

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

MINUTES-REGULAR SESSION

July 14, 2014

West Hawai'i Civic Center
Building G Conference Room
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawai'i 96740

Present: Chair Enock Freire
Commissioner Timothy DeLozier
Commissioner Wilma Matsumura
Commissioner William Meyers
Commissioner Marilyn Nicholson

Absent: Ken Van Bergen, Property Manager, Finance

Others Present: Bill Brillhante, Deputy Corporation Counsel (*left @ 10:25 a.m.; returned @ 11:19 a.m.*)
Alexandra Kelepolo, Property Management Technician, Finance

CALL TO ORDER

The meeting was called to order by Chair Enock Freire at 10:06 a.m.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

JANET BRITT

Ms. Janet Britt, Acquisitions Specialist and Hawai'i Island Director with the Hawaiian Islands Land Trust (HILT) spoke in support of the nomination for the Honolulu Coffee Company Purchase Conservation Easement (PCE). She noted that this is for a PCE not fee acquisition and it does have many benefits. Some of the benefits are that it's designed to protect conservation values of property in perpetuity, it's very flexible how the agreement is written and the landowner pays all fees in turn giving them a potential tax benefit and limited residential development.

Some of the conservation values for this property is designated "native bird habitat, watershed values for the Aquifer draining into Kealakekua Bay, designated "Prime Agricultural Land" (PAL) and the easement supports the North and South Kona Community Development Plan by protecting farm land and preventing development of important soil types.

Ms. Matsumura asked who designated it PAL. Ms. Britt replied that NRCS (Natural Resource Conservation Service) designates this. Mr. Brillhante told Ms. Matsumura that what she is referring to is the designation of important ag. lands which is different from PAL.

Ms. Britt stated that this PCE is for a 74.99 acre coffee farm located south of Captain Cook, appraised in 2013 for 1,230,000.00 and the landowner is committed to fund at least 50% of the easement land value and hopefully the County can fund the remaining 50%. Some current threats are that the subdivision allows for 14 lots and it's located on a steep slope and part of the watershed is on this property.

In closing, using PONC funds for this PCE would be something different that's never been done before. The landowner is ready to close once the 50% matching funds are obtained and the County would be a signatory on the land with HILT. The County will also get all reports associated with monitoring of the land done by HILT to make sure that the landowner is in compliance. In addition acquisition of this PCE will support Hawai'i's agricultural industry and protect many natural resources.

Ms. Britt added that she also supports all of the Kohala properties submitted by Ms. Toni Withington.

TONI WITHINGTON

Ms. Toni Withington represents many of the Kohala community that have been working over fifty years to preserve access to the coastline and protect the numerous pre-contact historic sites. She noted that they are very active with PONC and State, Legacy Land Conservation Program (LLCP) and have raised over 14 million dollars and preserved over 213 acres of private oceanfront land. They have another 1.6 million dollars pledged from LLCP and are currently working on eight projects for preservation.

She told the Commission that three of the nominations submitted for public access to the ocean and preservation of historic sites span from Kauhola Point to Pololu Valley (North Coast) also known as the homeland of Kamehameha. These properties, Halelua, Hapu'u to Kapanai'a Cultural Corridor and Niuli'i are all actively for sale.

In 2012, they nominated Halelua to PONC and subsequent to that they worked with HILT and was able to procure a 3 million dollar federal grant for a PCE however the landowner decided not to pursue its plans to utilize a portion of the property for a meditation center and therefore the land is currently for sale.

She then spoke of the four submissions that are on the leeward coast, Keawenui Easement, Lamaloloa, Māhukona and Kukuipahu-Hā'ena Corridor which are not under immediate threat, the landowners are not developing at this time. This stretch of coastline is approximately 15 miles of almost contiguous land which are owned by the State and County.

She also reminded the Commission that their groups are actively seeking money from other funding sources since they know that PONC funds are very limited. Since North Kohala has gotten a fair portion they would like to see properties in other districts also purchased. For this very reason it is very helpful to have the submitted properties ranked high on the list for its many values.

