

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved

Board/Commission:		Public Access, Open Space, Natural Resources Preservation Fund Commission	Meeting Date	February 6, 2025	
Location	Moikeha Meeting Room 2A/2B		Start of Meeting: 1:00 p.m.	End of Meeting: 2:33 p.m.	
Present	Chair Shaylyn Ornellas and Vice Chair Robin Pratt. Commissioners: Manuel Cabral, Taryn Dizon, Mark Ono, and Mai Shintani. Deputy County Attorney Kimberly Torigoe and Deputy County Attorney Chris Donahoe. Planning Department Staff: Deputy Planning Director Jodi A. Higuchi Sayegusa, 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 Jonathan Lucas				
Absent					
SUBJECT	DISCUSSION			ACTION	
A. 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.				
B. Roll Call	Deputy Planning Director Jodi A. Higuchi Sayegusa verified attendance by roll call: Commissioner Cabral replied present. Commissioner Dizon was not present at roll call. 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 five Commissioners present.	
C. Approval of Agenda				Mr. Ono moved to approve the agenda, as circulated. Mr. Cabral seconded the motion. Motion carried 5:0.	
D. Minutes of the Meeting(s)	1. January 9, 2025			Ms. Shintani moved to approve the January 9, 2025, meeting	

SUBJECT	DISCUSSION	ACTION
of the Commission		minutes. Vice Chair Pratt seconded the motion. Motion carried 5:0.
E. Receipt of Items for the Record	<p>Ms. Higuchi Sayegusa stated that Ms. Koga distributed a communication received by the Department. Ms. Higuchi Sayegusa suggested that the Commission take a 5-minute recess to review the email communication.</p> <p><i>Ms. Dizon was noted as present at 1:04 p.m.</i></p> <p>There being no objections, the meeting was recessed at 1:04 p.m.</p> <p>There being no objections, the meeting was called back to order at 1:07 p.m., and proceeded as follows:</p> <p>There was no additional discussion related to this agenda item.</p>	
F. General Business	<p><u>F.1. Update on the current balance of the Public Access, Open Space, and Natural Resources Preservation Fund.</u></p> <p>Ms. Koga notified the Commission that current balance in the Public Access, Open Space, Natural Resources Preservation Fund is \$3,841,661.00. This amount includes the Hanapēpē parcels and the Environmental Impact Assessment (EIA) fees.</p> <p>Ms. Higuchi Sayegusa clarified that due to the savings on the Kaumumene project where the Department of Public Works were able to help mediate a lot of the necessary improvements, the Fund balance includes approximately \$1.2M in savings from that project. That amount was shifted over to the Hanapēpē acquisition. There was also an additional amount of \$165,000 that would be needed for the Hanapēpē acquisition that would be needed on top of the \$1.2M. Another additional amount that is to be taken from the Fund is for the Phase I Environmental Impact Assessment fee that was needed as a part of the due diligence for the Hanapēpē project. The \$3.8M balance mentioned by Ms. Koga is the anticipated balance for Fiscal Year 2025.</p>	

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	<p>Chair Ornellas asked how much the Phase I EIA cost. Ms. Koga responded that the cost was \$89,457. Ms. Higuchi Sayegusa stated that the cost was for the consultant to do the Phase I EIA.</p> <p>Chair Ornellas asked if that amount was paid already. Ms. Higuchi Sayegusa responded that the amount was paid.</p> <p>Vice Chair Pratt asked if there was a Phase II that would need to be done. Ms. Higuchi Sayegusa responded that she could talk more about that later on the agenda. At this point, the landowner does not want to consent to any further environmental studies or testing.</p> <p>Vice Chair Pratt asked if in July, the Commission would get an additional distribution of funds from real property tax revenues. Ms. Higuchi Sayegusa confirmed that Vice Chair Pratt was correct. Vice Chair Pratt asked if there was a known amount of that distribution. Ms. Higuchi Sayegusa responded that the amount is not known at this time. The Department of Finance was only able to provide the Fiscal Year 2025 amount within the last couple of weeks. Ms. Higuchi Sayegusa clarified that the amount is an estimation until the County finalizes its assessments, billing, and collections each year.</p> <p>Mr. Ono asked about the landowner for the Hanapēpē parcels not wanting any additional environmental studies or testing to be done. Ms. Higuchi Sayegusa responded that Mr. Ono was correct. Mr. Ono asked if there was any reason given. Ms. Higuchi Sayegusa responded that the landowner would like to sell the property as-is. Mr. Ono stated that it is very concerning. Ms. Higuchi Sayegusa stated that she would cover this item more in agenda item F.4. and F.5.</p> <p><u>F.2. Update on ‘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>Ms. Koga provided an update on the agenda item as follows:</p> <ul style="list-style-type: none"> • This item has been in discussion over the years. • In the past couple of months, the Department has been trying to get in contact with the 	<p>No action was taken regarding this agenda item.</p>

