On November 29, 2021, Governor David Y. Ige issued an Emergency Proclamation, which continued the suspension of Hawai‘i Revised Statutes (HRS) Chapter 92, relating to Public Agency Meetings and Records (also known as the Sunshine Law) as it pertained to the COVID-19 Response. HRS Chapter 92 was suspended to the extent necessary to enable boards to conduct business in-person or through remote technology without any board members or members of the public physically present in the same location. In addition, on December 29, 2021, Governor Ige issued a proclamation suspending HRS 92-3.7 to the extent necessary to suspend the requirement to have at least one meeting location that is open to the public.

The meetings of the County of Kaua‘i Public Access, Open Space, and Natural Resources Preservation Fund Commission will be conducted as follows until further notice:

- **Meetings will be publicly noticed pursuant to HRS Chapter 92.**
- **In-person meetings will be closed to the public to be consistent with social distancing practices.**
- **Commissioners, Planning Department Staff, parties to agenda items, and resource individuals may appear via the ZOOM remote technology.**
- **The meeting will be live streamed and also available as an archived meeting after completion at www.kauai.gov/Webcast-Meetings. Please note video production services or enhancements will not be available.**
- **Written testimony may be submitted on any agenda item and submitted to planningdepartment@kauai.gov or mailed to the Kauai County Planning Department 4444 Rice Street., Ste A473, Lihue, Hawai‘i 96766. Written testimony received by the Planning Department at least 24 hours prior to the meeting will be distributed to all Commissioners prior to the meeting. Any testimony received after this time and up to the start of the meeting will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.**
- **Oral testimony will be taken during the public hearing portion of the meeting via **ZOOM remote technology platform. Anyone interested in providing oral must register for the meeting. Once you register for the meeting, you will receive the meeting link that is unique to each registrant that cannot be shared.
  - It shall be the responsibility of the testifier to join the meeting through the **ZOOM link** provided via E-mail to provide their oral testimony. In addition, it shall be the responsibility of the testifier to ensure that the **ZOOM software is downloaded and operational prior to the meeting.**
  - All testifier audio and video will be disabled until it is your turn to testify.
  - Per the Commission’s and Chairs practice, there is three-minute time limit per testifier.
  - If there are temporary technical glitches during your turn to testify, we may have to move on to the next person due to time constraints; we appreciate your understanding.
- **If any major and insurmountable technical difficulties are encountered during the meetings, the Public Access, Open Space, and Natural Resources Preservation Fund Commission will continue all matters and reconvene at the next scheduled Commission Meeting.**
- **Minutes of meetings will be completed pursuant to HRS Chapter 92 and posted to the Public Access, Open Space, and Natural Resources Preservation Fund Commission’s website upon completion and approval.**
A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting(s) of the Commission

1. January 13, 2022

E. RECEIPT OF ITEMS FOR THE RECORD

F. HEARINGS AND PUBLIC COMMENT. The Public Access, Open Space, and Natural Resources Preservation Fund Commission will accept written testimony for any agenda item. Written testimony indicating your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted in writing to planningdepartment@kauai.gov or mailed to the County of Kaua‘i Planning Department, 4444 Rice Street, Suite 473, Lihu‘e, Hawai‘i 96766. Written testimony received by the Planning Department before 1:00 p.m. on Wednesday, February 9, 2022, will be distributed to all Commissioners prior to the meeting. Written testimony received after 1 p.m. on Wednesday, February 9, 2022, will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.

Oral testimony will be taken at the beginning of the meeting on any agenda item via the Zoom remote technology platform. Once you register for the meeting, you will receive the meeting link that is unique to each registrant that cannot be shared. It shall be the responsibility of the testifier to register for the Zoom meeting and ensure that the Zoom software is downloaded prior to the meeting.

G. COMMUNICATION

H. GENERAL BUSINESS

I. UNFINISHED BUSINESS (For Action)
1. Review and Discussion on Access to Kukui’ula Bay through Leight Property at 4432 Lawai Road, Koloa HI 96756 (formerly Hoban Property) – Kōloa District Tax Map Key 2-6-003:017, Kōloa, Kaua‘i.

