

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

DRAFT To Be Approved

Board/Commission:		Public Access, Open Space, Natural Resources Preservation Fund Commission	Meeting Date	May 8, 2025	
Location	Moikeha Meeting Room 2A/2B		Start of Meeting: 1:09 p.m.		End of Meeting: 3:48 p.m.
Present	Chair Shaylyn Ornellas and Vice Chair Robin Pratt. Commissioners: Manuel Cabral, Nancy Kanna, Mark Ono, and Mai Shintani. Deputy County Attorney Laura Barzilai. Planning Department Staff: Planning Director Ka‘āina S. Hull, Planner Shelea Koga, and Open Space Secretary Brent Sokei. Office of Boards and Commissions: Administrator Ellen Ching and Commission Support Clerk Lisa Oyama.				
Excused	Commissioners: William Kinney and Jonthan Lucas				
Absent					
SUBJECT		DISCUSSION		ACTION	
A. Swearing In of New Commissioner		Ms. Nancy Kanna was sworn in as an At-Large Commissioner, by Eddie Topenio, Jr., Administrative Assistant to the County Clerk.			
B. Call to Order		Chair Ornellas called the meeting to order at 1:00 p.m. There was no one present from the public to provide testimony on any of the agenda items.			
C. Roll Call		Planning Director Ka‘āina S. Hull verified attendance by roll call: Commissioner Cabral replied present. Commissioner Kanna replied present. Commissioner Kinney was excused. Commissioner Lucas was excused. Commissioner Ono replied present. Commissioner Shintani replied present. Vice Chair Pratt replied present. Chair Ornellas replied present.		Quorum was established with six Commissioners present.	
D. Approval of Agenda		Chair Ornellas asked for a motion to approve the agenda. Mr. Hull noted that the Department does not have any recommendations for changes to the agenda.		Vice Chair Pratt moved to approve the agenda, as circulated. Ms. Shintani seconded the motion. Motion	

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		carried 6:0.
E. Minutes of the Meeting(s) of the Commission	<p>1. May 8, 2025</p> <p>Ms. Kanna stated that she would abstain from voting as she was not present at the last meeting. Deputy County Attorney Barzilai (Ms. Barzilai) informed the Commission that even if they are absent from a meeting, as long as they reviewed the meeting minutes, they are allowed to vote for its approval. Ms. Kanna stated that she was just being cautious about it but understood the advice.</p>	<p>Vice Chair Pratt moved to approve the minutes of the May 8, 2025, meeting of the Commission. Mr. Ono seconded the motion. Motion carried 6:0.</p>
F. Receipt of Items for the Record	<p>Mr. Hull stated that there were no items for receipt.</p>	
G. General Business	<p><u>G.1.</u> <u>Discussion and recommendations on public input for the Biennial Report of the Public Access, Open Space & Natural Resources Preservation Fund Commission.</u></p> <p>Mr. Hull stated that there was no one present in the public to testify on this agenda and would be turning the meeting over to Ms. Koga to provide a report to the Commission.</p> <p>Ms. Koga presented the following:</p> <ul style="list-style-type: none"> • Last month, the Commission discussed what the Commission wanted to do for public input for the Biennial Report. As a part of discussion, the Commission asked Ms. Koga to show them the Open Space Survey that the public can view either through the Commission's website, through a link on the Commission's Instagram, or through the Planning Department's website linking to the Commission's website. • The website depicts the sites or access that were obtained using the Fund. Examples included the Historic Chinese Cemetery, the vacant lot to Black Pot Beach Park (used for parking), Halulu Fishpond in Waipa, Kaumumene Coastal Access, and the Hanapēpē parcels. • There is information on the site that explains what the Commission does and asks for the public to submit proposals to the Commission for recommendation for acquisition of 	

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	<p>access, whole properties, vacant lots, etc.</p> <ul style="list-style-type: none"> • The survey was meant to be user-friendly, and to set expectations so when the public provides proposals, that there is a criterion that needs to be followed. The Commission would want to acquire everything if they could, but the criteria sets the requirements for the acquisition of the parcels. • There is a geographical information systems (GIS) map that is available for the public to use to zoom into the specific area or access they are looking to acquire. A tax map key (TMK) can also be entered in the address bar. • Once a location is identified and the map is clicked on, there will be a specific pinpoint location indicated on the map. • The public would then scroll down to answer questions for the Commission and Department. The questionnaire helps the Department to understand why they think the proposal is important for the Commission to look at. • They can also indicate whether the interest is in acquiring the entire property, a specific easement, or any other recommendations that they might have. • They are also asked why they suggest the acquisition and whether there are opportunities or problems in the area. For instance, they could say that the property is culturally significant and that is why the Commission should look at its acquisition. • Next, the public is provided with the Commission’s purpose, and the public can click on which one relates the closest to their suggested acquisition. • The next question is whether the cost of the acquisition is commensurate to the public interest served. This is a “yes” or “no” question. • The next question is whether the process for acquisition is commensurate to the public interest served. The public could type in anything in the space provided. For instance, someone could say that it is because it is culturally significant. Someone may also explain that even though there are significant costs involved, the Commission should still look into buying it. • The remaining part of the survey is comprised of additional questions that the public may want to answer and provide input on helping the Department prepare the report for the Commission. There are some instances where the people suggesting acquisition of access 	

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	<p>know a lot more history about the property and things that records may not reveal.</p> <ul style="list-style-type: none"> Once the survey is filled in, they will submit it, and it will automatically go to Ms. Koga. Once received, Ms. Koga will draft a Preliminary Director's Report to bring before the Commission. <p>Mr. Ono asked if someone could check all nine boxes in response to the question about which of the Commission's purpose the proposal fulfills. Ms. Koga responded that someone could check any or all of the nine boxes.</p> <p>Chair Ornellas asked how someone would get to the original landing page for the survey. Ms. Koga responded that someone would have to go to Kauai.gov to go to the Open Space Commission. Someone could also use the direct link to the Commission's website. Ms. Koga stated that she could work to make the survey site more visible.</p> <p>Vice Chair Pratt asked if someone could not access the survey by clicking on one of the green headers. Ms. Koga responded that she could make another green drop down option. Vice Chair Pratt stated that it might help the public gain easier access to the survey. Ms. Koga repeated that there is also a direct link to the survey page on the Commission's Instagram page.</p> <p>Chair Ornellas asked if the survey is a standing survey. Ms. Koga responded that the survey is open 24/7 and it is never closed. Ms. Koga further noted that the Department could also do a brochure that provides the survey link should the Commission wish to do additional public outreach.</p> <p>Ms. Koga continued with her report as follows:</p> <ul style="list-style-type: none"> She looked at which neighborhood or community associations were active around the island. She spoke with the Office of Economic Development, used search tools, went on social media, etc. She found that Princeville at Hanalei Community Association is active, though it is uncertain on the exact dates that they meet. 	

