

COUNTY OF KAUA'I
Minutes of Meeting
OPEN SESSION

Board/Commission:	Public Access, Open Space and Natural Resources Preservation Fund Commission	Meeting Date	June 9, 2022
Location	Mo'ikeha Meeting Room 2A/2B and Zoom Teleconference	Start of Meeting: 1:03 p.m.	End of Meeting: 2:59 p.m.
Present	Chair Shaylyn Kimura. Vice Chair Nancy Kanna. Commissioners: Jonathan Lucas (<i>Zoom</i>), Mark Ono, and Robin Pratt. Deputy County Attorney Hugo Cabrera. Deputy County Attorney Andrew Michaels. Planning Department Staff: Deputy Director Jodi Higuchi-Sayegusa, Commission Support Clerk Duke Nakamatsu and Planner Myles Hironaka. Office of Boards and Commissions: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin.		
Excused	Commissioner Taryn Dizon		
Absent			
SUBJECT	DISCUSSION	ACTION	
A. Swearing In of New Commissioners	Administrative Assistant to the County Clerk Eddie Topenio officiated the oath of office to Commissioner Mark Ono and Commissioner Robin Pratt on Friday, June 3, 2022.		
B. Call To Order	Chair Kimura called the meeting to order at 1:03 p.m.		
C. Roll Call	Deputy Director Jodi Higuchi Sayegusa verified attendance by roll call; Commissioner Dizon was excused. Commissioner Lucas replied present. Commissioner Ono replied present. Commissioner Pratt replied present. Vice Chair Kanna replied present. Chair Kimura replied present.	Quorum was established with five commissioners present.	
D. Approval of Agenda	Ms. Higuchi Sayegusa asked the commission to amend the agenda and move L. Executive Session to follow G. Hearings and Public Comments. She said the County Attorney's Office received guidance from the Office of Information Practices (OIP) that agenda items that could possibly be discussed in executive session should be listed under executive session. For this meeting all possible items were listed but L.2. and L.3. would be discussed in executive session.	Vice Chair Kanna moved to approve the amended agenda, moving L. Executive Session to follow G. Hearings and Public Comments. Mr. Ono seconded the motion. Motion carried 5:0.	

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E. Minutes of the Meeting(s) of the Commission	<p><u>E.1. January 13, 2022.</u></p> <p><u>E.2. February 10, 2022.</u></p>	<p>Vice Chair Kanna moved to approve the January 13, 2022, minutes, as circulated. Ms. Pratt seconded the motion. Motion carried 5:0.</p> <p>Vice Chair Kanna moved to approve the February 10, 2022, minutes, as circulated. Ms. Pratt seconded the motion. Motion carried 5:0.</p>
F. Receipt of Items For The Record	Ms. Higuchi Sayegusa said there were none.	
G. Hearings and Public Comment	<p>Ms. Higuchi Sayegusa announced if anyone present at the meeting wanted to testify. Hearing none, Planner Myles Hironaka announced no one joined the meeting by phone but there were two individuals who entered the meeting by Zoom that may want to testify.</p> <ol style="list-style-type: none"> 1. Caren Diamond replied she was listening and would not testify. 2. Tessie Kinnaman replied she wanted to speak on item I.4. She asked on the progress of access through Kukui‘ula Bay. Ms. Higuchi Sayegusa replied that this is the time to provide testimony. Ms. Kinnaman replied she provided testimony at the last meeting and understood that there would not be any response from the commission. <p>Mr. Hironaka announced there were no other individuals to testify.</p>	
L. Executive Session	<p>Ms. Higuchi Sayegusa read the Hawaii Revised Statutes to move the meeting into Executive Session.</p> <p>EXECUTIVE SESSION: The Commission may go into executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawai‘i Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not</p>	

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	<p>anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS section 92-4. The reason for holding the executive session shall be publicly announced.</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 access to the following matters:</p> <ol style="list-style-type: none"> 1. The possible acquisition of the 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (TMK) (4)1-8-008:071. 2. The possible acquisition of the access to Kauapea Beach Access – Hanalei District, Kaua‘i, Tax Map Key (TMK)5-2-004:071. 3. The possible acquisition of access to Kukui‘ula Bay through Kaikapu LLC Property at 4432 Lāwa‘i Road, Kōloa, HI 96756, (formally Leight Property) – Kōloa District Tax Map Key 2-6-003:017, Kōloa, Kaua‘i. 4. The possible acquisition of a 1.39-acre parcel or an access easement upon a portion of the 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. The 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). 	<p>Vice Chair Kanna moved to enter Executive Session. Ms. Pratt seconded the motion. Roll Call Vote: 5-Ayes 0-Nays.</p> <p>Open session ended at 1:18 p.m. Commissioner Lucas and Ms. Muragin, disconnected from Zoom at 1:18 p.m. and</p>

