

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

MINUTES-REGULAR SESSION

January 12, 2015

West Hawaii Civic Center

Dept. of Liquor Control Conference Room, Bldg. B

74-5044 Ane Keohokalole Highway

Kailua-Kona, Hawai'i 96740

Present: Chair Timothy DeLozier
Vice-Chair Barbara Bell
Commissioner Enock Freire
Commissioner William Meyers
Commissioner Marilyn Nicholson

Absent: Commissioner Wilma Matsumura

Others Present: Craig Masuda, Deputy Corporation Counsel
Hamana Ventura, Property Manager, Finance
Alexandra Kelepolo, Property Management Technician, Finance

CALL TO ORDER

The meeting was called to order by Chair Timothy DeLozier at 10:10 a.m.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

TONI WITHINGTON

Ms. Toni Withington thanked the Commission for the ranking of the Kohala properties on the prioritized list and noted that acquisition of the top three properties would protect about 4-5 miles of coastline with the exception of one parcel.

She testified in regards to the new business agenda item on the Commissions' evaluation process of how properties are ranked. The process in place works really well and has evolved over the years; something to consider that might be helpful is community-wide awareness of a property and why it is important. Mr. DeLozier asked if she can expand on what that means. Ms. Withington replied that the community groups have always had connections with the community talking about where they feel that they are restricted to in regards to access. In 2006 the Planning Department gave them an opportunity to write the Community Development Plan (CDP) and they used the scoping from the CDP to listen to what the community said are important places for public access, fishing and gathering rights, areas where they would like to see protected from development. After a "weeding out" process was done they incorporated into the CDP the most important properties that the community felt should be protected. In addition, the North Kohala community access group, a sub-committee of the CDP Action Committee meets once a month and provides a forum for the public to talk about public access issues.

Mr. DeLozier asked how she would recommend the Commission accomplish that. Ms. Withington replied that they include community-wide awareness in their list when evaluating properties.

She also commented on how they as commissioners can publicize in the community through public outreach and be more active in their district. It would be helpful to have open public meetings and workshops to help people who are active in the community. It would be valuable to the County to have the funds spread out and just by having the properties ranked high enables the community groups to go out and solicit other funds from land trusts, state and federal grants. In addition, the Kohala community is also working on their own program to seek out private monies.

She asked that when the Commission is planning on what to do this year they should work with the community to not only obtain funds from the County but also how to seek money from other funding sources. The Kohala groups would be more than happy to assist members in other districts which could help to get a more island-wide representation of properties submitted for consideration.

APPROVAL OF MINUTES

Mr. DeLozier asked if there are any changes to the minutes.

Motion: Vice-Chair Bell moved to approve the minutes of December 8, 2014. Seconded by Commissioner Nicholson; all members voted aye, motion carried.

DEPARTMENT OF FINANCE REPORT

Mr. Ventura reported that the County has come to an agreed upon price with the landowner for acquisition of the Banyan Trees property in Kohala and we should be closing sometime in February. For Pohoiki, there's a slight delay since it's a land court property so the anticipated closing will be around March or April. Mr. Masuda added that there's only one land court for the whole state and you have to wait your turn. The process does take a while which includes a very technical review of all documents submitted.

OFFICE OF CORPORATION COUNSEL'S REPORT

Mr. Masuda noted that he already reported for Pohoiki under the Finance Report.

CHAIRPERSONS REPORT

Mr. DeLozier had nothing to report.

NEW BUSINESS

- **Commission to discuss the evaluation process of how a property is assessed when submitted by the public and whether all properties submitted this year will be considered for the prioritized list**

Ms. Bell noted that Ms. Withington's comment about community awareness was really good. Ms. Nicholson commented that it's included under Attachment C on the Suggestion Form. Mr. DeLozier added that it's also included in the Assessment Criteria Form under Criteria 2 and 3.

