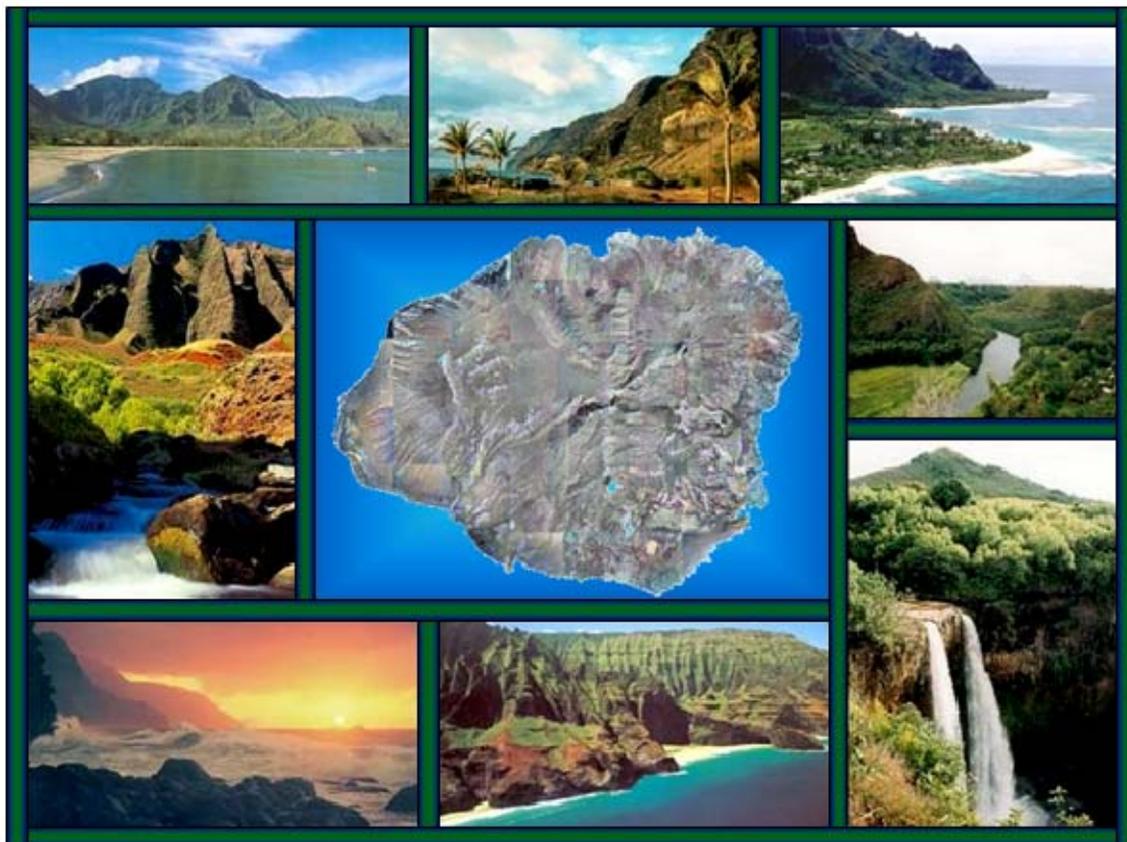


**COUNTY OF KAUA'I
PUBLIC ACCESS, OPEN SPACE & NATURAL RESOURCES
PRESERVATION FUND COMMISSION**

**2011 REPORT
TO THE KAUA'I COUNTY COUNCIL
AND MAYOR BERNARD CARVALHO, JR.**

INCLUDING RECOMMENDATIONS FOR PRIORITY PROJECTS TO BE
CONSIDERED FOR FUNDING



February 9, 2011

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

2011 REPORT
TO THE KAUA'I COUNTY COUNCIL
AND MAYOR BERNARD CARVALHO, JR.

February 9, 2012

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County of Kaua'i
Public Access, Open Space & Natural Resources
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Executive Summary

Program Background

The Public Access, Open Space, and Natural Resources Preservation Fund (the Fund), was established in 2002 by County Charter Amendment. The fund receives a minimum of one-half of one percent (0.5%) of Kauai's annual certified real property taxes. The fund accumulates and can neither lapse nor be utilized for other purposes. 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 Charter Amendment found in the Appendices.

Status of the Fund

The fund's balance for Fiscal Year 2011-2012 is \$1,558,436.