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		connected into Microsoft Teams executive session.
	The commission resumed open session at 1:53 p.m.	
H. Communication	There were none.	
I. General Business	<p><u>I.1.</u> Update on a 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065.</p> <p><u>I.2.</u> Update on a 0.2867-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071.</p> <p>Ms. Higuchi Sayegusa requested to discuss both parcels at the same time and shared the following;</p> <ul style="list-style-type: none"> • In 2018 both parcels were proposed for acquisition due to the significant history that the Hanapēpē massacre occurred in the area. • The parcels met the criteria for use of open space funds. • The landowner at the time was willing to sell until a change in ownership. The new owners ceased all communication. • The Planning Department issued a letter to the new owner Kaua‘i Petroleum a month ago and received no response. • The department recommended the commission allow time for the department to follow up and check if they are interested in selling the parcels. <p>Chair Kimura and Vice Chair Kanna both recalled that they were in active negotiations with the owners in 2018 or 2019 to purchase one or both parcels. Ms. Higuchi Sayegusa responded that it was included in the biannual report to County Council and there were no recommendations by the commission to seek resolution to purchase using open space funds or condemnation.</p> <p>Mr. Ono asked if the county used a land swap as a strategy. Ms. Higuchi Sayegusa replied that proposals use open space funds for the county to own and acquire property rights. The only</p>	

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	<p>alternate strategy used was to partner with the State of Hawai‘i.</p> <p>Chair Kimura asked if the recent communication with the new landowner included that back on June 7, 2019 the county received appraisals and offered \$430,000 for parcel (4)1-8-008:065 and \$440,000 on parcel (4)1-8-008:071. Ms. Higuchi Sayegusa replied the amount was not mentioned and stated the follow-up communication could include that information. Chair Kimura said the communication should include that they want to memorialize the site and if they are interested or not. Vice Chair Kanna added that they should involve the Chamber of Commerce and notify the new owners that the Hanapēpē community valued the history and supported the purchase and memorialization of the massacre site.</p>	
	<p><u>I.3. Update on the access to Kauapea Beach Access – Hanalei District, Kaua‘i, Tax Map Key (4)5-2-004:071.</u></p> <p>Deputy County Attorney Hugo Cabrera advised that discussions were conducted in executive session due to potential litigation and that they respect the attorney client privilege. He said it would be fine if the commission wanted to give an appropriate update.</p> <p>The commission did not have any updates to share.</p>	
	<p><u>I.4. Update on the access to Kukui‘ula Bay through Kaikapu LLC Property at 4432 Lāwa‘i Road, Kōloa, HI 96756, (formally Leight Property) – Kōloa District Tax Map Key 2-6-003:017, Kōloa, Kaua‘i.</u></p> <p>County Attorney Hugo Cabrera advised that discussions were conducted in executive session due to potential litigation and that they respect the attorney client privilege. He said it would be fine if the commission wanted to give an appropriate update.</p> <p>The commission did not have any updates to share.</p>	
<p>J. Unfinished Business (For Action)</p>	<p><u>J.1. Review and discussion regarding 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.).</u> <u>a. Updated Preliminary Report dated May 31, 2022.</u></p>	

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	<p>Ms. Higuchi Sayegusa shared the following;</p> <ul style="list-style-type: none"> • The commission reviewed and discussed this previously. • The community relied on the eastern edge of the stream to access the beach and coastline • The community valued the coastline for cultural practices; fishing, education, recreation and gathering. • June 8, 2017 the property was listed on the open market and the commission voted to explore if the parcel met the criteria for open space funds. • The lot contained a 646 square foot structure with one bedroom and one bathroom. • Feb 15, 2018 the structure was reviewed and determined to be of no historical significance • A letter was issued to the owners if they were interested to sell the property or a portion of the property for access. • Asked if the commission was still interested in the entire lot or a portion for access. <p>Chair Kimura said the coastline was visited daily by caretakers and the community and they take care of the area. Currently students walk through the stream to get to the coastline. She asked if this could be deferred until she could touch basis with the caretakers and community on how the lack of access impacted them and their input on the possible purchase of the property. Chair Kimura said charter, public schools and community groups access the beach on a regular basis and they cultivate limu. Cooking shows have been filmed there and the National Tropical Botanical Gardens have collaborated with them to study the cultivation of limu. She said very few places in the State of Hawai‘i actively cultivate limu and extending an invitation to them to testify and educate the commission on what they do would bring a better understanding of why this coastline is so important.</p>	<p>Ms. Kanna moved to defer review and discussion regarding 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.).</p>