2. Discussion and development of the biennial list of priority projects to be reported to the Kauai County Council and the Mayor.

J. **NEW BUSINESS (For Action)**

K. **EXECUTIVE SESSION**

EXECUTIVE SESSION: The Commission may go into executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawai‘i Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

3. Pursuant to Hawai‘i Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County’s legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the access to Kukui’ula Bay through Leight Property at 4432 Lawai Road, Koloa HI 96756 (formerly Hoban Property) – Kōloa District Tax Map Key 2-6-003:017, Kōloa, Kaua‘i.

L. **ANNOUNCEMENTS**

1. Topics for Future Meetings

2. The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m., or shortly thereafter, on April 14, 2022. The Open Space Commission anticipates meeting via teleconference, but will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

M. **ADJOURNMENT**

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.
COUNTY OF KAUA‘I
Minutes of Meeting
OPEN SESSION

<table>
<thead>
<tr>
<th>Board/Commission:</th>
<th>Public Access, Open Space and Natural Resources Preservation Fund Commission</th>
<th>Meeting Date</th>
<th>January 13, 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Zoom Teleconference</td>
<td>Start of Meeting: 1:01 p.m.</td>
<td>End of Meeting: 2:34 p.m.</td>
</tr>
<tr>
<td>Excused</td>
<td>Commissioner Karen Ono</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Absent</td>
<td></td>
<td></td>
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</tbody>
</table>

**SUBJECT** | **DISCUSSION** | **ACTION**
---|---|---
**Oath of Office** | Prior to the meeting being called to order, Administrative Assistant to the County Clerk Eddie Topenio administered the Oath of Office to Waimea/Kekaha Mayoral Appointee Commissioner Taryn Dizon serving a second term ending 12/31/24. | |
**A. Call To Order** | Chair Kanna called the meeting to order at 1:01 p.m. | |
**B. Roll Call** | Deputy Director Jodi Higuchi-Sayegusa verified attendance by roll call; Commissioner Dizon replied present. Commissioner Lucas replied here. Commissioner Ono was excused. Commissioner Taniguchi replied present. Vice Chair Kimura replied present. Chair Kanna replied present. | Quorum was established with five commissioners present. |
**C. Selection of Chairperson and Vice Chairperson** | Chair Kanna opened the floor for chair nominations. Chair Kanna nominated Shaylyn Kimura to serve as Chair for calendar year 2022. | Mr. Lucas moved to close and nominate Shaylyn Kimura as chair for calendar year 2022. Ms. Dizon seconded the motion. Roll Call Vote: Aye-5 Nay-0  Motion carried 5:0. |
<p>| | Shaylyn Kimura assumed the chair position | |
| | Chair Kimura opened the floor for vice chair nominations. | |</p>
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Ms. Taniguchi nominated Nancy Kanna to serve as Vice Chair for calendar year 2022</td>
<td>Nancy Kanna assumed the vice chair position.</td>
<td>Ms. Kanna moved to close nominations for vice chair. Ms. Dizon seconded the motion. Motion carried 5:0.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ms. Dizon moved to nominate Nancy Kanna as vice chair for calendar year 2022. Mr. Lucas seconded the motion. Roll Call Vote: Aye-5 Nay-0. Motion carried 5:0</td>
</tr>
<tr>
<td>D. Approval of Agenda</td>
<td>Vice Chair Kanna moved to approve the agenda, as circulated. Mr. Lucas seconded the motion. Motion carried 5:0.</td>
<td></td>
</tr>
<tr>
<td>E. Minutes of the Meeting(s) of the Commission</td>
<td>E.1. October 14, 2021.</td>
<td>Vice Chair Kanna moved to accept the October 14, 2021, minutes, as circulated. Mr. Lucas seconded the motion. Motion carried 5:0.</td>
</tr>
<tr>
<td>F. Receipt of Items For The Record (None)</td>
<td>Ms. Higuchi Sayegusa stated the commissioners were transmitted a report related to J.1. the Kaumumene Beach Access.</td>
<td></td>
</tr>
<tr>
<td>G. Hearings and Public Comment</td>
<td>Ms. Higuchi Sayegusa announced all names registered to testify and they were given a three-minute time limit. Four individuals testified. Once the registered testifiers were done Ms. Higuchi Sayegusa opened it up to anyone else who did not register. With no response she moved on to the next agenda item.</td>
<td></td>
</tr>
<tr>
<td>H. Communication</td>
<td>There were none.</td>
<td></td>
</tr>
</tbody>
</table>
I. General Business

There were none.

