

COUNTY OF KAUA'I  
Minutes of Meeting  
**OPEN SESSION**

**Approved**

Board/Committee:	<b>Public Access, Open Space and Natural Resources Preservation Fund Commission</b>	Meeting Date	<b>August 11, 2016</b>
Location	Mo'ikeha Building – Meeting Room 2A/2B	Start of Meeting: 1:01 p.m.	End of Meeting: 1:36 p.m.
Present	Members: Chair Joseph Figaroa, Theodore Blake, Karen Ono, Randall Blake, Dorothea Hayashi, Shaylyn Kimura Also present: Deputy County Attorney Jodi Higuchi Sayegusa ( <i>entered at 1:05 p.m.</i> ); Planning Department Staff: Duke Nakamatsu, Nani Sadora, Kaaina Hull; Boards and Commissions Staff: Support Clerk Darcie Agaran		
Excused	Vice Chair Patrick Gegen, Jett Jasper		
Absent			
<b>SUBJECT</b>	<b>DISCUSSION</b>		
<b>Call To Order</b>	<b>ACTION</b>		
<b>Roll Call</b>	The meeting commenced with a roll call of the Commissioners, Planning Staff, and the Deputy County Attorney.	Chair Figaroa called the meeting to order at 1:01 p.m. Six (6) Commissioners were present, which constituted a quorum.	
<b>Approval of Agenda</b>	On behalf of the Department, Deputy Planning Director Kaaina requested to rearrange the agenda and take up Unfinished Business Item H.1. first due to a potential quorum issue.  Chair Figaroa requested for a motion to approve the agenda as amended.	Commissioner T. Blake moved to approve the agenda as amended. Commissioner Ono seconded the motion. Motion carried 6:0	
<b>Minutes of the meeting(s) of the Open Space Commission</b>	<u>D.1. Meeting of July 14, 2016</u>  Chair Figaroa asked if there were any questions or corrections to the meeting minutes of July 14, 2016.		

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner T. Blake stated that he wanted to ensure that they institute Robert's Rules of Order at the Commission meetings because the previous meeting was not a pleasant meeting.</p> <p>Chair Figaroa asked if the Commissioners were familiar with Robert's Rules of Order to which there were head nods and yeses around the table.</p> <p>Chair Figaroa stated that he believed that the Commission practices Robert's Rules of Order.</p> <p>Chair Figaroa asked if there were any further comments or corrections to the meeting minutes to which there were none.</p> <p>Chair Figaroa requested for a motion to approve and accept the meeting minutes for July 14, 2016 as presented.</p>	<p>Deputy County Attorney Jodi Higuuchi Sayegusa entered the meeting at 1:05 p.m.</p> <p>Commissioner Ono moved to accept the meeting minutes of July 14, 2016 as presented.</p> <p>Commissioner T. Blake seconded the motion.</p> <p>Motion carried 6:0</p>
<p><b>Receipt of Items for the Record</b></p>	<p>There were no items to receive for the record.</p>	
<p><b>Hearings and Public Comment</b></p>	<p>F.1. All remaining public testimony pursuant to HRS 92 (Sunshine Law)</p> <p>Chair Figaroa called for public testimony to which there was none.</p>	
<p><b>Unfinished Business (for Action)</b></p>	<p>H.1. <u>Review and discussion of a 4,860 acre archaeological parcel located at approximately 950 feet west of the Kukona A Laa Street and Halalu intersection, further identified as Tax Map Key (TMK): (4) 2-8-031-199. [Deferred from 12/10/15, 1/14/16, 3/10/16, and 4/14/16.] [No action taken 7/14/16]</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Figarona noted that this item has been deferred numerous times and that he hoped the Commission would be able to come to a conclusion.</p> <p>Chair Figarona asked if Staff could provide a brief review of the agenda item.</p> <p>Open Space Planner Nani Sadora read the preliminary report for the record (on file with the Planning Department).</p> <p>Chair Figarona asked if the report was produced by the Department to which Ms. Sadora replied yes. Ms. Sadora explained that the information in the report has been the discussion of the Commission previously. She noted that the Commission last received a presentation from Hawaiian Islands Land Trust (HILT) that provided an idea of what the conservation easement process would be. Ms. Sadora stated that the Commission wanted to be able to decide how to move forward on this parcel.</p> <p>Chair Figarona asked if there was a proposed price tag for this parcel to which Ms. Sadora replied no. Ms. Sadora stated that they only have the assessment from Real Property.</p> <p>Chair Figarona asked if the Department was asking the Commission to take action on this parcel to which Ms. Sadora replied that that was the purpose of how the reporting process was now structured.</p> <p>Mr. Hull explained that any motion could be made by the Commission and action taken upon it. He noted that, essentially, the two (2) motions were either to conduct further research, or a motion to not pursue this particular</p>	<p>Commissioner T. Blake recused himself at 1:06 p.m.</p>

