

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:		Public Access, Open Space and Natural Resources Preservation Fund Commission	Meeting Date	July 13, 2023
Location	Boards and Commissions Conference Room		Start of Meeting: 1:01 p.m.	End of Meeting: 1:58 p.m.
Present	Chair Nancy Kanna. Vice Chair Jonathan Lucas. Commissioners: Taryn Dizon, Mark Ono, Robin Pratt, and Mai Shintani Deputy County Attorney Laura Barzilai. Planning Department Staff: Deputy Director Jodi Higuchi-Sayegusa, Commission Support Clerk Kristen Romuar-Cabico and Planner Myles Hironaka. Office of Boards and Commissions: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin			
Excused	Commissioner William Kinney			
Absent				
SUBJECT	DISCUSSION			ACTION
A. Call To Order	Chair Kanna called the meeting to order at 1:01 p.m.			
B. Roll Call	Deputy Director Jodi Higuchi Sayegusa verified attendance by roll call; Commissioner Dizon replied present. Commissioner Kinney was not present. Commissioner Ono replied present. Commissioner Pratt replied present. Commissioner Shintani replied present. Vice Chair Lucas replied present. Chair Kanna replied present.			Quorum was established with six commissioners present.
C. Approval of Agenda	Chair Kanna explained that F.5. had a presentation and requested to amend the agenda to move F.5. before F.3.			Ms. Pratt moved to amend the agenda and approve moving F.5. before F.3. Vice Chair Lucas seconded the motion. Motion carried 6:0.
D. Minutes of the Meeting(s) of the Commission	Ms. Higuchi Sayegusa said there were no minutes to approve.			

SUBJECT	DISCUSSION	ACTION
E. Receipt of Items For The Record	Ms. Higuchi Sayegusa said there were no receipt of items for the record.	
F. General Business	<p><u>F.1. Discussion on Public Access, Open Space, and Natural Resources Preservation Fund Commission Balance.</u></p> <p>Ms. Higuchi Sayegusa announced the new fiscal year 0.05% allocation amounted to a total fund balance of \$2.6 million. Expenses from the Waipa Foundation Halulu Fishpond contribution and 0.5% administrative budget brought the fund balance to \$1,693,256.</p> <p>With no questions from the commission Chair Kanna moved to the next agenda item.</p>	
	<p><u>F.2. 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. Stallman and Lisa Flores) (Preliminary Report 6/1/2022)</u></p> <p>Ms. Higuchi Sayegusa explained this proposal was initiated by Councilmen Bill DeCosta. The department was currently looking for any outstanding conditions of approval for the subdivision that would have dedicated pedestrian and equestrian access requirements to the county and contacted landowners to resolve a possible access issue that could be enforced.</p> <p>Deputy County Attorney Laura Barzilai interrupted and asked that they address if anyone in attendance wanted to testify on this agenda item. Public person Ms. Lisa Flores stepped up to the table.</p> <p>Ms. Flores testified that she owned the property with her husband and was only now learning about the access situation. She asked if she could testify after Ms. Higuchi Sayegusa finished reporting. Chair Kanna suspended her public testimony and returned to Ms. Higuchi Sayegusa.</p> <p>Ms. Higuchi Sayegusa said they were currently in contact with DLNR (Department of Land and Natural Resources) on a possible cooperation to amend the lease with Jurassic Kahili Ranch to allow public access on leased land to access hunting grounds. She explained that the mauka land</p>	

SUBJECT	DISCUSSION	ACTION
	<p>was state owned and leased by Jurassic Kahili Ranch. It's initiated a greater interest with the county council and the department was now tasked with researching all subdivisions on island on what the access requirements were and on what various stages of conveyances or recordation's.</p> <p>Questions:</p> <ol style="list-style-type: none"> 1. Ms. Pratt asked if they looked at Wailapa Road to see if it was part of the subdivision and if there was access. Ms. Higuchi Sayegusa replied yes there was. 2. Ms. Dizon asked if they secured the lease would the county pay yearly and would it come out of the Public Access, Open Space & Natural Resources fund balance? Ms. Higuchi Sayegusa explained that they would ask the state to amend the lease to allow public access but continue maintenance responsibility with the lessee Jurassic Kahili Ranch. <p>Ms. Higuchi Sayegusa displayed a map of the area and pointed to three subdivisions. They found a required pedestrian and equestrian access that led to the state property in Puupani Phase I that was not opened, and they were exploring how to enforce that access. She pointed out Ms. Flores's property and a pedestrian easement that crossed into the property to the state property.</p> <ol style="list-style-type: none"> 3. Ms. Pratt asked if that area was the old Kula School; she wanted to orientate herself to the map area. The commission discussed the area and Ms. Higuchi Sayegusa pointed out the ocean side. <p>With no further questions from the commission, Chair Kanna called Ms. Lisa Flores to continue her testimony.</p> <p>Ms. Flores shared that Ms. Higuchi Sayegusa and Councilman DeCosta visited the property about a year ago and after the meeting it left them with a lot of unanswered questions and understood that the planning department was exploring options and would return. Since that time, they received a letter. She said her property was surrounded by Jurassic Kahili Ranch and would support open space and cooperate with planning department to support the trail access. She admitted to not understanding the access requirements and wanted to learn more.</p>	