Commission Recommendations

The Open Space Commission recommends the acquisition of the fee interest or other property rights for the following properties, utilizing the Fund. The properties are listed in priority order:

1. Salt Pond Beach Park Expansion (Mauka and West) and Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)
2. Proposed Piwai (Ōma'o) Recreation Area (Kōloa District)
3. Kaneioulouma Heiau Complex Preservation Area Expansion (South) (Kōloa District)

Other Recommendations:

- Access to Kukui'ula Bay through Former Hoban Property (Kōloa District)
- Restoration and Expansion of Shoreline Access, Lāwa'i Kai to Port Allen (Kōloa District)
- Kauapea Beach Access and Other Unresolved Public Access Issues

2011 Public Input Process

The Commission provided opportunities for public input in 2011 through:

- Regular Commission meetings
- 2011 public meetings in October in Hanapēpē, Po'ipū, and Līhu'e
- Public survey from October 5-31, 2011

One hundred twenty (120) people attended the public meetings, twenty-six (26) online surveys were submitted, and about fifteen (15) people attended regular Commission meetings.

2011 Year in Review

The Commission approved the submittal to the County Council of a proposed draft bill to amend Chapter 6, Article 14, Kaua'i County Code, 1987.

The Commission is working to fill the vacancy of the ninth Commission member. In 2011, Commission vacancies ranged from four (4) to one (1). Six (6) meetings of twenty-four (24) were cancelled due to lack of quorum.

Since 2005 and through 2011, the Fund has been used to acquire only one (1) site.

The Commission established a new process to assist in the implementation of Commission recommendations.

Other measures focused on improving the effectiveness of the Commission are a priority.

1. Program Background

1.A. 2002 Charter Amendment and the Open Space Fund

On November 5, 2002, Kaua'i voters passed an amendment to the Kaua'i County Charter creating the Public Access, Open Space, and Natural Resources Preservation Fund (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 stipulated 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 the County Council to "by ordinance establish procedures for the administration and priorities for the expenditure of moneys" in the Fund.

Purposes, for which the Fund can be used, as well as the full scope of the fund, are outlined in the Charter Amendment, a copy of which can be found in the Appendices.

Status of the Fund. The Fund's balance for Fiscal Year 2011-2012 is \$1,558,436.

1.B. Ordinance 812 and the Open Space Commission

On December 8, 2003, the Kaua'i County Council fulfilled its obligation under the Charter to define the procedures for administering and spending moneys in the Fund by passing Ordinance 812¹, which is included in the Appendices. This ordinance established a "fund advisory commission" known as the Public Access, Open Space, and Natural Resources Preservation Fund Commission 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, more commonly known as the "Open Space Commission," was officially formed in September 2004. It is made up of four Mayor-appointed members, four 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."

1.C. Historical Perspective

The recommendations of the Commission are formulated and submitted annually to

¹ Ordinance 812 was signed into law by Mayor Bryan J. Baptiste on December 15, 2003

County Council & Mayor between 2005 through the present. These recommendations resulted from:

- Many hours of 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, other Administration officials

With the Commission's annual report, now in its sixth year of recommendations, and the County's success with its first fund-acquisition of Black Pot Beach Park Expansion, the Commission is now focused on improvements to Ordinance 812, identification of other feasible acquisition projects, and increased effectiveness.

2. Recommendations for Acquisition Using the Open Space Fund

The primary responsibility of the Open Space Commission is to present to the Kaua'i County Council and the Kaua'i Mayor an annual list of priority projects for acquisition.

In addition to the recommendations listed below, the appendices contain property abstracts with diagrams/photos of the properties identified in this Chapter.

Recommendations for Priority Acquisition

The Open Space Commission recommends the fee interest or easement-type rights acquisition for the following properties, utilizing the Fund. The properties are listed in priority order:

- 1. Salt Pond Beach Park Expansion (Mauka and West) and Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)**

The termination of Gay and Robinson's long-standing sugar operations provides the opportunity to request termination of a State of Hawai'i Department of Land and Natural Resources annual revocable permit for State-owned lands westward and mauka of the salt pans and beach park and to seek an Executive Order to the County of Kaua'i for public recreational and cultural preservation purposes. There is an urgency associated with the acquisition of these properties due to a rare window of opportunity to obtain these lands for public purposes.

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 requiring expansion westward and mauka.