SUBJECT	DISCUSSION	ACTION
	<p>landowners with no response for approximately 3-4 months. The morning of the meeting, the landowner emailed Ms. Koga after the latest letter which stated that if no response was received, the Commission could possibly pursue condemnation of the parcel. The emailed contact was the Communication that Commission had received and took time to review earlier in the meeting.</p> <ul style="list-style-type: none"> • The response from the landowner indicated that at this time, they are not willing to convey an access to the County. • As a part of this agenda item, there is no action to be taken. The agenda item is just for an update. • Ms. Koga will be doing a little more research and working with the Office of the County Attorney to see what the Commission’s options are if they choose to go down the route of recommending condemnation. • Ms. Koga will be providing an updated Preliminary Report for the Commission giving the Commission their options, cost estimates to pursue condemnation, and providing other possible options for the Commission’s consideration. • The Department will also be conferring with the Office of the County Attorney to see if they can handle the condemnation process in-house or whether outside counsel would need to be hired. <p>Ms. Higuchi Sayegusa stated that the County Attorney recently handled a real property tax assessment appeal or related case which studied that area. There is an issue that the stream may have changed course of the years. There is a possibility that a portion of the property in question is still public in nature. Part of the easement may already have been deemed a prescriptive easement of some sort. Ms. Higuchi Sayegusa further stated that the Department will be working with the Office of the County Attorney to provide additional information to the Commission at a future meeting.</p> <p>Ms. Dizon stated that the access used to be a road so there should be historical access based on where the road was. Ms. Dizon noted that it appears that there is encroachment on that access after the bridge was wiped out. She noted that it does appear feasible if the Commission decides</p>	

SUBJECT	DISCUSSION	ACTION
	<p>to go down the condemnation route, that a lot of the land already belongs to the County as a part of the roadway. Ms. Higuchi Sayegusa agreed with Ms. Dizon. Ms. Higuchi Sayegusa further noted that the Department’s initial attempt was to work with the landowner as they had expressed a willingness to convey the access. The Department was seeking to go down the route that was the cheapest and least resistant strategy. Now that the landowner is not willing to convey, the Department can start to look into the metes and bounds of the owned property and what portions could possibly be pursued through condemnation proceedings for the makai lateral access.</p> <p>Ms. Dizon stated that obtaining additional land for the access, it will provide additional parking in the area as well. She noted that the wall appears to be where the road used to be. From the road, there is also buffer from where the road was.</p> <p>Mr. Ono asked if part of the research was to identify property lines. Ms. Koga responded that she was going to be looking at historical maps to see if the river moved or changed, and where the County roads are established. Ms. Koga noted that she is unsure at this time if that research will be done by herself and Ms. Higuchi Sayegusa separately and whether a professional survey might be needed.</p> <p>Chair Ornellas stated that due diligence should be done. With the planting of the bamboo that was not there before, that takes up half of the vehicular access on the north-end of the access. The neighbor saw that happening and thought that it was a great idea and planted the same bamboo in their area as well. The bamboo has whittled down the access to barely enough room for a footpath. It behooves the County to exhaust all resources that are available. Ms. Koga responded that she does not want to hold back the update to the Commission and asked the Commission to let her know if they would like a complete report or a partial report with as much information available at the time. If the Commission requests a partial update, the Department could provide additional information at a future date once additional information is received or discovered. Chair Ornellas responded that she was unsure of what the best path to take would be.</p> <p>Mr. Ono stated that it sounds like a survey needs to be done regardless of what is going on. Ms.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Higuchi Sayegusa responded that the preliminary evaluation will evaluate an estimate or tentative cost associated with acquiring the easement along with other factors. With that information, the Commission would then notify the Department whether they want to move forward with condemnation or further pursue obtaining the access. During that period additional research can occur.</p> <p>Vice Chair Pratt asked if the Commission had to take any action on the agenda item. Ms. Higuchi Sayegusa responded that the item is just a status update. The Department's proposal is to allow them to start communicating with the Office of the County Attorney to get the preliminary research done. Then the Department can bring that information back to the Commission two meetings from the current meeting to see how the Commission would like to move forward. Based on the initial findings, there could be movement to get an official survey done in order to determine what area the Commission may want to acquire through condemnation versus what is already publicly owned.</p> <p>Ms. Dizon stated that she will no longer be on the Commission at that future meeting but will be an active member of the public.</p> <p><u>F.3. Update on Kukui'ula Bay Access through the former Hoban or Leight property located in Kōloa District, Kona Moku, further identified as Tax Map Key (4) 2-6-003:017 (Kaikapu LLC).</u></p> <p>Ms. Koga stated that Deputy County Attorney Donahoe could provide information for the Commission. Deputy County Attorney Donahoe provided the following information:</p> <ul style="list-style-type: none"> • He has a status update, however, some of the information should be discussed in Executive Session. His recommendation would be to discuss the agenda item further in Executive Session. <p>Ms. Higuchi stated that the Commission can continue on with the agenda and the Commission can go into Executive Session following completion of the Open Session agenda items.</p> <p>Discussion on this agenda was moved to the end of the agenda or until the Commission can</p>	<p>No action was taken regarding this agenda item.</p>