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	<p>Mr. Lucas stated that if the goal was to gain access an alternative to buying the parcel was to CPR the parcel and the county could own the access portion. Ms. Higuchi Sayegusa said that could be an alternative and would discuss with the landowner, it may simplify the process.</p> <p>Mr. Ono asked if there were adjacent properties available to purchase or that might serve as access to the shoreline. Ms. Higuchi Sayegusa recalled there was property to the west of the stream but could not recall the outcome. She said there was another legal access on Kukuna road, but the issue was parking.</p> <p>Chair Kimura called for the vote.</p>	<p>to allow schools and the community to attend a meeting to testify. Ms. Pratt seconded the motion.</p> <p>Motion carried 5:0.</p>
<p>K. New Business (For Action)</p>	<p><u>J.1. Review and discussion regarding 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).</u></p> <p><u>a. Preliminary Report dated June 1, 2022.</u></p> <p>Ms. Higuchi Sayegusa shared the following;</p> <ul style="list-style-type: none"> • Councilmember Bill DeCosta submitted this proposal • Prime hunting grounds not accessible to the public and there were no other accesses • The area was 10 acres • No correspondence or communication to the owners if they are interested to sell or not <ol style="list-style-type: none"> 1. Chair Kimura asked if there was an easement to the property. Ms. Higuchi Sayegusa responded no. 2. Ms. Kanna commented that wild boars cause problems and hunters should have safe access to mitigate them. She said it was a win-win proposition. 3. Mr. Ono asked where it was located. Ms. Higuchi Sayegusa said its before Kīlauea and displayed a Google map to show its location. 	

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	<p>4. Ms. Kanna agreed that this was just as important as all the coastal parcels they have been reviewing. She was curious about how much hunters would use the access and if the neighborhood was interested in irradiating boar problems.</p> <p>Ms. Higuchi Sayegusa said preliminary discussions with the state were amendable to revisit current leases to gain access and parking on state property.</p>	<p>Ms. Kanna motioned to further investigate the 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) and report back to the commission. Ms. Pratt seconded the motion. Motion carried 5:0</p>
<p>M. Announcements</p>	<p><u>M.1. Topics for future meetings.</u></p> <p>Chair Kimura asked about the next meeting. Ms. Higuchi Sayegusa said they have not filled the Commission Specialist position, and she would be taking off a couple of months. The next meeting was scheduled on October 13 but there could be a July 14 meeting if there was any progress on the agenda items.</p> <ol style="list-style-type: none"> 1. Update on a 0.2764-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:065. 2. Update on a 0.2867-acre parcel located in Hanapēpē, Kona Moku, further identified as Tax Map Key (4)1-8-008:071. 3. 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.). 4. Update to acquire access to State of Hawai‘i property through 4901 Waiakalua Street, 	

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	<p>Kīlauea, Hawai‘i 96754, Ko‘olau Moku, further identified as Tax Map Key 5-1-005:036 (Richard S. Stallman and Lisa Flores).</p> <ol style="list-style-type: none"> 5. Response from County Council on biannual report. 6. Update from Administrator Ellen Ching on the vacancies. Ms. Ching responded that all mayoral appointments are filled the remaining are county council appointments. 7. Revisit requesting an increase to the percentage allotment for Open Space funds. <p>The Planning Department is planning a Hawai‘i Congress of Planning Officials conference September 14-16, 2022.</p> <p><u>M.2.</u> The following regularly scheduled Open Space Commission meeting will be held at 1:00 p.m. or shortly thereafter, on or about October 13, 2022. If a meeting may be held sooner, the Commission will post notice in compliance with Hawai‘i Revised Statutes Chapter 92. The Open Space Commission anticipates meeting to be held in-person at the Līhu‘e Civic Center, Mo‘ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu‘e, Hawai‘i, 96766. The Commission also anticipates providing a visual platform capability for members of the public to testify remotely. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.</p>	
<p>Adjournment</p>		<p>Vice Chair Kanna moved to adjourn the meeting. Ms. Pratt seconded the motion. Motion carried 5:0.</p> <p>Chair Kimura adjourned the meeting at 2:59pm</p>

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

Reviewed and Approved by: _____
Shaylyn Kimura, Chair

Approved as circulated.

Approved with amendments. See minutes of _____ meeting.