SUBJECT	DISCUSSION	ACTION
	<p>parcel for acquisition, which would stop the Department from conducting any further research. Mr. Hull stated that the Department's recommendation is to conduct further research concerning a conservation easement process. He added that if the Commission took action in favor of the Department's recommendation, it would allow the Department to work with HILT to determine the feasibility of a conservation easement, and then report back to the Commission.</p> <p>If the Commission decided to have the Department conduct further research on the feasibility, Chair Figaroa asked if the Commission would need to vote again on whether or not to pursue this parcel to which Mr. Hull replied yes. Mr. Hull stated that ultimately, the Department would return to the Commission with the potential cost of the acquisition should they be able to conduct a friendly acquisition with the landowner, which they project they could, along with a recommendation to either move forward or not move forward with the conservation easement. He noted that if the conservation easement was nominal and would serve a purpose of the Commission in preserving an archaeological site, then the Department could recommend approval. But if it was determined that a conservation easement would cost, say, \$10 million, the Department would probably not recommend it. However, the Commission has the final authority on whether or not to move it up to the County Council with a recommendation to expend funds for a conservation easement.</p> <p>Commissioner Hayashi asked what the difference was between this parcel and the Nukunoi parcel. She stated that with the Nukunoi parcel, the research was completed when it was presented to the Commission as opposed to this parcel where they would be doing all of the work.</p>	

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	<p>Mr. Hull noted that Ms. Sadora could speak to the Nukunoi parcel because he wasn't present during those proceedings. However, Mr. Hull stated that the Commission was apprised of information that conservation easements could be used and could potentially be less costly than an acquisition. He added that there seemed to be a desire from the Commission for the Department to start looking further into the usage of a conservation easement, and all that would take is the Department contracting with HILT.</p> <p>Ms. Sadora stated that it was the Commission's responsibility to determine how to best use the fund based on the nine (9) criteria of their ordinance, and that it was the Department's responsibility to produce information so that the Commission could make the decision and recommendation. She noted that in the case of the Nukunoi parcel, they were fortunate that there was a Hui that managed it. Ms. Sadora stated that when Hui Mālama o Kaneioulouna came before the Commission, they were asking for the Commission's support to possibly fund a property that they were looking at that could enhance what they already started there. She explained that the Commission would not have that type of situation in every case and noted that it was still the responsibility of the Department and the Commission.</p> <p>Commissioner R. Blake stated that from what he understood, if the Commission voted in favor of the preliminary report, the Planning Department would return to the Commission and present a comparison between acquisition cost and conservation easement. He added that, at that time, the Commission would have to make another decision on which way they want to proceed.</p>	<p>Commissioner R. Blake moved to accept the preliminary report to proceed with the research for the cost and process of acquisition, as well as the research for the cost and process to establish</p>

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	<p>Discussion: Commissioner Kimura stated that the report included the words "potential willingness"; "There is potential willingness on part of the land owners for acquisition." She pointed out that on the first page of the report, there was one (1) LLC, one (1) corporation, and a few Trusts, which was quite the gamut of owners. Commissioner Kimura asked if there was a report or an update on substantiating that potential willingness. She added that she would feel more comfortable voting on something when she understood what it meant.</p> <p>Mr. Hull stated that the owners are all part of an association. His understanding was that the association has not officially stated that they were willing to sell. He noted that that would be part of the discussion that would go on with further research. Mr. Hull explained that the reason why they stated "potential" was because there's a possibility that the landowner would be willing to sell, but they don't have a dollar amount. He added that because the property was not advertised to sell, there was no confirmed willingness to sell on behalf of the landowner.</p> <p>Commissioner Kimura stated that it appeared to be vague to her to which Mr. Hull stated, "purposely so."</p> <p>Commissioner Kimura stated that willingness based on price and willingness based on the want to sell were two very different things. She asked if it was the willingness of the landowner to entertain an offer, or if it was that they would dangle the carrot with a number and see if they're willing to sell to which Mr. Hull replied that that was part of it.</p>	<p>a conservation easement. Commissioner Ono seconded the motion.</p>

