

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

MINUTES-REGULAR SESSION

May 9, 2016

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

Present: Chair Barbara Bell  
Commissioner Kai'ena Bishaw II  
Commissioner Susan Fischer (*arrived @ 10:38 a.m.*)  
Commissioner Marilyn Nicholson  
Commissioner René Siracusa  
Commissioner Kekaulike Tomich

Absent: Vice-Chair Timothy DeLozier  
Commissioner William Meyers  
Commissioner Cynthia Nazara

Others Present: Ronald Kim, 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 Bell at 10:00 a.m.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS**

**CYNDY DYAL**

Ms. Cyndy Dyal spoke in regards to Communication No. 16-006 and stated that the property is listed for sale and she noticed that there were dissected bird parts that would appear next to her sign. This prompted Mr. Rick Vidgen, her partner to get the archaeological map and realized that this area was previously a Hawaiian village. After meeting with Councilmember Karen Eoff and the neighbors she decided to submit this application to PONC. There are over 20+ letters of support coming and she wasn't aware that many of the families in the surrounding homes are occupied by people that have been here a long time.

In the best interest of preserving the Hawaiian culture, acquisition by PONC would be the best benefit and in talking to people they could find stewards for the land if and when acquired.

## **JANET BRITT**

Ms. Janet Britt with the Hawaiian Islands Land Trust (HILT) spoke in support of the Amy Greenwell Gardens and how important this property is to the entire island of Hawai'i. With the recent announcement by Bishop Museum (BM) of its sale, HILT is very supportive of protecting the natural resources, historical and archaeological aspect of the property and also very supportive of community efforts. If HILT can be part of the process and their lands committee and board of trustees wants to move forward, that would be great.

## **SCOTT FISHER**

Mr. Scott Fisher, Interim Executive Director and Associate Director of Conservation for HILT spoke in support of the Amy Greenwell Ethnobotanical Gardens. He re-iterated that they support land conservation in protecting this land and ensuring it serves as a benefit to the community forever. They are eager to work with the community to protect the land to ensure that the values the community holds are upheld and perpetuated. In the meantime, HILT is involved and Ms. Britt has been talking to the Friends of Amy Greenwell. HILT's specific role will be determined by their lands committee and their board of trustees which has to go through their process, until then they will remain engaged.

## **APPROVAL OF MINUTES**

Ms. Bell asked if there's any discussion on the minutes.

**Motion: Commissioner Siracusa moved to approve the minutes of March 14, 2016.  
Seconded by Commissioner Bishaw; all members voted aye, motion carried.**

## **WRITTEN COMMUNICATION**

Communication No. 16-006: Suggestion Form received on April 26, 2016 from Cyndy Dyal or Rick Vidgen, Clark Realty Corporation, re: Haleohiu Homesteads, North Kona, Tax Map Key (TMK): (3) 7-3-003:010

Ms. Siracusa noted that in the suggestion form it says that the land is valued at 496,000.00, and asked if that's the highest and best use for agriculturally zoned land or if the zoning was changed to residential, etc. Ms. Dyal replied that the valuation is from an old assessment from the real property tax dept. and is assessed based on Ag-5 zoning.

Mr. Ventura added that this value is just an assessment, if the County would proceed with the purchase the price would be based on an independent appraisal which could differ. He noted that although it's ag-zoned, the property is surrounded by residential properties as opposed to an ag. use pastoral land base. If you have dwellings in the area they tend to raise overall property values and take into account the marketability.

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

### **RICK VIDGEN**

Ms. Dyal asked Mr. Vidgen to comment on Ms. Siracusa's question regarding the valuation of the property. Mr. Vidgen replied that he's sure that the property is valued on the surrounding residential properties, which is the basis for the valuation of 496,000.00.

Ms. Nicholson asked what does the eviscerated birds have to do with this. Ms. Dyal replied that there's a strong sense of Hawaiian culture in this neighborhood and from the minute she put up the sign she sensed a lot of adversity and the birds were kind of like a ritual offering to stop the sale.