Ms. Nicholson asked if these properties are all re-nominations. Ms. Withington replied yes and noted that Halelua was listed in 2012 and they are now re-nominating since the landowner doesn't have the funding to build their meditation center which puts the property back on the market.

Mr. DeLozier asked Ms. Withington if they approached their council member to submit a resolution. Ms. Withington replied yes, Ms. Wille will be submitting resolutions to the County Council for Niuli'i and Hapu'u to Kapanai'a Cultural Corridor in September.

Ms. Matsumura commented that all of these properties were all ranked on the list at some point over the years. Ms. Withington replied yes, they are working to eventually have resolutions prepared for all properties nominated.

APPROVAL OF MINUTES

Ms. Freire asked if there are any changes to the minutes. Ms. Nicholson noted that on Page 2, third paragraph from the bottom the last word says "kaput" and should be "kapu." Ms. Kelepolo noted that she will make that change.

Motion: Commissioner Matsumura moved to approve the minutes of May 12, 2014 as amended. Seconded by Commissioner Nicholson; all members voted aye, motion carried.

WRITTEN COMMUNICATION

Communication No. 14-005: Letter dated May 25, 2014 from Gail Byrne Baber, re: Resignation from PONC, Council District 9

Communication No. 14-006: Letter dated June 3, 2014 to Council Chair J Yoshimoto and Members of the County Council from Mayor Kenoi, re: Nomination of Barbara Bell to PONC for Council District 4

Communication No. 14-007: Suggestion Form received on June 18, 2014 from Toni Withington, re: Māhukona, Tax Map Keys (TMK): (3) 5-7-02:03, 11, 5-7-03:01, 02, 03, 07, 08, 10 & 18

Communication No. 14-008: Suggestion Form received on June 18, 2014 from Toni Withington, re: Kukuipahu-Hā'ena Corridor, Various TMK's

Communication No. 14-009: Suggestion Form received on June 19, 2014 from Toni Withington, re: Lamaloloa, TMK: (3) 5-7-01:20

Communication No. 14-010: Suggestion Form received on June 19, 2014 from Toni Withington, re: Keawenui Easement, TMK: (3) 5-8-01:09

Communication No. 14-011: Letter dated June 19, 2014 from Robert Milbank, Jr., Trustee, re: Kapanai'a Subdivision, proposed Lots 8 & 9 available for sale to the County, other government or non-profit agency

Communication No. 14-012: Suggestion Form received on June 20, 2014 from Steve Hirakami, re: The Gapp Property, TMK: (3) 1-5-10:32

Communication No. 14-013: Suggestion Form received on June 25, 2014 from Toni Withington, re: Halelua, TMK: (3) 5-3-07:10

Communication No. 14-014: Suggestion Form received on June 25, 2014 from Toni Withington, re: Hapu'u to Kapanai'a Cultural Corridor, TMK's: (3) 5-2-07:04; 5-3-07:22, 23, 26, 28, 32, 33

Communication No. 14-015: Suggestion Form received on June 25, 2014 from Toni Withington, re: Niuli'i, TMK's: (3) 5-2-01:20 & 25

Communication No. 14-016: Suggestion Form received on June 25, 2014 from Cynthia Hope, re: Adjacent Property to Hale Halawai o Holualoa, TMK: (3) 7-6-16:32

Communication No. 14-017: Suggestion Form received on June 25, 2014 from Leonora Prince, re: "Konas People Park," TMK: (3) 7-5-10:54

Communication No. 14-018: Suggestion Form received on June 27, 2014 from Janet R. Britt, Hawaiian Islands Land Trust, re: HCC Farms, LLC, TMK's: (3) 8-2-11:02 & 23

Communication No. 14-019: Suggestion Form received on June 30, 2014 from James Weatherford, re: Kahua Olohu, TMK: (3) 9-5-12:05

Communication No. 14-020: E-Mail dated July 1, 2014 from Richard Bidleman, re: Urge to acquire Kahua Olohu Makahiki Grounds in Nā'ālehu, TMK: (3) 9-5-12:05

Mr. Freire noted that most of the communications received are suggestion forms that will be taken home and reviewed.