Funds may be used for the necessary subdivision of State-owned properties and for the acquisition of the private property interests in the beach park expansion area.

These lands could be land-banked for park and preservation purposes.

- 2. Proposed Piwai (Ōma'o) Recreation Area (Kōloa District)**

This property is currently used as a recreational vehicle track (motorcycle, all terrain vehicle and mountain bike). Non-profit organizations, such as the Kaua'i Motorcycle Club (KMXA) and The Garden Island Motorcycle Club (GIMC, founded in 1946), maintain and sponsor activities in this area. The

acquisition of this land will allow these recreational uses to continue in a safe and environmentally compatible manner with stewardship opportunities by the non-profit organizations.

Islandwide, the closure of offroad trails and prohibition of access to mauka areas over the years has significantly affected many Kaua'i residents in a negative way, including recreational vehicle track users. The availability of this land for a recreational vehicle track would help compensate for this loss. It may also discourage other trails and properties from being used or misused and may reduce on-trail user conflicts and environmental damage.

While the non-profit organizations have used this property as a recreational vehicle track for years, the property has been on the market for sale, thereby jeopardizing the current use if purchased by a party seeking to discontinue the current use.

The acquisition of this sizeable property is compatible with the Commission's continued interest in "Public Hunting Area C" and the upland recreational potentials mauka of Kalāheo and Ōma'ō.

3. Kaneiolouma Heiau Complex Preservation Area Expansion (South) (Kōloa District)

This parcel is the traditional entrance of the Kaneiolouma Heiau Complex, which has been significant to the island's culture since the 1400's. This privately-owned parcel is adjacent to County-owned and County-controlled State-owned land (transferred to the County in September 2011). The public lands are covered under a County of Kaua'i Adopt-A-Park Agreement with Hui Malama O Kaneiolouma for the stewardship of the heiau.

This parcel is zoned Open Special Treatment-Cultural (ST-C) and Open Special Treatment-Public (ST-P) in recognition of its cultural values.

The Fund may be used to help acquire the Kaha Kai LLC property to complete the complex.

These three sites comprise the Commission's 2011 recommendations for priority acquisition and were also recommended for acquisition in the commission's 2010 report. Because of continued public interest, the commission urges the County Council to take action towards acquisition.

Other Recommendations

Two of the following recommendations also were originally part of the Commission's recommendations for acquisition in its 2010 report. After further investigation in 2011, the Commission recommends that the County consider these additional strategies to support public access.

- Kukui'ula Bay through the former Hoban Property (Kōloa District)

On November 17, 2011, the Commission approved for transmittal to the County Council a dossier encouraging acquisition of public access at Kukui'ula Bay through the former Hoban property. The transmittal was made to help implement this recommendation, which appeared in the Commission's 2010 report.

According to the Commission's 2010 report:

This proposal is to acquire a pedestrian shoreline access over an existing drainage easement on 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 for gathering rights and outdoor recreation. In 1995, the property owner constructed a wall which blocked any access. This access would provide the only safe pedestrian transit to the shoreline between Kukui'ula Harbor and Spouting Horn.

The Fund could supplement, 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). Those funds have 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.

- Restoration and Expansion of Shoreline Access, Lāwa'i Kai to Port Allen (Kōloa District)

This proposal was included in the Commission's 2010 report. The Commission has received continued public support for this proposal and is still interested in shoreline access in this area. The Commission has determined that more work is needed to specify the acquisition proposal and possibly open discussions with the landowner to address some of the public's concerns about public access.

The Commission's 2010 report stated:

The shoreline area between Lāwa'i Kai and Port Allen is now dominated by coffee cultivation. Public shoreline access along this long stretch of coastline has increasingly become more restricted for fishermen and other shoreline users due to the following reasons:

- The implementation by the landowner of an annual permit application process,
- Imposition of annual revocable permit fees,
- On-site check-in procedures,
- Restricted vehicular access to traditional fishing spots,
- Imposition of no-entry hours during non-harvesting months, and
- Imposition of a 4-month-long no public entry period during harvesting.

This proposal seeks to restore and expand shoreline accesses for fishermen and other coastal users from the Halewili Road along a narrow coastal corridor stretching parallel along the shoreline from Lāwa'i Kai to Port Allen. (2010)

□ Kauapea Beach Access and Other Unresolved Public Access Issues

The Commission continues to be seriously concerned about the lack of public access to Kauapea Beach from the east end. This access is one of many that the Commission has identified from the onset of the Commission's existence. There continues to be high levels of public interest and frustration about lost and unfulfilled promises of public access. Since its first annual report (2005) to the County Council, the Commission has identified a number of unresolved issues related to specific public accesses on Kaua'i. The County Planning Department was responsible in researching this, and had committed to the County Council that a report would be submitted by the end of calendar year 2010.