SUBJECT	DISCUSSION	ACTION
	<p>convene in Executive Session. There being no objections, the Commission continued its meeting as follows:</p> <p><u>F.4.</u> <u>Update on a proposal to acquire 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, Final Report and Recommendation to acquire 05/16/2024).</u></p> <p><u>F.5.</u> <u>Update on a proposal to acquire 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, Final Report and Recommendation to acquire 05/16/2024).</u></p> <p>Agenda items F.4. and F.5. were taken together. Ms. Higuchi Sayegusa stated that a portion of the discussion on these agenda items may warrant an Executive Session as far as the strategy of the Commission. Ms. Higuchi Sayegusa provided the following information:</p> <ul style="list-style-type: none"> • The Phase I Environmental Site Assessment was completed. In addition, Ms. Higuchi Sayegusa was able to negotiate with the landowner to allow the County some limited site surveying to include site surface soil testing in addition to ground penetrating radar in and around the area where the tank previously existed. • The tank has since been removed. • The Phase I Environmental Site Assessment did not show any RECs. There were historical contaminants that were recorded and that were based on Department of Health records from the past. When the tanks were removed there was contamination at the time. The State Department of Health (HDOH) at the time required a ground monitoring well to be installed along with soil and water testing because of the release. • The State Department of Health issued a finding of No Further Action Required. The case was more or less closed. • There is an issue that current HDOH regulations would have required additional measures. HDOH might say that the County would need to do further testing in addition 	

SUBJECT	DISCUSSION	ACTION
	<p>to removing the ground monitoring well.</p> <ul style="list-style-type: none"> • As far as the survey work, the soil testing happened on the makai parcel in addition to the mauka area as well. Both parcels' soils were tested. What they found was on the surface, there were petroleum releases. That is because parking happens on the parcel every day. There is spillover parking from the gym and from all of the other uses. The release is due to the daily parking on the parcel. That is technically a reportable release to HDOH that requires further follow up. • The ground penetrating radar found that the tanks were removed. There are issues with some lines that were left in-place that could be associated with the tanks. That is also something that the Department would need to confer with HDOH for further testing around the pipes and whether any further remediation may be required. • Since then, the Department has been working with the Office of Economic Development (OED) who connected them to the Environmental Protection Agency (EPA) contacts. EPA provides a targeted brownfield assessment program that provides free technical services to municipalities and non-profit organizations for Phase I, Phase II, and for clean-up grants. • Ms. Higuchi Sayegusa lodged an application with the EPA to get them onboard to provide the County with their services. • This work is key as prior to any acquisition under EPA regulations and the concept of bona fide purchaser defense. If the County does all of the due diligence and properly does the studies necessary to study any potential contamination (i.e., due to Phase I) within a year of acquisition and updated it within 180-days of acquisition then the County can preserve that defense. It allows the Department to further qualify for additional EPA funding for Phase II and for clean-up. • Ms. Higuchi Sayegusa noted that she is working against the clock now as the Phase I was completed in November. The Department has until May to complete the acquisition which she is unsure if a deadline she can realistically meet. • Right now, the Department is working hard to get the EPA on-board to update Phase I so that the Department can have a little more time to complete the acquisition. The EPA will also then be onboard to provide free technical services for further testing under Phase 	