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	<p>4. Mr. Ono asked what kind of access went through her property because they were interested in vehicular access. Ms. Flores replied a pedestrian access.</p> <p>Chair Kanna reassured Ms. Flores that planning department was researching all options and would keep her informed.</p> <p>Ms. Ono stated he wanted to continue a mutual relationship in an open good manner and if anyone from the county was aggressive, to please inform him.</p> <p>Chair Kanna asked if there was anyone else who wanted to testify, hearing none, she asked if anyone wanted to testify on the previous agenda item F.1., hearing none she moved on to the next agenda item</p>	
	<p><u>F.5.</u> <u>Update on improvements related to the easement located on land identified as Tax Map Key Nos.: (4)5-4-011:004 and (4)5-4-012:011 that accesses Kaumemene or Hideaways Beach (County of Kaua‘i Easement).</u></p> <p>Chair Kanna asked if there was any public testimony, no response.</p> <p>Ms. Higuchi Sayegusa invited Capitol Improvements Project Coordinator for the County of Kauai Michael Contrades to speak on this agenda item.</p> <p>Ms. Higuchi Sayegusa presented Kaua‘i Coastal Access PowerPoint that featured pictures of the area, public access parking, and access trail. The pictures reflected how the trail looked before repairs and the improvements after repairs.</p> <p>Ms. Higuchi Sayegusa said initial repair estimates totaled \$1.5 million due to potential complicated SMA (Special Management Area) permits, OCCL (Office of Conservation and Coastal Lands), and BLNR (Board of Land and Natural Resources) discretionary permits. Mr. Contrades explained he became aware of this project in February when Ms. Higuchi Sayegusa approached him for assistance when the outside contractor did not work out. During his initial assessment of the trail he spotted sharp metal objects, rebar protruding from the ground and worn</p>	

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	<p>stretched rope put in by the community for support. Ms. Higuchi Sayegusa said Mr. Contrades returned from his initial assessment and wanted to start the project right away due to the condition of the trail. He said it could not wait for potential permits, which could take a year. She commended Mr. Contrades on accomplishing improvements on a tight budget and short time span.</p> <p>Mr. Contrades shared that he reached out to community members Mike Lyons and Makaala Kamuana to discover what the communities' expectations were, what they wanted done and what they did not want done. He also reached out to the general manager of the Puu Poa Association for permission to use the associations parking lot. The county's public works department sent their bridge crew to repair the trail and they did a phenomenal job. Mr. Contrades said Bridge Maintenance Worker Kevin Suga and crew along with the Hanalei Baseyard crew came up with different ideas to satisfy the communities desire to keep the repairs natural but still safe to traverse. Some of the original posts were kept and others replaced. The crew cut steps, trimmed trees, and said future maintenance work would include installing new wooden steps in the steep areas along with rubber bushings installed at each anchor point to protect the rope. They would also install a higher-grade rope.</p> <p>Ms. Higuchi Sayegusa showed pictures of the top plateau before the stairs, railings and post rusted and falling apart with sharp edges. The downhill stairs eroded and was slippery. The lower half of the trail used rebars and trees to support the rope that was used as railings. Ms. Higuchi Sayegusa showed a picture of a two new signage. One was a nice new warning sign that was made with the assistance of DCA Barzilai and installed prominently at the top of the trail. The other was a directional arrow that pointed to the start of the trail.</p> <p>Mr. Contrades said each time he inspected the trail there are about 40-50 people traversing up and down the trail.</p> <p>Questions:</p> <ol style="list-style-type: none"> 1. Mr. Ono asked if the (Puu Poa) condo owners wanted stewardship of the trail. Ms. Higuchi Sayegusa said early on they were pleased with the county taking on this task but 	

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	<p>have not approached the (Puu Poa) condo association board for a permanent maintenance commitment support.</p> <ol style="list-style-type: none"> 2. Ms. Pratt asked if Surfrider was going to stewardship and maintain the trail. Ms. Higuchi Sayegusa replied they walked away and did not want to sign any contract, but they were willing to help. 3. Ms. Pratt asked if they had any stewardship in place. Ms. Higuchi Sayegusa replied no. <p>Mr. Contrades said moving forward they now needed to also secure stewardship and assistance with maintenance so internal county resources could resume their normal job duties.</p> <p>Chair Kanna commented how grateful that staff assisted at a very reasonable cost was able to complete a sustainable fix. She commended Mr. Contrades.</p> <p>Ms. Dizon was amazed at how quickly they were able to find a solution and thankful that they continued to pursue other options when the contractor did not work out.</p> <p>Mr. Contrades commended and gave the credit to public works staff. He said they did a phenomenal job and thanked DCA Barzilai and Ms. Higuchi Sayegusa for their input and guidance.</p>	
	<p><u>F.3. Update on a 0.2764 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065 (Kaua‘i Petroleum Co. Ltd) (Preliminary Report 12/29/2017, Supplemental 1-5 2/8/2018 to 10/19/2019).</u></p> <p><u>F.4. Update on a 0.2867 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071 (Kaua‘i Petroleum Co. Ltd) (Preliminary Report 12/29/2017, Supplemental 1-5 2/8/2018 to 10/19/2019).</u></p> <p>Chair Kanna asked if there was anyone in the audience who wanted to testify on F.3. and F.4., there was no response.</p> <p>Ms. Higuchi Sayegusa said within the last couple of days they received final appraisals for both</p>	