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	<ul style="list-style-type: none"> • The Hanalei to Hā‘ena Community Association is not active right now, as was mentioned by Mr. Kinney at the Commission’s last meeting. • The Kīlauea Neighborhood Association is active, and they meet generally the first Tuesday of every month. Their agendas are posted on their website, and it is hosted online. • The Wailua-Kapa‘a Neighborhood Association generally meets at the Kapa‘a Library from 2:00-4:00 p.m. on the fourth Saturday of each month, however, on their Facebook page they have not been active and the last meeting they posted about was in 2019. They do not have any recent information on their website or Facebook page. She does not believe they are active right now. • The Po‘ipū Kai Association meets at 9:00 a.m. From what was observed through their website, they are not active this year. Their last meeting was at the beginning of 2024. • Those were all of the associations that Ms. Koga could find. When she spoke with the Office of Economic Development, staff there told her that they were only aware of the Kīlauea Neighborhood Association that was currently active. • There are a lot of active business associations, but she was unsure if that is something the Commission wanted to explore outreach to. • The three business associations that are active is the Kapa‘a Business Association, Līhu‘e Business Association, and the West Kaua‘i Business Association. There was no information available on set meetings. She would need to inquire with them about what their future meeting dates are. <p>Mr. Ono asked if the business associations were separate from the rotary clubs around the island. Ms. Koga responded that Mr. Ono was correct. Mr. Ono asked if the rotary clubs might be a potential source of outreach. Ms. Koga responded that the Department could assist with any outreach to whichever groups that the Commission deems appropriate. Mr. Ono stated that he knows the rotary clubs are active but is unsure of what they are involved with. Ms. Kanna stated that she is a part of the Po‘ipū Rotary Club and knows a lot of people from the west side. Ms. Kanna further stated that the rotary clubs are a good place to start asking for input and to get ideas from. Ms. Kanna noted that the rotary clubs are comprised of many in the business</p>	

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	<p>community, and that they, along with the business associations could direct the Commission to other groups or areas to hit for outreach.</p> <p>Administrator Ching stated that the Police Commission is involved in an executive search and one of the things that they did during the last executive search is they did a paper survey to survey stakeholders on what they think would be important traits for the new Chief of Police to have. During this current executive search, the Police Commission decided that they wanted a broader reach for the survey. The Police Commission asked the Office of Boards and Commissions to have a survey link embedded in a press release. Though Administrator Ching had doubts about the public participating because of the press release, she was surprised to see that within a minute of putting the press release out, there were 58 responses. Administrator Ching stated that she does not know if the feedback or participation for the Open Space Survey would be the same because of the level of detail the questions go into, as compared with the Police Commission's Trait Survey which just had a list of traits for the public to select from. Administrator Ching stated that her Office could assist if that is something the Commission wanted to explore. The Commission may also want to consider sending out a press release notifying the public about the survey once a year to bring attention to it.</p> <p>Chair Ornellas stated that she was asking about when the survey would be up because in the past the Commission had kept it open for limited period of time, even if the public is open to submitting recommendations whenever they wanted to. Chair Ornellas further stated that the response time was limited so that the Commission could use it in including it in the Biennial Report. Chair Ornellas noted that she would volunteer to do the presentations at the Kīlauea Neighborhood Association and Wailua-Kapa'a Neighborhood Association meetings as those groups are very active. Chair Ornellas stated that she also researched the Hā'ena to Hanalei Community Association and also found that they were not active but would also be open to presenting at the Princeville at Hanalei Community Association meeting as well. In the past, the Commission divided up the island using existing networks and conducted outreach. Even if someone could not make a scheduled presentation, each person on the Commission brings different talents and networks, which is why the Commission is so diverse in its makeup. Chair Ornellas noted that even if someone takes the time to drop a line to someone they know who</p>	

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	<p>might sit on one of these neighborhood boards or who can communicate the request of the Commission to appear on a future meeting agenda, that that is a type of community engagement and participation. Chair Ornellas also noted that she agrees with the approach that Administrator Ching mentioned in regard to a link embedded in a press release as though it may not be the same type of questions and simplicity as the Police Commission's survey, the reach that a press release will have can be great.</p> <p>Chair Ornellas stated that the public in the past has been grateful to be engaged in the process and appears to be surprised that the Commission is even asking for their input and feedback. There are so many ways to do outreach that did not exist pre-pandemic and it would be her suggestion to use what currently exists and to also look at new avenues for outreach. Chair Ornellas thanked Ms. Koga for the work that she did with the survey and asked that it be more prominent on the Commission's website and easier to navigate to. Chair Ornellas noted that she does not typically go to Kauai.gov and would not see the links to the Commission's site and survey. Vice Chair Pratt stated that if she wanted to bring something to the Commission's attention, she would look up the Commission and find the survey link by taking the steps that Ms. Koga took to get to the survey. Vice Chair Pratt also noted that outside of the Commission's work, she does not peruse the Kauai.gov website. Ms. Koga stated that she put the link on the Commission's Instagram site for those who do not use the Kauai.gov website often. Unfortunately, the Commission does not have too many followers on Instagram yet.</p> <p>Chair Ornellas stated that when the Commission did outreach in the past to neighborhood boards, the presentation included an overview of the Commission, the projects it has acquired, and an open invitation for the public to provide input. Former Planning Department Staff Member Nani Sadora also provided Commissioners with fliers that they could handout at meetings. A multi-faceted approach would be smart right now for the Commission. Ms. Shintani agreed with Chair Ornellas' multi-faceted approach. Ms. Shintani noted that there is a World Nature Conservation Day in July. Chair Ornellas stated that it would be a perfect opportunity. Ms. Shintani stated that she also agreed with Administrator Ching's proposal to do a press release which may coincide with the World Nature Conservation Day to draw further attention to the survey. Ms. Shintani further stated that she believes there needs to be more youth engagement in the process and</p>	

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	<p>recommended that the Commission possibly take the outreach efforts to the schools around the island to present to them on the Commission, what the Commission is doing, and how the students can get empowered to get their voices heard through the various mediums.</p> <p>Administrator Ching stated that when the Police Commission press release went out, they were getting approximately 50+ responses a day for the first three days. The survey was open for a month. During the last week, another press release will be going out to notify the public that this is their last chance to provide input as the survey closes. Since the information was disseminated through a press release, The Garden Island and Civil Beat also picked up the news and reported on it. The County also has numerous followers, and it was mentioned on the Mayor's weekly briefing on social media. Administrator Ching noted that they depended on the County's followers as the Office of Boards and Commissions does not have nearly as much reach through their social media channels.</p> <p>Ms. Kanna stated that she loves the idea that the Department has something easy to access. She also appreciated the ideas that Ms. Shintani brought up regarding outreach to schools. Adding to that, the Commission could also include someone like Ron Wiley to help spread the word through a radio spot. This helps to reach multiple segments of the population through different channels. Ms. Kanna further noted that the Commission is going to be trying multiple avenues and through the process, some ideas and outreach will stick to the targeted groups and produce results. Ms. Kanna suggested that when the outreach campaign is run, perhaps the survey information and link can be on the County's main webpage instead of just on the Commission's webpage. The Commission should try to ensure that access to the survey is as simple and easy as possible.</p> <p>Ms. Koga added that the Commission does have Rules which hold the Department to transmitting a Preliminary Director's Report within 45 days of receiving a proposal to the Commission. The Commission will review and evaluate the proposals. Ms. Koga expressed her concern about making a press release which leads to the public submitting a large number of proposals which she would then have to turn into Preliminary Director's Reports and for which the Commission would have to review each one during their meeting. This would take a lot of time and energy on</p>	

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	<p>everyone’s part. Ms. Koga definitely feels that the Commission should do outreach in a phased approach so that the Department and Commission do not have an enormous workload all at once. Chair Ornellas responded that having to look at a large number of proposals does not bother her. However, based on how the survey is laid out, it is almost like a vetting process for projects and would defer to the Department on how to carry out the outreach and information intake. Chair Ornellas gave the example of someone suggesting the Commission purchase the old Kapa‘a Foodland location and how that proposal should not even make it to the Commission because it does not meet any of the criteria for the Commission’s consideration. Ms. Koga responded that the way the Rule is written is that any proposal has to come before the Commission within the 45-day timeframe.</p> <p>Chair Ornellas asked Ms. Koga if she still had to put proposals before the Commission even if it does meet the criteria. Ms. Koga responded that all proposals have to come before the Commission even if it does not meet the criteria. Mr. Hull, as the drafter of the Rule, stated that eight years ago, there was a considerable amount of distrust between the Commission and the Department. The Planning Department for many years prior did not staff the Commission and let it do its own thing. There have been previous administrations that have blocked and withheld communications between the County Council and the Commission. When he served as Deputy Planning Director and Ms. Higuchi Sayegusa served as the Deputy County Attorney assigned to the Planning Department, they were tasked with drafting Commission Rules, as well as ordinance changes under the context that the Department supports work by the Commission getting done. Another major purpose of the Rules was to rebuild the trust between the Commission and the Department. To be as transparent as possible, when proposals are submitted, it is not up to the Department to determine whether or not it is an appropriate acquisition. The Commission has specific criteria that it must evaluate proposals. For example, the former Foodland location in Waipouli would most likely not be an acquisition that would be approved to be made with the Fund, however, there could be an argument that the acquisition is being made because it has a historic preservation component. The Rules were created so that the Commission makes the determination for or against a proposal and not the Department. Mr. Hull reiterated that regardless of the proposal, Ms. Koga would need to draft up a Preliminary Director’s Report, regardless of the length of what the Report might contain, it would still need to be drafted</p>	