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 reiterates its longstanding concerns about all of the unresolved accesses.

3. 2011 Public Input Process

The Commission is required to annually solicit public input. This chapter summarizes the public input opportunities provided in 2011 and the results.

3.A. Public Input Opportunities

The following opportunities for public input occurred in 2011 and helped in the Commission's deliberations in putting forth its recommendations:

Regular Commission meetings. The Commission usually met twice monthly on the 2nd and 4th Thursdays of the month at duly noticed public meetings in publicly-accessible meeting rooms in the County's Civic Center Complex in Līhu'e. Inadequate quorum or unavailability of meeting rooms were reasons for cancelled meetings. Public comment was allowed during Commission meetings with a specific agenda item or during the announcements segment.

2011 public meetings. Public meetings were conducted at Salt Pond Beach Park, Po'ipū Beach Park, and the Moikeha Building of the Līhu'e Civic Center during October 2011. These meetings were attended by about 120 members of the public. Comments were received about Salt Pond Beach Park expansion and Salt Pond buffer, shoreline access from Lāwa'i Kai to Port Allen, Nukumoi (sic) portion of Kaneioulouma Heiau, and Piwai recreation area.

Public survey. Each year the Commission looks for ways to improve its mandate of soliciting public input. A paper survey was distributed throughout the island at all public libraries and neighborhood centers. The survey was also available online on the Commission's webpage (www.kauai.gov/openspacesurvey.com) available through the Planning Department.

The survey period for both paper and online surveys was October 5 to 31, 2011.

The Commission received a total of twenty-six online surveys. The sites addressed by these individuals included: shoreline access between Lawa'i Kai and Port Allen, the Hanapēpē Salt Pans, Kipu Falls, Alekoko Fish Pond, Tunnels Beach, the former Coco Palms Hotel, recreational uses at Piwai (Ōma'o), the Kaneioulouma Heiau complex and the area known as Mahaulepu. There were also comments about the land surrounding the Kapa'a Bypass road and the east side mauka of Waimea River.

Twelve places on Kaua'i were suggested for acquisition. The most frequent suggested sites were:

- Kaneioulouma Heiau Complex (Kōloa District)

Much of the comments here surrounded the Nukumoi Surf Shop property. They had no problems with protecting and clearing of the heiau but wanted the surf shop to remain in the same location noting that it was a great local business that provides residents with jobs while also serving tourists which was our main industry. They suggested an alternative route to the heiau rather than condemnation of property.

- Hanapēpē Salt Pans (Waimea District)
Survey respondents mentioned that nearby Salt Pond Beach Park is already heavily overused so creating a clear buffer zone between the park and the pans along with park expansion is a much needed acquisition.
- Coco Palms Hotel (Kapa'a District)
People here view this extinct hotel as an "eyesore" looking worse every year since it is located next to Kūhiō Highway across of Wailua Beach. They would like the buildings demolished, save whatever is historical and turn the area into a museum, park or something that can be enjoyed by both locals and tourists alike.

4. 2011 Year in Review

The Commission has continued to work on several areas of concern that have remained unresolved for the last several years. Recent activities by the Planning Department and the Commission are aimed at resolving these important areas of concern. Undoubtedly, the support of the County Council and County Administration continues to be imperative for resolution since the Commission is an advisory body only.

4A. Amendment to Ordinance 812

On November 2, 2011, at the Commission's request, the Mayor transmitted to the County Council a proposed draft bill to amend Chapter 6, Article 14, Kaua'i County Code 1987. The draft bill is currently at the County Council for consideration.

Over the years, it has become clear that the intent of Ordinance 812 and the actual scope of the Commission's duties are in conflict, leading to unfulfilled expectations and frustration on the part of the public and the commission. Over a several year period, the Commission has worked to identify changes to Ordinance 812. The Amendments are aimed at better aligning the authorities provided by the Ordinance with the County Council's intents and expectations, the County Administration's, the Commission's, and the public's expectations and needs.

