

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

MINUTES-REGULAR SESSION

July 13, 2015

Hawaii County Building, Council Chambers  
25 Aupuni Street, Suite #1401  
Hilo, Hawai'i 96720

Present: Chair Timothy DeLozier  
Commissioner Kai'ena Bishaw II  
Commissioner Susan Fischer  
Commissioner Willy Meyers  
Commissioner Cynthia Nazara  
Commissioner Marilyn Nicholson  
Commissioner René Siracusa  
Commissioner Kekaulike Tomich

Absent: Vice-Chair Barbara Bell

Others Present: Belinda Castillo-Hall, 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 10:04 a.m.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS**

**SUSAN FORBES**

Ms. Susan Forbes, a resident of Hakalau, spoke in support of the Hakalau Point property and how over the past several years she has recognized the "specialness" and historic significance of the property. Currently Hakalau Point is at risk of industrial, commercial and residential development. In researching the area, thousands of people worked at the Hakalau plantation and service records for an 11-year period were submitted from the annual reports. In regards to Hawaiian history, there was a battle that took place by Kamehameha at this very point. In addition, the protection of natural resources by creating buffer zones along the cliffs and protecting the monk seal habitat and birthing area in the bay below are also very important.

There are an increasing number of residents that are supportive of this acquisition and she recognized Akiko Masuda, Chris Sutter and Robert and Ingrid Nishimoto, who are also present to support the acquisition of this property.

Ms. Siracusa asked if there are support from community organizations and businesses and if there are any groups that are willing to step forward and apply for stewardship.

Ms. Forbes replied that there are a couple of non-profits that have stepped up for management and maintenance who have a long history of the area. The first is Wailea Village Historic Preservation Community and Akiko Masuda is the President. The other is Basic Image, Inc. which is managed by Bradda Skibs and who currently maintains the Hakalau Bay park.

### **TONI WITHINGTON**

Ms. Toni Withington, a resident of North Kohala for forty-five years, spoke in representation of five community groups which have been nominating properties since 2006: Maika'i Kamakani 'O Kohala, Malama Na Wahi Pana 'O Kohala, Malama Kohala Kahakai, Kamakani 'O Kohala Ohana and Kohala Historic and Cultural Preservation Group.

There are seven properties on the PONC list and as outlined in the N. Kohala CDP, there is a 50-year history of the community wanting to preserve the coastline, historic and cultural sites along with coastal purchases, two of which have been acquired by the County and two which remains on the list, Māhukona and Kukuipahu-Hā'ena Corridor.

Since 2010-2015, these five groups were able to preserve 318 acres with 18.3 million dollars; 10 million of these funds were from the County, and the remainder from other funding sources. Kaiholena North was purchased entirely with PONC funds, Pa'o'o – (50% PONC and 50% State, Legacy Land), Lapakahi – (50% Federal, NOAA and 50% State, Legacy Land) and Kaiholena South (PONC & State, Legacy Land along with the Ala Kahakai Trail Association).

This information should provide quantification for these lands so that the Commission can put the value of these properties on the list of priorities and the community groups can go out and use that to obtain funds from other sources.

Ms. Nicholson noted that all the properties are coastal, are there any that are upland. Ms. Withington replied no, not at this time. Development in Hawai'i always take place on the shoreline first, and it is important to the Hawaiian community for subsistence gathering rights and more important to the kupuna that these lands are never developed.

Mr. DeLozier noted a lot of these properties have been nominated multiple years and asked Ms. Withington for an update or status of resolutions for these properties submitted. Ms. Withington replied that they are working with Councilmember Margaret Wille on resolutions for Niuli'i, Halelua and Hapu'u to Kapanai'a Corridor since they have willing landowners.

Ms. Nicholson asked if she needed to prioritize the seven properties submitted how she would rank them. Ms. Withington replied that the priority would be: Hapu'u to Kapanai'a Corridor as the most urgent, Halelua and then Niuli'i.

Ms. Withington spoke in regards to the PONC Stewardship Grants regarding Kohala Lihikai (KL), a non-profit formed in 2011 run by representatives from five groups and created to steward the lands acquired for open space.