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	<p>accordingly for the Commission to take action on.</p> <p>Chair Ornellas asked the Department for their suggestion given the concerns raised by Ms. Koga. Mr. Hull stated that he was just explaining the background on the Commission Rules and not suggesting any solution. Chair Ornellas stated that Mr. Hull was correct that when the Rules were drafted, there was a lack of trust and lack of communication between the Department and the Commission. Chair Ornellas further stated that there has to be a solution given that the criterion for acquisition is straightforward.</p> <p>Administrator Ching stated that there is a legitimate concern with staff resources of the Department and their availability based on the number of proposals that come in. Administrator Ching suggested that the Commission possibly look at limiting the number of proposals it will accept through the press release by saying that the Commission is looking for the top 3 proposals. Another suggestion was made that staff report on the top 3 proposals with a notation that the Preliminary Director's Report for the remaining suggested acquisitions be released thereafter based on managing the workload. This may be a legitimate issue to consider given that the Commission has just one staff member evaluating and writing the Preliminary Director's Reports. Administrator Ching wondered if that process would run afoul of the Rules. Mr. Hull responded that even if the press release states the Commission is looking for the top 5 proposals and 28 additional proposals come in, the Department is still required to look at the additional 28 proposals and report back to the Commission within the 45 days. Mr. Hull stated that the issue is trying to do as much outreach as possible while also managing the caseload that comes in. Mr. Hull further stated that the collective should understand that the public should be given the credit that they will not give the Commission ridiculous proposals or responses.</p> <p>If the Commission receives 40 proposals that do have a validity of meeting the criteria, Mr. Hull stated that there should be a way to craft a report that provides a cursory one-line statement of the legitimacy of each proposal put into one report instead of 40 separate reports.</p> <p>Chair Ornellas asked if that is why the Commission had the response period the last time the survey was done. Mr. Hull responded that the response period may have been done to manage</p>	

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	<p>the potential for response overflow. Chair Ornellas asked whether it would be possibly from a marketing standpoint to provide a response period, even though the public is more than welcome to response all year long. The outreach would be considered a marketing campaign, and the campaign has a response period and end date. Chair Ornellas asked whether creating an end date for the campaign would be breaking any of the Commission Rules. Ms. Koga responded that she does not believe it would be breaking the Rules. Ms. Koga noted that it would be breaking the Rules if the Commission received 100 submittals and she does not produce 100 reports to the Commission for the Commission to act upon within 45 days. Ms. Koga further noted that the way that Ms. Higuchi-Sayegusa has created the Preliminary Director's Report template is to review each proposal based on the criterion. Ms. Koga stated that she is hesitant to say that she could get away with consolidating all projects into one single report and would like to consult with the Deputy Planning Director before committing.</p> <p>Ms. Barzilai stated that when she interprets the Commission Rules, if Ms. Koga were to provide a brief report stating that the item was received and that it would be deferred to a future agenda for consideration and action, she feels that would satisfy meeting the 45-day rule. If the Commission does indeed receive 100 proposals, for example, Ms. Barzilai suggested that the Commission meet more frequently to evaluate the proposals.</p> <p>Mr. Ono stated that what he is hearing is that in order to preserve public transparency, all proposals to the Commission should be heard and given equal consideration. As long as the public is given the time to be heard, that is what is most important. If done this way, the public will not have an argument to say that one proposal was given more favorable consideration over another.</p> <p>Ms. Koga stated that she supports going to meetings in the community as opposed to doing one major press release. Ms. Koga stated that she would hate to raise hopes only to deny proposals because it was unattainable either due to not meeting the criteria or due to lack of funds. By just sending a denial so immediately, it might dash the hopes of those participating, losing the human element of being able to explain the process and the extent of the Commission's resources. Ms. Koga cautioned the Commission about setting expectations that create mistrust with the public.</p>	

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	<p>Ms. Koga also noted that she does not want the public to feel that the Commission selected one proposal over another and gives them the feeling that they do not want to submit a proposal in the future. Ms. Koga stated that she supports targeted outreach where the Commission could have one-on-one interaction with the public to get genuine proposals that have merit. Ms. Koga would hate to see unrealistic proposals like acquiring Ni'ihau or Queen's Bath where the access is so treacherous. Ms. Koga further stated that she would comply with the wishes of the Commission.</p> <p>Ms. Kanna stated that when dealing with the selection of the next Chief of Police, the topic is an emotional charged one that will warrant numerous responses from the public. However, the likelihood of getting that same kind of response regarding the work of the Commission would be surprising, according to Ms. Kanna. The issue of the work of the Commission is not as emotionally charged an issue unless the public feels like it is imminently going to lose something. Ms. Kanna further noted that with access and acquisition, people do not necessarily take action unless they feel threatened.</p> <p>Chair Ornellas stated that the script the Commission followed during its previous outreach efforts was very well written and went into the Commission's Rules and process. The outreach still required a call to action which included filling out the survey. Chair Ornellas further noted that the Commission could help to manage expectations during the community outreach effort to solicit valid proposals and not just a free for all input session from the public. Chair Ornellas noted that at the Kilauea Neighborhood Association and Hanalei to Hā'ena Neighborhood Association presentations, she felt that the Commission did a good job at managing expectations through the script that was followed to make the presentations. Ms. Sadora did set the parameters of what would qualify and Chair Ornellas could not recall how many proposals they ended up receiving after the outreach efforts.</p> <p>Ms. Koga stated that she could create a brochure that the Commission could use to distribute to the public. Chair Ornellas stated that the distributed information was one-sheet, but most of the detailed information came in the narrative that was presented at the meetings. Chair Ornellas stated that the Commission does not want to create more work for Ms. Koga.</p>	

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	<p>Ms. Shintani stated that one way to limit proposals is to do a multi-faceted approach and pulse campaigns. The first press release or request could give the public one week to be considered for quarter 1 consideration. Then in the next period, it would open up the proposal period for consideration in a future timeframe. This would help to limit the window of opportunity at the risk of receiving hundreds of proposals all at once.</p> <p>Administrator Ching stated that Ms. Kanna's remarks were very on point. The Chief of Police situation within the entire state is front and center. The emotion that runs deep with the selection of a new Chief of Police along with the fact that when people went to the survey it takes less than a minute to complete, may have warranted the high turnout. The survey to solicit input for the Commission's consideration takes a significant amount of time and thought into completing it. Administrator Ching further noted that she could not see someone taking the time to complete the entire survey unless they were serious about the proposal. Administrator Ching stated that she does not foresee many submissions, but that it is still important that the Commission make the effort to get the information out to the public. Administrator Ching stated that with a weeklong timeframe for the survey to be open, she would be surprised if the Commission saw one proposal come through.</p> <p>Vice Chair Pratt stated that another suggestion she thought of was to use the Hanapēpē acquisitions as a model with a story for the public to understand and to frame the type of proposal that may be warranted. She noted that in the philanthropic world, that is the approach that they take to solicit interest by giving the public a relatable story to follow.</p> <p>Ms. Koga acknowledged the Commission for the suggestions and explained that another reason this agenda item was posted was to solicit public input to be used for the Biennial Report due by the end of this year. The final report needs to be before the County Council in January or February of 2026. She asked the Commission to be mindful about the deadlines and purpose of what the solicitation of public input is to be used when deciding about the public outreach efforts, timing, etc. Ms. Koga also noted that the Commission has other work before them, including the PIG that is vetting the accesses that could use the Fund for improvements, and other past agenda items.</p>	