4B. Commission Vacancies

Three (3) new commissioners were appointed in 2011. As of November, eight (8) of the nine (9) commissioners are now seated. The Commission is currently undertaking a process to recruit and appoint the ninth commissioner.

The Commission's authority to appoint the ninth member is specified in Ordinance 812. As currently worded, the Commission is prevented from appointing the ninth commissioner until all 8 other commissioners are seated. Since 2009, the Commission has not convened with a full complement of nine commissioners. Expired terms and resignations have led to vacancies, which require appointments from either the County Council or the Mayor.

Six (6) meetings out of twenty-four (24) in 2011 were cancelled due to lack of quorum.

4C. New Process to Assist in Implementation of Commission Recommendations

In 2011, the Commission implemented a new process in an attempt to assist the County Council in implementing selected Commission recommendations for priority acquisition. This new process involved the preparation of dossiers that outlined a proposed strategy for acquisition of a selected site. While a few draft dossiers were discussed and prepared, only one dossier has been submitted to the County Council for consideration. That dossier, for access to Kukui'ula Bay through the former Hoban property (Kōloa District), was approved by the Commission on November 17, 2011 for transmittal to the County Council for consideration.

4D. A Call for Action

The Commission unanimously agrees that action, in some form, on one or more of their recommendations is warranted.

Since 2005 and through 2011, the Commission has submitted to the County Council and Administration fifty-nine (59) site recommendations for thirty (30) separate locations. The majority of these recommendations are for the use of the Fund, but a few locations involve acquisition without necessitating use of the Fund.

Since 2005 and through 2011, the Fund has been used to help acquire only one (1) site (Black Pot Beach Park Expansion—Hodge property).

Even during austere times when the size of the fund has been modest in comparison with the high cost of land acquisition--particularly for coastal lands--the Commission has identified lands that can be feasibly acquired.

There are some significant changes that have occurred within the Commission and more is expected soon if the draft amendments to Ordinance 812 are adopted. In May 2012, the terms of the last two Commissioners originally appointed to the Commission will be expired. Commissioners, particularly the newly ones, are questioning the value of their voluntary service to the County when results of their cumulative work over a six-plus year period have resulted in only one acquisition. In addition, the Planning Department's failure to address unresolved access issues first brought up by the Commission in 2005 are still unresolved.

Real measures to focus on improving the effectiveness of the Commission is a priority. If not, Commissioner vacancies will once again be problematic. More importantly, the public's trust to meet its needs for public access, open space, and natural and cultural preservation through the Fund, will continue to be unfulfilled. Our potential to help provide a lasting legacy for future generations of residents and visitors will largely be unmet.

Appendix A

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.

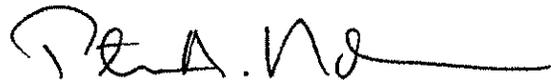
E. Any part of an allotment which is not expended or encumbered shall be deemed re-allotted for the next allotment period.

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

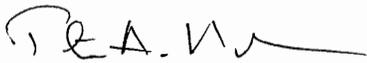
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CERTIFICATE OF THE COUNTY CLERK

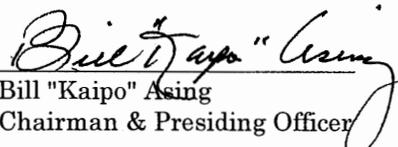
I hereby certify that heretofore attached is a true and correct copy of Bill No. 2078, Draft 1, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on December 8, 2003, by the following vote:

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:

