



PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION

JODI A. HIGUCHI SAYEGUSA, CLERK OF COMMISSION

SHAYLYN ORNELLAS, CHAIR
ROBIN PRATT, VICE CHAIR
SPENCER COOK, MEMBER, Ex-Officio
MANUEL CABRAL, MEMBER
NANCY KANNA, MEMBER
WILLIAM KINNEY, MEMBER
JONATHAN LUCAS, MEMBER
MARK ONO, MEMBER
MAI SHINTANI, MEMBER

- The Public Access, Open Space, Natural Resources Preservation Fund Commission meeting will be at:

Pi'ikoi Suite 300
Boards and Commission Meeting Room
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

25 DEC 31 9:32

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

- **Written testimony** indicating your 1) name or pseudonym, 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 on any agenda item in writing to planningdepartment@kauai.gov or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be posted as testimony to the Commission's website prior to the meeting (<https://www.kauai.gov/OpenSpace>). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.
- **Oral testimony** will be taken on specific agenda items, at the public meeting location indicated on the meeting agenda.
- **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 ADAVIS@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.**

**PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND
COMMISSION**

MEETING NOTICE AND AGENDA

**Thursday, January 08, 2026
1:00 p.m. or shortly thereafter**

A. SWEARING IN OF COMMISSIONERS

B. CALL TO ORDER

C. ROLL CALL

D. ELECTION OF CHAIR AND VICE CHAIR

E. APPROVAL OF AGENDA

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

1. December 11, 2025

G. RECEIPT OF ITEMS FOR THE RECORD

H. GENERAL BUSINESS

1. Discussion and recommendations for administrative rules to allow up to 5% of the Public Access, Open Space, and Natural Resources Preservation Fund to be used for the maintenance of entitlements acquired by the Public Access, Open Space, Natural Resources Preservation Fund.
2. Discussion on possible amendments to the Public Access, Open Space, Natural Resource Preservation Fund Commission administrative rules pertaining to proposal requirements.
3. Update on a proposal to acquire access to State of Hawai'i property through 4901 Waiakalua Street, Kīlauea, Hawai'i 96754, Ko'olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Tallman and Lisa Flores) (Preliminary Report 6/1/2022).
4. Update on the proposed 1924 Battle of Hanapēpē monument, to be located on a 0.2867-acre parcel in Hanapēpē, Kona Moku, identified as Tax Map Key (4) 1-8-008:071.
5. Review and discussion on the initial draft of the Biennial Report.
 - a. Draft Biennial Report dated January 2025.

I. COMMUNICATIONS

J. UNFINISHED BUSINESS (For Action)

RECEIVED

25 DEC 31 A9:32

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

K. NEW BUSINESS (For Action)

L. EXECUTIVE SESSION

EXECUTIVE SESSION: 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 following matters:

1. Discussion and recommendations for administrative rules to allow up to 5% of the Public Access, Open Space, and Natural Resources Preservation Fund to be used for the maintenance of entitlements acquired by the Public Access, Open Space, Natural Resources Preservation Fund.
2. Discussion on possible amendments to the Public Access, Open Space, Natural Resource Preservation Fund Commission administrative rules pertaining to proposal requirements.
3. Update on a proposal to acquire access to State of Hawai'i property through 4901 Waiakalua Street, Kīlauea, Hawai'i 96754, Ko'olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Tallman and Lisa Flores) (Preliminary Report 6/1/2022).
4. Update on the proposed 1924 Battle of Hanapēpē monument, to be located on a 0.2867-acre parcel in Hanapēpē, Kona Moku, identified as Tax Map Key (4) 1-8-008:071.
5. Review and discussion on the initial draft of the Biennial Report.
 - a. Draft Biennial Report dated January 2025.

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 February 8, 2026. The Open Space Commission anticipates this meeting to be held in-person at the Līhu'e Civic Center, Moikeha Building 2A/2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

N. ADJOURNMENT

OPEN SESSION MEETING MINUTES

Board/Commission		Public Access, Open Space, Natural Resources Preservation Fund Commission	Meeting Date:	November 14, 2025	
Location	Pi`ikoi Building, Boards and Commissions Conference Room 4444 Rice Street, Suite 300, Līhu`e, Hawai`i, 96766		Start of Meeting: 1:01 p.m.		End of Meeting: 3:41 p.m.
Present	Chair Shaylyn Ornellas. Commissioners: Manuel Cabral, William Kinney (in at 1:08 p.m.), Nancy Kanna, Jonathan Lucas, Mark Ono, and Ex-Officio Spencer Cook Deputy County Attorney Kimberly Torigoe. Planning Department Staff: Deputy Planning Director Jodi A. Higuchi Sayegusa, Planner Shalea Koga, and Secretary Shanlee Jimenez. Office of Boards and Commission: Administrator Ellen Ching and Commission Support Clerk Celine De Leon				
Excused	Vice Chair Robin Pratt and Commissioner Mai Shintani				
Absent					

