

HAWAI'I COUNTY PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES
PRESERVATION COMMISSION

MINUTES-REGULAR SESSION
March 10, 2014
West Hawai'i Civic Center
Building G Conference Room
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawai'i 96740

Present: Chair Enock Freire (*arrived @ 11:05 a.m.*)
Vice-Chair Gail Byrne Baber
Commissioner Timothy DeLozier
Commissioner Steven Hiramami
Commissioner Wilma Matsumura

Absent: Commissioner Searle Grace
Commissioner Debbie Hecht
Commissioner Marilyn Nicholson

Others Present: Bill Brilhante, Deputy Corporation Counsel
Ken Van Bergen, Property Manager, Finance
Alexandra Kelepolo, Property Management Technician, Finance

CALL TO ORDER

The meeting was called to order by Vice-Chair Gail Byrne Baber at 10:43 a.m. Also in attendance were Commissioners Timothy DeLozier, Steven Hiramami and Wilma Matsumura. Ms. Byrne Baber asked if there are any statements from the public. Ms. Kelepolo replied no.

Mr. Brilhante stated that there are only four members present and the fifth member is on his way to the meeting. He advised Ms. Byrne Baber to go into recess until he arrives and they will then have quorum. Since there is no public present for testimony there's no adverse or negative impact if anyone was present to testify.

Recess: 10:45 a.m.

Reconvened: 11:06 a.m.

Ms. Byrne Baber called the meeting back to order and Chair Enock Freire took over the meeting.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

None.

APPROVAL OF MINUTES

Motion: Commissioner DeLozier moved to approve the minutes of January 13, 2014. Seconded by Commissioner Hirakami; all members voted aye, motion carried.

WRITTEN COMMUNICATION

Communication No. 14-001: Letter dated January 30, 2014 from Janet W. Hara, President, KAHI, Inc., re: Interested in selling Vacationland Land Trust property to the County of Hawai'i for park and open space purposes; Lot C, Kapoho, Puna, Hawai'i Tax Map Key: (3) 1-4-02:22

Communication No. 14-002: Letter dated February 3, 2014 to Council Chair J Yoshimoto and Members of the County Council from Mayor Kenoi, re: Nomination of William E. Meyers to PONC for Council District 3

Communication No. 14-003: Letter dated February 20, 2014 to Council Chair J Yoshimoto and Members of the County Council from Mayor Kenoi, re: Transmittal of the 2013 PONC Annual Report to the Mayor

Mr. Freire asked if there's any discussion. Mr. Brilhante told him that all communications must be received into record first and then a motion be made to accept and file each communication.

Motion: Commissioner DeLozier moved to accept Communication No. 14-001, letter dated January 30, 2014 from Janet W. Hara. Seconded by Commissioner Hirakami; all members voted aye, motion carried.

Mr. Hirakami commented that this is very good news, it was listed #1 on the prioritized list for this year and the landowner is willing to sell. Mr. DeLozier asked if there's a concern since it references an unrecorded trust as the owner. Mr. Brilhante replied that the trust has not been recorded with the Bureau of Conveyances and he wouldn't be too concerned about that at this time.

Motion: Commissioner Matsumura moved to file Communication No. 14-001. Seconded by Commissioner DeLozier; all members voted aye, motion carried.

Mr. Freire asked for a motion to accept and file Communication No. 14-002, letter dated February 3, 2014 to Council Chair J Yoshimoto and Members of the County Council.

Motion: Commissioner Hirakami moved to accept and file Communication No. 14-002. Seconded by Vice-Chair Byrne Baber; all members voted aye, motion carried.

Mr. Freire asked for a motion to accept and file Communication No. 14-003, letter dated February 20, 2014 to Council Chair J Yoshimoto and Members of the County Council.

Motion: Commissioner Matsumura moved to accept and file Communication No. 14-003. Seconded by Commissioner Hirakami; all members voted aye, motion carried.

DEPARTMENT OF FINANCE

Mr. Van Bergen reported that we have good progress with the Pohoiki purchase. The County and the seller's representative are working to submit the CDUA to the State which will include the permit for the existing structure and subdivision. Once the State approves this we can move forward with final subdivision. Part of the subdivision process was to get an SMA and when routed for review, Dept. of Water Supply and SHPD had comments. SHPD required the County to have an archaeological inventory survey done on the property which should take about six weeks to complete and by then the CDUA should be approved by the State.

Mr. DeLozier asked what the purchase price for Pohoiki is. Mr. Van Bergen replied 1,510,000.00.

Mr. Van Bergen reported that he and Ms. Kelepolo went on a site visit to Kahuku with the appraisers to have a yellow-book appraisal done, a requirement of the federal grant.

Mr. DeLozier commented that it looks like the 2,000,000.00 donation was put into the fund from Kohanaiki Shores. Mr. Van Bergen replied yes, it came through.

Mr. Hirakami asked if the County has been authorized to move forward with the Vacationland property. Mr. Van Bergen replied that yes, the resolution to enter into negotiations passed however we have not been directed by the administration on the next step. There are more properties with resolutions than there is money in the fund so it will take some time.

Mr. Freire asked how often deposits are made into the fund. Mr. Van Bergen replied quarterly, the larger deposits are received in September and March and smaller deposits in June and December.

