

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

DRAFT To Be Approved

Board/Commission:	Public Access, Open Space and Natural Resources Preservation Fund Commission	Meeting Date	October 14, 2021	
Location	Zoom Teleconference	Start of Meeting: 1:04 p.m.	End of Meeting: 2:57 p.m.	
Present	<p>Chair Nancy Kanna. Vice Chair Shaylyn Kimura. Commissioners: Taryn Dizon, Jonathan Lucas, Karen Ono (<i>left meeting at 2:25 p.m.</i>), and Erica Taniguchi.</p> <p>Deputy County Attorney Laura Barzilai. Deputy County Attorney Mark Bradbury. Planning Department Staff: Deputy Director Jodi Higuchi-Sayegusa, Planner Myles Hironaka, Commission Specialist Nani Sadora and Commission Support Clerk Duke Nakamatsu. Office of Boards and Commissions: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin.</p>			
Excused				
Absent				
SUBJECT	DISCUSSION	ACTION		
Oath of Office	Prior to the meeting being called to order, Deputy County Clerk Scott Sato administered the Oath of Office to Anahola/Hā'ena Council Appointee Commissioner Erica Taniguchi serving a second term ending 12/31/23.			
	Chair Kanna, Vice Chair Kimura (internet connection was choppy, camera not working and not visible), Commissioner Dizon (could not use her camera and not visible), Commissioner Lucas, Commissioner Ono, Commissioner Taniguchi, Deputy County Attorney Barzilai, Deputy Director Higuchi-Sayegusa, Planner Hironaka, Commission Specialist Sadora, Commission Clerk Nakamatsu, Administrator Ching and Commission Support Clerk Muragin were logged onto Zoom Teleconference.			
A. Call To Order	Chair Kanna called the meeting to order at 1:04 p.m.			
B. Roll Call	<p>Ms. Higuchi Sayegusa verified attendance by roll call;</p> <p>Commissioner Taniguchi replied here.</p> <p>Commissioner Ono replied here.</p> <p>Commissioner Lucas replied here.</p> <p>Vice Chair Kimura replied present.</p> <p>Commissioner Dizon replied present.</p> <p>Chair Kanna replied present.</p>	<p>Quorum was established with six commissioners present.</p>		

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	<p>Ms. Higuchi Sayegusa paused the meeting to introduce new Commissioner Johnathan Lucas. Commissioner Lucas said he was a licensed architect on Kaua‘i for 20-years and taught at Kaua‘i Community College. He said he served on local community boards but was searching to participate and help in community government and found open space aligned with his value on retaining undeveloped land which was very important to the quality of life on Kaua‘i.</p> <p>Ms. Sadora and the commissioners took a moment to recognize and honor the many contributions of the late Open Space Commissioner Theodore Blake.</p> <p><i>Due to connectivity issues Vice Chair Kimura disconnected from the meeting at 1:16 p.m.</i></p>	
<p>C. Approval of Agenda</p>		<p>Ms. Ono moved to approve the agenda, as circulated. Ms. Taniguchi seconded the motion. Motion carried 5:0.</p>
<p>D. Minutes of the Meeting(s) of the Commission</p>	<p><u>D.1.</u> <u>February 11, 2021.</u></p>	<p>Ms. Ono moved to approve the February 11, 2021, minutes, as circulated. Ms. Dizon seconded the motion. Motion carried 5:0.</p>
<p>E. Receipt of Items For The Record (None)</p>	<p>There were no items for the record.</p>	
<p>F. Hearings and Public Comment</p>	<p>There were none.</p>	
<p>G. Communication</p>	<p><u>G.1.</u> <u>Letter from Reid Kawane, Chair of the Charter Review Commission, dated October 1, 2021, requesting any proposals to amend the Charter.</u></p> <p><i>Vice Chair Kimura regained access and entered the meeting by audio only at 1:19 p.m.</i></p>	

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	<p>Ms. Higuchi Sayegusa advised the commissioners to submit proposals in writing or contact a staff member to discuss. The proposals would be placed on the agenda and discussed as a whole body. Ms. Ching said proposed amendments to the charter would need to be informally presented to the charter commission for review first. The charter commission would decide if the proposal would be placed on next year’s ballot and then there would be a formal write up of the proposal.</p>	<p>Ms. Ono moved to receive a communication dated October 1, 2021, from Reid Kawane, Chair of the Charter Review Commission requesting submittal of any proposals to amend the Charter. Ms. Taniguchi seconded the motion. Motion carried 6:0.</p>
<p>H. General Business</p>	<p><u>H.1.</u> <u>Update on vacant commissioner positions.</u></p> <p>Ms. Ching shared the following;</p> <ul style="list-style-type: none"> • Three vacant positions and Līhu‘e/Hanamā‘ulu mayoral appointee Commissioner Karen Ono’s second term would end December 31, 2021; however, she agreed to a 90-day extension and would term out March 31, 2022. • The first position was a Hanapēpē/‘Ele‘ele council nomination • The second position was Kapa‘a/Wailua mayoral nomination • The third position was an at-large commission nomination • The Līhu‘e/Hanamā‘ulu mayoral nomination would open in April 	
<p>I. Unfinished Business (For Action)</p>	<p><u>I.1.</u> <u>Update on potential acquisition of 55.408- and 46.461-acre parcels located in Līhu‘e district further identified as tax map key (4)3-2-001:001 and (4)3-1-001:012.</u></p> <p>Vice Chair Kimura apologized and said there was no discussion on the vacant positions before moving on to the next agenda item and asked if she could ask Ms. Ching a question on the vacant positions.</p>	