--

SUBJECT	DISCUSSION	ACTION
A. Swearing in of New Ex-Officio Commissioner	Before the meeting started, Admin Assistant to the County Clerk, Eddie Topenio Jr. swore in Spencer Cook, new ex-officio commissioner into the Public Space, Open Access, Natural Resources Preservation Fund Commission.	
B. Call to Order	Chair Ornellas called the meeting to order at 1:01 p.m. There was no one present from the public to provide testimony on any of the agenda items.	
C. Roll Call	Deputy Planning Direct Jodi A. Higuchi Sayegusa verified attendance by roll call. Commissioner Cabral replied present. Commissioner Kanna replied present. Commissioner Kinney was not present at roll call (<i>in at 1:08 p.m.</i>)	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Lucas replied present. Commissioner Ono replied present. Commissioner Shintani was excused. Vice Chair Pratt was excused. Chair Ornellas replied aye.</p>	<p>Quorum was established with five Commissioners present.</p>
D. Approval of Agenda	<p>Chair Ornellas asked for a motion to approve the agenda.</p>	<p>Commissioner Kanna moved to approve the agenda, as circulated. Commissioner Ono seconded the motion. Motion carried 5:0.</p>
E. Minutes of the Meeting(s) of the Commission	<p>1. August 14, 2025</p>	<p>Commissioner Kanna moved to approve the minutes of the Commission. Commissioner Cabral seconded the motion. Motion carried 5:0.</p>
F. Receipt of Items for the Record	<p>Ms. Koga noted that before the Commission there were the draft administrative rules for the use of the maintenance fund, as well as a memorandum from County Attorney Andrew Michaels concerning the upcoming executive session.</p>	<p>Commissioner Kanna moved to receive items for the record. Commissioner Lucas seconded the motion. Motion carried 5:0.</p>
G. General Business	<p>G.1. <u>Discussion and recommendations for administrative rules to allow up to 5% of the Public Access, Open Space, and Natural Resources Preservation Fund to be used for the maintenance of entitlements acquired by the Public Access, Open Space, Natural Resources Preservation Fund.</u></p> <p>Ms. Koga presented the following:</p> <ul style="list-style-type: none"> Her and Ms. Higuchi Sayegusa drafted administrative rules for the Commission to review and provide recommendations, including what information stewards 	

SUBJECT	DISCUSSION	ACTION
	<p>should be required to submit</p> <ul style="list-style-type: none">● The Charter Amendment that was approved by Council establishes the source of the maintenance fund and authorizes allocating up to 5% for maintenance each fiscal year.● At the start of each fiscal year, the Planning Department allocated up to 5% of the fund into a separate line item, and designated stewards may apply for maintenance funding through that program.● Any unused funds remain in the maintenance pool and are carried forward, with a new 5% allocation determined each budget cycle.● Only designated stewards may access the funds, but the Commission must define what qualifies someone as a steward (e.g. whether they must have an executed stewardship agreement and whether government entities can qualify).● The Commission must also determine eligible uses of the funds, including whether they are limited to maintenance or may support broader proposed activities.● The Commission will need to decide whether stewards of property not acquired with the fund but improved with it (e.g. Kaumumene) may also apply.● Additional measures may be set to ensure applicants do not misuse the fund and to maintain the integrity of fund-acquired properties.● Draft application requirements include proof of stewardship, a description of proposed maintenance work, an itemized budget and timeline, and an explanation of public benefit.● An application deadline is needed to ensure equitable distribution of funds and prevent exhausting the maintenance allocation through ongoing requests.● Applications will first be reviewed by the Planning Department for completeness, then forwarded for Open Space Commission to review, and the Commission will evaluate for alignment with fund purposes.	

SUBJECT	DISCUSSION	ACTION
	<ul style="list-style-type: none">Stewards receiving funds must provide end-of-year reporting to the Planning Department documenting how funds were used, which will be included with the annual report. <p><i>Commissioner Kinney was noted present at 1:08 p.m.</i></p> <p>Chair Ornellas recommended setting a cap on the funds, noting that the process resembles a grant program and should not allow open-ended requests. A cap would help applicants refine and prioritize their proposals. She also suggested that, beyond submitting an application, applicants should be prepared to present their proposals to the Commission, ideally with a PowerPoint or other formal presentation, so the Commission can properly vet the request and clearly understand how the funds would be used.</p> <p>Ms. Higuchi Sayegusa asked whether the proposed cap refers to the amount of funding or the duration of funding. She clarified that only 5% of the fund can be allocated to stewards and that the process is intended to be annual, with applications accepted and funds distributed each year. She added that the timeline would need to be tightened so they are issued within a couple of months, giving stewards the remaining ten (10) months to carry out their work.</p> <p>Chair Ornellas proposes setting a funding limit because the total amount available to the applicants is public, and people can easily calculate 5% of it. Without a cap, requests could vary wildly. For example, one applicant might ask for \$150,000 to buy an excavator, while another might request only \$5,000 for a community project involving students. Without a ceiling, it becomes difficult to fairly evaluate and compare proposals, and clear metrics would be needed to decide how each applicant should</p>	

