach Access (Hanalei District, HALALEA MOKU)
 - Salt Pond Beach Park Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District, KONA MOKU)
 - Kahua o Kaneiolouma Preservation Area Expansion (South) (Originally called Kaneiolouma Heiau Complex Preservation Area Expansion (Kōloa District, KONA MOKU)
 - Restoration and Expansion of Shoreline Access, Lāwa'i Kai to Port Allen (Kōloa District, KONA MOKU)

- Kaluanono & Halulu Fishpond Access (Hanalei District, HALALEA MOKU)
- Alekoko Fish Ponds (Līhu‘e District, PUNA MOKU)
- **Current Properties previously discussed but “NO LONGER ACTIVE”**
 - Evslin Property (Waimea District, KONA MOKU) (Previously listed as CGB/Evslin Property)
 - Wahi Pana at Kiahuna (Kōloa District, KONA MOKU)
 - Nava, Joseph/Elizabeth Trust (aka Kepuhi Beach Access) (Hanalei District, HALALEA MOKU)
 - Nihi Kai Associates (Kōloa District, KONA MOKU)

Year 2015

- **Current Properties in the Dossier Process:**
 - Access to Kukui‘ula Bay (Kōloa District)
- **Current Properties previously discussed but “ON HOLD”**
 - Kauapea Beach Access (Hanalei District)
 - Pāpa‘a Bay Beach Access (Kawaihau District)
 - Salt Pond Beach Park Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)
 - Kahoa o Kaneiolouma Preservation Area Expansion (South) (Originally called Kaneiolouma Heiau Complex Preservation Area Expansion (Kōloa District)
 - Restoration and Expansion of Shoreline Access, Lāwa‘i Kai to Port Allen (Kōloa District)
 - Kaluanono & Halulu Fishpond Access (Hanalei District)
 - Wahi Pana at Kiahuna (Kōloa District)
 - Alekoko (Menehune) Fishpond (Līhu‘e District)
- **Current Properties previously discussed but “NO LONGER ACTIVE”**
 - Kaakaaniu Beach Access (Hanalei District)
 - Proposed Piwai (Ōma‘o) Recreation Area (Kōloa District)

Year 2013

- **Current Properties in the Dossier Process:**
 - Access to Kukui‘ula Bay (Kōloa District)
 - Kauapea Beach Access (Hanalei District)
 - Pāpa‘a Bay Beach Access (Kawaihau District)
 - Kaakaaniu Beach Access (Hanalei District)
- **Current Properties previously discussed but “ON HOLD”**
 - Restoration and Expansion of Shoreline Access, Lāwa‘i Kai to Port Allen (Kōloa District)
 - Proposed Piwai (Ōma‘o) Recreation Area (Kōloa District)
 - Kaneiolouma Heiau Complex Preservation Area Expansion (South), also known as Nukumoi [sic] Surf Shop Property (Kōloa District)

- Salt Pond Beach Park Expansion (Mauka and West) (Waimea District)

Year 2011

- **Acquisition:**
 - Salt Pond Beach Park Expansion (Mauka and West) and Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)
 - Proposed Piwai (Ōma‘o) Recreation Area (Kōloa District)
 - Kaneioulouma Heiau Complex Preservation Area Expansion (South) (Kōloa District)
- **Other Recommendations:**
 - Access to Kukui‘ula Bay through the Former Hoban Property (Kōloa District)
 - Restoration and Expansion of Shoreline Access, Lāwa‘i Kai to Port Allen (Kōloa District)

Year 2010

- **Acquisition:**
 - Kaneioulouma Heiau Complex Preservation Area Expansion (South), also known as Nukumoi [sic] Surf Shop Property (Kōloa District)
 - Po‘ipū Beach Park Expansion (West) at 2179 Hoone Road (Kōloa District)
 - Access to Kukui‘ula Bay through Former Hoban Property (Kōloa District)
 - Proposed Piwai (Ōma‘o) Recreation Area (Kōloa District)
 - Restoration and Expansion of Shoreline Access, Lāwa‘i Kai to Port Allen (Kōloa District)
 - Salt Pond Beach Park Expansion (Mauka and West) and Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)