KL urged the Finance department and then Parks & Recreation (P&R) to get the ball moving for stewardship grants. In July of last year the proposals were sent out and they were given six weeks to submit their paperwork for Pa‘o‘o and Kaiholena which they submitted and did not get a response until April 2015 saying that they were not consistent with the Charter and did not qualify and it was read as a denial. According to the Charter you cannot hire anyone and you cannot steward lands without hiring someone. P&R needs to work on better communication and she is looking forward to working with grants and if not this year, they will apply next year.

Mr. DeLozier introduced Ms. Susan Fischer, District 9 and welcomed her to PONC.

### **APPROVAL OF MINUTES**

Mr. DeLozier asked the commissioners to review the minutes for any changes/edits.

**Motion: Commissioner Meyers moved to approve the minutes of May 11, 2015, regular session. Seconded by Commissioner Nicholson; all other members voted aye, motion carried.**

### **STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (continued)**

#### **AKIKO MASUDA**

Ms. Akiko Masuda, a 24-year resident of Wailea and President of the Wailea Village Historic Preservation Community spoke in support of Hakalau Point. They are completely community oriented and have been mochi pounding for 18 years, run a little farmers market in the village and also feed the kupuna at the Hakalau Jodo Mission once a week.

She appreciates Ms. Withingtons' comments and her intentions are all very good, to honor our coastal lands that we all want to protect from over-development. Ms. Withington has been coming to PONC every year and it is very honorable to persevere and her point was that if some of those monies can be obtained, it gives the community a launching pad to seek other sources. The vote of confidence from this Commission is huge and if some of the funds can be received, they can go out and secure the monies for future generations.

### **DISCUSSION WITH A REPRESENTATIVE FROM PARKS & RECREATION (P&R) ON THE STATUS OF THE PONC STEWARDSHIP GRANT AWARDS TO QUALIFIED 501(C)(3) NON-PROFIT GROUPS TO MAINTAIN & STEWARD LANDS ACQUIRED WITH MONIES FROM THE PUBLIC ACCESS, OPEN SPACE & NATURAL RESOURCES PRESERVATION FUND**

Mr. Jason Armstrong, Public Information Officer for P&R introduced himself to the Commission. Mr. DeLozier noted that there have been some issues with the PONC Maintenance Fund and the stewardship grant application process and asked for an update.

Mr. Armstrong replied that the first advertisement was published July 2014 and the application process opened in August 2014. P&R received five grant applications from four organizations, one of which submitted two applications. Quite a bit of work was put into producing these applications and they wanted to honor these groups and not have a cursory review and instead do a thorough and complete review.

In doing so they found some red flags and reviewed them not for decision making but for technical compliance with the Charter. Just as a note this is the first time that P&R has undertaken these duties and reviewing grant applications are not something typically done by P&R.

In checking with their attorneys they were advised that there could be technical compliance issues with the submitted applications. The four organizations that applied appeared to be sincere, dedicated and competent. However due to concern that the applications may be rejected based on technical compliance, P&R contacted the four organizations and provided the Charter information specifically noting that PONC maintenance funds could not be used to pay staff. P&R gave the applicants thirty days to change their applications and received responses from three of the four applicants who didn't make any changes. The fourth applicant who submitted two applications did not respond.

On July 1, 2015, P&R's recommendations and evaluation of the applications was presented before the Finance Committee to determine which groups if any will receive funding. The Hawai'i County Council (Council) is the decision making authority in this process.

The new application process starts August 1<sup>st</sup> and the advertisements will be going out later in July.

There was some concern with the application period which gave the applicants only six weeks from the advertisement date to the deadline to submit. This program was started through a community initiative that was approved by voters in 2012 and then included in the Charter. The public had an opportunity to review the Charter and ask questions for almost three years before the program started.

Ms. Siracusa asked if there's a cap as to how much monies can be given to the applying groups. Mr. Armstrong replied that he's not aware of individual caps; however the fund is limited to 3 million dollars.

Ms. Siracusa asked between the three groups that re-submitted their applications what is the total amount that they are asking for. Mr. Armstrong replied that P&R received five applications from four groups which are still awaiting Council approval. Ms. Siracusa asked out of the five applications what is the total amount requested. Mr. Armstrong replied 205,000.00.

