

COUNTY OF KAUA'I  
Minutes of Meeting  
OPEN SESSION

Board/Commission:	<b>Public Access, Open Space and Natural Resources Preservation Fund Commission</b>	Meeting Date	<b>January 10, 2019</b>
Location	Mo'ikeha Building – Meeting Room 2A/2B	Start of Meeting: 1:04 p.m.	End of Meeting: 2:56 p.m.
Present	<p>Chair Karen Ono. Vice Chair Shaylyn Kimura. Members: Theodore Blake (<i>arrived 1:08 p.m.</i>), Dorothy Hayashi (<i>arrived 1:25 p.m.</i>), Nancy Kanna, Erica Taniguchi and Herman Texeira.</p> <p>Planning Department Staff: Planning Director Ka'āina Hull (<i>left 1:43 p.m.</i>), Deputy Planning Director Jodi Higuchi-Sayegusa, Duke Nakamatsu and Nani Sadora. First Deputy County Attorney Nicholas Courson. Office of Boards and Commissions: Administrator Ellen Ching, Administrative Specialist Anela Segreti and Commission Support Clerk Sandra Muragin.</p>		
Excused	Commissioner Jett Jasper.		
Absent			

SUBJECT	DISCUSSION	ACTION
	Prior to the meeting being called to order, Administrative Assistant to the County Clerk Eddie Topenio administered the Oath of Office to Līhu'e/Hanamā'ulu Mayoral appointee, Commissioner Karen Ono serving a second term ending 12/31/21.	
<b>Call To Order</b>		Chair Pro Tem Kimura called the meeting to order at 1:08 p.m.
<b>Roll Call</b>	The meeting commenced with a roll call of the Commissioners.	Five Commissioners were present, which constituted a quorum.
<b>Selection of Chair and Vice Chair</b>	<p>Planning Director Ka'āina Hull opened the floor for nominations for Chair.</p> <ul style="list-style-type: none"> <li>Mr. Texeira nominated Ms. Ono.</li> </ul>	<p>Mr. Texeira moved to close nominations for Chair. Ms. Kanna seconded the motion. Motion carried 5:0.</p> <p>Mr. Texeira moved to select Ms. Ono for Chair. Ms. Kanna</p>

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	<p>Mr. Hull opened the floor for nominations for Vice Chair.</p> <ul style="list-style-type: none"> <li>• Ms. Kanna nominated Ms. Kimura.</li> </ul> <p><i>Commissioner Blake arrived.</i></p>	<p>seconded the motion. Motion carried 5:0.</p> <p>Ms. Kanna moved to close the nominations for Vice Chair. Ms. Kimura seconded the motion. Motion carried 6:0.</p> <p>Ms. Kanna moved to select Ms. Kimura for Vice Chair. Mr. Texeira seconded the motion. Motion carried 6:0.</p>
<b>Approval of Agenda</b>	<p>Mr. Hull notified the Commission that he needed to leave early to attend the West Kaua'i Community Plan meeting and requested to amend the agenda and move New Business J.2. to discuss after H. Communication.</p>	<p>Ms. Kimura moved to approve the agenda, as amended. Mr. Texeira seconded the motion. Motion carried 6:0.</p>
<b>Minutes of the Meeting(s) of the Open Space Commission</b>	<p><u>E.1. Meeting minutes of November 8, 2018</u></p>	<p>Ms. Kanna moved to approve the November 8, 2018, minutes as circulated. Ms. Taniguchi seconded the motion. Motion carried 6:0.</p>
<b>Receipt of Items For The Record (None)</b>	<p>There were no items to receive for the record.</p>	
<b>Hearings and Public Comment</b>	<p><u>G.1. All remaining public testimony pursuant to HRS 92 (Sunshine Law).</u></p> <p>Seeing no one, Mr. Hull moved on to the next agenda item.</p>	
<b>Communication (For Action) (None)</b>	<p>There were no communications.</p>	