J. Unfinished Business (For Action)

<table>
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<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
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</table>
| J.1. Review and discussion of the dedication of an easement and possible improvements related to the easement located on land identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Kaumumene or Hideaways Beach. | Ms. Higuchi Sayegusa shared the following;  
- Received an email January 12, 2022, that contained copies of the petition that Ms. Barbara Wiedner displayed during her testimony in support of the easement. The petitions were transmitted to all the commissioners prior to the start of the meeting.  
- The commission at its October 14, 2021, meeting requested further research on possible improvements to the trail that could be funded by Open Space funds and formalize a stewardship agreement for maintenance. A report summarizing this information was compiled and transmitted to all the commissioners.  
- The commission’s action was;  
  o To recommend or not recommend to council the acceptance of the grant of easement.  
  o To request the county council, approve use of Open Space funds for the improvements and specify how much.  
- Mr. Lucas suggested materials and design that would minimize rust and deterioration. He stressed the importance that the contractor follow all code requirements and receive all the necessary permits.  
- Contacted six contractors recommended by Engineering, Public Works, and Roads Division. Received three estimates in addition to two estimates provided by Councilmember Cowden. There was a wide range of estimates; from $50,000 to $1.5 million.  
- Mike Lyons met with the $1.5 million estimate contractor and inspected the trail. The reason for the cost was use of Trex® composite decking and the contractor would customize the stairs to fit the terrains various slope, pitch, and narrow pathways.  
- The next two estimates used prefabricated stairs and two lowest estimates indicated |
### Subject:

- Concrete stairs.
  - All estimates included labor and materials.
  - Listed the potential range of permits that might be required but would depend on the final improvement plans and add to the costs;
    - Special Management Area – SMA Use permit which would need to go through the Planning Commission
    - A portion of the trail was located on state conservation district – this would require State Department of Land and Natural Resources (DLNR) to permit. It could be a site plan review or a more complicated project discretionary permit.
    - Environmental Assessment may be required.
    - Shoreline Certification may also be required by DLNR.
  - Met with Surf Rider Foundation and the members were willing to organize volunteers and events for ongoing maintenance of the trail. They were willing to enter into a formal stewardship agreement with the county of Kaua‘i.

### Discussion

- Deputy County Attorney Barzilai suggested Chair Kimura open the discussion with questions on acceptance of the easement and questions on approval of improvement funds cap.

### Questions

1. Chair Kimura asked if the $1.5 million contractor also did work for Uluwehi falls. Ms. Higuchi Sayegusa replied yes.
2. Chair Kimura asked for a breakdown of what the $1.5 million estimate included. Ms. Higuchi Sayegusa replied her intent was to ask a generalized estimate and this was not a formal bid or final costs. She said it included labor, materials and the stairs would be customized and built on location to fit the trail. Metal pins would be secured into the ground and Trex® composite decking material would be used.

Ms. Higuchi Sayegusa shared a picture of the Uluwehi falls walkway. She said the stairs for the trail would be similar in construction. It would be elevated and pinned to the ground. She also displayed a picture of the prefabricated metal stairs that the other estimates included.
<table>
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<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
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<tbody>
<tr>
<td>3. Chair Kimura asked Mr. Lucas if he’s been on the trail. Mr. Lucas replied he has not been on the trail in years.</td>
<td></td>
</tr>
<tr>
<td>4. Chair Kimura asked Mr. Lucas if there could be a blending of the use of the Trex® composite decking material and prefabricated stairs. Mr. Lucas replied the prefabricated stairs were inappropriate; metal would rust and would also not consider the concrete option; however, he would fully support the Trex® composite decking material; it was a great option. His recommendations were to keep the county from lawsuits, and he continued to stress the use of aluminum, fiber glass, composite materials that would cost more but would be safe, and it should look aesthetically pleasing. He fully supported the access and asked that the commission be kept informed and advised of the final design and budget.</td>
<td></td>
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<tr>
<td>5. Chair Kimura asked if the $1.5 million estimate included installing Trex® composite decking material on the entire trail. Ms. Higuchi Sayegusa replied, it would cover the steep parts of the trail and any remaining unused funds would remain in Open Space.</td>
<td></td>
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</table>

Ms. Higuchi Sayegusa said the process would include securing a source of funds to pay for the improvements and then authorize procurement and develop the design built and selection criteria on prioritizing a lower cost and any remaining unused funds would remain in Open Space.