Ms. Nicholson asked how P&R is going to change the process to make it more user-friendly for the applicants and more clear to avoid future problems. These lands need these maintenance funds and the community groups need to be involved. Mr. Armstrong replied that P&R has been working with Finance Department to expand the advertising to state that applicants must comply with the Charter and applicable County, State and Federal laws.

Ms. Nicholson asked if P&R is considering walking through the grant application process with the public so that the community has time to answer questions similar to what Research & Development (R&D) does. Mr. Armstrong stated that is an excellent suggestion and R&D definitely does have the expertise to do that.

Ms. Nicholson asked based on what Ms. Withington noted that if it's in fact illegal for a community group to work on an archaeological study, does the Charter need to be expanded so that people can be paid to do so. Mr. Armstrong replied that he thinks that the provision she was referring to is State law, he is not aware of a Charter provision. One opportunity would be to hire professionals using alternative funding sources. The Charter regulates how tax money is spent and the applicants are encouraged to seek additional funding from other sources. Another option would be to see if professionals would be willing to donate their labor and a financial incentive could be a possible tax write-off. In addition, tailor the proposal in such a way that it wouldn't require archaeological work.

Ms. Nicholson suggested that there should be some clarification made in the grant application noting that paid people won't be funded or that labor could also be donated in-kind. It would be good to include in the instructions with a listing of what the money can and can't be used for. Mr. Armstrong replied that's an excellent suggestion and will bring it to the attention of the director.

Ms. Siracusa noted that she looked through the guidelines of the Maintenance Fund and the monies can be used to pay for an archaeological survey. Also she has reviewed and written lots of grants and frequently when you're doing the budget they ask where other funding is coming from and the status. It is not something that prevents a grant from being received, the funding agency want to know there's other funds, it doesn't expect you to know if you're going to get it or not. That should not be a requirement that all other funding is secured and is not the way it works in any other grant situation. Mr. Armstrong replied that it's not a requirement; it's just a concern by P&R that was expressed to the Council and it is now their decision what they want to do. In the grants that P&R apply for they need to have a mandated match in order to apply. Of course in this case it's up to the Council to determine what's appropriate.

Ms. Siracusa asked if he found the section in the Charter relating to archaeological surveys. Mr. Armstrong replied that there have been some done, the question here is specific to the applicant who cannot pay their staff; however can hire other people who are not part of their staff.

Mr. Armstrong encouraged the Commission to contact the Corporation Counsel's office for clarity since this was a system given to P&R to review the viability of the applicants and make sure that they comply with the Charter.

**Recess: 10:55 a.m.**

**Reconvened: 11:16 a.m.**

## **WRITTEN COMMUNICATION**

Communication No. 15-006: Letter dated May 7, 2015 to Council Chair Dru Kanuha and Members of the Hawai'i County Council from Mayor Kenoi, re: Nomination of Susan E. Fischer to PONC for Council District 9

**Motion: Commissioner Nicholson moved to accept and file Communication No. 15-006.  
Seconded by Commissioner Siracusa; all other members voted aye, motion carried.**

Communication No. 15-007: Suggestion Form received on June 17, 2015 from Kevin McCabe, re: Lands of Kalihi, Tax Map Keys (TMK): (3) 8-9-03:05, 8-9-10:01, 02, 08 & 09

Communication No. 15-008: Suggestion Form received on June 24, 2015 from Toni Withington, re: Māhukona, TMK's: (3) 5-7-02:03, 11; 5-7-03:01, 02, 03, 07, 08, 10, 18

Communication No. 15-009: Suggestion Form received on June 24, 2015 from Toni Withington, re: Kukuipahu-Hā'ena Corridor, Various TMK's

Communication No. 15-010: Suggestion Form received on June 24, 2015 from Toni Withington, re: Keawenui, TMK: (3) 5-8-01:09

Communication No. 15-011: Suggestion Form received on June 24, 2015 from Toni Withington, re: Lamaloloa, TMK: (3) 5-7-01:20

Communication No. 15-012: Suggestion Form received on June 25, 2015 from Toni Withington, re: Halelua, TMK: (3) 5-3-07:10

Communication No. 15-013: Suggestion Form received on June 25, 2015 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. 15-014: Suggestion Form received on June 25, 2015 from Toni Withington, re: Niuli'i, TMK: (3) 5-2-01:20 & 25

Communication No. 15-015: Suggestion Form received on June 30, 2015 from Jerry E. Bragdon, re: Ka'awali'i Gulch, TMK: (3) 3-6-05:17

Communication No. 15-016: Suggestion Form received on June 30, 2015 from Susan Forbes, re: Hakalau Point, TMK's: (3) 2-9-02:79 & 81

Mr. DeLozier asked that they will group Communication Nos. 15-007 – 15-016 as one motion.