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<p><b>New Business (For Action)</b></p>	<p><u>J.2. 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>Mr. Hull said this was the only Charter Amendment that the constituency voted in favor for at the November 6, 2018 General Election. They reviewed the proposed Ordinance that included the amendments, which were underscored in Section 6-14.1 Purpose (a) <u>“and any corresponding improvements of those lands or property entitlements”</u>; (c) <u>“The moneys in this fund may also be used to improve public pedestrian access to coastal areas”</u>; and (d) <u>“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.”</u> He said with the Commission’s approval, in order to effectuate the amendments, an Ordinance would be transmitted to the County Council for review and action.</p> <p>Mr. Blake asked for an explanation of Section (b) and if the language could be changed. Mr. Hull said Section (b) is already part of the Ordinance and the only changes being proposed are the underscored sections. First Deputy County Attorney Nicholas Courson explained that Section 3.13 is creation of a general debt, 3.14 is creation of a special assessment debt and 3.15 is revenue bond indebtedness. Mr. Courson said that if the County used bonds to fund a project outlined in paragraph (a) (1) to (9), the moneys in this fund could be used to pay the interests, principle and premiums on those bonds. Mr. Hull explained that the purpose of the proposed Ordinance is to allow the Commission the ability to review and fund improvements. He asked the Commission that if they want to look into amending other sections of the Ordinance he suggested it be done separately so it doesn’t delay the process.</p> <p>Ms. Kimura addressed Section (c) and said she had two questions. She asked if the extremely simple language used was intentional, to which Mr. Hull said “yes.” Mr. Hull said once County Council approves the Ordinance, the third step would be to amend their rules; which would be written in more detail and contain perimeters on what improvements can be</p>	

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	<p>reviewed and recommended to the County Council. Ms. Kimura said her second question was more of a concern for the lack of language that defined the word “improve” and it should contain “to include and to exclude the following.” Mr. Hull said the Commission would have the opportunity to define “improve” in their rules and dictate what improvements move up for County Council review. Mr. Hull offered to provide a proposal for Section (c) that would include the definition of what improvements can be considered and also define what improvements cannot be considered. He said in previous discussions the two primary issues with existing coastal accesses are that many are not demarcated and trails not properly maintained.</p> <p><i>Commissioner Hayashi arrived.</i></p> <p>The Ordinance and changing of the rules would allow the Commission to review the most popular accesses and begin with installation of permanent demarcation signs. Ms. Kimura said she was more concerned with how the County Council interprets “improve” and felt the Commission owed the public a clearer definition. Mr. Hull said the Department would take the Commissions advice and submit it back for review and action.</p> <p>Mr. Texeira pointed out that the one and a half percent (1.5%) was not included in Section (a). Mr. Hull said that was previously transmitted to the County Council and they decided to not consider that proposal. Mr. Hull strongly recommended that if the Commission wanted to pursue that again, it should be placed on a separate transmittal due to the tight budget constraints. He didn’t want to risk tying up this Ordinance. Mr. Texeira and Ms. Hayashi recommended the Department inquire with the County Council their position and views of the priorities of the Open Space Commission. Mr. Hull said the Department would provide draft language for the 1.5% increase on a separate Ordinance for the Commission to review at their February meeting.</p>	<p>Ms. Kimura moved to defer item J.2. to the February meeting per the Commission’s recommendation to define improvements in Section (c) of</p>

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	<p>Mr. Hull handed the seat over to Deputy Planning Director Jodi Higuchi-Sayegusa, to attend the West Kaua'i Community Plan Advisory Committee meeting. He conveyed to Commissioner Blake and Commissioner Hayashi his sincere appreciation for their time and enjoyed working with them.</p> <p><i>Mr. Hull left the meeting.</i></p>	<p>the proposed Ordinance and to provide a separate Ordinance to increase the appropriation of funds to 1.5%. Ms. Kanna seconded the motion. Motion carried 7:0.</p>
<p><b>Unfinished Business (For Action)</b></p>	<p><u>I.1. Review and discussion of a 1.15 acre parcel located in Kalihiwai, Kalihiwai Ahupuaa, Halalea Moku, further identified as Tax Map Key (TMK) (4)5-3-003:068. (Preliminary report 4/12/18; Supplemental report No. 1 received 8/09/18; Supplemental report No. 2 received 10/11/18)</u></p> <p><u>a. Supplemental report No. 3 pertaining to this matter.</u></p> <p>Ms. Sadora said due to the Commission not having a December meeting the Supplemental report No. 4 should be No. 3. She reminded the Commission that this was the property closest to the river and owned by Princeville Development, LLC. Ms. Sadora read portions of Supplemental Report No. 3 for the record. (<i>Document on file</i>)</p> <p>Mr. Blake inquired if the parcel was suitable for building any type of structure since it floods often and was susceptible to tidal waves. Ms. Higuchi-Sayegusa stated they did not have that information but they could research and present that information, as well as obtain a copy of the landowner's appraisal. Mr. Teixeira asked the Department to negotiate a price that was closer to the assessed value and change its recommendation from "Denied" to "Defer." Ms. Sadora stated that the landowner was firm on their price; however, they were open to negotiations if the County offered tax advantages or other options that would benefit them. Ms. Hayashi suggested the County change their tax assessment to their appraisal price in order</p>	