Ms. Bell commented that what would make this submission stronger when they do their ranking is if they have community groups willing to manage/maintain the property.

Mr. Vidgen added that he doesn't think it will be too hard to find people to support this property. In talking to Mr. Bob Rechtman, an archaeologist; there is clearly habitation and although the lava tube has since collapsed the rest of the property is preserved quite well. Mr. Rechtman has also volunteered to come and take a look at the property.

Mr. Tomich commented that he grew up a few miles from this property and played on this property as a child and stated that the community definitely does not want any more houses.

**Motion: Commissioner Nicholson moved to file Communication No. 16-006. Seconded by Commissioner Siracusa; all members voted aye, motion carried.**

Ms. Bell told Ms. Dyal and Mr. Vidgen that the next PONC meeting in July will be in Kona if they have additional information to submit.

Communication No. 16-007: Suggestion Form received on April 29, 2016 from Janet Britt, re: Amy Greenwell Ethnobotanical Gardens, South Kona, TMK's: (3) 8-2-013:002, 003, 014, 8-2-014:043, 8-2-015:059

Communication No. 16-008: Letter dated May 2, 2016 from Councilmember Maile David, re: Support for Communication No. 16-007 (Suggestion Form from Janet Britt for the Amy Greenwell Ethnobotanical Gardens, South Kona, TMK's: (3) 8-2-013:002, 003, 014, 8-2-014:043, 8-2-015:059

Ms. Siracusa asked if the Friends of Amy Greenwell exists. Ms. Britt replied that yes it does, the community comes together every Saturday to do maintenance on the property. They are not yet a 501(c)(3) which would be required to take over management of the garden.

Ms. Bell asked why Bishop Museum wants to sell. Mr. Fisher replied that he did meet with Mr. Blair Collis and his explanation is that the properties are a substantial revenue loss and in order to facilitate their mission they have to sell the lands.

Ms. Bell asked if HILT purchases the land, the County would purchase an access easement. Ms. Britt replied that it's not an access easement; it's a conservation easement (CE), which is a particular document that would protect the natural resources and features of the property. Mr. Fisher added that it would guarantee access however a CE is a termination of the development rights. They are not saying that HILT will be the fee owner but whichever non-profit group acquired the lands would work with the COH to be partners for this project.

Mr. Fisher added that their preferred method of land conservation is through a CE which gives them the greatest amount of protection to provide for the land without the capital inputs of fee ownership. They currently own five parcels totaling 400 acres state-wide however own about 17,500 acres through a CE. Fee ownership is a major undertaking; you cannot malama the aina if you don't have the capacity to do so.

Ms. Britt replied that a CE would be another layer of protection for that property. Ms. Nicholson asked where the money would come from to buy the property. Ms. Britt replied that the money would come from fundraising and part of the proceeds from the easement sale could also be used. What kind of portion of the value would determine that. Ms. Britt replied that an appraisal would have to be done to look at the "before" value of all the rights you have in the property, usually it's development. In looking at the easement restrictions they would figure out the difference between "before" and "after" which would determine the value of the easement. The County would be the holder of the CE and it has been done before with other counties. If PONC buys a CE then the non-profit managing the property would be able to use the maintenance funds.

Mr. Tomich asked if PONC can purchase properties with buildings. Mr. Kim replied that the County can purchase properties with pre-existing buildings on it but cannot use the funds to build anymore once acquired. If there's a residential structure on the property, the lease would be problematic because part of what you do is giving the lessee the right to exclude others. He also understands that the deed has restrictions that it can be sold only to non-profit groups.

Ms. Nicholson asked would the County be able to own something where you can pay a fee to get into it. Mr. Kim replied yes, however for this property he doesn't think the County can own this because of the restriction in the deed. It could be theoretically justified where the operating costs rise to a certain level the property can be self-sustaining, however couldn't be prohibitive.

Ms. Fischer questioned that since the County doesn't own it, as long as a non-profit holds the property in fee, would that be in violation of their deed at all. Mr. Kim replied no, we wouldn't hold the fee, the County would be in an advantageous position.