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	<p>Chair Ornellas asked when the World Nature Conservation day was. Ms. Shintani responded that it fell on July 28th. Chair Ornellas asked whether a vote would need to be taken regarding the route the Commission would like to take for public outreach. Ms. Barzilai stated that since there is no administrative expenditure of the Fund, no motion or action would need to be taken. Ms. Barzilai also stated that the Commission could ask Ms. Koga for assistance without a vote as well. Mr. Ono asked if a motion was needed to move forward with a brochure. Mr. Ono stated that he was in support of creating a brochure that would ensure that the information is written properly. Chair Ornellas expressed her concurrence. Mr. Ono stated that he does not want the public to feel that the Commission is offering an open checkbook for any acquisition they deem important. Mr. Ono noted that how the Commission conveys the information to the public is very important. Vice Chair Pratt suggested making a motion for Ms. Koga to create a one-sheet brochure with talking points for presents to take out to the public. Ms. Koga asked Ms. Barzilai if a motion is needed for that action to happen as the agenda posting stated “discussion and recommendation...” Ms. Barzilai responded that it would be fine for the Commission to just ask for the brochure or sheet to be made as no action is being taken outside of that.</p> <p>Ms. Barzilai asked if Ms. Koga expected the brochure to be an administrative expense. Ms. Koga responded that she could design the brochure in-house and make copies on the Department’s copy machine. Ms. Koga committed to having a draft brochure by the Commission’s next meeting for review and revision, if necessary. Ms. Koga further stated that the Commission can also think about how they want to approach the public outreach and decide at the next Commission meeting. Ms. Barzilai stated that she also does not mind a motion of any kind if the Commission deems it necessary for a brochure to be created, though administrative action could be considered without a motion as well. Ms. Barzilai stated that the work would get done either way.</p> <p>Ms. Kanna stated that she trusted Ms. Koga to get the work done and did not see the need for a motion. Ms. Kanna asked Ms. Koga if she could possibly get a draft sent to the Commission a week prior to the meeting so that they can come prepared with adequate feedback. Chair Ornellas stated that if the action to prepare a brochure does not need a vote to be taken, she does</p>	

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	<p>not want to wait a month to do public outreach and would want to get on the agenda of the neighborhood associations that she volunteered to present to. Ms. Koga responded that because the agenda post notes that the agenda item is for “discussion and recommendations,” that the individual Commissioners could do outreach on their own without having to wait until the next meeting to decide that that is what they are going to do.</p> <p>Chair Ornellas asked if the Commissioners would have something in hand to bring with them to presentations. Ms. Koga responded that she could get it done but would need to check her schedule to give an exact date on when she foresees being able to complete the brochure.</p> <p>Mr. Ono asked Chair Ornellas if she had the sample brochure from the last round of outreach. Ms. Koga responded that she has a copy of the old brochure and can base the current version off of that one. The only difference is that the questions were in the brochure whereas the Commission would want to guide the public to the link instead. Chair Ornellas agreed with Ms. Koga’s understanding of the brochure revisions that needed to be made. Ms. Koga committed to creating the new brochure within the next two weeks and could send it to the Commission for review.</p> <p>Chair Ornellas stated that the brochure did not need to be flashy, nor did it require a lot of graphics or manipulation of images. She wanted to see a simple brochure with bullet points that serve as talking points for the Commission to follow and the call to action. Chair Ornellas stated that she knows that the Department does excellent work in creating their deliverables, but in the interest of time, she wanted Ms. Koga to know that she is hoping for something simple to be created.</p> <p>Ms. Kanna stated that she believes Chair Ornellas and Ms. Koga are talking about two separate things: a brochure versus talking points. Chair Ornellas clarified that she is looking for a flier. Mr. Ono stated that the brochure and the flier are one and the same.</p> <p>Ms. Koga stated that based on her understanding of the discussion, she is going to create a simple brochure that states what the Commission is and the criteria that are looked at. Chair Ornellas</p>	

SUBJECT	DISCUSSION	ACTION
	<p>stated that the content should include what the job of the Commission is and a call to action. Chair Ornellas asked the Commissioners to provide input and stated that she loved Vice Chair Pratt's suggestion about incorporating the story of the Hanapēpē acquisitions in some way. Chair Ornellas felt that by highlighting the Hanapēpē acquisitions it might tamper down some of the public's previous sentiment that the Commission was not doing anything.</p> <p>Vice Chair Pratt stated that the Hanapēpē acquisitions felt to her to be an excellent story to share with the public based on the history of the parcels and the story that went along with it.</p> <p>Mr. Ono asked what was done for the Halulu Fishponds in Waipa. Mr. Hull stated that the Commission submitted the proposal to the County Council. The County Council received it and was ready to act on it. At the 11th hour another fund source from a philanthropist came forward and that person or organization donated the money and therefore Fund monies were never expended for the Fishponds. Vice Chair Pratt stated that the Commission can still use the photograph from that blessing event.</p> <p>Ms. Koga stated that she can definitely provide example in the brochure of the work that the Commission has done. She will endeavor to get that draft to the Commission as soon as possible. Ms. Koga also offered to accompany any Commissioner to a presentation if her assistance is needed. Chair Ornellas responded that she can do the presentation herself as she would not want to make Ms. Koga drive all the way to the North Shore.</p> <p>Chair Ornellas asked if two Commissioners had to go to conduct a presentation. Ms. Barzilai responded that two must attend. Mr. Hull stated that two Commissioners do not need to go and only one could go make the presentation. Ms. Barzilai asked if that was for the Commissioners making a presentation at a public meeting. Ms. Barzilai asked Mr. Hull to explain his reasoning for the response. Mr. Hull responded that the "two rule" was to ensure that at most two members could attend as any more might be deemed serial communication. Mr. Hull further explained that Chair Ornellas was inquiring whether she could go make the presentation at the neighborhood association meetings alone. Ms. Barzilai stated that Chair Ornellas could go alone and apologized that she misunderstood the question. Chair Ornellas clarified that she was willing to</p>	

SUBJECT	DISCUSSION	ACTION
	<p>attend the meetings herself as there would be no reason to need staff assistance for a simple presentation at the meeting. Ms. Barzilai stated that there is no Sunshine Law violation with Chair Ornellas attending any meeting by herself and again apologized for misunderstanding the question.</p> <p>Chair Ornellas asked if the Commission had any opposition to the outreach that she volunteered for. Ms. Kanna stated that she is willing to reach out to the West Kaua‘i Business Association and the Rotary Clubs on the west and south sides of the island. Ms. Kanna stated that if she has the talking points, she could even do the communication via email if she is unable to make a presentation before the various groups, though that might be preferred. Ms. Kanna stated that the approach being taken is a multi-faceted approach and that she would lean on the Planning Department’s expertise in public outreach.</p> <p>Chair Ornellas stated that in regard to the groups she volunteered to do outreach to, those communities are very active and have neighborhood e-newsletters that go out every month. They like it when there is someone at the meeting speaking to them. Ms. Kanna stated that the west Kaua‘i community is different. They want to go fishing and talk story while fishing. Vice Chair Pratt stated that she could volunteer to reach out to the Lihu‘e Business Association. Ms. Kanna stated that all of these contacts know other people and the information will be shared.</p> <p>Chair Ornellas thanked Ms. Koga for her work. Ms. Koga responded that she would be more than happy to accompany a Commissioner to a presentation but would just need to check her schedule. She is unavailable on July 28th for the World Conservation Day as she will not be on island.</p> <p>Mr. Ono asked if the Biennial Report was on the Commission’s website. Ms. Koga asked if Mr. Ono was talking about the old reports. Mr. Ono stated that he was wondering if the most current Biennial Report was posted. Ms. Koga responded that she was unsure if the most current Biennial Report was posted. She noted that she knows the 2021 Report was posted, but that she would work to post the most current version at the request of Mr. Ono.</p>	<p>There was no action taken on this agenda item.</p>