Mr. Meyers commented that whoever is nominating the property should be gathering community support; it shouldn't be the commissioner's job to do that. Mr. DeLozier said that they as commissioners should not be rallying for specific properties; they spread awareness about the Commission at the various CDP meetings. However there are certain limitations based upon the scope of the language within the County Code that creates this Commission which is very specific when considering properties. Mr. Masuda told Mr. DeLozier that he brought up an excellent point. If a commissioner starts advocating for one property the problem with that is you become the judge and jury and their role is to evaluate the property. It's the job of the Council to gather support for the resolution.

Mr. DeLozier talked about whether all properties should be put on the list and used the Gapp property as an example. He was disappointed how submittal of this property was done in reverse and the Commission became a scapegoat to clean up legal issues which would clearly be a misuse of the funds. The Commission didn't have a choice but to rank the property but the PONC fund was definitely not the appropriate fund to acquire this parcel. He feels strongly that every property submitted shouldn't be ranked and a minimum threshold be set and anything below that will not be included on the list. Ms. Nicholson commented that it would have to be acknowledged and included in the report noting that the properties didn't meet the minimum threshold. Ms. Bell added that maybe it could be set at 50% of the total score available and asked if it's better to only have a handful of properties to rank. Mr. DeLozier replied that once a property is ranked it remains on a perpetual list and how important is it to preserve the properties based on the location, accessibility issues, etc. Every property purchased with PONC funds are held by the County in perpetuity with loss revenue of property taxes and it only makes sense to acquire lands that will be steadily utilized by the public.

Mr. Freire commented that there could be a minimum number of properties set and are they going to consider re-submittals of prior properties. Mr. Meyers noted that the County doesn't have a lot of money; the Commission can give them a chance to re-submit and provide more information. Mr. DeLozier noted that re-submitting might put them at a higher ranking and could open doors to acquiring matching funds from other sources.

Motion: Vice-Chair Bell moved that any property nominated that scores 50% or higher of the available points that year be included on the list; anything that ranks below 50% threshold will not be ranked but will still be included in the report. Seconded by Commissioner Nicholson.

(commissioners went into discussion regarding the motion)

Mr. DeLozier feels that 50% is low, it should be 60%. Mr. Masuda asked if this is something that they want to study more in-depth or are they set on deciding this. Ms. Nicholson asked when do they have to make this decision and what do they tell the community. Mr. Masuda replied that it's always better to have the disclosures up front. This would be a significant change and they would need to do a rule change. It would also require publication and a public hearing. Mr. DeLozier replied that this has been an on-going discussion for a long time and they should decide now. Mr. Masuda suggested that they make a change to the rules, which he can draft and have it publicized in the newspaper for at least 30 days prior to the public hearing which can be scheduled before the PONC meeting in March.

Motion: Chair DeLozier revised the motion to add a new rule as appropriate so that for this year, 2015, only those properties that score higher than 50% of the available points will be included in the ranking list; those properties that score below 50% will be noted in the report and acknowledged as nominated properties that did not score high enough to be ranked. Seconded by Commissioner Nicholson; all members voted aye, motion carried.

Mr. Masuda will prepare the change to the rule and send it to Ms. Kelepolo who will send to the commissioners for review and approval. Once they are in consensus, it will be published in the newspaper for 30 days prior to the public hearing. Upon passing the public hearing, it will be submitted to the Mayor's office for approval. The rule change will become effective 10 days after submittal to the County Clerk and Lt. Governor.

➤ **Commission to discuss, review and revise the Suggestion Form and Assessment Criteria Form**

(the commissioners went into discussion regarding revising the Suggestion Form)

Motion: Chair DeLozier moved to amend Suggestion Form for the public to include a sentence on page 1 to say: "the Commission welcomes re-submission of properties previously submitted where County Council has not taken action." Seconded by Vice-Chair Bell; all members voted aye, motion carried.

(the commissioners continued their discussion)

Motion: Vice-Chair Bell moved to amend Item #2 on Page 2 of the Suggestion Form by adding after the sentence: "please be specific as possible and include any documentation; i.e. archaeological reports, if available)." Seconded by Commissioner Nicholson; all members voted aye, motion carried.