6. Chair Kimura asked for the Open Space fund balance and any outstanding obligations. Ms. Higuchi Sayegusa replied, the Open Space fund balance was $3.1 million. Outstanding was 5% for administrative cost, $72,000 hydrological study project for the Hanapēpē salt beds, which left a $2.4 million balance. She said annually its funded $780,000 in July from real property assessment taxes.

*Ms. Higuchi Sayegusa lost internet connection at 1:58 p.m.*

*Ms. Higuchi Sayegusa returned at 1:59 p.m.; however, she had audio problems and lost connection again.*

DCA Barzilai suggested Chair Kimura start with a recommendation to council to accept the
The commissioners commented the following:
  - Vice Chair Kanna commented that it was in the best interest and good for the county and community to accept the easement and fulfilled the purpose of open space.

**Ms. Higuchi Sayegusa returned at 2:03 p.m.**

  - Vice Chair Kanna thanked Puu Poa Condominium Homeowners Association for correcting the easement.
  - Mr. Lucas agreed with Vice Chair Kanna.
  - Ms. Taniguchi supported the project and said the community had used the area for fishing and surfing for generations and couldn’t fathom the thought of not having safe access to the area.
  - Ms. Dizon agreed with Ms. Taniguchi and added that maintaining beach access needed to be protected and safe for the public.

**Ms. Higuchi Sayegusa lost internet connection at 2:06 p.m.**

DCA Barzilai in the absence of Ms. Higuchi Sayegusa proceeded with a roll call vote.

**Ms. Higuchi Sayegusa returned at 2:07 p.m.**

<table>
<thead>
<tr>
<th>SUBJECT</th>
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<th>ACTION</th>
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<tr>
<td>easement.</td>
<td>Vice Chair Kanna moved to recommend County Council acceptance the grant easement located on land identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Kaumumene or Hideaways Beach. Mr. Lucas seconded the motion.</td>
<td></td>
</tr>
</tbody>
</table>
Ms. Taniguchi asked if there were other potential engineers that could provide an estimate or was it specialized and specific. Ms. Higuchi Sayegusa replied that these were estimates and once procurement began anyone would be able to submit a proposal. Mr. Lucas asked if the easement property deed was topography surveyed or metes and bounds. Ms. Higuchi Sayegusa replied that it was metes and bounds that would go with the granted easement. Mr. Lucas said to assess the steep trail areas they should use a topography survey as part of the solicitation for an RFP (request for proposal).

With no further questions or comments, Ms. Higuchi Sayegusa proceeded with roll call vote.

Ms. Higuchi Sayegusa explained that normally any recommendation would be included in the biennial report or by dossier; however, this was transmitted by the county council through a lawsuit, so there was no time frame. She would transmit communication on the Open Space recommendation along with a money bill to the county council and provide any updates.

Deputy County Attorney noted that the report also included the importance of signage and that should also be included in the referral. Ms. Higuchi Sayegusa said part of the project would require proper signage given the nature of the trail and beach. The signage would include experienced ocean swimmers, warn of danger and no lifeguard in the area.

Roll Call Vote: Aye-5 Nay-0. Motion carried 5:0.

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<thead>
<tr>
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<tr>
<td>J.2.</td>
<td>Discussion and development of the biennial list of priority projects to be reported to the Kaua‘i County Council and the Mayor.</td>
<td>million of Public Access, Open Space, and Natural Resources Preservation Funds for improvements related to the coastal access easement located on land identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Kaumumene or Hideaways Beach. Ms. Taniguchi seconded the motion.</td>
</tr>
</tbody>
</table>
Ms. Higuchi Sayegusa said the commission provided a biennial report to county council every odd calendar year and it was due within 90 days. Due to planning staff reassigned to Rain2018 and COVID-19 no report was submitted in 2019 and 2021. They are nearing completion and she asked that the commission defer this to the next meeting.