SUBJECT	DISCUSSION	ACTION
H. Communications	There were no Communications on the Commission's agenda.	
I. Unfinished Business (For Action)	<p><u>I.1. 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 05/31/2022).</u></p> <p style="padding-left: 40px;"><u>a. Amended Preliminary Report 4/4/2025 (deferred on 05/08/2025)</u></p> <p>There was no one present from the public wishing to testify on this agenda item.</p> <p>Ms. Koga asked Mr. Hull and Ms. Barzilai whether agenda items H.1. and J.1. could be taken at the same time. Ms. Barzilai asked if the action to be taken the same for both agenda items. Ms. Koga responded that the recommended action to be taken would be the same, but for two different lots of record on two different sides of the stream. Ms. Koga explained that the reason the Commission deferred the first item was so that they could hear the report for agenda item J.1. Ms. Barzilai suggested that the Commission discuss the new and updated information and then possibly act on both items. Mr. Hull suggested that Ms. Koga could report on J.1. as the discussion is ancillary to the discussion for I.1., but when action is to be taken, the Commission acts for I.1. and then separately for J.1. Ms. Barzilai concurred with Mr. Hull's guidance and stated that she does not see a way for the discussion to be broken up separately when one item impacts the other.</p> <p>Ms. Koga stated that at the Commission's last meeting, the Commission asked that the Department look into acquiring the southern parcel at the 'Aliomanu Stream. That proposal was to look at a different approach to gaining access. On the northern portion that the Commission first looked at, the landowners who were originally willing to convey an access easement to the County changed their minds and are no longer willing to move forward. This prompted the Commission to want to look at access from the southern side. To summarize, the Department evaluated the southern portion abutting the stream identified as Tax Map Key (4) 4-9-004:012 to see if it would be possible to acquire a coastal access easement on a portion of the property based</p>	

SUBJECT	DISCUSSION	ACTION
	<p>on the Commission’s criteria. The subject lot is approximately 1.65 acres and includes a three-bedroom, two-bath dwelling that is roughly 3,600 square feet. That house is approximately 55 feet from the shoreline and is currently operating as a vacation rental. On the mauka-side of the property there is a rock wall on the main road. Based on the preliminary research that the Department has done on the property, it is unclear where the stream ends and begins relative to the adjoining property. To determine the boundaries of the stream and the abutting property, a survey is going to be necessary. It is important to note that the Department would not be able to get a survey done without either the landowners’ consent or ordered as a part of the litigation process. The Department has reached out to the landowners through certified mail, and they have received it. The date to respond to the Department was June 11, 2025. As of the meeting, there was no response from the landowners. The Department is still waiting to hear back from the landowners. Based on the evaluation that was done in the Preliminary Report, the Department is recommending that the proposal to condemn a portion of the property for coastal access easement be further evaluated and memorialized in the Planning Department’s final evaluation and recommendation. Before the Commission today are both ‘Aliomanu properties; the first being Tax Map Key (4) 4-9-004:013 and the other being (4) 4-9-004:012. The recommended action for both items would be the same. The Commission could also decide to instruct the Department to do a final report to recommend condemnation of a coastal access easement on the property for the County Council’s consideration. The Commission could also recommend to the County Council that they not consider the proposal. The Commission could also recommend deferral of a recommendation. The aforementioned options are the options available for agenda item I.1. and J.1.</p> <p>Ms. Barzilai stated that she has a couple of questions so that she could further assist the Commission. Ms. Barzilai asked Ms. Koga if she had any additional factual updates on the investigation that she did for the parcels that would make one acquisition more favorable than the other. Ms. Koga responded that she does not have any additional factual evidence as both were the same for both parcels. Given that no response was received from landowner outreach on the southern parcel, they will most likely be unwilling landowners to convey an access easement. Looking at both parcels having unwilling landowners, both acquisitions if pursued would need to go down the condemnation route. Ms. Koga stated that she did talk to Nalani Kaneakua and had</p>	

SUBJECT	DISCUSSION	ACTION
	<p>asked her if on the southern portion of the stream (TMK (4) 4-9-004:012, if that was traditionally used for access purposes to the beach for gathering purposes. Ms. Kaneakua responded to Ms. Koga that access has traditionally been along the northern portion of the stream. If the Commission wants to consider litigation and both are unwilling landowners, the more favorable acquisition would be the northern parcel where traditional access was. Ms. Barzilai thanked Ms. Koga for the additional information.</p> <p>Ms. Koga stated that the factual information for both agenda items remains the same regarding the criteria being met and being commensurate with the public interest being served for both parcels. Mr. Hull stated that he would just like to caution the Commission that if they are going to go through any discussion about litigation, the Commission should probably go into Executive Session. Ms. Barzilai agreed with Mr. Hull's sentiments. Ms. Barzilai suggested that the Commission continue to discuss only the benefits of access itself and that Ms. Koga painted that picture clearly for the Commission.</p> <p>Vice Chair Pratt asked who drafted the letter and if it was Ms. Higuchi Sayegusa. Mr. Hull responded that it was drafted by Ms. Higuchi Sayegusa and that she is currently out of the office in Japan. Ms. Higuchi Sayegusa will be back in the office next week. Vice Chair Pratt stated that she was just wondering if the certified letter might have indicated that the response would go to Ms. Higuchi Sayegusa and whether a response may be sitting in her inbox. Ms. Koga clarified that the letter was signed by Ms. Higuchi Sayegusa, but the landowners were directed to contact Ms. Koga as the Planner. Ms. Koga further noted that her email and phone number were provided as contact information.</p> <p>Chair Ornellas asked for a reminder of the action before the Commission. Ms. Barzilai stated that the Chair should refer to the Report provided by Ms. Koga. Chair Ornellas responded that the Reports both say the same thing, so she was wondering whether the Commission is voting on each item separately or voting on which one to move forward with. Chair Ornellas asked whether the motion would be to move forward with one access or the other. Ms. Barzilai suggested that the Commission defer formal action until discussion of agenda item J.1. Ms. Barzilai further suggested that after hearing Ms. Koga's report on J.1., the Commission may want</p>	

SUBJECT	DISCUSSION	ACTION
	<p>to go into Executive Session to hear about the legalities of the proposed acquisition.</p> <p>There being no objections, Chair Ornellas tabled agenda item I.1. and proceeded with the agenda as follows:</p>	
<p>J. New Business (For Action)</p>	<p><u>J.1. Report and recommendation on the proposal to acquire an ‘Aliomanu Beach Access, located on a lot further identified as Tax Map Key (4) 4-9-004:012.</u></p> <p style="padding-left: 40px;"><u>a. Preliminary Report 05/30/2025</u></p> <p>Ms. Koga stated that the report that she just provided was for both agenda items I.1. and J.1.</p> <p>Mr. Hull read agenda item J.1. into the record.</p> <p>There was no one present from the public to testify on this agenda item.</p> <p>Ms. Koga stated that the reason why agenda item J.1. is on the agenda regarding the southern access point of the stream was so that the Department could reach out to the landowners to do more research and to see if they were willing to discuss an easement. If the landowners were willing, then the discussion would not need to head towards the adversarial process that the northern side access point would have to go through. For both agenda items, the possible actions would be the same and include: 1) The Department should move forward and continue to do research and recommend that the County Council consider condemnation of a coastal access easement on a portion of the property using the Fund, 2) That the Commission recommends not proceeding at all, or 3) Recommend deferring consideration.</p> <p>Ms. Barzilai asked Ms. Koga to cover what would be involved in a survey and appraisal for both access points to give the Commission further factual background information. Ms. Koga stated that she received a preliminary cost estimate for the cost of the survey. The cost would be approximately \$8,000 when the estimated was completed a couple of months ago for just the easement portion. The survey would need to look at the metes and bounds of the actual property itself and defining where the stream is. The Department cannot conduct the survey without the</p>	