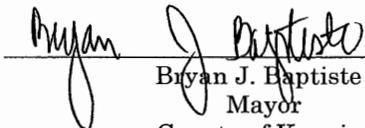

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

December 9, 2003

Approved this 15th day of

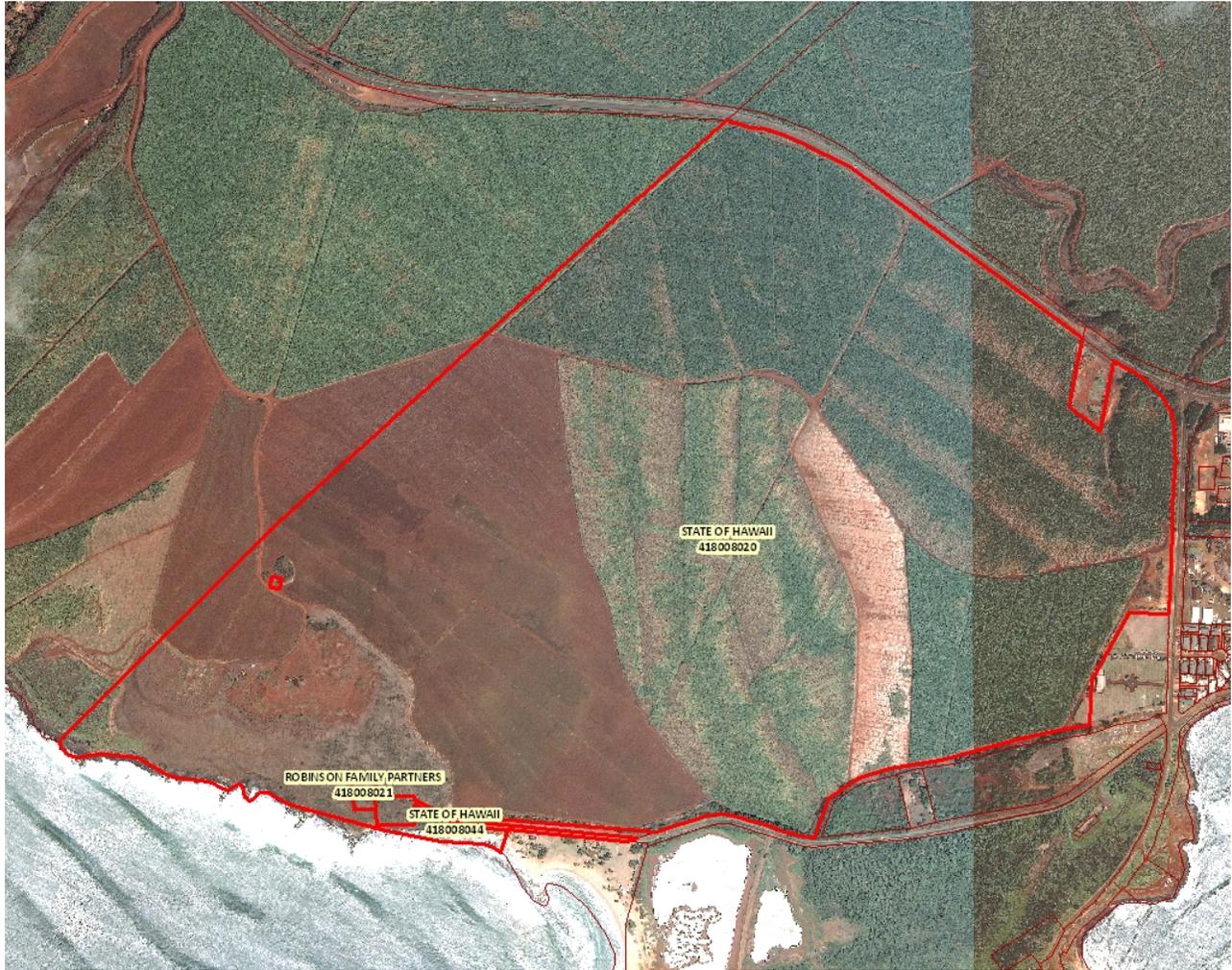
December, 2003.


Bryan J. Baptiste
Mayor
County of Kauai

Appendix C

Abstracts for each Acquisition Recommendation

Salt Pond Beach Park Expansion (Mauka and West) and Buffer Area for Protection of Hanapēpē Salt Pans (Waimea District)



Owners	TMK	Address	Acres	Assessment
State of Hawai'i(Gay & Robinson Inc, Lessee)	(4)1-8-008:020	Kaumuali'i Hwy	373.060	\$1,299,500
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	\$0
			375,866	\$1,531,100

Recommendation:

- Opportunity for the County to seek an executive order to transfer a portion of state lands to the County of Kaua'i for public recreational and cultural preservation purposes.
- Expansion Mauka and westward would allow reposition of uses in the area for improved protection and establishment of buffers for the significant salt pans.
- The Open Space Fund could fund the necessary subdivision process for the State-owned properties and the acquisition of the private property interests of a few of the properties in the beach park expansion area.

*Parcel boundaries appearing in aerial images are approximate.

