

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

MINUTES-REGULAR SESSION

July 11, 2016

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

Present: Chair Barbara Bell
Vice-Chair Timothy DeLozier
Commissioner Kai'ena Bishaw II
Commissioner Susan Fischer
Commissioner Cynthia Nazara
Commissioner Marilyn Nicholson
Commissioner René Siracusa
Commissioner Kekaulike Tomich

Absent: Commissioner William Meyers

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 9:58 a.m.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

PHILLIP SHARKEY

Mr. Phillip Sharkey, a resident of Ocean View and a retired oceanographer spoke in support of Pohue Bay, aka the "home stone" for Hawai'i. This is where the original Polynesians landed, there are still remnants of their villages, petroglyphs and resources of incalculable value that need to be protected in addition to the turtles, monk seals, 'Io, Pueo, Hoary Bat who use this area for nesting. In their application they are asking for fee acquisition of 16,000 acres however an easement would be okay also, considering the size of the property. Ms. Nicholson asked if the people who are blocking the property with rocks and charging fees for access have a claim. Mr. Sharkey replied that they claim to have permission from the owners to do so; it's unclear on whether they have the authority to do this. Ms. Nazara asked who "they" that he's referring to is.

Mr. Sharkey replied that there are a few individuals who are collecting fees and enforcing trespassing rules for the area. Ms. Winch can better address that question.

BARBARA WINCH

Ms. Barbara Winch, a resident of Hawaiian Ranchos subdivision noted that they wanted to see Pohue Bay, so a group of theirs paid 250.00 to camp for the weekend. If you want to walk down to the beach they are charging 50.00 per person for a day pass. Supposedly what she heard is that a group of people went down there and made a mess of the beach so the owner was notified that the area was being damaged and since then gates and locks have gone up and these people are now charging for access.

Ms. Bell asked who the realtor is. Ms. Winch replied GH Palmer & Associates and they are in Beverly Hills, California.

Ms. Winch lives about two miles above Pohue Bay and can see a panoramic view from her lanai of South Point to Miloli'i. She wants this pristine coastline preserved for its natural beauty, white sand beach, freshwater springs and petroglyph fields. For years local people could drive down to the coast in a car; however the trail has since been destroyed.

Ms. Bell asked if she was willing to pay to go down where she could get the key. Mr. Sharkey replied you can get the key at Kahuku Country Market.

Ms. Nazara asked to clarify what part of the land they want the County to acquire. Mr. Sharkey replied that they want the County to buy the access from Highway 11 to the beach, it's all one TMK. Ms. Winch added that the purchase price is 11 or 12 million for 16,000 acres. Mr. Bishaw asked if what they are requesting for is the County to acquire the entire property, not an easement. Mr. Sharkey replied yes that's what they want, but since it's a large parcel they could amend their application to an easement request if necessary.

Ms. Bell asked if their group Preserve Hawai'i Rural Community would be willing to manage the property if the County acquires this parcel. Mr. Sharkey replied yes, absolutely, they have the technical and managerial skills and a large group of people willing to help.

Ms. Nazara asked wouldn't it be feasible right now to go through PASH to get access to the property and later work on acquisition. Mr. Sharkey replied that they would love to however he realizes that this is the first step of what could be a long-term project.

Recess: 10:23 a.m.

Reconvened: 10:29 a.m.

SUSAN FORBES

Ms. Susan Forbes, a resident of Hakalau Plantation Village and a member of Hakalau Point Preservation Association thanked the Commission for ranking Hakalau Point high on the

prioritized list. She noted that the owner, Mr. Shropshire indicated his willingness to sell and Hakalau Valley needs to be included in the package. Acquisition by the County does offer some benefits by providing the potential for a hiking trail from the point down into the valley. There is additional Hawaiian information prepared by Kepa Maly that she will provide to Ms. Kelepolo.

Mr. Ventura clarified that Mr. Shropshire indicated that the only way he would sell the point would be to include the valley parcel for 4.2 million. What Ms. Forbes is doing is creating more options and if both parcels become available the County could discuss options.