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	<p>Commissioner Kimura asked if there had been a formal presentation from a stakeholder in the project to which Commissioner R. Blake replied yes.</p> <p>Mr. Hull noted that it was unfortunate because there were quorum issues when the speakers were present.</p> <p>Chair Figaroa asked when that presentation was to which Mr. Hull replied last month. Mr. Hull stated that the public comment period was utilized to hear their presentation, and that Vice Chair Gegen afforded them extra time to speak.</p> <p>Chair Figaroa asked who the presenter was to which Ms. Sadora replied Hal Hammett.</p> <p>Chair Figaroa asked if there was further discussion to which Mr. Hull stated that the process was a new process for all, so the Department welcomes any questions and further discussion on the report. Mr. Hull noted that if items in the report are brought up, they can clarify it on the floor or sometimes they will have to tweak the report. He encouraged the Commissioners to speak up because that's the kind of input that they want.</p> <p>With no further discussion, Chair Figaroa called for the vote.</p>	<p>Motion carried 5:0</p>
<p><b>Communication (for Action)</b></p>	<p><u>G 1. Memorandum from the Small Business Regulatory Review Board concerning amendments to the Rules of Practice and Procedure of the County of Kana'i Public Access, Open Space, and Natural Resources Preservation Fund Commission.</u></p> <p>Mr. Hull stated that the memorandum was a communication from the</p>	<p>Commissioner T. Blake returned to the meeting at 1:28 p.m.</p>



SUBJECT	DISCUSSION	ACTION
	<p>Department concerning the adoption of the Commission's new Rules of Practice and Procedure. He noted that it was required under State law to bring any Administrative and Commission-type rules to the Small Business Regulatory Review Board for their input and review. Mr. Hull stated that the Board sent a communication to confirm that the rules were accepted and the Department transmitted it to the Commission for their knowledge and receipt.</p> <p>Commissioner Hayashi asked if the other projects would need to be resubmitted now that they have the new process to which Mr. Hull replied no. Mr. Hull stated that recommendation list was sent to Council; however, it has not been agendized yet. He noted that he had a meeting with the Mayor's Office later that day. Mr. Hull explained that the Commission's next biennial report will remain as-is. He added that the Department wouldn't have any objections if the Commission wanted to go through the formal reporting process with any specific projects from the recommendation list.</p> <p>Commissioner R. Blake noted that the memorandum asked if there was any communication with the Chamber of Commerce to which Mr. Hull replied no, but they could send it to the Chamber of Commerce.</p> <p>Commissioner R. Blake asked if there was anything that prevented them from sending it to the Chamber of Commerce to which Mr. Hull replied no.</p> <p>Chair Figaroa asked what the purpose was for sending it to the Chamber of Commerce to which Mr. Hull explained that the Small Business Regulatory Review Board reviews Administrative rules to determine whether there would be any impacts or benefits to small businesses or to</p>	



SUBJECT	DISCUSSION	ACTION
<p><b>Next Meeting Date and Agenda Topics for Discussion</b></p>	<p>business organizations with the adoption of the Administrative rules. Mr. Hull stated that the Board's purpose was to ensure that the Administrative rules do not have a negative impact on small businesses. He noted that if it was the Commission's desire, they could send it to the Chamber of Commerce.</p> <p>Commissioner R. Blake stated that he would defer that decision to the Chair.</p> <p>Chair Figaroa stated that he didn't think it was necessary to send it to the Chamber of Commerce.</p> <p>With no further discussion, the Commission moved on to the next agenda item.</p> <p>Chair Figaroa announced the next meeting date is Thursday, September 8, 2016, at 1:00 p.m. at the Mo'ikeha Building – Meeting Room 2A/2B.</p> <p>Chair Figaroa asked Ms. Sadora to provide an update on the Kaneioulouna, Hoban, Salt Pond, and Lāwā'i Kai to Port Allen projects at the next meeting.</p> <p>Mr. Hull stated that the Hoban project was sent to Council, but has not been agendaized yet. He added that a figure for the assessed value was sent to Council as well. Mr. Hull noted that they could go further into depth and analysis at the next meeting.</p> <p>Chair Figaroa asked if there were any other items that Commissioners wanted to include on the next agenda.</p>	

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Adjournment	<p>Commissioner R. Blake requested for a reminder of the upcoming Hawai'i Congress of Planning Officials (HCPO) Conference.</p> <p>Ms. Sadora stated that all of the Commissioners were registered for the HCPO Conference at the Grand Hyatt Kaula'i from September 21<sup>st</sup> through the 23<sup>rd</sup>. She noted that the program was finalized, so she could send it as a communication to the Commissioners.</p> <p>Chair Figaroa asked if there were any room discounts during the conference to which Ms. Sadora replied that there was a conference rate of \$199, but the Grand Hyatt was sold out. However, Ms. Sadora stated that there are conference rates at Kiahuna, Makahuena, and Kōloa Landing, so if anyone was interested, they should contact her and she could provide the room rates.</p> <p>With no further business, the meeting was adjourned.</p>	<p>Chair Figaroa adjourned the meeting at 1:36 p.m.</p>

Submitted by:   
 Darcie Agaran, Staff Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
 Joseph Figaroa, Chair

- ( ) Approved as circulated
- ( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.