SUBJECT	DISCUSSION	ACTION
	<p>receive. She also suggests requiring a “community benefits package” in the application to justify how a project will service the community.</p> <p>Ms. Koga expressed the following:</p> <ul style="list-style-type: none">● Setting a funding cap could limit the Commission’s flexibility.● A cap might prevent the Commission from approving a request that exceeds the limit, even if they believe it’s justified.● She suggested using an annual application deadline instead, allowing all requests to be reviewed at once.● This approach would let the Commission evaluate the total available funds each year and distribute them based on the applicants’ needs. <p>Ms. Higuchi Sayegusa added the following:</p> <ul style="list-style-type: none">● The Planning Department will conduct outreach and public relations to inform the community about the funding opportunity.● Some years may have only one applicant, or a large purchase needs to be made, and that would significantly reduce the available funds.● These fluctuations are inherent to the limitation set by the Ordinance and Charter.● They want to maintain flexibility for the Commission within the rules.● The Commission can create additional criteria in the rules if desired. <p>Commissioner Kanna suggested providing clear guidelines, separate from the formal rules, because applicants will range from professional nonprofits to small, informal community groups that may struggle with the application process. She recommended requiring applicants to include a budget, outline their plans and activities, and think through their needs over the entire year. She also noted that some projects may span</p>	

SUBJECT	DISCUSSION	ACTION
	<p>multiple years.</p> <p>Chair Ornellas requested a list of all current areas, properties, and TMK's, along with their stewards, to help the Commission establish a baseline of what they oversee. She also asked for clarification on item 1-6-2C, noting confusion because item B states that the allocation must appear in the annual budget as a separate item from acquisition funds. She wanted to know whether this means the allocation will have its own dedicated budget line starting next year.</p> <p>Ms. Higuchi Sayegusa explained the following:</p> <ul style="list-style-type: none">● Each year the fund receives an allocation from real property revenues, and the Finance Department helps set the following year's budget based on that amount.● The budget includes administrative costs and line items for ongoing funded projects, such as Hanapēpē and Hideaways (Kaumumene).● At the start of each fiscal year, the department sets aside the 5% stewardship allocation because project purchases during the year can change the fund balance.● This 5% is reserved in advance for distribution to stewards.● Any portion of the 5% that is not spent during the year remains in its line item and is carried forward. <p>Commissioner Ono asked if any unspent funds would be returned to the general fund.</p> <p>Ms. Higuchi Sayegusa clarified that none of the fund's money returns to the general fund.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Ornellas noted that item C says unspent maintenance funds must remain in the fund, but item B refers to allocation as a separate budget item. She asked for a review of the language to clarify this discrepancy.</p> <p>Ms. Koga explained that unspent funds cannot be combined with next year's allocation; any leftover amount returns to the original Open Space fund. When preparing the next year's budget, the 5% allocation is calculated based on the total fund amount for that year, not including unspent funds from the previous year.</p> <p>Commissioner Ono asked why that wouldn't be possible to which Ms. Koga explained that it would exceed the 5% that is allowed.</p> <p>Commissioner Kanna noted that since the 5% is already set aside, there will be years when the remaining fund is much smaller, and the 5% allocation may not be enough to cover all applicants.</p> <p>Commissioner Ono stated a preference for carrying over unspent funds in the same line item rather than returning them and recalculating the 5% allocation.</p> <p>Chair Ornellas mentioned the Commission would need legal advice.</p> <p>Commissioner Ono asked what 5% of the budget would be.</p> <p>Ms. Koga estimated it at roughly \$250,000 but noted that if few or only one application is received, the full amount doesn't have to be awarded.</p> <p>Commissioner Ono asked about the source of the language and Ms. Koga replied that</p>	