**Motion: Commissioner Meyers moved to accept and file Communication Nos. 15-007 – 15-016. Seconded by Commissioner Nicholson; all other members voted aye, motion carried.**

### **DEPARTMENT OF FINANCE REPORT**

Mr. Ventura asked if there are any questions by the Commission. Ms. Siracusa asked for an update on the Vacationland Land Trust property. Mr. Ventura replied that it's still in process along with Pohoiki which is still held up in Land Court. However it looks like we may be acquiring the Kahuku Coastal Property by the end of September.

Ms. Siracusa asked if there's someone else that the County is negotiating with since Sandra Song passed away and if that's delaying the whole process. Mr. Ventura replied that the survey map came back and we are awaiting judicial review and once completed we can move forward.

### **CHAIRPERSONS REPORT**

Mr. DeLozier had nothing to report.

## **OFFICE OF CORPORATION COUNSEL'S REPORT**

Ms. Belinda Castillo-Hall welcomes any comments and reported that she has been re-assigned and is happy to represent PONC. She feels that they do good work and are very committed to the preservation of open space and is looking forward to working with everyone.

### **NEW BUSINESS**

- **Commission to discuss, review and assess Suggestion Forms submitted by the public for 2015**

Mr. DeLozier asked the commissioners if they have any questions or comments. Ms. Kelepolo told the commissioners to e-mail the scores to her by August 28<sup>th</sup> and she will also e-mail the spreadsheet for their use. Mr. DeLozier added that by the September meeting all scores will be compiled into one spreadsheet and at that time they will be able to discuss and make changes. The Ad Hoc Committee will also be reporting on the site visits which could affect the scores based on their recommendations.

Ms. Siracusa asked if they are going to approve all the suggestion forms submitted. Mr. DeLozier replied that they are not approving or disapproving anything, their responsibility is to rank the properties. They recently approved a rule change which would allow only properties that rank 50% or higher to be on the prioritized list. Any property that scores below 50% will not be on the prioritized list however will still be noted in the annual report. Another thing to consider is ranking the property on how it sits today and what is submitted by the public. They as commissioners don't know what's fact or fiction; they have to rely on what is received. Once they submit their ranking to the Mayor it is then forwarded to Council for their review and consideration.

*(the commissioners went into discussion)*

Mr. DeLozier noted that discussion on this agenda item will continue at the next meeting.

- **Commission to select committee members for the PONC Investigative Ad Hoc Committee**

Mr. DeLozier told the commissioners that the PONC Investigative Ad Hoc Committee consists of no more than four commissioners, and allows them to go out and conduct site visits on properties that the Commission votes on. He asked if there's anyone interested in being on the committee.

Ms. Nazara, Mr. Meyers, Ms. Siracusa and Ms. Nicholson are interested. Ms. Kelepolo indicated that Ms. Bell was also on this committee however is currently out of state and will return in August.

**Motion: Commissioner Bishaw moved to amend the members of the 2015 PONC Investigative Ad Hoc Committee. Seconded by Commissioner Fischer; all members voted aye, motion carried.**

Mr. DeLozier noted that Ms. Nazara, Mr. Meyers, Ms. Siracusa and Ms. Nicholson would serve on this committee. He also asked who would be interested in serving as Chair. Ms. Nicholson replied that she would serve as Chair.

**Motion: Commissioner Bishaw moved to approve the new members for the 2015 PONC Investigative Ad Hoc Committee. Seconded by Commissioner Tomich; all members voted aye, motion carried.**

➤ **Commission to discuss and consider scheduling site visits by the PONC Investigative Ad Hoc Committee for properties submitted by the public for 2015**

Mr. DeLozier asked if there are any properties that they would consider for site visits this year. Ms. Siracusa replied that she hasn't had time to look over all the paperwork yet. Ms. Nicholson recommended 15-007, Lands of Kalihi and 15-016, Hakalau Point.