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	<p>Deputy Attorney General Laura Barzilai stated the commission could go back to discussions in H.1. with a motion.</p>	<p>Ms. Ono moved to leave I. Unfinished Business and return discussions back to H. General Business to further discuss the update on vacant commissioner positions. Ms. Taniguchi seconded the motion. Motion carried 6:0.</p>
<p>H. General Business</p>	<p><u>H.1. Update on vacant commissioner positions.</u></p> <p>Ms. Kimura said several months ago she asked Boards and Commissions if the terms could be extended for the months that they did not meet, since other commissions were allowed to meet and inquired about recruitment to fill the vacant positions because that had always been a problem.</p> <p>Ms. Ching assured her that she was actively recruiting volunteers for this commission and other commissions and requested DCA Barzilai address the extension of terms. DCA Barzilai asked Vice Chair Kimura to formally submit a request for legal review so the county attorney’s office could appropriately research the matter.</p> <p>With no further discussion from the commission, Chair Kanna moved to the next agenda item.</p>	
<p>I. Unfinished Business (For Action)</p>	<p><u>I.1. Update on potential acquisition of 55.408- and 46.461-acre parcels located in Līhu‘e district further identified as tax map key (4)3-2-001:001 and (4)3-1-001:012.</u></p> <p>Ms. Higuchi Sayegusa updated the commission on the status of the Alekoko (Menehune) Fishpond. She said the county council received the commissions support to acquire the parcels; however, recently a third-party philanthropist may donate the necessary funds to acquire the parcels. Ms. Higuchi Sayegusa said there were no other updates.</p> <p>With no further discussion, Chair Kanna moved on to the next agenda item.</p>	

SUBJECT	DISCUSSION	ACTION
<p>J. New Business (For Action)</p>	<p><u>J.1. Review and discussion of the dedication of an easement and possible improvements related to the easement located on land identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Hideaways Beach.</u></p> <p>Deputy County Attorney Mark Bradbury gave a brief background history;</p> <ul style="list-style-type: none"> • May 1975 Princeville Corporation thought they conveyed an easement that included the beach access trail to Hideaway’s Beach to the County of Kaua‘i. • The trail started at the top of Puu Poa Condominium property down to Hideaway’s Beach and was the only foot trail to the secluded beach. • The individual that described the easement deed back in 1975, did not draft it accurately and it had a different description on another parcel that led to another beach. • The error was discovered shortly after the deed was drafted and over the next 40-years the Puu Poa Condominium Homeowners Association and the County of Kaua‘i talked of redrafting the deed, but it was never completed, and no one maintained the trail. • Two years ago, a visitor from California got injured and filed a claim that named the County of Kaua‘i. The county said the trail was not legally conveyed, which led the visitor to file a lawsuit against the County of Kaua‘i and Puu Poa Condominium HOA; the lawsuit has since been settled. • Puu Poa Condominium Homeowners Association does not want the trail but paid for a new survey and easement deed. <p>DCA Bradbury then asked the commission for the following;</p> <ul style="list-style-type: none"> • Commit open space funds to finance the necessary repairs required to make the trail safe. Once the commission commits to funding the repairs, it would be presented to council along with the new easement deed which would help DCA Bradbury get council to adopt the dedication of the trail. • If the easement was not conveyed to the county Puu Poa Condominium Homeowners Association would close the trail due to liability and the public would lose access to the beach. • Received verbal repair estimates of \$55,000 to \$60,000 and could possibly go up to 	

