

COUNTY OF KAUA'I
Minutes of Meeting
OPEN SESSION

Board/Commission:	Public Access, Open Space and Natural Resources Preservation Fund Commission	Meeting Date	May 9, 2019
Location	Mo'ikeha Building – Meeting Room 2A/2B	Start of Meeting: 1:06 p.m.	End of Meeting: 2:18 p.m.
Present	Chair Karen Ono. Vice Chair Shaylyn Kimura (<i>recused and left the meeting 1:35 p.m. and returned 2:06 p.m.</i>). Commissioners: Jett Jasper, Nancy Kanna, Erica Taniguchi and Herman Texeira. Planning Department Staff: Deputy Planning Director Jodi Higuchi-Sayegusa and Duke Nakamatsu. Office of Boards and Commissions: Administrative Specialist Anela Segreti and Commission Support Clerk Sandra Muragin.		
Excused	First Deputy County Attorney Nicholas Courson.		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Ono called the meeting to order at 1:06 p.m.
Roll Call	The meeting commenced with a roll call of the Commissioners.	Six Commissioners were present, which constituted a quorum.
Approval of Agenda	Deputy Planning Director Jodi Higuchi-Sayegusa requested to amend the order of the agenda and move item I.3. Presentation by Waipa Foundation before I.1. Update from Administration and I.2. Discussion and scheduling of community outreach.	Ms. Kanna moved to approve the agenda, as amended. Ms. Kimura seconded the motion. Motion carried 6:0.
Minutes of the Meeting(s) of the Open Space Commission	<u>D.1. Meeting minutes of March 14, 2019.</u>	Ms. Kanna moved to approve the March 14, 2019, minutes as circulated. Mr. Texeira seconded the motion. Motion carried 6:0.
Receipt of Items For The Record (None)	There were no items to receive for the record.	
Hearings and Public	<u>F.1. All remaining public testimony pursuant to HRS 92 (Sunshine Law).</u>	

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Comment	Ms. Higuchi-Sayegusa informed the public of the opportunity to present their testimony now or wait until it comes up on the agenda. Seeing no one, Ms. Higuchi-Sayegusa moved on to the next agenda item.	
Communication (For Action) (None)	There were no communications.	
Unfinished Business	<p><u>H.1. Update by Planning Department on Bill for an ordinance amending Chapter 6, Article 14, Kaua'i County Code 1987, as amended, relating to the Public Access, Open Space, and Natural Resources Preservation Fund.</u></p> <p>An update on the status of the bill for an ordinance was presented to the Commission by Ms. Higuchi-Sayegusa. The Planning Department had been in several contact meetings with Planning Committee Chair Councilmember Mason K. Chock and Council Services staff to explain the Commissions intent and to further clarify the language used in the bill for an ordinance. To gain a better understanding, a detailed summary analysis was provided by Council Services Staff Jenelle Agas that identified areas that required clarification because the intent of the Commission needed to also be in-line with the Charter.</p> <p>Proposed new sentence 3: "Improvements to existing public pedestrian coastal accesses shall be limited to fencing, signage, demarcation, and parking", created a need to understand what "existing" meant and questioned the limitation of funds to only four purposes. Ms. Higuchi-Sayegusa said proposed new sentence 3 did not align with the Charter and did not reflect the will of the voters, who did not vote to limit funds to only four purposes.</p> <p>Ms. Higuchi-Sayegusa next explained the three options that was provided in the detailed summary analysis. Option one would restore the bill for an ordinance back to the Charter language, which would allow use of the funds for land acquisition and any improvements to coastal accesses. Option two would clarify the Commissions definition of improvements. Would improvements include only accesses in coastal areas? Would improvements include State accesses or only County owned? Would new acquisitions not be limited to only four</p>	