SUBJECT	DISCUSSION	ACTION
	<p>she drafted it with Ms. Higuchi Sayegusa and legal counsel.</p> <p>Ms. Higuchi Sayegusa noted that the ordinance amendment aligned with the Charter language and incorporated council members’ suggestions. The annual budgeting and allocation process was developed gradually through iteration.</p> <p>Ms. Koga noted that the Hā`ena and Waipā purchase could qualify as stewards since they take care of the properties and used the fund, and possibly the Waimea cemetery as well. She hopes the program will attract more stewards in the future.</p> <p>Ms. Higuchi Sayegusa explained that identifying stewards has always been part of the analysis. While trying to line up stewards, efforts can fall through, such as with the Kekaha cemetery and Kaumumene. Currently, there is one passionate person involved, and they were trying to line up Surfrider but that fell apart.</p> <p>Chair Ornellas noted Hanapēpē as a potential focus, given multiple groups’ interest.</p> <p>Commissioner Kanna stressed keeping this structured and flexible, with the ability to attract applicants.</p> <p>The Commission continued discussion under Item G.1 regarding the definition of “regular upkeep of lands” within the rules. Commissioner Kanna noted concern with the inclusion of “signage” under regular upkeep, explaining that creating new signs may raise legal issues, although maintaining existing signs would be acceptable. The Commission agreed to remove “signage” from the definition to avoid potential complications.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Litigation attorney Andrew Michaels joined the meeting. Ms. Koga briefly unmuted him to confirm audio and noted that the Commission was still progressing through Item G.1.</p> <p>A question was raised regarding the hierarchy of governing documents—specifically whether Commission rules exist below the charter and administrative rules. Ms. Koga and Ms. Higuchi Sayegusa clarified that the current document is the Commission’s rules, which can be amended through a formal rule-making process that requires a public hearing.</p> <p>The Commission discussed whether certain provisions, particularly those related to funding amounts, should instead be addressed through policy rather than administrative rule. It was noted that:</p> <ul style="list-style-type: none">• Policies or guidelines can be adopted and amended at a Commission meeting without requiring a public hearing.• Policies may provide greater flexibility for adapting to yearly variations in fund balances, the number of applicants, or the nature of proposals.• Guidelines could establish general criteria or advisory ranges rather than fixed funding amounts. <p>Commissioner Kinney suggested the possibility of establishing an advisory council or committee to provide recommendations within a funding range. Ms. Higuchi Sayegusa noted that any such approach would need to be supported by appropriate language in the rules to allow the Commission that flexibility.</p> <p>The Commission further discussed the yearly vetting of applications, observing that</p>	

SUBJECT	DISCUSSION	ACTION
	<p>final funding decisions could be made at meetings based on the number of applicants, proposal quality, and available resources.</p> <p>Ms. Koga acknowledged that the topic was complex and informed members that it may be revisited at the next meeting. The Commission was encouraged to continue thinking of ideas and not feel pressured to offer all suggestions immediately.</p> <p>Commissioner Kinney raised a question regarding whether the Commission may prioritize certain steward groups over others. He noted that the purpose of the fund is to support organizations actively stewarding acquired lands, but considerations may be necessary when only a limited number of applicants exist.</p> <p>Ms. Koga stated that, under the current structure of the Charter, any involvement would require the party to enter into a stewardship arrangement with them.</p> <p>Commissioner Ono asked whether the intent was for the group to establish criteria, essentially creating a ranking system for the proposals.</p> <p>Commissioner Kinney clarified that the fund is designated solely for Open Space acquisitions and cannot be allocated to any other steward. Ms. Koga responded that the funds could only go elsewhere if a formal agreement with their group is in place.</p> <p>Commissioner Lucas asked whether they currently have a stewardship agreement for the community and further inquired about how stewards are defined and what the term specifically means in this context.</p> <p>Ms. Higuchi Sayegusa explained that they work with either Public Works or Parks and</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Recreation, depending on the type of property. Parks and Recreation handle properties or lands similar to parks, while trails fall under Public Works. Agreements for stewardship are executed through those departments. She noted that Parks and Recreation have an Adopt-a-Park program, and with Public Works the arrangement would involve a standard maintenance agreement.</p> <p>Commissioner Lucas asked whether a potential steward would need to approach the relevant departments directly to apply for stewardship.</p> <p>Ms. Higuchi Sayegusa confirmed that potential stewards would go through the appropriate departments. She added that for acquisitions made using the fund, she and Ms. Koga would also work with the various stewards to develop the necessary arrangements. This could result in a separate, newly created agreement specific to those properties.</p> <p>Commissioner Kanna noted that the larger issue is identifying stewards. She suggested that the attorney's office may need to reconsider and be more flexible, since the system will not function without stewards. She emphasized the importance of attracting participants and ensuring lands are maintained, adding that the rules must strike a balance, not too restrictive but sufficient to guide stewardship.</p> <p>Ms. Higuchi Sayegusa stated that they now have several suggestions to move forward with. She said they will likely submit questions regarding the unspent maintenance funds and seek clarification from the attorney's office. Additionally, they will continue refining edits based on the discussion, including:</p> <ul style="list-style-type: none">• Considering a possible funding cap• Incorporating a presentation component	