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	<p>II and clean-up, if needed.</p> <ul style="list-style-type: none"> • The plan has been communicated to the landowner, and they seem tentatively okay with that. The landowner is very eager to get the acquisition done. The County is under a Memorandum of Agreement (MOA) that binds both parties to follow through with the sale. The landowner is concerned about the timing as they feel the appraisal is stale. • Ms. Higuchi Sayegusa received a quote from a consultant to see if they were able to do the Phase II further testing and any cleanup. She will be communicating with the landowner to let them know that if they discount the sale price, the County could take care of everything a lot sooner. • Ms. Higuchi Sayegusa also noted that the future of the EPA is also up in the air with the new administration. <p>Ms. Shintani asked Ms. Higuchi Sayegusa to clarify what HDOH stood for. Ms. Higuchi Sayegusa responded that HDOH is the Hawai‘i State Department of Health.</p> <p>Ms. Shintani asked what the additional tests HDOH may require and whether they are bound by any kind of timeline for that determination. Ms. Higuchi Sayegusa responded that in conferring with the County’s consultant, Element Environmental, they are saying that in the grand scheme of things, what they found under Phase I, it is small. As far as contamination is concerned, it is going to require follow-up from the HDOH. HDOH is very conservative and will require the County to do all of the additional tests. It is a minor concern and when they get back to the County on what is going to be required, it might be a year or ten years from now. They have a large workload that they are working through.</p> <p>Ms. Shintani asked for confirmation that the acquisition must be completed by May and any other requirements due to Phase I being completed are not needed for the County to move on to Phase II. Ms. Higuchi Sayegusa responded that she is working on updating the Phase I Environmental Site Assessment. This is a document review. The consultant is not even going on the property to do testing. Phase I is more focused on the document review to evaluate what the potential risks may be based on contaminants that are on the property. Based on Phase I, it instructs whether</p>	<p>No action was taken as it relates to this agenda item.</p>

SUBJECT	DISCUSSION	ACTION
	<p>additional testing and sitework need to be completed under Phase II. One of the conditions of the sale so far is to sell the parcels as-is. The current landowner inherited the property from Kaua‘i Petroleum. The landowner’s position is that they were not able to understand the magnitude of any risks when they inherited the property as part of purchasing that entity. They do not want to know any additional details and want to sell the properties as-is. Ms. Higuchi Sayegusa stated that she is trying to get the process to a point where the Department is responsibly using the public’s money, and it is not a risky purchase. There will be some imperfections that the County could live with along with a plan for the parcels. If the EPA can get on board, the Department can move forward with their plan and schedule.</p> <p>Mr. Cabral stated that he is sure that the station had single-wall tanks. The law now requires that a double-wall tank is needed and a containment tank to catch whatever is released. He further noted that the tank more than likely released some liquid into the ground. His concern is that if the County digs deeper, they might find something that they do not want to discover. Mr. Cabral stated that the HDOH is connected to the EPA as the State’s representative. The EPA Region 9 is based in San Francisco. The EPA has the funds to mitigate the problems. Surface contaminants are easier to clean-up than deeper cleaning. He would like to stay away from having to do major digging into the ground. He is sure that the water table is not more than 5’ below the surface. Ms. Higuchi Sayegusa concurred with Mr. Cabral’s statements. Mr. Cabral stated that he understands why the landowner would like to flip the property without knowing anything more, but that the County must do its due diligence before it accepts the property. Ms. Higuchi Sayegusa acknowledged Mr. Cabral’s concerns.</p> <p>Mr. Cabral stated that the County should erect a fence around the property to prevent vehicles from parking on the site and further contaminating the surface soil, along with keeping unwanted people off the site.</p> <p>Chair Ornellas asked if given the additional information, if there was any way to use that like you would in a typical real estate transaction where you then go back to the seller and propose a lower price given the known factors or to negotiate additional concessions. Chair Ornellas questioned whether the EPA would pay for all the associated cost. Ms. Higuchi Sayegusa responded that</p>	