Mr. Freire asked if there are any comments regarding Communication No. 14-005. Ms. Kelepolo told the Commission that Ms. Byrne Baber wanted to thank everyone and have enjoyed working with them on PONC.

Motion: Commissioner Nicholson moved to accept and file Communication No. 14-005. Commissioner Matsumura seconded; all members voted aye, motion carried.

Mr. Freire asked if there are any comments regarding Communication No. 14-006. Ms. Kelepolo noted that Ms. Bell is expected to be confirmed by the next Council meeting.

Motion: Commissioner Nicholson moved to accept and file Communication No. 14-006. Commissioner Matsumura seconded; all members voted aye, motion carried.

Mr. Freire suggested that Communication No. 14-011 be combined with the submittal for Hapu'u to Kapanai'a Cultural Corridor. Ms. Matsumura recommended that Communication No. 14-020 be combined with the request that it's related to.

Motion: Commissioner Matsumura moved to combine Communication Nos. 14-011 and 14-020 with the suggestions that they relate to. Seconded by Commissioner DeLozier; all members voted aye, motion carried.

Mr. Freire asked for a motion to accept all communications.

Motion: Commissioner DeLozier moved to accept Communication Nos. 14-007 – 14-020 as submitted. Seconded by Commissioner Matsumura; all members voted aye, motion carried.

DEPARTMENT OF FINANCE REPORT

Ms. Kelepolo reported that for Pohoiki there were a few setbacks with the CDUA so it will be delayed for a few more months, probably October or November. Ms. Nicholson asked what's the purchase amount. Ms. Kelepolo replied 1.515 million. In regards to the White Sands property adjacent to Kīpapa Park, the property appraised at 2.5 million however the landowner's appraisal came out to 3 million so we are currently working on a negotiated purchase price. She added that appraisals were ordered for Wai'opae, #1 and Banyan Trees, #8 on last year's prioritized list and a resolution was recently passed for The Gapp Property which has just been submitted for consideration by PONC this year. Mr. Brillhante will be able to provide more information on that request when he returns.

CHAIRPERSONS REPORT

Mr. Freire has nothing to report.

NEW BUSINESS

- **Commission to discuss, review and assess Suggestion Forms submitted by the public for 2014**

Mr. Freire asked if there's any discussion on this agenda item. Ms. Matsumura asked if the Commission would want to reconsider not ranking a property once it's been ranked on the prioritized list. Mr. Freire commented that there was deliberation and they came to a decision that they didn't want to re-invent the wheel however Ms. Britt testified earlier that it does help to get a higher ranking.

Ms. Nicholson commented that the rankings are for those properties submitted during the year, so now we would need to look at them all over again. Depending on what is submitted each year the scores for these re-submitted properties could move up or down.

Mr. Freire commented that their ranking is not absolute, it's only relative to the pool that's submitted in that year and if they are going to re-evaluate re-submitted forms the only logical solution is to look at them all and do a master ranking to be consistent.

Mr. DeLozier commented that he doesn't recall that they came to a conclusion but recalls Ms. Byrne Baber's comments about the importance of re-ranking the properties since it's so important to obtain matching funds. He also added that for the Halelua property, circumstances have changed since it was submitted in 2012 and he will definitely give it higher scores based on the new information.

Ms. Nicholson's concern with this is that not all properties submitted before are re-submitted so they do not know the status of those. If they do look at re-submitted properties, it shouldn't take too long since the write-ups have already been done.

Mr. Freire summarized their options based on discussions:

- 1) once a property has been ranked on the prioritized list it won't be re-considered;
- 2) if an applicant takes the time to re-submit a property and provide additional information they will consider it; and
- 3) for those properties already submitted, if there are significant changes that would change the scores and ranking do they want to consider.

Mr. Freire asked Mr. Brilhante for his opinion. Mr. Brilhante replied that there is no legal requirement on how you assess each property and comprise the list, as long as you formulate a basis and the process is articulated by the Commission in a fair and consistent way.