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	<p>purposes? The third option is to leave as is and allow Council to amend as they see fit.</p> <p>Proposed new sentence 2: “The moneys in this fund may also be used to improve public pedestrian access to coastal areas.” Ms. Higuchi-Sayegusa confirmed the Commission’s opinion that they felt the language was too broad and the funds had to now potentially be split between land acquisition and improvements. The Department also recommended against limits with restricted language. Ms. Kanna inquired if Ms. Higuchi-Sayegusa knew of Councils interpretation. Ms. Higuchi-Sayegusa recalled hesitation to constrain the intent of the Charter and their direction was to keep the language broad. Mr. Jasper asked if Council had a say on whether or not the Commission could submit a recommendation. Ms. Higuchi-Sayegusa replied that all recommendations go through the legislative process, which included Councils authority to vote and amend the language provided.</p> <p>Chair Ono asked Ms. Higuchi-Sayegusa to explain the process of improvement recommendations from the Commission. Ms. Higuchi-Sayegusa stated that proposals for use of Open Space funds would first be reviewed by this body and their recommendation submitted to Council for approval. She further clarified that the Department clerks this Commission and all recommendations would be drafted and vetted by the Department before it is transmitted to Council for their review and approval.</p> <p>Ms. Kimura recalled that when this subject first came up the opinion of this body was concerned with being able to actually use the funds to clear accesses and somehow that got lost in translation. The intent of the Commission was to regain control of accesses that were no longer open to the public because under the current language they were not able to do any improvements. They were not concerned with the language being too broad and they didn’t think it was being limited either. She asked the Department for suggestions that would satisfy language that was not so broad and would also not limit improvements to those four purposes.</p> <p>Ms. Kimura said the coastal access inventory list that is currently being worked on would</p>	

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	<p>eventually require demarcation or some type of improvement. Not changing the language would prohibit the Commission from performing any type of maintenance. Ms. Kimura desired the ability for the Commission to move forward with access improvements that did not require the approval from Council and did not limit them to only four purposes. She envisioned working with the Council Planning Committee to come up with guidelines that the Commission could use to analysis each access and determine the best approach. Ms. Kanna was in favor of not limiting the language but suggested the Commission define the process and create perimeters that could be used to accomplish their intent.</p> <p>Ms. Higuchi-Sayegusa said this was only an update; however, the intent of the Commission and comments will be forwarded to the County Council. The Commission agreed to not limit the funds to only those four purposes. Ms. Higuchi-Sayegusa suggested the Commission look into defining criteria's and develop process guidelines in their Rules of Practice and Procedure.</p> <p>Ms. Higuchi-Sayegusa said she would notify the Commission of the next Council Planning Committee meeting should anyone want to attend and share their thoughts.</p> <p>Chair Ono called for the question.</p>	<p>Ms. Kanna moved to receive Council Services Staff Analysis of 2018 Charter Amendment and Bill No. 2747 Relating to the Public Access, Open Space, Natural Resources Preservation Fund, nine page document dated 05/07/19. Ms. Kimura seconded the motion.</p> <p>Motion carried 6:0.</p>
<p>New Business (For Action)</p>	<p><u>I.3. Presentation by Waipa Foundation and Trust for Public Lands requesting continued Commission support regarding the Embracing Kuleana Waipa project for acquisition consideration of a 1.8 acre property known as Kaluanono, further identified as Tax Map Key (TKK) (4) 5-6-004:010 and a .25 acre property known as Halulu Fishpond further identified</u></p>	

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	<p>as <u>Tax Map Key (TMK) (4) 5-6-004:017 located in Waipa, Waipa Ahupuaa, Halalea Moku. (Preliminary report 4/9/15)</u></p> <p>a. <u>Supplemental report no. 1 pertaining to this matter.</u></p> <p><i>Ms. Kimura recused herself and left the meeting room.</i></p> <p>Waipa Foundation Executive Director Ms. Stacy Sproat-Beck gave a power point presentation and overview of the foundation. Waipa Foundation is a non-profit that has had an agriculture lease of 1600 acres from Kamehameha Schools since the mid 1980's. There were 21 kuleana parcels embedded in the ahapua'a; two were owned by Kamehameha Schools, most have been built on with two that remain unoccupied.</p> <p>She said back in 2015, they approached the County for support on the purchase of two kuleana parcels. The Halulu Fishpond access parcel is a .25 acre lot that is in line with two other properties that have large homes built on them. They are concerned with the possibility of it being sold and built on like the other two properties and that would have a negative visual impact and impair access. The property line extends into the Halulu Fishpond and lies across a major access to the ponds. They use the banks of the Halulu Fishpond as a learning center and to hold two of its most popular festivals the Kala and Mango. Both festivals average 1,000 to 2,000 in attendance and access is through the .25 acre lot. The Kaluanono parcel is a 1.8 acre property that lies right on Waipa stream. Their mauka trail, which leads to the uplands and reforestation projects, runs through the Kaluanono property.</p> <p>State Director of the Trust for Public Lands Ms. Lea Hong covered the project history and financial position. The project started back in September 2014 when Waipa applied and received almost \$400,000.00 from the State Legacy Land Conservation Program (SLLCP) for the Kaluanono parcel. She said they applied for funds for the Kaluanono parcel and not the Halulu Fishpond access parcel because they assumed Kamehameha Schools would purchase it. They were wrong. In April 2015 they requested \$1.1 million from the County to purchase both parcels, but it took several years to resolve the title search. Once the lengthy title search</p>	