Vice Chair Kanna moved to defer discussion and development of the biennial list of priority projects to be reported to the Kaua‘i County Council and the Mayor to the February 10, 2022 meeting. Ms. Taniguchi seconded the motion. Motion carried 5:0.

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<td>Vice Chair Kanna moved to defer discussion and development of the biennial list of priority projects to be reported to the Kaua‘i County Council and the Mayor to the February 10, 2022 meeting. Ms. Taniguchi seconded the motion. Motion carried 5:0.</td>
<td></td>
</tr>
</tbody>
</table>

K. New Business (For Action) | There were none. |

L. Executive Session | None |

M. Announcements | 1. Topics for future meetings  
2. The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m. or shortly thereafter, on March 10, 2022. The Open Space Commission anticipates meeting via teleconference but will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date. |

Ms. Higuchi Sayegusa announced the next meeting would be February 10, 2022 and it would be every other month following that. She said there would be no March 10, 2022 meeting.

Ms. Higuchi Sayegusa reported that the next agenda would include the Hoban access and biennial report. Chair Kimura asked that Aliumanu access, that had been on hold status for six years, be placed on the agenda. Ms. Higuchi Sayegusa replied that she would gather past information that the commission discussed and include that in their packet.
Chair Kimura, along with the rest of the commissioners, acknowledged and thanked Deputy Director Jodi Higuchi Sayegusa and Deputy County Attorney Laura Barzilai. They were excited to have a great team and looked forward to working together.

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<tr>
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<th>ACTION</th>
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</thead>
<tbody>
<tr>
<td>Adjournment</td>
<td>With no further business to conduct, Chair Kimura called for a motion to adjourn.</td>
<td>Vice Chair Kanna moved to adjourn the meeting. Ms. Dizon seconded the motion. Motion carried 5:0. Chair Kimura adjourned the meeting at 2:34pm</td>
</tr>
</tbody>
</table>

Submitted by: _______________________________________
Sandra M. Muragin, Commission Support Clerk

Reviewed and Approved by: _____________________________
Shaylyn Kimura, Chair

( ) Approved as circulated.
( ) Approved with amendments. See minutes of _____ meeting.
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

Prepared by:
The County of Kaua‘i
Public Access, Open Space & Natural Resources
Preservation Fund Commission

Nancy Kanna, Chair
Shaylyn Kimura, Vice Chair
Karen Ono
Erica Taniguchi
Taryn Dizon
Jon Lucas

Administrative Support:
Planning Department Staff
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   G. Rules of Practice and Procedure of the County of Kaua‘i Public Access, Open Space, and Natural Resources Preservation Fund Commission, as amended
   H. Abstracts for Proposals that Were Considered
   I. Current and Prior Year’s Priority Recommendations
   J. Sample Survey Questionnaire
I. Executive Summary

A. Program Background

The Public Access, Open Space, and Natural Resources Preservation Fund (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. 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 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 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 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, under Chapter V, the Commission will issue recommendations to the County Council through its dossier recommendation process and Biennial Report after thorough analysis based on an evaluation of criteria for acquisition and prohibitive factors.

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:**

<table>
<thead>
<tr>
<th>PROPERTY NAME:</th>
<th>TAX MAP KEY:</th>
<th>STATUS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alekoko Fish Ponds</td>
<td>(4)3-2-001: 001 &amp; (4)3-1-001: 012</td>
<td>Approved $3,000,000 for Acquisition; Property Acquired with Private Funds</td>
</tr>
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</table>