SUBJECT	DISCUSSION	ACTION
	<p>owner's consent. Should the Commission recommend condemnation then a survey could be done through the litigation process.</p> <p>Chair Ornellas asked whether staking could be done instead of a full survey. Ms. Koga responded that the survey would be needed for staking. Ms. Koga further noted that the Department would need the property owner's authorization to go onto their property. Chair Ornellas asked whether the goal could be achieved without a full survey.</p> <p>Chair Ornellas asked whether a full survey was done with previous acquisitions or were boundaries delineated by staking, where they just drop pins. Mr. Hull responded that the previous acquisitions have all been made with the landowners' consent, with the exception of the Black Pot Beach Park acquisition. The Department was able to gain access to the properties, survey them, and that survey would depict the actual area that the County was going to acquire. The one situation where it was an adversarial condemnation action was the Po'ipū access near the Spouting Horn. The Commission recommended to Council acquisition of that particular access and the Council approved of it. There is an actual drainage easement there and it was not delineated to be publicly used. In that situation, the Department was able to use the metes and bounds of that easement and put it into the condemnation proceedings. In this particular situation, if the landowner gives consent, the Department will survey where the easement would be and then the property would need to be staked. If the Department does not have the landowners' consent then ultimately it would be authorizing a condemnation route in which a surveyor would have to depict on a paper map without physically accessing the property what the area is that would be condemned. The Department could never physically walk on the property in a condemnation proceeding until the condemnation is completed.</p> <p>Chair Ornellas stated that in both situations, the property will get staked. With staking, it is just plotting the metes and bounds. The full survey includes way more information and that is why she asked the question. In real estate, it is much more cost effective to go the staking route versus a full survey. Mr. Hull stated that in order to generate the metes and bounds, the easement itself would need to be surveyed. Ms. Barzilai stated that a professional survey cannot be ordered on private property without a right of entry. That cannot be proceeded with unless the County goes</p>	

SUBJECT	DISCUSSION	ACTION
	<p>into litigation.</p> <p>Vice Chair Pratt asked how the stream plays a role in the discussion and whether or not the County has access to the stream if the property line falls in the path of the stream. Ms. Barzilai responded that one of the things that she was going to recommend is that the Chair submits a legal request to the Office of the County Attorney as to whether the stream is a navigable stream. If the stream is navigable, then it belongs to the State of Hawai‘i. Ms. Barzilai further noted that she had already done a little research into the matter and Ms. Koga reminded her that there was discussion at the last meeting about where the State boundaries end. With regard to streams, it is not only about the high wash line, which is not so prominent with streams. There are typically just tides that come in and out in the stream. There is a meandering line which is how boundaries are drawn on a stream. Ms. Barzilai would like to look closer into how the boundary lines should be drawn for the particular stream. Part of the discussion would involve the Department approaching the State for cooperation on the matter. Mr. Hull responded that he does not have high hopes but candidly, the Department has never approached the State from a Commission standpoint. If the stream is navigable, that is another approach to look at and see how much the County’s partnership with the State could work to secure something for the public. One concern raised by Mr. Hull would be the physical depiction on the ground of public access when dealing with a body of water should it even be determined as a navigable stream.</p> <p>Ms. Barzilai asked Mr. Hull whether the State might assist in determining where the bank ends. Mr. Hull responded that it would be worth having the discussion with the State. The last discussion with the State occurred approximately 6-7 months ago. At that time the State was refusing to survey a shoreline that the public and the private property owner were having contentious issues on. The State contended that they were not going to survey that shoreline because the private property owner has not consented to it. The Department’s position to the State was that it was the State’s beach on behalf of the public and that they should be able to survey it without the adjacent landowner’s consent. The result of that discussion resulted in no survey happening. Mr. Hull did note that there has been a recent change in leadership of the Division that was refusing to conduct that survey, so there is potential for further discussions with the State. Ms. Barzilai communicated to the Commission that discussions with the State are an</p>	

SUBJECT	DISCUSSION	ACTION
	<p>avenue worth exploring. Mr. Hull concurred. Ms. Barzilai stated that she could have further discussions with the Commission about the matter in Executive Session.</p> <p>Mr. Ono asked if Ms. Barzilai could work on the legal request to look at the boundary, contact the State, and proceed with that option. Mr. Ono responded that he is more concerned about the issue of the boundary. Mr. Ono stated that he would like to get the boundary matter cleared up as he sees it coming up again. Mr. Ono further noted that the second part about reaching out to the State could also be fruitful and all the State could say was “no.” Mr. Ono stated that if discussions with the State move forward, the Commission could try to get in the ear of whoever they need to, to make progress.</p> <p>Chair Ornellas asked whether it would be appropriate to go into Executive Session. Ms. Barzilai responded that it may be advisable to do so if the presentation and Commissioner questions have been completed.</p> <p>Ms. Shintani stated that at a previous meeting, the Commission spoke to Deputy County Attorney Chris Donahoe about potential mediation. Ms. Shintani asked whether mediation was explored and whether there was any successful contact with Ms. Kaneakua and the owners. Ms. Barzilai responded that she was unsure of what occurred. Ms. Koga responded that in order for mediation to occur, the Commission would have to make a motion on the agenda item for the Department to do more research. The report and recommendation are whether or not the Commission wants to continue condemnation and further research into the properties. Ms. Koga stated that she is not sure if mediation falls under litigation or whether there would need to be a motion from the Commission to do so. Mr. Hull responded that the conversation may be better suited to be done in Executive Session. Ms. Barzilai stated that in general terms, mediation would be completely voluntary. Based on the fact that there was no response to the letter that Ms. Koga sent out, the County could presume that right now voluntary mediation would be out of the picture. Mr. Hull stated that when looking at condemnation, it is a notion of whether one party will “blink” before the other. Right now, as the acquisition is being explored, the landowner does not appear to be “blinking.” Should the Commission take an action in general whereby the Commission acts to send a communication to the County Council to condemn a property, it could recommend</p>	