Mr. DeLozier asked if Council already passed a resolution. Mr. Ventura replied yes, for the point only. Mr. DeLozier asked wouldn't it be important to amend this nomination to include both parcels. The resolution that already passed is not going anywhere since there is not a willing seller and he's clear that the terms are both or none. Mr. Ventura replied that we are going to look at it as two separate PONC applications. Mr. DeLozier commented that he will rank this property differently as opposed to if it was combined with the point. He wants to give an accurate ranking on the only viable option which would be combining the valley parcel and the point. Mr. Ventura replied that we are looking at properties for their significance and value, the ranking system cannot be predicated on what a seller wants, the application has to be based on the validity of the property itself. Mr. Kim added that the application comes from the applicant and it should be their decision and not the Commission. Mr. DeLozier asked if the Commission can amend the application since it's past the deadline. Mr. Kim replied that since it's past the deadline a new application would need to be submitted for consideration next year.

CYNDY DYAL

Ms. Cyndy Dyal provided an update for Communication 16-006. They are still gathering letters of support from the community and have been looking for a group to steward the property upon acquisition by the County. A letter of support from Dr. Richard Stevens, a professor of Hawaiian Studies at Palamanui, pledges his assistance and will recruit his UH students to assist with cultural restoration and preservation. In addition, she will also be meeting with Tina Clothier of PATH to see if bike trails could also be incorporated.

RICK VIDGEN

Mr. Rick Vidgen stated that this land is relatively easy to sell and the cultural sites would be removed and more houses built. He talked at length with Mr. Bob Rechtman, an archaeologist, and he is a big supporter of this concept to preserve land for open space.

TONI WITHINGTON

Ms. Toni Withington spoke in support of five groups that nominated six properties to PONC for 2016. This has been a 50-year documented community effort to preserve the Kohala coastline. These groups are working with various funding sources and out of the seven projects they are

working on only one has a single funder. Ms. Withington noted that Niuli'i was donated to The Kohala Center so that property is no longer on the table.

Ms. Siracusa asked how would she rank the properties. Ms. Withington replied by what's available it would be Hapu'u to Kapanai'a Cultural Corridor and Halelua of which the landowner has taken the property off the market. Lamaloloa is also actively on the market and the owner wants to sell.

Ms. Siracusa asked if she's concerned about the groups and the amount of manpower it would take to handle all these lands if acquired. Ms. Withington replied that three of the seven projects acquired were purchased with PONC monies and they have submitted an application for stewardship through Kohala Lihikai. They are also working with the Ala Kahakai Trail Association, native Hawaiian groups and they have programs in middle and high school to train another generation of people to take care of these lands.

Mr. DeLozier clarified that there are County resolutions for Halelua and Hapu'u to Kapanai'a Cultural Corridor. Ms. Withington replied yes, it was passed in December. Mr. DeLozier asked for the status of these purchases. Mr. Ventura replied that although the resolution was passed we haven't entered into negotiations with the landowners at this time. Mr. DeLozier asked why would PONC rank these properties if there are approved resolutions. Mr. Ventura replied that Kohala has been the most successful and have set the bar for the application process, by re-applying they stay at the forefront and continue to have their properties highly prioritized. It's a reminder to the County and the Council members of the significance of these properties. Ms. Withington added that everybody wants these properties to move forward, the administration is what's holding it up.

Mr. DeLozier asked if there are committed funds from other sources for the two resolutions that passed. Ms. Withington replied no they're looking for the County to start negotiations and they will help supplement that.

DISCUSSION WITH A REPRESENTATIVE FROM THE DEPT. OF PARKS & RECREATION (P&R) REGARDING REQUESTED CHANGES TO THE PONC STEWARDSHIP GRANT APPLICATION AND PROCESS

Ms. Bell noted that they had a rousing discussion regarding the current grant application and Ms. Siracusa and Ms. Nicholson, as part of an ad hoc committee made improvements to the form.

Ms. Siracusa commented that there was information that should've been included with the application form that wasn't so they re-designed the form to provide more clarity to the applicant. Coming from the non-profit point of view what would be easier and more appropriate is the reason for instituting the two levels of funding amounts in addition to asking if there are any studies (archaeological/botanical) done for the property.

Ms. Nicholson noted that she does want to move this forward and get a more clear system for the applicants and to understand what's appropriate for applicants to ask the County for.

Mr. Jason Armstrong agrees that the process can be improved and they are willing to work with the Commission and Finance. He thanks the Commission for their proposed changes and it was discussed at an April meeting however P&R is not the appropriate agency to comment on these, most of the changes involve policy. The policy making body is the Hawai'i County Council (Council). P&R's role is limited by the Charter and Code and they don't want to infringe upon other branches of government.

Some comments Mr. Armstrong pointed out regarding the Stewardship Grant Request Information form are:

§B(2) – This mentions maximum funding awards. Currently there are no maximum award set, this would be a policy call of the Council. P&R reviews applications for technical merit; they do not make a recommendation on the amount awarded; that is a decision of Council.