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

<table>
<thead>
<tr>
<th>PROPERTY NAME:</th>
<th>TAX MAP KEY:</th>
<th>STATUS:</th>
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</thead>
<tbody>
<tr>
<td>Kaliihiwai Vacant Lot</td>
<td>(4)5-3-003:068</td>
<td>Report Received; Commission Requested Future Update</td>
</tr>
<tr>
<td>PROPERTY NAME:</td>
<td>TAX MAP KEY:</td>
<td>STATUS:</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>-------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Lāwa‘i Kai Beach Access (NTBG)</td>
<td>(4)2-6-004:001</td>
<td>Report Received</td>
</tr>
<tr>
<td>Hanapēpē Vacant Lot</td>
<td>(4)1-8-008:071</td>
<td>Report Received</td>
</tr>
<tr>
<td>Hanapēpē Vacant Lot</td>
<td>(4)1-8-008:065</td>
<td>Report Received</td>
</tr>
<tr>
<td>Kaluanono &amp; Halulu Fishpond (Waipa Foundation)</td>
<td>(4)5-6-004:010 &amp; :017</td>
<td>Approved $850,000 for Acquisition of Conservation Easement; Project On-Hold by Applicant to Secure Additional Funds</td>
</tr>
<tr>
<td>Kalihiwai Vacant Lot</td>
<td>(4)5-3-006:015</td>
<td>Report Approved; Commission Requested Future Update</td>
</tr>
<tr>
<td>Kalihiwai Vacant Lot</td>
<td>(4)5-3-006:020</td>
<td>Report Approved; Commission Requested Future Update</td>
</tr>
<tr>
<td>Kalihiwai Vacant Lot</td>
<td>(4)5-3-003:029</td>
<td>Report Received</td>
</tr>
<tr>
<td>Kekaha Vacant Lot</td>
<td>(4)1-2-013:001; 039; &amp; 040</td>
<td>Report Received</td>
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**Summary of Proposals Considered Prior to the 2017 Biennial Report Year:**

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

**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. In 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.

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 a substantial sized 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.

Proposals that the Commission recommended to acquire during the 2017 through 2021 reporting period are listed below. The Appendix E contains property abstracts with additional diagrams and photos of all the properties considered during the 2017 through 2021 reporting periods.

A. Recommended Proposals

1. ‘Alekoko 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 ‘Alekoko Fishpond, and Pū’ali Stream. Their vision and goal is for an improved ʻainakumuwai (watershed) that helps local ʻohana (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 is approximately eight (8) 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 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 has now been referred to the County Attorney’s office for 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 over the property containing existing structures. Given the presence of a 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/Kaua'i 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 ahupua’a, Kona Moku, Kaua’i Island, Hawai’i. It is located within the County of Kaua’i’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 Kaua’i, 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 reach out to the Emmy Award winning documentary filmmaker and the Kaua’i Chapter of the Filipino American National Historical Society that were interested in researching and producing a new documentary, “The Hanapēpē Massacre Mystery.”
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 that the Fund contained at the time. The land acquisition action is ready to move forward once these matters are resolved.
Brief Description:
Hui Mālama O Kāneiolouma has made significant strides with the protecting and clearing of 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, HALELEʻA 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. 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 Kauaʻi.

Commission Action:
The Commission also 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 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.


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, under Chapter V, the Commission will issue recommendations to the County Council through its dossier recommendation process and Biennial Report after thorough analysis based on an evaluation of criteria for acquisition and prohibitive factors.

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-Hanamāʻulu (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 6 seated members of its 9-member commission. 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 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 in 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 Kīlauea Neighborhood Center and Hanapēpē Neighborhood Center.

Finally, since the Amendment to the Commission’s Rules of Practices and Procedures that allowed the Commission to receive input and proposals throughout the year, this reporting period contained no specified survey. Thus, the Commission took in recommendations throughout the entire year of 2017. Subsequently, however, the Commission determined it best to receive paper surveys. Forms were distributed 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.
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 commissioners the opportunity to gain knowledge and see firsthand how placemaking enhances the community’s connection to place,
supports the 2018 General Plan policies, and 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 unanimously agrees that they have come a long way from the inception, its first report in 2005 to present. However, the Commission faces many challenges to successfully balancing the competing needs for the Fund and accomplishing the acquisition of 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, HALELEʻA MOKU) in 2009; 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, HALELEʻA 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 have 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 come on the open market.

Going forward, the Commission will begin to shape the process for issuing recommendations for the funding of 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%). There is a significant difference in the total annual funds received that could allow the commission to continue its mission and goals for Kaua‘i’s community.