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	<p>\$70,000.</p> <ul style="list-style-type: none"> • Councilwomen Felicia Cowden said she knew a group of north shore individuals who offered to maintain the trail if Public Works or Parks and Recreation was not able to maintain the trail. <p>Ms. Higuchi Sayegusa informed the commission of the following;</p> <ul style="list-style-type: none"> • The county charter was amended in 2018 to add the use of open space funds for improvements related to acquisition of land and property entitlements and improve public pedestrian accesses to coastal accesses. • This would fit into the improvement related to an acquisition of a coastal access and would be the first project to fund an improvement related to an acquisition or related to a coastal access. • If the commission approved the expenditure of funds for improvements on the easement the department would package the recommendation to the county council along with an appraisal. <p>Questions:</p> <ol style="list-style-type: none"> 1. Ms. Ono asked if the request for funds would repair the trail to make it acceptable for the open space portfolio. DCA Bradbury replied that the funds would repair the trail to bring it into a safe condition for the public to safely use the trail. He needed the commission to commit to funding the repairs so it could be presented to the county council for adoption of the dedication of the easement. He said he went down the trail and confirmed that it was extremely dangerous, and the county should not take liability in its current condition; it must be repaired. The easement does not cost anything. 2. Chair Kanna asked for details of the improvements. DCA Bradbury said Councilwomen Cowden sought several contractors for repair estimates. He said both contractors would remove the existing structure and replace with concrete molded stairs with railings on the side all the way down until the trail evens out and becomes flat at the bottom. 3. Chair Kanna understood what Councilwomen Cowden and the contractors thought would be needed but was more concerned over what the public wanted and if the public had any 	

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	<p>input in what the repairs to the trail should look like. DCA Bradbury said there were no public input because prior discussion took place in executive session. He wasn't sure if the trail was still closed but when it was closed there was a lot of public concern.</p> <p>4. Vice Chair Kimura concurred with everything DCA Bradbury shared because she was also contacted by several community groups. She said it was like "putting the cart before the horse", because what if the easement was not conveyed. She asked if there were any obstacles to prolong or prevent full conveyance of the trail to the county. DCA Bradbury said there were no obstacles for recordation of the easement deed; council not wanting the easement trail would be the only obstacle. He reemphasized that no funds would be needed now, he only needed the commission to commitment to fund the necessary repairs.</p> <p>5. Vice Chair Kimura commented that it would be difficult to commit open space funds when past county practices have been the use of open space funds without their knowledge which prevented them from following through on recommended acquisitions. She also remembered that requests to maintain trails were always denied by parks and recreation due to lack of manpower.</p> <p>Ms. Higuchi Sayegusa said they would develop a process and create a criterion to prioritize the types of improvements they would want to fund. The department would approach the individuals and commit a stewardship agreement to maintain the trail and that would accompany the commitment of funds and easement to council.</p> <p>Vice Chair Kimura thanked the DCA Bradbury for the work he put into this project and agreed with the discussion. She said the footpath was the only access to the beach and there would be community commitment to maintain the trail once its repaired.</p> <p>6. Ms. Ono asked for the fund balance. Commission Specialist Nani Sadora replied to date the balance was \$3.1 million and it included black pot and there were no other outstanding acquisitions.</p> <p>7. Vice Chair Kimura requested to review copies of the estimated repairs and proposed material list before any funds were committed. DCA Bradbury agreed and would get</p>	

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	<p>copies to the commission.</p> <p>Ms. Higuchi Sayegusa displayed pictures of the current condition to Hideaway's Beach so the commission could specify desired repairs to the trail.</p> <p>Mr. Lucas commented that the trail was exactly what open space was all about. He recommended using GatorBar which last longer than rebar if concrete was used for the stairs. The railings should be made of aluminum and not steel. The salt air would begin to rot the steel railings in a few years. Mr. Lucas was also concerned for the contractors. He wanted to make sure they understood that the repairs would need to be done by county code, properly permitted, inspected, and designed for safety to prevent future issues. He said the recommended materials may cost more for better quality but in the long run it would result in a safer trail that last longer.</p>	<p>Ms. Ono motioned to defer dedication of an easement and possible improvements related to the easement located on land identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Hideaways Beach to a future meeting to allow open space planners to pursue estimates in accordance with Commissioner Jonathan Lucas's suggestions. Ms. Dizon seconded the motion. Motion carried 6:0.</p> <p>Vice Chair Kimura moved to allow the open space planners to pursue further information on the potential for stewardship for the land</p>

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		<p>identified as tax map key (4)5-4-11:04 and (4)5-4-12:11 that accesses Hideaways Beach. Ms. Ono seconded the motion. Motion carried 6:0.</p>
	<p><u>J.2.</u> <u>Update on the Coastal Access Inventory Update Project</u></p> <p>Ms. Higuchi Sayegusa said the project updated and digitized the Kaua‘i County Beach Access data from 1991 through funding from the coastal zone management program. The consultants Sea Engineering, along with staff visited and inspected accesses across the island. They collected information that resulted in a huge number of accesses created by subdivision approvals and SMA (special management area) projects. She said they completed 62 sites and compiled a total of 218 coastal accesses.</p> <p><i>Commissioner Karen Ono left the meeting at 2:25 p.m.</i></p> <p>They prioritized the sites with county and state-owned and few were excluded due to various reasons of safety hazards or erosions. She displayed the GIS map on the screen to visually demonstrate what was created and the large number of inventory of accesses it contained.</p> <p>Ms. Higuchi Sayegusa said the next steps would include;</p> <ul style="list-style-type: none"> • Find out more information on Maui’s website that allowed the public to locate documented coastal accesses. Staff and commission may consider a similar program for future use of this GIS map. • Gather public comments and vet possible issues to culturally sensitive locations that would need to be addressed. • Discuss the criteria’s and prioritize possible improvements to these accesses. • Revisit and update the list of accesses to demarcate with signage. <p>Questions:</p>	