Proposed Piwai (Ōma'o) Recreation Area (Kōloa District)



Owners	TMK	Address	Acres	Assessment
McBryde Sugar Co LTD	(4)2-5-001:002	Kaumuali'i Hwy.	122.472	\$1,120,300
McBryde Sugar Co LTD	(4)2-5-001:008	Kaumuali'i Hwy.	81.82	923,600
			204.282	\$2,043,900

Recommendation:

- Properties currently on the market and listed on MLS (Realtors-multiple listing sales) as a combined sale with purchase price at \$3.2M, listed since August 2008.
- This property is currently used as a recreational vehicle track (motorcycle, all terrain vehicle and mountain bike). The acquisition of this land will allow these recreational uses to continue in a safe and environmentally compatible manner with stewardship opportunities.
- The acquisition of this sizeable property is compatible with the commissions past interest in "Public Hunting Area C" and the upland recreational potentials Mauka of Kalāheo.

*Parcel boundaries appearing in aerial images are approximate.

Kaneiolouma Heiau Complex Preservation Area Expansion (South)



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	\$587,200
Kaha Kai LLC	(4)2-8-017:016;0002	Hoone Rd	.484	\$766,200
Kaha Kai LLC	(4)2-8-017:016;0003	Hoone Rd	.484	\$1,660,200
			1.202	\$3,013,600

Recommendation:

- This parcel is adjacent to County owned land and is part of the culturally significant Kaneiolouma Heiau Complex of Po'ipū.
- The public lands are covered under a County of Kaua'i Adopt-A-Park Agreement with Hui Mālama of Kaneiolouma for the stewardship of the heiau.
- The parcel's zoning is Open Special Treatment – Cultural (ST-C) and Open Special Treatment – Public (ST-P).
- Acquire the land lease or other encumbrances, or purchase the fee to expand efforts to restore, interpret and protect this important cultural place.

*Parcel boundaries appearing in aerial images are approximate.