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	<p>parcels. She said 2024 would be the centennial year for the massacre event and an opportunity for the county to acquire one or both parcels to create a memorial for the centennial year event. She also shared that the state department of accounting general services was responsible for maintaining the massacre grave sites at the old cemetery. They were moving forward to place a memorial signage to mark the unmarked massacre grave sites.</p> <p>Chair Kanna asked the commission if they wanted to discuss the appraisals in executive session.</p> <ol style="list-style-type: none"> 1. Mr. Ono inquired if the room would need to be cleared if they entered executive session. Chair Kanna and DCA Barzilai responded yes. 2. Mr. Ono asked how would they take testimonies? DCA Barzilai replied interested parties could return once the commission entered back into open session, and they could testify at that point. 	
<p>Executive Session</p>	<p>Chair Kanna read the Hawai‘i Revised Statutes to move the meeting into 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 the County’s legal consent 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> <ol style="list-style-type: none"> 3. Update on the 0.2764 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065 and 0.2867 acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071 (Kaua‘i Petroleum Co. Ltd) 	<p>Ms. Dizon moved to enter Executive Session. Vice Chair Lucas seconded the motion.</p> <p>DCA Barzilai Roll Call Vote: Ms. Dizon responded aye. Mr. Ono responded aye. Ms. Pratt responded aye. Ms. Shintani responded aye. Vice Chair Lucas responded aye. Chair Kanna responded aye. Motion carried 6:0. Open session ended at 1:57 p.m.</p>

SUBJECT	DISCUSSION	ACTION
Call To Order In Open Session	Chair Kanna called the Open Session meeting back to order at 2:28 p.m.	
G. Communication	Ms. Higuchi Sayegusa said there were no communication items.	
H. Unfinished Business (For Action)	Ms. Higuchi Sayegusa said there were no unfinished business.	
I. New Business (For Action)	Ms. Higuchi Sayegusa said there were no new business.	
K. Announcements	<p><u>K.1.</u> <u>Topics for future meetings.</u></p> <ol style="list-style-type: none"> 1. Maha‘ulepu Dirt Road. 2. Update on a 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065. 3. Update on a 0.2867-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071. 4. Update on a 1.39-acre parcel located in ‘‘Aliomanu, Ko’olau Moku, further identified as Tax Map Key (4)4-9-004:013 (‘Aliomanu Beach Living Trust, et al.). 5. Hideaways Beach Access Trail Stewardship Agreement 6. Mike Contrades to ask Mike Lyons and other community leaders for ideas or referrals on potential stewardship partnership. 7. Charter Amendment or Ordinance to increase Open Space Fund Allocation. 8. Approach County Council on possible higher tax bracket rates for homes valued over \$2 million. 9. Subdivision and pedestrian accesses and its affect on open space moving forward. <p>Ms. Higuchi Sayegusa announced that Mo‘ikeha meeting room 2A/2B would probably be available starting in September. The next meeting scheduled in September may be in meeting room 2A/2B.</p>	

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<p>L. Adjournment</p>	<p>DCA Barzilai and Ms. Higuchi Sayegusa agreed the commission could adjourn the open session meeting and not return to open session and once executive session was done, they would need to adjourn in executive session.</p> <p>The commission adjourned the open session meeting and went into executive meeting.</p>	<p>Ms. Pratt moved to adjourn the opening meeting. Ms. Shintani seconded the motion. Motion carried 6:0.</p> <p>Chair Kanna adjourned the meeting at 2:34pm</p>
<p>J. Executive Session</p>	<p>Chair Kanna read the Hawai‘i Revised Statutes to move the meeting into 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 the County’s legal consent 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> <ol style="list-style-type: none"> 1. Litigation Update: County of Kaua‘i v. Kala Industries, LLC, et. al., etc., Fifth Circuit Court Civil No. 18-1-0031; Kauapea Beach Access – Hanalei District, Kaua‘i, Tax Map Key (4)5-2-004:071. 	<p>Vice Chair Lucas moved to enter Executive Session. Ms. Pratt seconded the motion.</p> <p>DCA Barzilai Roll Call Vote: Ms. Dizon responded aye. Mr. Ono responded aye. Ms. Pratt responded aye. Ms. Shintani responded aye. Vice Chair Lucas responded aye. Chair Kanna responded aye. Motion carried 6:0. Open session ended at 2:35 p.m.</p>

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

Reviewed and Approved by: _____
Nancy Kanna, Chair

Approved as circulated. 09/14/23

Approved with amendments. See minutes of _____ meeting.