SUBJECT	DISCUSSION	ACTION
	<p>when she met with the EPA contact, they did mention that they are at the heels of the previous administration’s investment into the program. There is a lot of money available and available now. There is uncertainty whether those monies will be available under the new administration. There is also an uncertainty whether the EPA, as they are known today, will even exist. EPA also mentioned that there are funds available for Phase I and II, as well as cleanup. Everything is dependent on the Phase II assessment and what kind of cleanup would be necessary.</p> <p>Chair Ornellas asked if the information already received would not be discussed with the seller regarding negotiation of price. Ms. Higuchi Sayegusa responded that she did venture that topic with the landowner. It is something that they are currently mulling over, and they commented that the appraisal was stale. The landowner appears to be trying to find ways to increase the purchase price.</p> <p>Mr. Cabral stated that the condition and requirements of the property would need to be addressed with any purchaser of the property. Mr. Cabral stated that he feels the landowner’s best bet would be to work with the County on the transaction. Ms. Higuchi Sayegusa responded that the landowner was not necessarily in the market to sell the property. However, they noted the cultural importance of the property and the meaning to the community, so they came to the table. They were not actively selling the property.</p> <p>Chair Ornellas thanked the Department for the update and for all of the work that they have done and will have to do moving forward. Chair Ornellas stated that she is encouraged by the soil testing. She feels that they are bound to find contaminants due to the single-wall construction of the tanks that were allowable in previous years. She feels that if time is of the essence and the challenges can be mitigated, to sit on it and miss the opportunity given the amount of work that the Department has put into it thus far, along with the community support, the Commission would be remiss if they did not continue on full steam ahead.</p> <p>Mr. Ono asked if the property is found to be further contaminated, if there is a way that the area of contamination can be segregated from the remaining portion of the property that may not be contaminated so that the remainder can be used. Mr. Cabral stated that there probably could be</p>	

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	<p>something done to address that. Ms. Higuchi Sayegusa responded that the plan for the parcels was to keep it relatively as-is and if anything, put up a concrete pad for parking that serves the memorial park on the mauka-side of the area. Ms. Higuchi Sayegusa stated that it is possible that there could be certain allowable uses that could exist without subjecting the public to further contamination if the site was left as-is. Mr. Ono stated that he would recommend just addressing the areas that are needed as the entirety of the property was not a part of the plans. If it allows the County to move forward with what they were planning to do, he is all for that. Ms. Higuchi Sayegusa responded that the landowner wants to sell both parcels together. It is not as if the County can just purchase one of the parcels.</p> <p>Mr. Cabral asked if the EPA finds contamination on the property, would they be willing to put up the funds to clean up the site. Ms. Higuchi Sayegusa responded that based on her understanding and discussion with the EPA representative, they have the monies available and there was one other application in the state for this type of project. That is why she was very interested in pursuing the option of working with the EPA. She would need to finalize any assistance offered by the EPA once those discussions progress. Ms. Higuchi Sayegusa could only apply for Phase I services, because the landowner is not signing the consent form for Phase II studies and beyond. If the EPA could come onboard to update the Phase I report, it will give the Department additional time beyond May 1 to finalize the acquisition. Once the County owns it, then the County can apply for Phase II and cleanup services.</p>	<p>No action was taken as it relates to this agenda item.</p>
<p>G. Communications</p>	<p>There were no Communications on the Commission’s agenda.</p>	
<p>H. Unfinished Business (For Action)</p>	<p>There was no Unfinished Business (For Action) on the Commission’s agenda.</p>	
<p>I. New Business (For Action)</p>	<p><u>I.1. Proposal to amend Chapter 6, Article 14 of the Kaua’i County Code 1987 to implement the approved charter amendment to allow up to 5% of the Public Access, Open Space, and Natural Resources Preservation Fund to be used for the maintenance of entitlements acquired by the fund.</u></p> <p>a. <u>Director’s Report</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Koga presented the following information:</p> <ul style="list-style-type: none"> • The Commission was provided with the proposal to amend Chapter 6, Article 14 of the Kaua‘i County Code 1987, as amended. • Back on September 14, 2003, the Commission had before them a proposal to amend the Charter, Section 19.15, to allow up to 5% of the Fund to be used for maintenance of entitlements that are acquired by the Fund. The Commission unanimously approved that proposal. That proposal went before the Charter Review Commission. The proposal then went on the November 5th General Election to be voted on by the electorate. The Charter Amendment was passed with a majority vote of 21,418 votes. • Before the Commission is the proposed draft bill to amend the Kaua‘i County Code to implement the Charter Amendment that was passed by the electorate. • If the Commission chooses to recommend to the Council that they pass the contents of the Charter Amendment in an ordinance, it will then become law and come back to the Commission. Once it is passed, the Commission could create a program that has specific guidelines of how the 5% of the Fund should be used. The Department would first need to wait until the Commission passes something to get to the Council-level, and then the Council will need to decide to pass it for it to become law, before the Department could make it a part of the official program. • If 5% of the Fund was used from the available balance, that would amount to \$192,083. The 5% would be calculated based on the balance when everything is passed and in order. • The amendment to the Code just implements the provisions of the Charter Amendment that was already passed. • The Commission’s action may include any of the following actions: <ul style="list-style-type: none"> ○ Recommend that the County Council consider the proposal to amend Chapter 6, Article 14 of the Kaua‘i County Code 1987, as amended, to implement the approved Charter Amendment. ○ Recommend that the County Council not consider the proposal to amend the County Code; or 	