OFFICE OF CORPORATION COUNSEL'S REPORT

Mr. Brillhante had nothing to report.

CHAIRPERSON'S REPORT

Mr. Freire had nothing to report.

NEW BUSINESS

- **Commission to review and revise Suggestion Form**
- **Commission to review and revise Assessment Criteria Form**

(the commissioners went into discussion regarding revision of the Suggestion Form and Assessment Criteria Form)

Recess: 11:25 a.m.

Reconvened: 11:29 a.m.

(The commissioners continued their discussion)

Motion: Commissioner Matsumura moved to accept the Suggestion Form and Assessment Criteria Forms as they are. Seconded by Commissioner DeLozier; all members voted aye, motion carried.

- **Commission to discuss potential site visits of properties submitted for consideration by the Commission and/or acquired by the County of Hawai‘i**

Mr. Hirakami commented that this issue arose based on what Mr. Brillhante explained about visiting the properties by forming an investigative committee that would in turn report back to the Commission.

Mr. Brillhante stated that this question did come up at the last meeting on how site visits could be conducted and still be within the parameters of the sunshine law. The creation of an ad hoc committee to visit properties submitted would allow a minimum of two members and not more than a quorum to go anytime with the consent of the landowner. However no deliberation or action could be taken until the report goes back to the Commission.

Ms. Matsumura asked if they would have a set committee to investigate all properties or each property would have its' own committee. Mr. Brillhante replied that the committee should have set members established so that the report comes before the Commission with the same perspective. Another option would be case by case and the commissioner in that district may want to conduct the site visit. He reminded them that there's no prohibition, the committee reports back to the Commission and everyone will have ample opportunity to provide comment.

Ms. Byrne Baber asked if this will be for past prioritized properties. Mr. Hirakami commented that it should be for new properties that commissioners are not familiar with.

Ms. Matsumura asked if the committee does a site visit for one property does it have to be done for all properties. Mr. Brillhante replied no. There is one member in each district and it would be good to have that member do their due diligence and provide sufficient background information for the property.

Mr. DeLozier asked if it would be possible to set up a committee with 2 set members and 2 floater members and if there's a property to be visited outside of the districts could the commissioner for that district be designated as the floater. Mr. Brillhante replied that would be hard, the rule specifically says no more than a quorum. Part of the transparency process is that the public knows who's on the committee and the four members would have to be named.

Ms. Matsumura asked if two specific members could be on the committee all the time along with the representative from the district the property is in. Mr. Brillhante replied that would be at most three members and it could work. He stated that the only thing you don't want to happen is because the list is created through deliberation if you have the formation of the committee challenged and its' deemed to be void by the sunshine law, every action would be void. He recommends that if they have a list of properties and they desire more information, they should identify the property and bring it up at the next meeting requesting that the ad hoc committee go and inspect the property.

Ms. Matsumura asked if that's when you would name the committee or do you have a standing committee that you would direct to go out. Mr. Brillhante replied that you will have to create and name the committee before they can go out.

Mr. Hirakami asked if you can have two committees with two members each, one for the west side and one for the east side. Mr. Brillhante replied that he would be hesitant to do that only because it's not clear and if it was challenged it would be void. He told the Commission to have this listed on the agenda for the next meeting to discuss and consider the formation of an ad hoc investigative committee to conduct site inspections on proposed properties submitted by the public.

Mr. DeLozier commented that at the last meeting they talked about having a box added to #7 on the suggestion form which asks if the property would be available for site inspection. Mr. Brillhante replied that if the owner is not filling out the suggestion form someone may indicate that the property is available for inspection and it could be misleading. Mr. DeLozier suggested that maybe they include boxes that says yes, no and unknown. Mr. Brillhante commented that he feels that question would be premature to include on the suggestion form.

- **Commission to discuss and review draft press release to publicize to various radio stations and newspapers soliciting suggestion forms from the public**

(the commissioners went into discussion)

Motion: Commissioner Hirakami moved to accept the press release as amended. Seconded by Vice-Chair Byrne Baber; all members voted aye, motion carried.

Mr. Freire told Ms. Kelepolo that now that the press release is approved, it can be sent out to all media outlets.

- **Commissioners to report on various CDP/community meetings attended for public outreach**

Ms. Byrne Baber reported that she attended the North Kohala CDP meeting and they are very understanding of the process, only a few questions regarding the maintenance fund. She also attended the South Kohala CDP meeting and they had a lot of questions regarding the process and what the Commission does.

Ms. Kelepolo reported that she will be attending the Puna CDP meeting to update them about the Commission and answer any questions that they may have.

Mr. Freire noted that he's been talking to the Rotary members and will be doing a PONC presentation at their next meetings.

Mr. DeLozier asked Ms. Kelepolo if she heard back from the Hāmākua CDP. Ms. Kelepolo replied no, she doesn't think they are meeting right now. Also, the Ka'ū CDP is still in the process of being formed so there will be no presentation at this time.

ANNOUNCEMENTS

The next meeting is scheduled for Monday, May 12, 2014, 10:00 a.m. in the Hawai'i County Building, Puna Conference Room, 25 Aupuni Street, Suite #1501, Hilo, Hawai'i.

ADJOURNMENT

Mr. Freire adjourned the meeting at 12:19 p.m.

Respectfully submitted,

Alexandra Kelepolo
Property Management Technician