Year 2009

- **Acquisition:**
 - Black Pot Beach Park Expansion (Hanalei District)
 - Salt Pond Beach Park Expansion and Buffer area for Protection of Hanapēpē Salt Pans (Waimea District)
 - Kaneioulouma Heiau Complex-Nukumoi [sic] Surf Shop Property (Kōloa District)
 - CGB/Evslin Property (Waimea District)
- **Acquisition without necessitating fund:**
 - Hoban access (Kōloa District)
 - Kauapea Beach East access (Hanalei District)
 - Kaakaaniu Beach (Larsen’s Beach) access (Hanalei District)
 - Pāpa‘a Bay access (Kawaihau District)
 - Waita Reservoir access (Kōloa District)
 - Alexander Dam access (Kōloa District)
- **Partnerships for acquiring:**

- Hā'ena Point Properties (e.g., Brescia Property, Hanalei District)
- Coco Palms Property (Kawaihau District)
- Alekoko Fish Pond (Līhu'e District)
- Mahaulepu (Kōloa District)

YEAR 2007-2008

- **Priority Recommendation:**
 - Black Pot Park Expansion (Hanalei District)
 - Salt Pond Park Expansion (Waimea District)
 - Haena Point (Brescia) (Hanalei District)
 - North Kapaa Coastal Lands (Kawaihau District)
 - CGB/Evslin (Waimea District)
 - Haena Beach Park Lateral Access (Hanalei District)

- **Secondary Recommendation:**
 - Hoban (Kōloa District)
 - Nokumoi Surf Shop (Kōloa District)
 - Mahaulepu & Gillin's (including CJM and Haula (Kōloa District)
 - Alekoko Fishpond (Līhu'e District)
 - Coco Palms (Kawaihau District)
 - Pāpa'a Bay Easement (Kawaihau District)

YEAR 2006

- **Priority Acquisition:**
 - Black Pot Park Expansion (Hanalei District)
 - Hoban (Kōloa District)
 - Pāpa'a Bay (Kawaihau District)
 - Kauapea Beach (Hanalei District)

- **Places/Parcels of Interest**
 - Nounou Trail Connector (Kawaihau District)
 - Kealiakealanani (Hanalei District)
 - North Kapa'a Coastal Lands (Kawaihau District)
 - Alexander Reservoir Road (Kōloa District)
 - Moelepe Trail Link (Kawaihau District)
 - Kaneiolouma Heiau Expansion (Kōloa District)
 - Hapa Road (Kōloa District)
 - Nukoli'i Beach Park Expansion (Līhu'e District)
 - Puolo Point (Waimea District)
 - Moloa'a Trail and Coastal Lands (Hanalei District)

YEAR 2005

- **Acquisition:**
 - Hoban (Kōloa District)
 - McCalla (Kōloa District)
 - Knudsen – Po'ipū (Kōloa District)

- Expansion of Po'ipū Beach Park (Kōloa District)
- Mahaulepu (Kōloa District)
- Pāpa'a Bay/Beach (Kawaihau District)
- Pīla'a (Hanalei District)
- Kauapea / Secret Beach 2 (Hanalei District)
- Expansion of Black Pot Park (Hanalei District)
- Canela – Makai (Hanalei District)

APPENDIX J

Sample Survey Questionnaire

**County of Kauai
Public Access, Open Space, and Natural
Resources Preservation Fund Commission**



Public Input Survey

*Assist with Planning
Project for Public Benefit*

Public Input Process

The Public Access, Open Space, and Natural Preservation Fund Commission is asking for Kaua'i residence to participate in its Biennial Survey to identify strategies and/or acquisitions that will assist the County in its Open Space Fund planning.

Please use this form to share information about a place or access you would like to see protected or acquired.

Use one (1) Form for EACH Site Suggestion.

1. Address, place name and/or common name of site

2. Other helpful information like owner's name, tax map key (TMK #):

3. What type of protection do you suggest for this place? (one)

acquire property acquire easement

other (specify): _____

4. Why do you suggest this place? What's the opportunity / problem?