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	<p>to level the negotiation field. Ms. Kanna asked for a water table/flood map of the area in order to visualize any building possibilities. After listening to the Commission, Ms. Sadora suggested the Department write a supplemental report and include how the County assesses property values, as well as more information on the possible development of the property. Ms. Kimura pointed out that Open Space does not have the funds to pursue this parcel and that access does exist with the neighboring State of Hawai'i property. She also asked the Department to pursue an Executive Order for the State property.</p> <p>Ms. Higuchi-Sayegusa summed up the Commission's request for a deferral based on the Department providing a Supplemental Report with the following information;</p> <ol style="list-style-type: none"> <li>1. Possible development of area based on zoning.</li> <li>2. Water table/flood map of the area.</li> <li>3. Basis for real property assessment.</li> <li>4. Possible Executive Order for the State of Hawai'i property.</li> </ol>	<p>Ms. Kanna moved to defer Tax Map Key (TMK) (4)5-3-003:068 and requested an additional Supplemental Report from the Department. Mr. Blake seconded the motion. Motion carried 7:0.</p>
<p><b>New Business (For Action)</b></p>	<p><b><u>J.1.</u></b> Review and discussion regarding access to Lāwa'i Kai (Allerton's) Kōloa.</p> <p>Mr. Blake gave an overview on the history and negotiations that he has had with Kukui'ula and the National Tropical Botanical Gardens (NTBG) former Director and Chief Executive Officer Charles "Chipper" Wichman, Jr. He explained the paved road from the end of spouting horn to Allerton's gate is public property and that the property from Allerton's gate to Lāwa'i Kai is Kukui'ula's property. According to Mr. Blake, Kukui'ula has already agreed to allow a right of access. He urged the Chair and Deputy Director to meet with NTBG's new Chief Executive Officer Janet Mayfield and reach an agreement to secure a Lāwa'i Kai beach pedestrian access.</p>	

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	<p>After a lengthy discussion, Ms. Higuchi-Sayegusa summed up the Commission's request as follows;</p> <ol style="list-style-type: none"> <li>1. Secure a legal safe pedestrian access to Lāwa'i Kai beach.</li> <li>2. Resolve cost of repairs to property.</li> <li>3. Install compost toilets at Lāwa'i Kai beach.</li> </ol> <p>Ms. Kimura suggested the Department prepare for the meeting with a list of talking points and checklist of items to cover. Mr. Blake volunteered to provide the outline and forward it to Ms. Higuchi-Sayegusa.</p> <p>Ms. Sadora said Mr. Blake has pursued this separately from the Commission and was the only one that was part of the communication with Mr. Wichman. She gathered from the discussion that the Commission wants to move forward as follows;</p> <ol style="list-style-type: none"> <li>1. Continue communications with NTBG to acquire access.</li> <li>2. Agree to a purchase price.</li> <li>3. Secure a safe legal pedestrian access to Lāwa'i Kai beach.</li> <li>4. Installation of compost toilets at Lāwa'i Kai beach.</li> <li>5. Resolve maintenance issues with the pedestrian path.</li> </ol> <p>Ms. Kimura requested that Ms. Sadora be included in the meeting.</p>	<p>Mr. Texeira moved to approve the Director of Planning, Chair Ono and Commissioner Blake to request a meeting with NTBG to discuss Lāwa'i Kai (Allerton's) beach access consideration.</p> <p>Ms. Kanna seconded the motion. Motion carried 7:0.</p>
<p><b>Announcements</b></p>	<p>Ms. Sadora shared that the schedule for the West Kaua'i Community Plan meetings for Heritage Resources Public Workshop will be held as follows and encouraged the</p>	

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	Commissioner's to attend; 1. Wednesday, January 23rd, 5-7:00 p.m., at the Hanapēpē Library 2. Thursday, January 24th, 5-7:00 p.m., at Kekaha Neighborhood Center.	
<b>Next Meeting Date and Agenda Topics for Discussion</b>	Next scheduled meeting date is Thursday, February 14, 2019, at 1:00 p.m.  Ms. Higuchi-Sayegusa asked for any February agenda topics. 1. TMK (4)5-3-003:068 1.151.15 acre parcel located in Kalihiwai 2. 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. 3. Update on meeting with NTBG on access to Lāwa'i Kai (Allerton's) beach. 4. Update on the two Hanapēpē properties. 5. Update on Kekaha property. 6. Map of all the current County accesses on Kaua'i. 7. Strategize on how to communicate with the County Council the Commissions priorities and feel out the Council's position or views of the Open Space Commission. 8. The Commission expressed the desire to form its own relationship with the County Council instead of going through the Deputy Planning Director or Planning Director.	
<b>Adjournment</b>		Mr. Texeira moved to adjourn the meeting at 2:56 p.m. Ms. Kanna seconded the motion. Motion carried 7:0.

Submitted by:   
 Sandra M. Muragin, Commission Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
 Karen Ono, Chair

( X ) Approved as circulated. 02/14/19  
 ( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.