Ms. Bell asked that if PONC votes to put the submittal on the current list we don't know who the purchaser will be, does this give HILT impetus to find someone to acquire. Ms. Britt replied that the community members are very dedicated to find an owner for these properties, she doesn't think it will be on the list for a long time.

Ms. Bell asked can the County purchase the CE from Bishop Museum. Mr. Fisher replied that would not be likely, since it would be a devaluation of a property that you're trying to sell at full value, which would be a likely impediment.

Mr. Ventura commented that he don't think anyone has approached Bishop Museum with this concept. They need to generate the most income they can and by selling the properties in fee simple will be the best way, the trust is set up to be self-sustaining. The CE would come in behind the fee simple transaction.

Ms. Bell said that having the property on the list would help HILT to find a non-profit to purchase. She noted that it would be on the list but cannot guarantee when the property would be acquired. Ms. Britt commented that the support of the County would be very important.

**Motion: Commissioner Siracusa moved to file both Communication Nos. 16-007 & 16-008. Seconded by Commissioner Nicholson; all members voted aye, motion carried.**

#### **DEPARTMENT OF FINANCE REPORT**

Mr. Ventura reported that he met with P&R regarding the stewardship grant application process and will re-visit it another time to get more clarification. It was more an informational meeting to bring them up to speed on the Commission assisting applicants in the submission process. Ms. Bell asked if the draft application was also given to P&R. Mr. Ventura replied yes, it was a good course of action. The meeting was with Director Honma, Mr. Jason Armstrong, Director Sako and Deputy Corporation Counsel Ron Kim and J Yoshimoto.

Ms. Nicholson asked what happens next, the press release still says August. Mr. Ventura replied that it will be revisited at a later date. Ms. Nicholson asked if they are going to accept these changes. Mr. Ventura replied that they don't have the resources to make those changes at this time and he cannot answer on P&R's behalf. Ms. Bell commented that they don't want to go through another meeting like the one they had with the first applicant. Ms. Siracusa asked if they could redact parts of the application. They worked so hard on those guidelines, is there anyway we can let those people know ahead of time.

Ms. Nicholson noted that since PONC has 90 days to consider the application and if something comes in during that time do they defer until August. She asked if P&R could attend the July meeting for clarification purposes. Mr. Ventura replied that he will ask P&R.

Mr. Bishaw asked about Townscape, Inc. who's been working on the Kāwā Lands Resources Management Plan since October 2015 and asked if they could review the plan. Mr. Ventura replied that the plan once completed, will become public record however can take up to two years to complete. It's a matter of them traveling back and forth to have on island representation, conducting interviews, and taking into account all of the physical and historic data, it's more in-depth. He and Ms. Kelepolo have met with Townscape and have been involved with multiple meetings and interviews with families that have ties to the land.

Mr. Tomich asked about the chipper purchased in December. Ms. Kelepolo replied that she posed that question to P&R and it's currently in Kona right now and they plan to use it for the larger acreage parcels such as 'O'oma and Kāwā. Since it's a larger piece of equipment, only P&R staff is allowed to transport and operate the equipment at this time.

Ms. Siracusa asked on the negotiation status for Wai'opae. Ms. Kelepolo replied that we are currently waiting for the executed grant agreement to come in from Legacy Land along with the Notice to Proceed. In addition, the State did request that a shoreline certification be done and she is in the process of obtaining quotes from a surveyor.

#### **CORPORATION COUNSEL'S REPORT**

Mr. Kim has nothing new to report to the Commission; Mr. Ventura did a good job in explaining what was discussed at the P&R meeting.

#### **CHAIRPERSONS REPORT**

Ms. Bell has nothing to report.

#### **UNFINISHED BUSINESS**

- **Commissioners to report to Commission of any community meetings and/or Community Development Plan (CDP) Committee meetings attended for public outreach**

Ms. Fischer reported that she attended the North Kohala CDP and they were very receptive and in April met with the South Kohala CDP and the interest they had was for the Kawaihae Surf Park.