SUBJECT	DISCUSSION	ACTION
	<p>condemnation with the caveat that five months be afforded to the Office of the County Attorney to explore mediation options with the landowner. The landowner now has a formal action before them where they are given notice that the action is going before the County Council, but there is a period of five months where mediation is an option. The landowner could still say “no,” but at least the offer is out there for them.</p> <p>Ms. Barzilai asked whether the County finds itself in the same position with appraisal as it does with survey or staking with regard to right of entry and not being able to do that professional service right now. Mr. Hull responded that it is up to the appraiser, on a case-by-case situation. If the Commission was looking at creating an easement through a piece of property that they cannot physically see, it is going to be hard for them to appraise it. They may still be willing to estimate a value based on the square footage of the access easement; it just depends on the comfort level of the appraiser. The latter part of the response, which would be better suited for an Executive Session discussion, is that there is the market value and survey costs. When going through the condemnation process, there is a condemnation cost that the Department and Commission would turn to the Office of the County Attorney to lay out. The Baby Beach access legal analysis was that the condemnation costs could be up to approximately \$1M. The County Council appropriated up \$1M for the condemnation.</p> <p>Chair Ornellas asked if the Commission needed to make a motion to go into Executive Session. Ms. Barzilai responded that the Commission would need a motion, second, followed by a roll call vote.</p> <p>There being no objections, agenda item J.1. was tabled and proceeded with an Executive Session.</p>	
<p>K. Executive Session</p>	<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>K.1.</u> Discussion and recommendations on public input for the Biennial Report of the Public</p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>Access, Open Space & Natural Resources Preservation Fund Commission.</u></p> <p><u>K.2.</u> <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 05/31/2022).</u></p> <p style="padding-left: 40px;">a. <u>Amended Preliminary Report 4/4/2025 (deferred on 05/08/2025)</u></p> <p><u>K.3.</u> <u>Report and recommendation on the proposal to acquire an ‘Aliomanu Beach Access, located on a lot further identified as Tax Map Key (4) 4-9-004:012.</u></p> <p style="padding-left: 40px;">a. <u>Preliminary Report 05/30/2025</u></p> <p>There being no objections, the Open Session meeting was recessed at 2:29 p.m. for the Commission to convene in Executive Session.</p>	<p>Vice Chair Pratt moved to go into Executive Session for agenda items I.1. and J.1 (Executive Session agenda items K.2. and K.3.). Mr. Ono seconded the motion. Motion carried 6:0 by roll call vote.</p>
<p>I. Unfinished Business (For Action) cont.</p>	<p>There being no objections, the meeting was called back to order at 3:18 p.m. and proceeded as follows:</p> <p>Agenda item I.1. was taken out of order and continued as follows:</p> <p>Ms. Barzilai recommended that the Commission entertain each agenda item separately, starting with agenda item I.1.</p> <p><u>I.1.</u> <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 05/31/2022).</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>a. Amended Preliminary Report 4/4/2025 (deferred on 05/08/2025) cont.</u></p> <p>Chair Ornellas asked whether there was any discussion on agenda item I.1. Chair Ornellas summarized that the Commission is looking at the County easement on the north end of the ‘Aliomanu Stream. Chair Ornellas further noted that the Commission is wanting to know the exact boundary of the property as well as the County easement that exists. Furthermore, the Commission is interested in seeing the copy of the letter that was sent to those landowners so that they can better understand what was presented to them. The Commission also asked for consideration that yesterday was a holiday, and no County staff were present. The landowner may have attempted to send a letter that could not be received. The Commission is also looking for an appraisal and survey of both sides of the stream to be done. The Commission also discussed exploring public purpose of the property and referring to Hawai‘i Revised Statutes (HRS) regarding the uses of the beach. The Commission also asked for a legal opinion to better define navigable of that waterway and where the boundaries are for the adjacent landowners. It was undecided as to whether it was under the State’s control or not.</p> <p>Ms. Barzilai added that one of the things the Commission wanted to achieve was to decide by vote whether the Commission is going to be pursuing both sides of the stream or not. Chair Ornellas added that given the recommendations for agenda item I.1. and J.1. being the same, she was under the impression that a decision had to be made. Ms. Barzilai reminded the Commission that they are not bound by the suggestions made by Ms. Koga, and that they are able to take other actions.</p> <p>Chair Ornellas asked the Commission for any additional discussion as to alternative recommendations to take with regard to the north side access indicated in agenda item I.1. Mr. Ono stated that he is in favor of addressing each parcel separately and not together as a combined package. Mr. Ono further stated that he believes that once one parcel is completed, the process for the second parcel will go much smoother.</p> <p>Chair Ornellas asked for discussion on agenda item I.1. to bring the Commission closer to an</p>	

SUBJECT	DISCUSSION	ACTION
	<p>action. Vice Chair Pratt stated that her recommendation would be to have the Office of the County Attorney conclude on what is a navigable river and where the State boundaries are to give the Commission a good idea of what the river is before the Commission moves forward. Vice Chair Pratt also noted that Mr. Ono had suggested sending a letter to the landowners to ask them kindly for permission to access their property for survey and appraisal purposes.</p> <p>Ms. Kanna stated that she agrees with Mr. Ono's suggestions. Ms. Kanna stated that she believes the landowners need to understand what the Commission's true motivations are and why they want access. Ms. Kanna further stated that she thinks the County is approaching it from the middle assuming that the landowners already understand why access is important and why. Ms. Kanna does not believe that the landowners know the purpose and intent and thinks that it may not have been conveyed properly. Ms. Koga responded that in the letters that are sent to the landowners, the County did explain that the County wanted to work with them to potentially convey an easement for the purpose of beach access. Furthermore, Ms. Koga noted that the letter explained the cultural significance of the activities happening there, including the limu gathering. The letters, especially concerning the Crabtree property did convey that. Before it reached the point where they retracted their willingness to provide access, they were willing to convey an easement to the County if the County could find a steward or line up and ensure that the property would be taken care of up to their standards. Ms. Koga believes the Crabtrees understood the cultural significance and reasons why the County was looking at an access easement there. After the Department found a steward and the Department sent letters following up to address their initial concerns, they responded that they had changed their minds and were no longer willing to give the County access, including for personal reasons. Ms. Koga stated that she can bring all of the correspondence she has to the Commission's next meeting. Ms. Koga further noted that perhaps the other landowners on the south side of the stream may not have had the time to read through the letters just yet nor to communicate with the Department. Ms. Koga noted that she hopes that the landowners will reach out to her by the Commission's next meeting and further noted that she will attempt to reach out to them again as well.</p> <p>Ms. Barzilai asked whether there was an additional request for Ms. Koga for an additional letter. Chair Ornellas responded that the request was to see the letter that was sent to the landowners.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Barzilai stated that the Commission could wait until the next meeting to see if the landowner will communicate further and to review copies of previous letters.</p> <p>Vice Chair Pratt asked if the letter with the June 11, 2025 deadline was for I.1. or J.1. Ms. Koga confirmed that J.1. was the agenda item with the June 11, 2025 response deadline. Ms. Koga further noted those letters for agenda item I.1. were sent multiple times before a response was actually received back.</p> <p>Ms. Koga committed to providing copies of the correspondence with the Commission. Chair Ornellas summarized that Ms. Koga did convey the importance of the easement and that it was for use by the public and not just the Hosea Lovell Foundation. The landowners claimed that they were never blocking access to any of the groups, however, the Department tried to convey how they are looking to secure access in perpetuity. Their concern was that the County would not take care of it to the level that they take care of it. The current landowners mow the area and take care of the area.</p> <p>Chair Ornellas asked if the letter sent to the Crabtrees was the same form letter sent to the other property owner. Ms. Koga responded that the letters were a little different. The letters that were sent for agenda item I.1. was more of a follow-up, because initially they were willing to give the County access. The tone was different, and it was after multiple attempts trying to reach them through email and phone calls that the letters started giving them deadlines to respond to by.</p> <p>The initial letter to the landowners for the parcel in agenda item J.1. just explained that the landowner is requested to reach out to the Department as the County would like to work with them on potential beach access as there is significance to the easement.</p> <p>Chair Ornellas stated that she remembers the other item she forgot to summarize coming out of Executive Session and that item was regarding encroachment. She asked whether encroachment was happening on both sides onto the County roadway. Ms. Koga responded that she could look into that. The roadway is not staked currently so the Department would need to determine where the roadway is to determine if there is encroachment. Ms. Koga further stated that she does not</p>	

SUBJECT	DISCUSSION	ACTION
	<p>believe she could make that determination for the Commission herself. Chair Ornellas stated that she is asking because if the Commission is looking at a full survey, she would want a full survey of the County easement and the Crabtree property.</p> <p>Ms. Koga asked Mr. Hull whether the work could be done under one survey or whether two separate surveys would be needed. Mr. Hull and Ms. Koga concurred that one survey could be conducted.</p> <p>Mr. Ono asked if the Crabtree property was the northern property. Ms. Koga confirmed that Mr. Ono was correct.</p> <p>Ms. Barzilai asked Chair Ornellas whether she wanted to establish that the Commission still wants to pursue the subject access as opposed to choosing one or the other. Chair Ornellas responded that it appears the Commission is still interested in pursuing the northern piece in agenda item I.1.</p> <p>Ms. Barzilai reminded the Commission that they wanted to ask questions of Mr. Hull as to what a formal appraisal would look like without a right of entry or formal access. Mr. Hull responded that the Department could provide copies of the letters. A request can also be made to the Office of the County Attorney to see if the stream is a navigable stream. Mr. Hull asked that if the request for agenda item I.1. is for the Department to still pursue access policies or strategies, whether the Commission was ready to direct the Department to initiate the appraisal of the property. In other words, does the Commission want the Department spin up the appraisal in tandem with the Office of the County Attorney's review of navigable streams or does the Commission want to wait until after the navigable streams assessment is done. The Department did not have a preference either way. Mr. Hull stated that he was asking so that Ms. Koga would know when to act, either before or after Ms. Barzilai does her assessment for the Office of the County Attorney.</p> <p>Mr. Ono asked would the Department not have to do both anyway. Mr. Hull responded that the County Attorney's assessment could deem the stream as navigable and that it falls under the</p>	