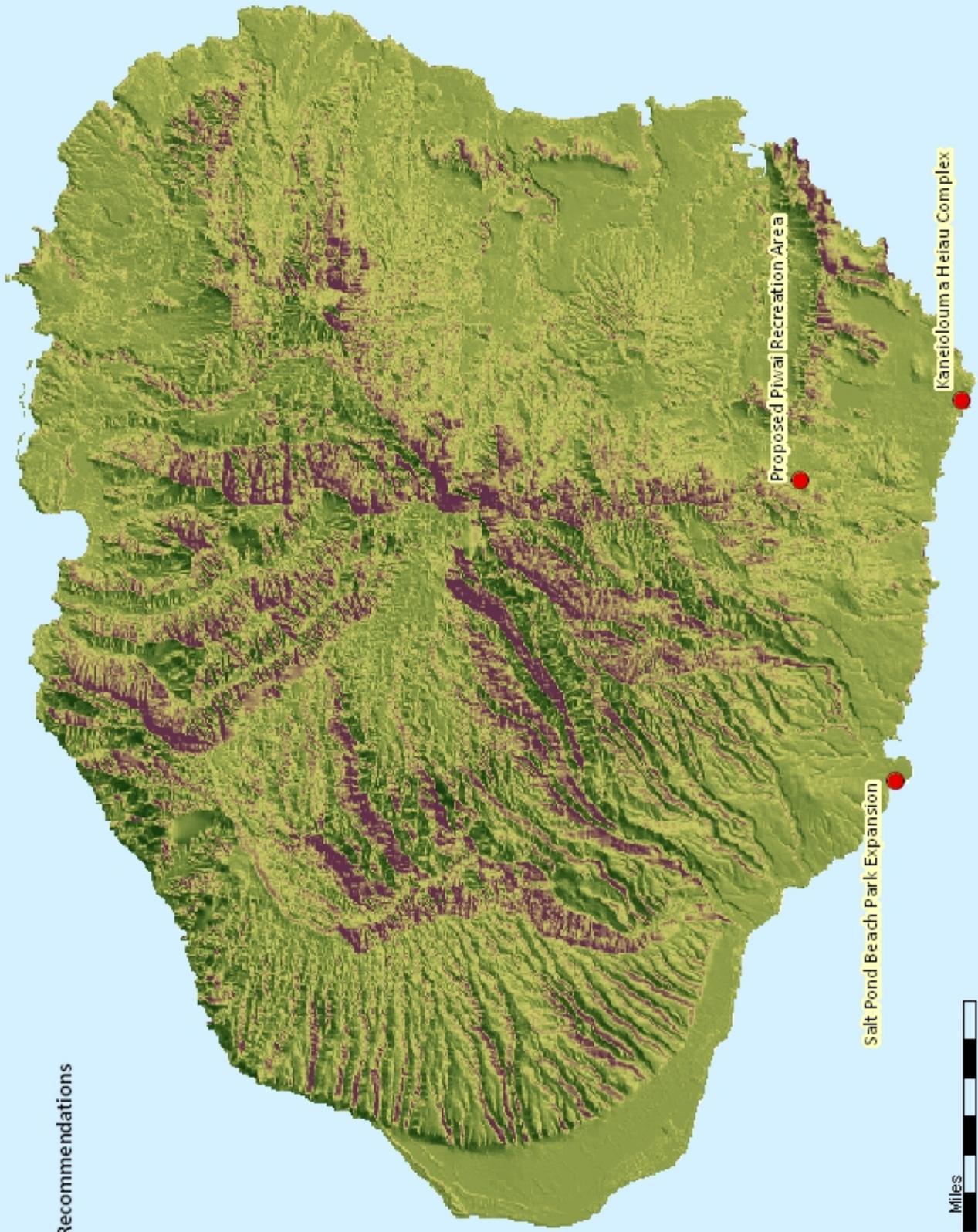
Appendix D

Island Map indicating all Acquisition Recommendations

Public Access, Open Space and Natural Resources Preservation Fund Commission: 2011 Recommendations

Legend

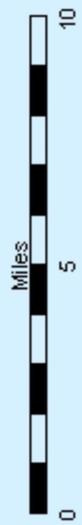
- Project Recommendations



Proposed Piʻihai Recreation Area

Salt Pond Beach Park Expansion

Kanaloa Heiau Complex



Appendix E

Current and Prior Year's Priority Recommendations

Current and Prior Years' Priority Recommendations

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'ō) 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'ō) 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 F

2011 Survey Questionnaire

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



Annual Public Input

*Assist with Planning
Project for Public Benefit*

October 5, 2011 - 6:00pm - Salt Pond Park (Main Pavilion)

October 6, 2011 - 6:00pm - Po'ipū Beach Park (Main Pavilion)

**October 13, 2011 - 4:30pm - Moikeha Building
(Meeting Room 2A-2B)**

See inside for more information regarding projects under consideration and commission work.

You can also provide input online at:

www.kauai.gov/OpenSpaceSurvey

For more information, call 241-4050

IMPORTANT: Return survey by 10/15/11

Completed survey forms can be mailed
to the address below or faxed to: 241-6699

Survey also available online at:

www.kauai.gov/OpenSpaceSurvey

County of Kauai Open Space
Commission

4444 Rice Street, Suite #473

Lihue, HI 96766

2011 Public Input Process Overview

In 2010, the County of Kaua'i 's Public Access, Open Space and Natural Resources Preservation Fund Commission identified six (6) sites that the County should consider for acquisition using the Open Space Fund. In 2011, the Commission would like to work more with the communities engaged with these sites to identify strategies for protection and/or acquisition that will assist the County in its Open Space Fund planning.

The public may also make suggestions for other lands or property entitlements (like access ways) that the County should consider for purchase or to otherwise acquire.

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?

Survey available online: www.kauai.gov/OpenSpaceSurvey

Assist with Planning Projects for Public Benefit

Come Talk with the County's Open Space Commission and Staff about the sites identified in the 2010 Open Space Priority List

- Salt Pond Beach Park Expansion (Mauka and West) And Buffer Area for Protection of Hanapēpē Salt Pans - **October 5, 2011—6pm** - Salt Pond Beach Park (Main Pavilion)
- Kaneiolouma Heiau Complex Preservation Area Expansion (South) also known as Nukumoi [sic] Surf Shop Property - **October 6, 2011—6pm** - Po'ipū Beach Park (Main Pavilion)
- Proposed Piwai (Ūma'ō) Recreation Area - **October 13, 2011—4:30pm** - Moikeha Building (Meeting Room 2A-2B)

**Other suggestions (form on left side) are
DUE NO LATER THAN 10/15/11**

fax to: **241-6699**

or mail to:

**County of Kauai Open Space Commission
4444 Rice Street, Suite 473
Lihue, HI 96766**

Survey also available online at:

www.kauai.gov/OpenSpaceSurvey

For more information about the
Open Space Program, visit:

www.kauai.gov/openspace