Ms. Nicholson met on April 21<sup>st</sup> with the Volcano Long Range Planning Committee and Community Association to familiarize them with PONC and after discussion there were no ideas for property submissions in the district.

**Recess: 11:15 a.m.**

**Reconvened: 11:25 p.m.**

## **NEW BUSINESS**

### **➤ Commission to consider and discuss updating the 2015 Prioritized List**

Ms. Bell asked that they discuss the possibility of updating the list to include the Amy Greenwell Ethnobotanical Gardens.

Ms. Nicholson noted that she does not support this; it would open a door and be setting a precedent for other properties. She cannot participate any further in discussion or voting and must recuse herself at this time since her husband is a research scientist for Bishop Museum.

Ms. Siracusa commented that for different reasons she would not be interested in updating the prioritized list. It would be manifestly unfair to all the other groups that have applied already. The 2015 list has already been set and they will be starting a new one this year, at this point it's unnecessary and she does not support it.

Ms. Bell asked for a motion but if there's no intention to update the list it wouldn't be necessary.

Ms. Britt noted that Amy Greenwell wasn't on the market in 2015 so if you change it now to include the property on the list it would seem strange.

### **➤ Commission to explore methods of funding for the proposed purchase of parcel with TMK's: (3) 8-2-013:002, 003, 014, 8-2-014:043, 8-2-015:059**

Ms. Siracusa asked them to approach OHA since this is a Hawaiian cultural educational venue and is right up their alley for funding. Mr. Tomich commented that doesn't the property have to be sold to a non-profit. Ms. Siracusa replied yes, it would be sold to HILT.

Ms. Bell asked what the process is for HILT. Mr. Fisher replied that they can move quickly in terms of their process. They have Island Councils on every island which may or may not coincide with the board of directors. They also have a lands committee who reviews in depth various projects to see if it aligns with their mission and whether they can get the funding to support the project and the kuleana for caring for the land, that responsibility is taken very seriously. The board of directors meets quarterly; if there is an emergency project it would require an electronic vote and a 75% approval would be required. They can move quickly, it could be two weeks to three months. He added that the Lands Committee can convene at any point on whether or not they can take on the responsibility of fee ownership.

Mr. Bishaw asked if PONC can submit a communication to the Mayor supporting the acquisition. Mr. Kim replied that he believes PONC can send a communication to the Mayor and in light of the time constraints; would support a purchase. This is not exactly following the steps in the Code and the Charter however the Mayor does have the discretion to propose properties.

**Motion: Commissioner Bishaw moved to draft communication to the Mayor because of the time restraints for the Amy Greenwell Gardens he should consider purchasing the easement rights to said property. Seconded by Commissioner Siracusa.**

Mr. Tomich noted that Bishop Museum may still not be willing to sell just the easement.

Mr. Fisher also pointed out that they are in favor of layers of protection so when a property is owned by an organization with a conservation mission along with an easement it provides checks and balances which is what good government is all about. Ms. Bell asked if PONC sends a letter to the Mayor would it help. Mr. Fisher replied yes, any support that they can get from PONC and the County would be welcome and what it demonstrates is overall community support.

**Chair Bell asked for the vote. Chair Bell, Commissioners Bishaw, Fischer, Siracusa, Tomich voted aye. Commissioner Nicholson abstained, motion carried.**

Ms. Siracusa added that another possible source of funding is the State Foundation on Culture and the Arts.

- **Commission to consider any suggestion form submitted proposing the purchase of TMK's: (3) 8-2-013:002, 003, 014, 8-2-014:043, 8-2-015:059**

Ms. Bell noted that an application has already been submitted for 2016 and it will be considered for this year's list.

### **ANNOUNCEMENTS**

The next meeting is scheduled for Monday, July 11, 2016, 10:00 a.m. in the West Hawai'i Civic Center, Building G Conference Room, 74-5044 Ane Keohokalole Highway, Kailua-Kona, Hawai'i.

### **ADJOURNMENT**

Meeting adjourned at 11:55 a.m.

Respectfully submitted,

Alexandra Kelepolo  
Property Management Technician