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	<p data-bbox="506 334 1247 363">○ Recommend deferral of the item and recommendation.</p> <p data-bbox="357 407 1560 695">Ms. Dizon asked what was meant in the proposed draft bill regarding the “absence of stewards.” Ms. Higuchi Sayegusa responded that in any acquisition that is considered, the County must ensure that there is a plan for maintenance. Oftentimes the Department has experienced situations where the Department of Public Works or Department of Parks & Recreation has indicated that they would not be able to maintain additional areas due to their heavy workload. Ms. Higuchi Sayegusa further noted that the County needs to be able to identify a steward. Also, without resources supporting the steward, the steward may find it difficult to or are discouraged from providing that stewardship.</p> <p data-bbox="357 737 1560 1243">Ms. Dizon asked if that reference was meant to provide coverage in the absence of a County department handling the stewardship. Ms. Higuchi Sayegusa responded that it would cover the County or a private steward. Ms. Dizon asked if a private entity would be able to apply for funding. Ms. Higuchi Sayegusa responded that the purpose of amending the Charter and now following up to amend the County Code is to create the mechanism to allow for some funds to be provided to stewards. Ms. Higuchi Sayegusa further stated that Ms. Koga’s report was further underscoring that this is a necessary amendment to the County Code. Ms. Dizon clarified that she just wanted to make sure the bill language would not cause any problems after passage. Ms. Koga stated that she was justifying that oftentimes a lot of stewards do not come to the table because they do not have the funds to take on the maintenance of the parcels. Ms. Higuchi Sayegusa noted that in the past, there were issues with the Surfrider Foundation wanting to maintain the Kaumumene access. At the end of the day, they said it was too big of a task, and they did not have the manpower to continually maintain that access point. There is a private citizen, Mr. Mike Lyons, who provides the maintenance of that area on his own.</p> <p data-bbox="357 1286 1560 1463">Ms. Dizon asked if the funds could be used for coastal access, on top of the lands that were acquired using the Fund. Ms. Higuchi Sayegusa responded that Ms. Dizon was correct. Ms. Koga clarified that the language as it reads now is that “at any given time, no more than 5% of this Fund shall be used for the maintenance of 1) lands or property entitlements and any corresponding improvements that were purchased or acquired using this Fund, or 2) public</p>	