(the commissioners continued their discussion)

Motion: Vice-Chair Bell moved to add on Page 1 of the Suggestion Form below Tax Map Key (TMK) number(s): "(choose one): purchase request easement request." Commissioner Nicholson added "fee simple" before purchase request. Chair DeLozier added "Property is" before (choose one). Seconded by Chair DeLozier; all members voted aye, motion carried.

(the commissioners went into discussion regarding revising the Assessment Criteria Form)

Motion: Chair DeLozier moved to revise on the top of page 2 of the Assessment Criteria Form, to remove the wording in the parentheses for criteria scoring 1. Commissioner Nicholson added "unclear" to criteria scoring 1. Chair DeLozier revised his motion to include "unclear" to criteria scoring 1. Seconded by Vice-Chair Bell; all members voted aye, motion carried.

➤ **Commission to discuss scheduling of 2015 public regional meetings**

Mr. DeLozier talked about a draft calendar for 2015 that was prepared by Ms. Kelepolo noting the various CDP meetings scheduled. Ms. Kelepolo will forward a copy to all commissioners once completed. The purpose of attending those meetings is to educate and provide outreach to the public.

Ms. Nicholson added that they've also attended Rotary and community meetings. Mr. DeLozier suggested that another good meeting to attend would be the Board of Realtors. Ms. Bell asked if there's a target or goal of how many meetings they attend each year. Ms. Nicholson commented that it would have to be before the submission deadline of June and Ms. Kelepolo would provide the hand-outs for the public at these meetings. Ms. Kelepolo will let them know the dates once it's confirmed by the CDP's.

➤ **Commission to discuss and select committee members for the PONC Investigative Ad Hoc Committee for 2015**

Mr. DeLozier noted that last year there were three members on the committee, along with him, Mr. Meyers and Ms. Matsumura however no more than four members can be selected.

He asked if anyone would be interested in being on the committee this year, they would need to select a chair along with committee members. Ms. Bell suggested that since there are only four remaining commissioners they all be on the committee however they don't all have to go out on site visits. Mr. DeLozier commented that there's only a small window of time for the committee to go on site visits once the public submits their nominations and then report back to the Commission at the following PONC meeting.

Mr. Meyers asked if they could hold off on selecting a committee now and wait for new commissioners. Mr. Masuda replied that once the committee is established, they can always re-vote and add new commissioners in at a later meeting.

Mr. DeLozier asked if anyone would like to be the chair. Ms. Nicholson said that she will be the Chair, Mr. Meyers will be the Co-Chair along with Ms. Bell and Mr. DeLozier as members of the committee.

ANNOUNCEMENTS

Ms. Kelepolo noted that at the March meeting the Commission will draft and review the press release for solicitation of suggestion forms by the public. Mr. DeLozier asked if Ms. Kelepolo can send out the draft in their packet for review prior to the meeting. Ms. Kelepolo replied yes. Also if any of the commissioners attend CDP or community meetings, they will report back to the Commission.

Ms. Kelepolo asked Mr. Masuda in regards to the public hearing for the rule change will that have to be a separate meeting. Mr. Masuda replied yes, it will be more of a presentation of the rule change and will be an addition to Rule 4,§(a) and will read "*those proposed parcels receiving (50) percent of the total available assessment criteria points shall be included on the prioritized list. Those parcels receiving (49) percent or less shall be included in the annual report but not prioritized.*" Mr. DeLozier commented that his concern is that it still leaves 1%, if the score is 49.6 do they round it off. The language should read 50% or greater and less than 50%. Mr. Masuda will make the changes and Ms. Kelepolo will send it out to them for review.

The PONC rule change public hearing will be scheduled for Monday, March 9, 2015, 10:00 a.m. and the PONC meeting will be at 10:30 a.m. in the Hawai'i County Building, Puna Conference Room, 25 Aupuni Street, Suite #1501, Hilo, Hawai'i.

ADJOURNMENT

Meeting adjourned at 12:04 p.m.

Respectfully submitted,

Alexandra Kelepolo
Property Management Technician