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	<ol style="list-style-type: none"> 1. Vice Chair Kimura asked if the list of accesses was to demarcate and what was the perimeters to be included on the list. Ms. Sadora said the commission already identified that improvements would include a four-foot post and beach access sign. She offered to send the Maui link to the commission so they could see what was available to the public as something to consider for this GIS map. 2. Ms. Taniguchi asked if Ms. Higuchi Sayegusa could email access to the GIS map. Ms. Higuchi Sayegusa said it could not be shared it required a license to access the file and the file was huge. She welcomed the commission to contact staff if they wanted to setup a meeting to review the GIS map again. <p>Ms. Dizon commented that it was critical for the county to provide accurate information. She shared that there were many hiking apps that offered the user false skewed information that placed them at risk. She said it may be the reason for the recent increase in county rescue resources.</p>	
	<p><u>J.3.</u> Discussion and development of the biennial list of priority projects to be reported to the Kaua'i County Council and the Mayor.</p> <p>Commission Specialist Nani Sadora recounted that the biennial report was almost finalized in 2017 when Rain18 happened, and a decision was made to not complete it but hold it until the next biennial which was 2019. Then the COVID-19 pandemic and they held back the report again until the next biennial which was 2021. She said they have the 2017 report that could be used with updates and packaged to council.</p> <p>Questions:</p> <ol style="list-style-type: none"> 1. Vice Chair Kimura asked if the process required public comment. Ms. Sadora said the public was now able to submit recommendations at anytime there was no timetable for public outreach. 2. Vice Chair Kimura remembered that they had an online survey and wondered if that could be offered again. Ms. Sadora replied that if the commission wanted, they could offer the survey for a certain period and advertise in the garden island newspaper, midweek, and radio. 	

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	<p>DCA Barzilai read portions of the Rules of Practice and Procedure of the County of Kaua‘i Public Access, Open Space, and Natural Resources Preservation Fund Commission, Chapter V. Report Process, 1-5-2 Public Input (a-c) and 1-5-6 Biennial Report (a-e). She concluded that there were no specifics on public input and no specifics that prohibited it either. She said the commission could pursue public input as discussed.</p> <p>Chair Kanna commented that the pandemic closed off prior methods of public contact and an online survey period would allow the public to reconnect with open space. She asked Ms. Higuchi Sayegusa if the survey would be on new acquisitions or comments on the biennial report. Ms. Higuchi Sayegusa suggested the commission concentrate on providing an updated biennial report and moving forward seek public input. Chair Kanna and Vice Chair Kimura volunteered to work with Ms. Sadora on finalizing the draft to bring back to the commission for review and approval.</p> <p>Ms. Sadora shared her screen and presented several cover designs for the commission to consider that updated the look and feel of the packaged biennial report. She said the vision was to highlight its success in acquisitions and present an active commission.</p>	<p>Ms. Dizon moved to nominate Chair Nancy Kanna and Vice Chair Shaylyn Kimura to work with open space planner Nani Sadora to update the biennial report and present the draft to the commission for review and approval. Mr. Lucas seconded the motion. Motion carried 5:0.</p>
Executive Session	The commission did not go into executive session.	
Announcements	There were no announcements.	
Next Meeting	Next meeting Thursday, December 9, 2021 at 1:00 p.m.	

SUBJECT	DISCUSSION	ACTION
Date and Agenda Topics for Discussion	<p>Ms. Higuchi Sayegusa thanked the commission for their dedication and patience and announced that meetings would be held every other month and resume monthly once the pandemic situation improves.</p> <p>Next agenda topics for discussion would include;</p> <ol style="list-style-type: none"> 1. Update on Hideaway's easement 2. Next steps to coastal accesses 	
Adjournment	<p>With no further business to conduct, Chair Kanna called for a motion to adjourn.</p>	<p>Ms. Dizon moved to adjourn the meeting. Vice Chair Kimura seconded the motion. Motion carried 5:0.</p> <p>Chair Kanna adjourned the meeting at 2:57pm</p>

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

Reviewed and Approved by: _____
 Nancy Kanna, Chair

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