SUBJECT	DISCUSSION	ACTION
	<ul style="list-style-type: none"> • Adding additional application requirements • Developing guidelines for writing applications <p>With no further discussion, the Commission moved on to the next agenda item.</p>	
	<p>G.2 <u>Briefing regarding other County and State funds for conservation and preservation land acquisitions.</u></p> <p>Ms. Higuchi Sayegusa reported the following:</p> <ul style="list-style-type: none"> • She attended a conservation conference with administrators from other jurisdictions’ open space or similar commission. • Found the conference valuable to see how other jurisdictions structure and manage their programs; identified potential practices that Kaua`i could adopt. <p>From the State Legacy Lands Commission:</p> <ul style="list-style-type: none"> • Their purpose aligns with Kaua`i’s: public enjoyment and recreation, conservation, and cultural preservation. • Eligible applicants: State, Counties, and nonprofits. • Requires a 25% match for transaction costs. • They can fund land acquisition or property rights, plus maintenance grants. • They cover administrative costs and debt service for prior acquisitions. • If funds go to a nonprofit or NAA agency, they must convey a conservation easement to the State. • \$5 million is allocated to this fund, set by the Legislature each year. • Kaua`i has partnered with the program for the Waipā project. • Annual application cycle: applicant provides all required information, including a completed appraisal before submission. • Approval involves a multi-step review process. 	

SUBJECT	DISCUSSION	ACTION
	<p>From Hawai'i County:</p> <ul style="list-style-type: none">• They allocate 2% of their real property tax revenues (\$9 million annually).• Currently, \$23 million for acquisitions.• The program's purpose is like Kaua'i.• County funds are typically part of a partnership rather than full funding which encourages applicants to use multiple funding sources (Legacy Lands or Trust for Public Land).• Similar annual application system.• Funding preference for projects with matching funds or community partnerships.• They use a scoring system; properties must score 50% higher to be added to the biennial list for funding consideration. <p>From Honolulu County:</p> <ul style="list-style-type: none">• Allocates 0.5% of real property taxes to its Clean Water and Natural Lands fund.• Funds acquisitions, operations, maintenance, and management of lands.• Often combines funding with partners (Trust for Public Land or nonprofits).• Application process resembles Kaua'i's. <p>From Maui County:</p> <ul style="list-style-type: none">• Allocates 1% of real property taxes to its Open Space fund.• Their purposes parallel those of Kaua'i's.• There is no Commission for Maui County, their fund is managed through the Mayor's Office.• The application process is also extensive. <p>Most jurisdictions place the responsibility for required information (including</p>	

SUBJECT	DISCUSSION	ACTION
	<p>appraisals) on the applicants. There is heavy emphasis on matching funds, partnerships, and scoring or prioritization systems.</p> <p>Chair Ornellas noted that, historically, this body has struggled to obtain public input. When comments are received, they often come as long lists of proposals, and the burden of researching each item falls entirely on the department. She expressed support for a process in which applicants complete the initial research and groundwork for their proposals before submitting them for review.</p> <p>Ms. Koga stated that, in some cases, particularly with culturally significant properties, there is information she does not always know whom to contact for guidance. She suggested exploring the option of adding related questions to the online survey so the public can provide this information as part of their recommendations.</p> <p>Ms. Higuchi Sayegusa emphasized the importance of encouraging the public to submit viable applications or proposals throughout the year. She noted her appreciation for the annual process used by many jurisdictions, where applications are received once and then worked through over the course of the year. She added that if the Commission is considering amendments to the maintenance fund rules, this would also be a good opportunity to review their own rules and improve procedures, specifically:</p> <ul style="list-style-type: none">• Determining what information should be required in the application.• Deciding whether the process should remain annual or operate on a rolling basis. <p>Commissioner Ono asked whether staff would be drafting the rule language related to these proposed changes.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Higuchi Sayegusa confirmed that staff would prepare the language and noted that, if the Commission wishes to direct them on specific issues to address, they are open to doing so.</p> <p>Commissioner Ono stated that this should be one of the items addressed. Specifically, establishing an application process with either a year-long timetable or an annual submission deadline. He also expressed interest in incorporating a 50% requirement into the application process with the maintenance fund rules.</p> <p>Ms. Higuchi Sayegusa noted that they would need to consider how the scoring allocation would be structured if such changes were incorporated.</p> <p>Ms. Koga stated that she would add this item to the next meeting agenda.</p> <p>Commissioner Ono asked whether there is a specific timetable in mind for completing and releasing the revised rules.</p> <p>Ms. Higuchi Sayegusa responded that there is no specific timetable at this point, but the goal is to begin moving the process forward.</p> <p>With no further discussion, the Commission moved on to the next agenda item.</p>	
	<p>G.3 <u>Update on proposed 1924 Battle of Hanapēpē monument, to be located on a 0.2867-acre parcel in Hanapēpē, Kona Moku, identified as Tax Map Key (4) 1-8-008:071.</u></p> <p>Ms. Koga reported the following:</p>	