§D – (Grant Payments). This would also be a policy call; it could be onerous to the recipient to complete a project with only 60% of the funding which is unusual in the grant process. There is also no match requirement at this time.

§C.a.(3) (4) – This sets a cap of \$4,000.00 for contracted services which is a policy call and the decision of Council.

§B – One award per grant cycle, this is also a policy call.

§B(1) – Year-round application process. This is difficult since the fiscal year ends on June 30th and payments into the fund are quarterly. How much money is available is crucial to the grant applicants. By having a year-round process it would be unclear on how much money will be available since money is going in and coming out at all different times.

Ms. Siracusa stated that the reason for that is right around the same deadline they would be approving land acquisitions in addition to reviewing grant applications. They weren't considering when the payments were deposited into the fund they were trying to balance out their workload and schedule.

Mr. Armstrong commented that it would be difficult for P&R to do this, it will require significant oversight and difficult to track multiple grants active at all different times. Mr. DeLozier added that they were also trying to eliminate the delay that non-profits would have if they missed the deadline.

Ms. Bell told Mr. Armstrong that they want to move forward, what type of approval do they need to obtain. Mr. Armstrong replied that P&R does not usually oversee and manage grants; Council

would be the entity to approve these changes. Ms. Bell commented that they would send their draft to Council for approval.

Ms. Karen Eoff noted that you would need to come to Council for a Code and Charter change. In the past when they had to make changes to the non-profit grant application they worked with Mr. Ted Schrey of Finance and she feels this could be handled within the department.

Ms. Maile David added that for the non-profit grant application form they are using this year, they are working with Finance and Corp. Counsel to make changes and she believes this can be settled in-house.

Mr. Armstrong clarified that the Commission's proposal merges two components of the process. There are application questions and there are policy questions which would involve Council. We have a framework where grants are provided, funding sources identified, how the land and money can be used. The details are where the rulemaking authority comes in which would be referred to Council.

Ms. Siracusa asked if they could move forward with the application which does not contain any information that has to do with policy issues. Mr. Armstrong replied that the application for this year has been reviewed and submitted to the newspaper for publication and he doesn't know if there's sufficient time to change anything before the period starts. He would need to defer to the P&R Director to see if this would be acceptable.

Ms. Siracusa asked Mr. Kim if they use the old application form, how can they obtain additional information (i.e. biological surveys, etc.) without wasting the applicant's time. Mr. Kim replied that PONC could ask them directly and include the reports with the recommendations to P&R. Ms. Kelepolo clarified that P&R requires that these studies be done prior to the groups applying for stewardship so we have those reports available for review.

MOTION: Vice-Chair DeLozier moved to eliminate the Draft 3 (Stewardship Grant Request Information) portion, leave Draft 2 (PONC Stewardship Grant Application) (4 pages), Category II under §3, eliminate the \$40,000 cap and replace with \$7,501 or greater, eliminate the two year project entirely, and under §B, eliminate Year 2 (if applicable), on page 2, §3, eliminate "if applying for a two year project", on page 3 §7, eliminate "if applying for a two year project, provide separate pages for each year" and eliminate project year. Seconded by Commissioner Siracusa.

Ms. Bell asked if they should change the language that asks if a biological or archaeological survey has been done to say please attach. Mr. Armstrong noted that the County already completed the surveys so they have the reports and the applicants may not be aware of that. The surveys are done before the lands are available for stewardship. Mr. DeLozier asked for clarification that an archaeological and flora/fauna study is required before the lands are available. Mr. Armstrong replied yes.

Chair Bell made an amendment to the motion to delete the second part of §6 “has a biological survey been done.” Seconded by Commissioner Siracusa.

Ms. Nicholson noted that she will be voting against this motion, it’s so watered down; they’re not going to get anything significantly different from the current form. They really need to look at the whole process, it’s still similar to what P&R is using, and they need to address the big issues. P&R doesn’t even know if they can make the changes this year so what’s the point.

Ms. Bell agrees that the big issues are not addressed and do they need to have another meeting with P&R, Finance, Corp. Counsel and the commissioners to discuss this.

Chair Bell asked for a vote on the amendment. Chair Bell, Commissioners Fischer, Nazara, Siracusa, Tomich voted aye; Vice-Chair DeLozier, Commissioners Bishaw and Nicholson voted no, motion carried.