SUBJECT	DISCUSSION	ACTION
	<p>pedestrian accesses to coastal areas that were improved using the Fund as well.” Ms. Dizon stated that if there is the second use noted, she was fine with the proposal. Ms. Higuchi Sayegusa responded that if the 5% was only allowed to be used on parcels acquired using the Fund, that would only be Black Pot Beach Park, the Chinese Cemetery in Kekaha, and Waipa. The Fund was used to improve just the Kaumumene access.</p> <p>Mr. Ono asked what the 5% amount would be calculated from. Ms. Higuchi Sayegusa responded that it would be 5% of what exists within the Fund. Mr. Ono asked if it would be based off just the present amount remaining and not inclusive of the annual deposit into the Fund. Ms. Koga responded that it would be the amount at the time of the calculation. Ms. Higuchi Sayegusa added that she believes it would be at the start of the fiscal year, which is when the amount would be based on. Mr. Ono stated that it would make the most sense to do it at that time when the funds are allocated. Mr. Ono stated that the calculation date is not clear.</p> <p>Ms. Koga stated that if the Commission and the Council both approve of the proposal, when the Department creates the program that establishes how the funds are used or who it is allocated to, they can also set at what date the 5% calculation is based on. Mr. Ono asked if the next step after approval would be to create rules. Ms. Koga concurred.</p> <p>Chair Ornellas stated that for the purpose of the meeting, the Commission has the three options presented earlier by Ms. Koga.</p>	<p>Ms. Dizon moved to accept the recommendation from the Planning Director’s Report. Ms. Shintani seconded the motion. Motion carried 6:0.</p>
<p>J. Executive Session</p>	<p>An Executive Session was not needed for items J.1, 2, 4, 5, and 6.</p> <p>The Commission did express interest in convening the Executive Session for agenda item J.3.</p> <p><u>J.3. Update on Kukui‘ula Bay Access through the former Hoban or Leight property located in Kōloa District, Kona Moku, further identified as Tax Map Key (4) 2-6-003:017 (Kaikapu LLC).</u></p>	<p>Vice Chair Pratt moved to go into Executive Session for agenda item J.3. Mr. Cabral seconded the motion. Motion carried 6:0 by roll call vote.</p>

SUBJECT	DISCUSSION	ACTION
	<p>There being no objections, the meeting was recessed for the Commission to convene into Executive Session at 1:55 p.m.</p> <p>There being no objections, the Commission reconvened from Executive Session back into Open Session at 2:33 p.m. and proceeded as follows:</p>	
<p>K. Announcements</p>	<p><u>K.1. Topics for Future Meetings.</u></p> <p>Chair Ornellas asked Ms. Koga to forward the email received at the meeting to Nalani Kaneakua. Ms. Koga acknowledged that she would do that.</p> <p>Chair Ornellas also asked that an agenda item be added to the Commission’s next agenda to act and for further discussion after the Koolau Limu Project is officially notified.</p> <p>Vice Chair Pratt stated that a related agenda item would already be scheduled. Ms. Koga clarified that at the Commission’s April meeting, she will provide an updated Preliminary Report for the Commission after she has spoken to the Office of the County Attorney. At that meeting, she can also brief the Commission on her conversation with Ms. Kaneakua. Chair Ornellas stated that if there were developments within the next month, she would love to hear about it. Chair Ornellas asked if the update might be able to be in March instead of April. Ms. Koga responded that she is unsure how long it will take her and the Office of the County Attorney to gather data related to the condemnation process. She also has to work with the Real Property Assessment Division on their schedule to view their old maps to see if the river has shifted at all. She wants to be sure the research is done fully and that she has the time to write her Preliminary Director’s Report. Ms. Koga stated that she could provide the Commission with a brief update on her discussion with Ms. Kaneakua. Chair Ornellas requested that the photos Ms. Kaneakua sent the Commission be included in the information for Commissioners. She wanted to display the importance of having that waterway open to feed the reef. Now the area is overgrown, and people upstream are dumping into the river. Since the Commission did a site visit, a lot has changed in the area. Ms. Kaneakua took photographs of the area so the Commission could see what was going on. Ms. Koga stated that at the Commission’s next meeting she can brief the</p>	