SUBJECT	DISCUSSION	ACTION
	<ul style="list-style-type: none">• A few months ago, she and Ms. Higuchi Sayegusa presented the Commission’s recommendation to the Council to allow up to \$250,000 of the Open Space funds for the Hanapēpē Monument.• During the presentation, background information on the monument was provided.• Several community members testified in support of funding for the monument, with many requesting that the amount be restored to the original \$300,000.• A petition with approximately 100 signatures was also submitted requesting the original funding amount.• Council approved the funding at the original \$300,000.• The proposed artists are responsible for developing their own budgets.• The Community Working Group, partnering with the department, will review artist budgets and proposals when selecting an artist.• From 12 artist proposals, the Community Working Group narrowed the pool to 3 artists, who will create models and participate in interviews.• Following this, the Community Working Group will select one artist to design the Hanapēpē Monument. <p>Ms. Higuchi Sayegusa explained the following:</p> <ul style="list-style-type: none">• Based on the Community Working Group’s Recommendation, it was important for artists to walk the property to understand the battle site and its conditions.• Meetings were held with each artist and their contractors on separate mornings to walk the property and gather information for their proposals.• The next stage involves developing the model, along with other elements such as budget details, site plans, and additional relevant materials. <p>Chair Ornellas asked when that would be due.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Higuchi Sayegusa responded that the written materials are due December 1st. The interviews with the artists are scheduled for December 2nd, and each artist will present their model during the interviews.</p> <p>Chair Ornellas asked when the site interviews with the artists were conducted.</p> <p>Ms. Higuchi Sayegusa explained that the site visit was not open to the public and was conducted only with an individual possessing extensive personal knowledge of the events. She noted that the visit took place two weeks ago.</p> <p>Ms. Koga added that the site visits occurred at the end of October, during the week of October 20-23, with three separate visits scheduled for each artist.</p> <p>Chair Ornellas remarked on noticing a person living in a BMW on the property. She stated that during four visits in the past month, the individual was present each time, and the amount of ukana around the vehicle is increasing. She noted this as an example highlighting the need for a steward to oversee the property.</p> <p>Ms. Koga stated that she, Ms. Higuchi Sayegusa, their team, and a representative from the Parks Department have been discussing strategies to prevent vehicles from accessing the property.</p> <p>Chair Ornellas emphasized the importance of addressing security, noting that it is</p>	

SUBJECT	DISCUSSION	ACTION
	<p>critical to consider both the presence of someone living on the site and the need to maintain the integrity of the memorial project, especially given the \$300,000 investment.</p> <p>With no further discussion, the Commission moved on to the next agenda item.</p>	
	<p>G. 4 <u>Update on a proposal to acquire access to State of Hawai'i property through 4901 Waiakalua Street, Kīlauea, Hawai'i 96754, Ko'olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Tallman and Lisa Flores) (Preliminary Report 6/1/2022)</u></p> <p>Ms. Koga reported that during the last update, a surveyor had been procured but some issues arose, requiring the procurement process to be repeated. Over the past three months, they successfully contracted with a new surveyor. The next step is to schedule a site visit with the landowners, their attorney, the surveyor, and staff to assess the easement, stake it to the metes and bounds, and process with formal conveyance. She noted that the project is still on track.</p> <p>Chair Ornellas asked what the current obstacle is in scheduling a date for the easement assessment.</p> <p>Ms. Koga replied that they are currently waiting to hear back from the landowners' attorneys regarding availability. She estimated that the easement assessment and related work could be completed by the beginning of January.</p> <p>With no further discussion, the Commission moved on to the next agenda item.</p>	

SUBJECT	DISCUSSION	ACTION
Executive Session:	<p>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 following matters:</p> <p><u>G.5. Update on Kukui`ula Bay Access through the former Hoban or Leight property (currently, Kaikapu LLC property) located in Koloa District, Kona Moku, further identified as Tax Map Key (4) 2-6-003:017.</u></p> <p>DCA Torigoe read the Executive Session notice into the record and asked if the Commission wanted to make a motion to ask for anyone to appear in Executive session as a resource person.</p> <p>Chair Ornellas called for a motion to keep Ms. Higuchi Sayegusa in executive session as resource.</p> <p>There being no objections, the Open Session meeting was recessed at 2:16 p.m. for the Commission to enter into Executive Session.</p>	<p>Commissioner Kanna moved to go into Executive Session. Commissioner Ono seconded the motion. Motion carried 6:0.</p> <p>Commissioner Kanna moved to have Deputy Planning Director Jodi A. Higuchi Sayegusa present in the Executive Session. Commissioner Kinney seconded the motion. Motion carried 6:0.</p>
Call To Order in Open Session	Chair Ornellas called the Open Session meeting back to order at 3:02 p.m.	
H. Communication	Ms. Higuchi Sayegusa said there were no communication items.	