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	<p>was settled the project was able to resume back in 2018. So last year they applied for \$650,000.00 from the SLLCP to purchase the Halulu Fishpond, but ranked fifth and received only \$50,000.00. The primary reason for the low rank and fifth place was because there was no matching funds progress made on the County side. Currently they are now requesting \$850,000.00 from the County. As it stands they have secured \$450,000.00 from SLLCP. They intend to apply for another \$400,000.00 from SLLCP in July and request \$850,000.00 from the County. The total purchase price for both parcels is a little over \$1.6 million. Appraisals have been completed for both parcels.</p> <p>They are hopeful the County can match funding by the November 2019 SLLCP timeline to move the project forward and secure these parcels. This would demonstrate to the SLLCP the progress on the County side, that is required, and motivate them to grant the remaining funds.</p> <p>Ms. Kanna asked if there were other potential funding sources, to which Ms. Hong replied they do not. Ms. Hong said the landowners have been very patient but its clear that if Waipa Foundation is not able to get the funding they still need to sell the property.</p> <p>Mr. Jasper asked if the properties were purchased would the title be under the County or Waipa Foundation. Ms. Hong replied that the title would be under the Waipa Foundation subject to a conservation easement owned by the County. A conservation easement is a permanent binding restriction on the land that takes away all development rights.</p>	<p>Mr. Texeira moved to defer the Waipa Foundation and Trust for Public Lands that requested \$850,000 for acquisition of a 1.8 acre property known as Kaluanono, further identified as Tax Map Key (TKK) (4) 5-6-004:010 and a .25 acre property known as Halulu Fishpond further identified as Tax Map Key (TMK) (4) 5-6-</p>

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		004:017 located in Waipa, Waipa Ahupuaa, Halalea Moku to allow time for the Planning Department to complete an appraisal. Mr. Jasper seconded the motion. Motion carried 6:0.
	<p><u>I.1. Update from Administration and County Council on vacant commissioner positions.</u></p> <p><i>Ms. Kimura returned to the meeting room</i></p> <p>Administrative Specialist Anela Segreti reported for Administrator Ellen Ching. Ms. Segreti relayed that Ms. Ching has been actively recruiting individuals; however, the meeting time is an issue and she has gotten turned down because of it. They have one outstanding application pending.</p>	Mr. Texeira moved to receive the update report on the status of vacant commissioner positions from Boards and Commissions. Ms. Kanna seconded the motion. Motion carried 6:0.
	<p><u>I.2. Discussion and scheduling of community outreach for development of the biennial list of priority projects to be reported to the Kaua'i County Council and the Mayor.</u></p> <p>Ms. Higuchi-Sayegusa said Ms. Nani Sadora is working on updating her list of community association meetings. She will provide a worksheet that would include a list of all the community association meeting dates at the next meeting.</p>	Mr. Texeira moved to defer the discussion and scheduling of community outreach for development of the biennial list of priority projects to be reported to the Kaua'i County Council and the Mayor. Ms.

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		Kanna seconded the motion. Motion carried 6:0.
Announcements	<p>Mr. Texeira announced that the PIG has been meeting regularly and is ready to report its findings.</p> <p>Mr. Jasper announced an invitation to attend Ho'ike Kaua'i Community Television's grand opening of its new location on Thursday, May 16, 5:00 p.m to 7:00 p.m.</p>	
Next Meeting Date and Agenda Topics for Discussion	<p>Next scheduled meeting date is Thursday, June 13, 2019, at 1:00 p.m.</p> <p>Ms. Higuchi-Sayegusa received the following agenda topics for June:</p> <ol style="list-style-type: none"> 1. PIG report of findings 2. Updated roster with terms and expiration dates 3. Bill for an ordinance amendment 4. Community outreach discussion 5. Hanapēpē massacre parcel update 6. Update on Lāwa'i Kai 	
Adjournment		With no objection Chair Ono adjourned the meeting at 2:18 p.m.

Submitted by: 
 Sandra M. Muragin, Commission Support Clerk

Reviewed and Approved by: _____
 Karen Ono, Chair

(X) Approved as circulated. 06/13/19
 () Approved with amendments. See minutes of _____ meeting.