Mr. Bishaw asked if any of these properties were visited last year. Mr. DeLozier replied no. He also wanted to clarify that a site visit is not guaranteed until approval by the landowner is obtained.

Ms. Siracusa noted that she wants to look at 15-015, Ka'awali'i Gulch. Mr. Meyers added 15-013, Hapu'u to Kapanai'a Cultural Corridor. Ms. Nicholson commented that if they are going to North Kohala it would be worth it to look at them all however time would be an issue.

Ms. Castillo-Hall clarified that as a committee they can nominate various sites to visit however it doesn't preclude them from visiting the sites. The rules provide that site visits may be conducted by no more than two commissioners in an informal basis and no report is required to the Commission.

Mr. Bishaw also added 15-009, Kukuipahu-Hā'ena Corridor. Mr. DeLozier commented that the North Kohala properties have such thorough applications and have been nominated multiple years; he doesn't feel that site visits are necessary. He feels that the Ka'awali'i Gulch property should be visited.

**Motion: Commissioner Nicholson moved to conduct site visits on two properties, 15-007, Lands of Kalihi and 15-016, Hakalau Point. Seconded by Commissioner Meyers; Chair DeLozier opposed, all other members voted aye, motion carried.**

Ms. Kelepolo noted that landowner approval have already been obtained for these two properties and asked when would be a good time to schedule the site visits. Mr. Meyers replied that Tuesdays in August are good for him. Ms. Nicholson replied Mondays and Tuesdays will work as did Ms. Siracusa and Ms. Nazara. Ms. Kelepolo will e-mail the date and time once confirmed.

Ms. Nicholson asked since Ms. Withington always submit complete packets for North Kohala and will continue to do so every year, can the Commission invite her to present an overview/presentation of the long term vision and goals for the North Kohala properties. This would be very helpful in assessing these properties in the future.

Ms. Siracusa commented that should they as a Commission try to be fair and equalize the properties island-wide and not just focus on North Kohala. Mr. Ventura clarified that the Commission is advisory to the Mayor. Where the funds are spent comes from the administration. The most important thing is that if properties are important to the Commission it shouldn't matter where they're located. If for some reason Kohala has more properties than others, that's just how it is. It also shouldn't discount any other districts from nominating properties.

Mr. DeLozier asked if these properties are included in the Kohala CDP. Ms. Kelepolo replied yes it is and asked Ms. Fischer to clarify since she is also on the CDP. Ms. Fischer replied that only those properties submitted before the CDP was enacted in 2009 are listed, however her term has expired on the CDP Action Committee. Ms. Kelepolo added that Ms. Withington will re-submit every year, even if the County may never acquire the property but having it ranked on the prioritized list helps the community to obtain matching funds/private donations from other funding sources.

Ms. Siracusa asked if they could get copies of the pages within the Kohala CDP relating to properties submitted along with other completed CDP's. Ms. Kelepolo will make copies.

➤ **Commission to discuss the drafting of the 2015 Annual Report to the Mayor**

Mr. DeLozier asked the commissioners to look over the draft write-up for this year's report and asked if there are any changes/comments.

*(the commissioners went into discussion)*

Mr. DeLozier asked that they look over this draft and at the next meeting this item will be listed on the agenda for further discussion.

**ANNOUNCEMENTS**

The next meeting is scheduled for Monday, September 14, 2015, 10:00 a.m. in the West Hawai'i Civic Center, Building G Conference Room, 74-5044 Ane Keohokalole Highway, Kailua-Kona, Hawai'i.

Mr. DeLozier set the agenda for the next meeting to include the report by the PONC Ad Hoc Investigative Committee on the site visits, discussion regarding the PONC Prioritized List and assignment of write-ups for the 2015 draft Annual Report to the Mayor.

Ms. Nicholson asked on the status of increasing budget to attend the conservation conference and PONC business cards. Mr. Ventura replied that unfortunately there's no money allocated to increase the PONC budget at this time for conferences. A draft of the business card will be provided for their review upon completion.

**ADJOURNMENT**

**Motion: Commissioner Siracusa moved to adjourn the meeting. Seconded by Commissioner Bishaw; all other members voted aye, motion carried.**

Meeting adjourned at 12:28 p.m.

Respectfully submitted,

Alexandra Kelepolo  
Property Management Technician