SUBJECT	DISCUSSION	ACTION
I. Unfinished Business (For Action)	Ms. Higuchi Sayegusa said there was no unfinished business.	
J. New Business (For Action)	<p>J.1. <u>Report and recommendation on a proposal to acquire an access easement to Pāpa`a Bay located on a lot further identified as Tax Map Key (4) 4-9-005:027 and (4) 4-9-006:011.</u></p> <p>a. <u>Preliminary Report 11/6/25</u></p> <p>Ms. Koga reported the following:</p> <ul style="list-style-type: none"> • Before the Commission is a proposal considering possible condemnation of a coastal access easement on TMK (4)4-9-006:011, a 67.46-acre parcel adjacent to Pāpa`a Bay in Pāpa`a Ahupua`a, Ko`olau Moku. • The property lies in the County’s Open Zoning District and the State Conservation District, with a General Plan designation Agricultural/Natural, and slopes about 150 ft. to the shoreline. • The parcel contains several dwellings, accessory structures, and a swimming pool. It is bordered by agriculture lands (North), residential use (South and West), and Pāpa`a Bay (East). • A proposal for additional public access to Pāpa`a Bay was first brought forward in 2005; the Open Space Commission reviewed existing access points and toured the area. • In the 2015 Biennial Report, the Commission concluded Pāpa`a Bay already had beach access and no further action was needed. • In July 2025, a new request was submitted claiming a historically used pathway was fenced off in 2004, limiting long-standing public access. 	

SUBJECT	DISCUSSION	ACTION
	<ul style="list-style-type: none">• During a Planning Department site visit on September 11, 2025, staff verified that access was not blocked to foot traffic, though the trail was overgrown and required maintenance.• The County previously litigated access issued in Mandalay Properties Hawai'i LLC v. County of Kaua'i; courts ruled the disputed roadway was private and not public access, affirming that the only valid public access is via the designated southern trail.• The current proposal involves acquiring a private driveway off Pāpa`a Road to secure a beach access easement based on historical use.• The Commission reviewed photos provided in Exhibit A (submitted by the community member) and Exhibit B (site photos of the existing legal access taken by Ms. Koga)• Acquiring an additional beach access easement would involve acquisition costs as well as long-term maintenance obligations.• It's considered unlikely that the landowner would agree to convey another easement since public access has already been provided.• The Planning department determined that additional access would not offer sufficient public benefit to justify the associated costs and process. Therefore, they do not recommend forwarding the proposal to the County Council as this time.• The existing access, being a trail, may not be readily accessible to all users. <p>Chair Ornellas clarified that the proposal would use Kalalea View Road instead of the original road to Pāpa`a Bay, creating a shorter access route.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Koga noted that establishing additional access through the private driveway would require obtaining approximately 1,000 feet of easement from the landowner. She also noted that Exhibit E shows the location of the defined easement leading down to the bay.</p> <p>Commissioner Kinney asked whether the community member's claim that the access had previously been open was accurate.</p> <p>Ms. Koga stated that the route had never been an official easement, which is why the matter went to court. She noted that the court ultimately ruled that the County could not claim is as public access due to the length of time that had passed.</p> <p>Chair Ornellas called for a motion not to move forward with this proposal to County Council.</p>	<p>Commissioner Kinney moved to accept the Planning Departments recommendation to not move forward with this proposal to County Council. Commissioner Lucas seconded the motion. Motion carried 6:0.</p>
	<p>J.2. <u>Report and recommendation on the proposal to acquire an `Aliomanu Beach Access, located on a lot further identified as Tax Map Key (4)4-9-004:013 (Preliminary Report 3/9/2017, Supplemental Report 5/31/2022, and Amended Preliminary Report 04/04/2025).</u></p> <p>a. <u>Final Report 10/1/2025</u></p> <p>Ms. Koga reported the following:</p> <ul style="list-style-type: none"> • Before the Commission is the Director's Report considering condemnation of a coastal access easement over a portion of TMK (4) 4-9-004:013, a 1.393-acre lot at the end of `Aliomanu Road. 	

SUBJECT	DISCUSSION	ACTION
	<ul style="list-style-type: none">• The property is in the Open Zoning District and State Land District of Urabn, with a General Plan designation of Residential Community.• The lot is nearly level, approximately 10 ft above sea level, and bordered by residential properties.• It contains a one-bedroom cottage and garage along the northeastern edge near the shoreline.• The area has been used informally by the public to access the coastline; shoreline and stream are culturally, educationally, and recreationally valued, including fishing and limu gathering.• Since 2017, the Commission has reviewed multiple reports and public testimony on potential access easement acquisition.• The Planning Department has engaged with the landowners, Gerald Crabtree and Isabell Graef, regarding voluntary conveyance. As of February 6, 2025, they are unwilling to provide an easement.• Community members, including Nalani Kaneakua, emphasized the cultural importance of the access. Hosea Lovell Foundation also expressed willingness to steward if acquired.• August 14, 2025, the Commission approved the preliminary report and directed further evaluation for the Final Director’s Report.• The Planning Department finds the acquisition aligns with the Open Space Fund purposes: improving public access, preserving culturally significant areas, and supporting educational/recreational opportunities.• While legal access exists (750 ft North at Kukuna Road), acquiring this easement would preserve a direct, historically used shoreline entry point for limu gathering.• The Planning Department recommends the Open Space Commission forward a recommendation to the County Council to consider condemnation of a portion	