Ms. Matsumura asked if they can pick and choose which properties to re-consider this year since two are being submitted to Council for resolutions and one the circumstances have changed. Mr. Brilhante replied no, all properties would have to be re-assessed.

Mr. Meyers feels that if the property is ranked already on the list to not re-consider and move on with newly submitted properties.

Mr. DeLozier added that he felt the same way too but after being through the entire cycle he sees now that there is a value to ranking re-submitted properties particularly for the applicants and the private funding side. It is really important that the public know if a property is already ranked they really need to contact their respective council member to prepare a resolution authorizing the administration to purchase.

Mr. Brilhante added that if the desire of the Commission is to afford entities the opportunity for a property to be re-considered there is no problem with that; however it must be put in the notice and made part of the process so the public knows that if they re-submit we will provide them that opportunity. It's too late for this year but they should consider that for next year.

Mr. Freire suggested that they re-rank all 13 suggestion forms submitted this year and they will continue this discussion at an upcoming meeting. Ms. Kelepolo told the commissioners to submit their scores to her by August 22nd and she will compile for the next meeting.

➤ **Commission to discuss the drafting of the 2014 Annual Report to the Mayor**

(the commissioners went into discussion)

Mr. Freire told the commissioners to submit their property write-ups to Ms. Kelepolo by August 22nd for review at the next meeting.

➤ **Election of new Vice-Chair for 2014**

Ms. Matsumura nominated Mr. DeLozier to be Vice-Chair.

Motion: Commissioner Matsumura moved to nominate Commissioner DeLozier as Vice-Chair. Seconded by Commissioner Nicholson; all members voted aye, motion carried.

OFFICE OF THE CORPORATION COUNSEL'S REPORT

Mr. Brilhante explained the unusual situation regarding the Gapp property submittal which was a request from Council Member Illagan. This oceanfront property consisting of almost six acres and containing 64 archaeological features is located at the bottom of Maku'u Drive in Puna. Council Member Illagan already submitted a resolution to Council that was recently passed to purchase this property and now needs affirmation from PONC on whether this is a good use of PONC funds before they can move forward. There are some extenuating circumstances associated with this property and timing is of the essence that the County moves quickly.

Ms. Nicholson asked if we will be doing an orientation for Ms. Barbara Bell since site visits were brought up. Mr. Brilhante replied that for any commissioner appointed there's a statutory requirement that they can participate in any vote that's pending before the Commission. However, they should educate themselves and obtain the transcripts to read what has transpired in prior meetings.

Mr. DeLozier asked if they can discuss on whether they can conduct site visits on any properties submitted this year.

Mr. Brilhante told the Commission that any discussion of site visits should be at a scheduled meeting or they can vote now to allow the sub-committee to do site visits and come back to report their recommendation at the next meeting.

Ms. Matsumura asked if it would be permissible if the commissioners communicated with Mr. DeLozier on which properties they would recommend. Mr. Brilhante replied that all e-mails should go through Ms. Kelepolo who will then relay information to Mr. DeLozier to avoid any sunshine law violations.

Mr. DeLozier clarified that at their next meeting they will have their discussion and there will be an opportunity to change their scores based on what the committee reports back regarding site visits. Mr. Brilhante said yes but if the committee does a site visit then the report must be listed as an agenda item.

Recess: 11:47 a.m.

Reconvened: 12:04 p.m.

Mr. Freire asked if there are any properties submitted this year that the ad hoc committee should visit. Ms. Nicholson recommended that the Ka'ū property, Kahua Olohu would be good. Mr. Freire said he doesn't see a specific need for the two Kona properties submitted since it's easily accessible. Ms. Kelepolo told the committee that she will be going to The Gapp Property for a site inspection with the appraiser and they are welcome to join her if they want to visit that property.

ANNOUNCEMENTS

The next meeting is scheduled for Monday, September 8, 2014, 10:00 a.m. in the Hawai'i County Building, Puna Conference Room, 25 Aupuni Street, Hilo, Hawai'i 96720.

ADJOURNMENT

Meeting adjourned at 12:12 p.m.

Respectfully submitted,

Alexandra Kelepolo
Property Management Technician