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	<p>State's jurisdiction. That could perhaps convince the Commission not to pursue formal access because the public would already have access through the stream. That result may also negate the need for formal appraisal to be carried out. Furthermore, should the stream be deemed navigable, he is certain that the County will not be setting up fencing or walls demarcating that access. Mr. Hull summarized that he wants to know whether the Commission wants the appraisals to be done now. Ms. Barzilai responded that the Commission is interested in understanding the boundaries of the stream bank and in order to establish State control, the establishment of whether it is a navigable stream needs to be determined. The Commission can then assess through research the extent of the stream bank for a boundary. Mr. Hull responded that all of that would be included in a survey. Mr. Hull asked again whether the Commission wants the Department to go after an appraisal of an easement not over the stream that is near the stream or on the property to see what the purchase or condemnation cost would be.</p> <p>Ms. Shintani asked whether that appraisal can be done on paper so that no access needs to be granted by the landowner. Mr. Hull responded that in theory it can be done. The Commission could make a motion for the Department to initiate appraisal for an easement on the property in I.1., Ms. Koga would then initiate the process and see if she can find an appraiser that is able to do an appraisal without accessing the property in totality. If an appraiser is able to do it, the funds are expended and a report it provided to the Commission. If an appraiser cannot be found, Ms. Koga will return to the Commission to notify them appropriately.</p> <p>Mr. Cabral asked if there was a map of the County access and the size of the property on the north end. Mr. Hull responded that the map should have been a part of the Report. Ms. Koga responded that she could pull up the map. Mr. Hull stated that the standard access easement is 10' wide. Mr. Hull further stated that if the Commission wanted the Department to initiate an appraisal for a 10' wide access easement from the roadway to the beach, that is what the Department would do. The Commission could also request that the Department do an appraisal for a 20' wide easement. Ms. Koga displayed a map depicting the stream and where the County roadway used to be. Ms. Koga pointed out a section on the map where access could possibly be located to still be in the County roadway. Ms. Koga also pointed out the area that would need to get appraised as the access leading to the beach. Vice Chair Pratt stated that she could see the</p>	

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	<p>property line.</p> <p>Chair Ornellas stated that in researching a lot of properties that are near waterways, it does not explicitly show State control. The Commission would be led to believe that there is no ownership of the blank space. Ms. Koga asked Mr. Hull if streams were under State control. Mr. Hull responded that it would be if it is navigable. Ms. Barzilai stated that the area is not an independently recorded parcel. Chair Ornellas further stated that the property lines do not always line up when you compare it with staking or a full survey. Mr. Hull explained that the property lines on the map are not a hard and fast boundary for the property.</p> <p>Ms. Shintani stated that her recommendation is that the Commission moves forward. Ms. Shintani further stated that she feels the Commission should continue looking into whether the stream is a navigable stream and in parallel, the Commission should have the Department do the research for the procurement for appraisal to see what appraisers who are out there are willing to do the work on paper without access to the property. The Department would not need to procure the services but just find out who is out there and who might be willing and able to do the appraisal. Ms. Shintani noted that she does not want to “poke the beehive” so she is hopeful that by the Commission’s next meeting, the Department will be able to notify the Commission of appraisers willing to do a paper appraisal. There may be none out there and that might further inform the Commission’s decision as well.</p> <p>Ms. Barzilai stated that the Commission could defer the agenda item for further legal research and for the Department’s research into the process for an appraisal.</p> <p>Mr. Ono suggested the motion be taken a step further to also ask that if an appraiser is not found that the Department move forward with sending a letter to the landowner to ask for permission to access the property for the purposes of a survey and appraisal. Mr. Hull stated that Mr. Ono’s suggestion is a reasonable request and that he is 99% that the landowner will not respond or simply say “no.” However, the suggestion made by Mr. Ono is a step in the process to keep forward momentum. Mr. Ono stated that he does not want to go through litigation if at all possible.</p>	

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	<p>Chair Ornellas summarized the proposed action which would lead to a deferral of the agenda item while the Office of the County Attorney does its legal research into the navigable river issue, along with the Department looking into the process of obtaining a paper appraisal for the property. If an appraiser cannot be found, then the Department will move forward with acquiring a right of entry from the landowner for the purpose of acquiring an appraisal.</p>	<p>Ms. Kanna moved to defer agenda item I.1. for additional legal research, Departmental research regarding pursuit of an appraisal, and possible request to the landowner for access for the purposes of an appraisal completed by the Department. Ms. Shintani seconded the motion. Motion carried 6:0 by roll call vote.</p>
<p>J. New Business (For Action) cont.</p>	<p><u>J.1. Report and recommendation on the proposal to acquire an ‘Aliomanu Beach Access, located on a lot further identified as Tax Map Key (4) 4-9-004:012.</u></p> <p><u>a. Preliminary Report 05/30/2025 cont.</u></p> <p>Ms. Barzilai suggested that the Commission discuss whether or not they would like to pursue acquisition of an easement on this parcel.</p> <p>Mr. Ono stated that he would like to see this item deferred as well until more information is received regarding agenda item I.1. before consideration of J.1. is made. Mr. Hull responded that he is fine with that but asked if the Commission wanted to direct the Department to also explore the possibility of a paper appraisal for the subject property. Mr. Hull stated that similar to agenda item I.1., it may be prudent for the Department to see if there is an appraiser out there who could do a paper appraisal without accessing the property. There may be differences in the two properties that may or may not allow an appraisal to be carried out without accessing the property.</p>	<p>Vice Chair Pratt moved to defer agenda item J.1. with a request that the Department look into obtaining a willing vendor for an appraisal. Mr. Ono seconded the motion. Motion carried 6:0 by roll call vote.</p>
<p>L. Announcements</p>	<p><u>L.1. Topics for Future Meetings.</u></p> <p>Mr. Hull stated that he will work with Ms. Higuchi Sayegusa and Ms. Koga on putting together</p>	

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	<p>agenda items for the next meeting.</p> <p>Mr. Ono asked whether the Department of Land and Natural Resources controls water flows in rivers or streams. Mr. Hull responded that they do not. Mr. Ono then asked who deals with encroachment. Mr. Hull responded that encroachment on County properties is dealt with by the County. Mr. Ono clarified that he was asking about encroachment on waterways. Mr. Hull responded that there are some requirements for the landowner to maintain waterways but there are no enforceable regulations and policies. If you own a property and you are clogging the waterway with hau bush, then technically as the landowner you are supposed to be clearing that hau bush to ensure that there is a constant flow. There are State rules around that issue, but they are not really enforceable, which is why so many of the streams are clogged up. Mr. Ono stated that he was just trying to think if there were other ways to open up the waterways. Mr. Hull responded that he feels Ms. Barzilai’s research into whether that stream is navigable is the first step in the right direction to work with the State to ensure that they will recognize the stream is navigable and that an adjacent property owner cannot claim trespassing by going into the waterway.</p> <p><u>L.2.</u> The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m., or shortly thereafter, on July 10, 2025. 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.</p>	
<p>M. Adjournment</p>	<p>Chair Ornellas asked for a motion to adjourn the meeting.</p>	<p>Ms. Kanna moved for the adjournment of the meeting. Vice Chair Pratt seconded the motion. Motion carried 6:0.</p> <p>The meeting was adjourned at 3:48 p.m.</p>

Public Access, Open Space, Natural Resources
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Submitted by: *Lisa Oyama*
Lisa Oyama, Commission Support Clerk

Reviewed and Approved by: _____
Shaylyn Ornellas, Chair

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