SUBJECT	DISCUSSION	ACTION
	<p>of the property for a coastal access easement.</p> <p>Commissioner Ono clarified this was the Northern side of the stream.</p> <p>Chair Ornellas inquired about the method for conveying the easement, noting that the County-owned road to the stream could currently be used for parking due to the absence of the bridge, and requested clarification on whether the proposed easement would accommodate pedestrian or vehicular access.</p> <p>Ms. Koga answered saying it would be a pedestrian easement.</p> <p>Ms. Higuchi Sayegusa noted the importance of specifying their wishes but acknowledged the difficulty without a willing landowner or an appraisal, emphasizing that the process constitutes litigation and seeks eminent domain authority to condemn a portion of the property.</p> <p>Ms. Koga noted that parking on the County-owned portion does not need to be included in the recommendation to the Council, and that coordination would only be necessary with the Engineering Department.</p> <p>Chair Ornellas noted that the Commission is in a unique situation, with County-owned access directly adjoining the easement under consideration, benefiting both the County and the public. She added that bamboo planted by neighboring landowners obscures the road, making it less recognizable, and that a pedestrian easement would inherently provide parking.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Koga asked whether that information could be included, noting that the Director's Report is specific to the TMK.</p> <p>Chair Ornellas asked whether something could be added to the report to highlight the context and location of the County Road.</p> <p>Ms. Higuchi Sayegusa stated that the specifics of what is authorized to be condemned fall under Public Works enforcement. She clarified that the County Council is being asked to approve the authorization to condemn the private property in question, with the County road serving as contextual information.</p> <p>Commissioner Lucas suggested limiting access to pedestrians only, prohibiting vehicles, 4-wheeleers, and dirt bikes.</p> <p>Ms. Koga noted that even if the condemnation route is pursued, the landowners would still need to participate in mediation.</p> <p>Chair Ornellas questioned when the mediation would occur if the action to send the matter to Council is approved today.</p> <p>DCA Torigoe explained that mediation would take place in court. She stated that the Council must first pass the resolution to condemn, which is then forwarded to the County Attorney's Office. A complaint would be filed, after which the matter would proceed through the normal court process.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Ornellas stated that a comprehensive presentation for Council would be helpful, emphasizing the importance of providing as much detail as possible upfront to avoid repeating a previous process in which Council did not have all the necessary information from the Commission. She noted that the area used for the Ko`olau Limu project's base year operated under a Right of Entry permit through the Department of Hawaiian Homelands, providing a gathering place from which participants can access the shoreline. This access is important for anchoring the project, as it supports the activities that previously occurred directly on the public beach.</p> <p>Ms. Higuchi Sayegusa noted that if the Commission approves the Final Report recommending Council consideration of condemnation, the request would normally be included in the January biennial report and suggested that there may be a way to highlight it more prominently.</p> <p>Chair Ornellas called for a motion to accept the recommendation to acquire the `Aliomanu beach access easement.</p>	<p>Commissioner Lucas moved to accept the recommendation. Commissioner Kanna seconded. Motion carried 6:0</p>
<p>L. Announcements</p>	<p><u>L.1.</u> <u>Topics for Future Meetings.</u></p> <p>1. Administrative Rules for the Maintenance Fund</p> <p><u>L.2.</u> The following regular scheduled Open Space Commission meeting will be held at 1:00 p.m., or shortly thereafter, on December 11, 2025. The Open Space Commission anticipates this meeting to be held in-person at the Lihu`e Civic Center, Mo`ikeha Building 2A/2B, 4444 Rice Street, Lihu`e, Kaua`i, Hawai`i. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.</p>	

SUBJECT	DISCUSSION	ACTION
M. Adjournment	Chair Ornellas called for a motion to adjourn the meeting.	Commissioner Kanna moved for the adjournment of the meeting. Commissioner Kinney seconded the motion. Motion carried 6:0. The meeting was adjourned at 3:41 p.m.

Submitted by: Celine De Leon
Celine De Leon, Commission Support Clerk

Reviewed and Approved by: _____
Shaylyn Ornellas, Chair

() Approved as circulated on _____
() Approved as amended. See minutes of _____ meeting.