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	<p>Commission on her discussion with Ms. Kaneakua along with the pictures that were provided.</p> <p>Mr. Ono asked if the pictures would be considered testimony. Ms. Higuchi Sayegusa responded that it could be considered testimony or just information as a part of the informational briefing.</p> <p>Ms. Dizon stated that what Chair Ornellas just discussed was something she personally brought up at the Hawai‘i Congress of Planning Officials conference when they talked about the Resilience Plan when discussion occurred on managing overgrowth. Ms. Dizon stated that there was a younger enforcement officer she would like to get in touch with for further discussion. The stream in the ‘Aliomanu area might be a good project to start with in terms of managing overgrowth. Ms. Dizon stated that she has been playing a “game” with the State and the County on who owns what areas and whose responsibility it is for its maintenance. She has been told that it is the County’s responsibility for managing streams. Ms. Dizon further stated that a lot of pandemic funds have been used to open streams on the North Shore. There is a lot of data that shows the clarity from the sun, the fish population tripling because of the management of the stream, etc. It is nice to see the use of the funds on maintenance of streams in that area. Ms. Dizon noted that the O‘opu have started returning to those streams being maintained and flooding is being experienced in the Kōloa-Po‘ipū area each time a storm hits.</p> <p>Chair Ornellas stated that Ms. Kaneakua reached out to her yesterday because of the dumping and planting that is occurring in ‘Aliomanu and the damage it is causing. Ms. Kaneakua asked the Commission for its help. Ms. Kaneakua has also been in discussion with the State Office of Conservation and Coastal Lands regarding the matter. OCCL told Ms. Kaneakua that it is a County issue and not a State issue. Chair Ornellas stated that the Commission can hopefully help with the flow of information about what is happening in ‘Aliomanu.</p> <p>Ms. Dizon stated that she has also had contact with a State Hydrologist who can provide additional data for the area. She noted that on O‘ahu, they are able to charge back the landowner for any work done to preserve the ecosystem. Ms. Higuchi Sayegusa asked if Ms. Dizon wanted that as an agenda item. Ms. Dizon responded that she did not. She just wanted to provide that information as a different avenue to possibly help the situation in ‘Aliomanu.</p>	

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	<p>Chair Ornellas asked if the items where no decisions were made would remain on the agenda. Ms. Higuchi Sayegusa responded that it could depend on whether there was additional information to offer at the Commission’s next meeting.</p> <p>Ms. Shintani asked to add an agenda item for At-Large vacancies on the Commission. Vice Chair Pratt stated that Ms. Dizon’s last meeting is next month. Ms. Koga stated that Nancy Kanna would like to return to the Commission but that she had to be off the Commission for a period of one year. Ms. Koga stated that she could put an update on Commission vacancies on the next agenda. Ms. Koga also noted that there was also interest in having Stacy Sproat-Beck sit on the Commission but that she was unsure if Administrator Ching had reached out to her.</p> <p>Mr. Ono asked to add an agenda item for an update from the Permitted Interaction Group (PIG). Vice Chair Pratt asked if there would be anything to update the Commission on. Mr. Ono responded that he was hopeful they would have something. Vice Chair Pratt clarified if Mr. Ono felt the PIG would have something by the March meeting. Mr. Ono responded that Vice Chair Pratt was correct and that perhaps it might be better to put a PIG update on the April agenda.</p> <p>Ms. Dizon asked if the PIG meeting was scheduled. Ms. Higuchi Sayegusa responded that the first meeting was today. Ms. Dizon stated that she thought she was present for that meeting. Ms. Koga stated that the PIG meeting was at 11:30 a.m. Ms. Dizon apologized to everyone for missing that meeting. Ms. Koga stated that the next PIG meeting is going to be an hour before the full Commission meeting so that it is easier for everyone to attend.</p> <p>Vice Chair Pratt asked for an update on the Kīlauea Mauka Access. Ms. Higuchi Sayegusa responded that she understood the request. Vice Chair Pratt stated that she remembers research was going to be done on subdivision conditions, accesses, etc. Vice Chair Pratt also noted that the Planning Department had noted that they were going to be spending additional time looking into those matters. Ms. Higuchi Sayegusa responded that the Department could provide an update on that work as well. Ms. Dizon stated that she asked for information on how the County could prevent what happened in Pīla‘a from happening again. Ms. Dizon further explained the</p>	

Approved as circulated.

Approved with amendments. See minutes of _____ meeting.