Chair Bell asked for a vote on the original motion. Chair Bell, Commissioners Fischer, Nazara, Siracusa, Tomich voted aye; Vice-Chair DeLozier, Commissioners Bishaw and Nicholson voted no, motion carried.

Mr. Armstrong asked for a clean copy of the amendments for P&R and suggested that they meet once everyone has a chance to review the changes.

Recess: 12:36 p.m.

Reconvened: 12:58 p.m.

APPROVAL OF MINUTES

Ms. Bell asked if there are any changes. Mr. DeLozier noted on page 2 to change reference of the minutes from May 9th to March 14th. Ms. Fischer noted on page 8, to change Fisher to Fischer.

Motion: Chair Bell moved to approve the minutes of May 9, 2016, regular session, as amended. Seconded by Commissioner Nicholson; all other members voted aye, motion carried.

WRITTEN COMMUNICATION

Communication No. 16-009: Letter dated June 1, 2016 to Mayor William “Billy” Kenoi, from Barbara Bell, Chair, PONC, re: Support by PONC for the Amy Greenwell Ethnobotanical Gardens and recommendation that the County purchase a conservation easement

Motion: Commissioner Siracusa moved to accept and file Communication No. 16-009. Seconded by Commissioner Nicholson; all other members voted aye, motion carried.

Communication No. 16-010: Suggestion Form received on June 24, 2016 from Toni Withington, re: Halelua (North Kohala), Tax Map Key (TMK): (3) 5-3-07:10

Communication No. 16-011: Suggestion Form received on June 24, 2016 from Toni Withington, re: Hapu‘u to Kapanai‘a Cultural Corridor (North Kohala), TMK’s: (3) 5-2-07:04, 27; 5-3-07:22, 23, 26, 32, 33

Communication No. 16-012: Suggestion Form received on June 24, 2016 from Toni Withington, re: Māhukona (North Kohala), TMK’s: (3) 5-7-02:03, 11; 5-7-03:01, 02, 03, 07, 08, 10, 18

Communication No. 16-013: Suggestion Form received on June 24, 2016 from Toni Withington, re: Kukuipahu-Hā‘ena Corridor (North Kohala), Various TMK’s

Communication No. 16-014: Suggestion Form received on June 24, 2016 from Toni Withington, re: Keawenui (North Kohala), TMK: (3) 5-8-01:09

Communication No. 16-015: Suggestion Form received on June 24, 2016 from Toni Withington, re: Lamaloloa (North Kohala), TMK: (3) 5-7-01:20

Communication No. 16-016: Suggestion Form received on June 30, 2016 from Susan Forbes, Hakalau Point Preservation Association, re: Hakalau Valley (South Hilo), TMK: (3) 2-9-02:23

Communication No. 16-017: Suggestion Form received on June 30, 2016 from Phillip Sharkey, re: Pohue Bay (Ka‘ū), TMK: (3) 9-2-01:72

Communication No. 16-018: Suggestion Form received on June 30, 2016 from Frank Commendador, re: 50 acre parcel in Mt. View for public outdoor recreation and education (Puna), TMK: (3) 1-8-04:101

Motion: Vice-Chair DeLozier moved to accept and file Communication Nos. 16-010 – 16-018. Seconded by Commissioner Siracusa; all other members voted aye, motion carried.

DEPARTMENT OF FINANCE REPORT

Mr. Ventura reported that on June 30th the County acquired Kahua Olohu, 13 acres, former Makahiki grounds in Ka‘ū. There was some opposition from a concerned citizen when the resolution went to Council to put a sewage treatment plant on this property however plans ceased when archaeological sites were found.

Also, the Kaloko Trail property submitted this year for consideration has since been sold. We recently had a meeting with Councilmember Eoff and the new owner, a surgeon from Oklahoma who supports keeping the property in its’ natural state and talked about preserving the trail and looking at possible access into the forest reserve. Mr. DeLozier asked if they received a nomination for this property. Ms. Kelepolo replied yes, in January. Now that you have this new

information you can still acknowledge receipt of the application however the fee acquisition request is off the table and instead an easement request could be submitted in the future.

Ms. Siracusa asked if the shoreline survey has been done for Wai‘opae. Mr. Ventura replied no not yet however it’s in the process. We are awaiting approval from OCCL and Planning Department.

Ms. Bell asked for the status of Kahuku. Ms. Kelepolo replied that we should be closing escrow within the next 60 days. This property will be acquired with State and Federal grant funds so there are requirements that need to be met before we can close.

Mr. Ventura reported that we did meet with Councilmember Poindexter for Honoli‘i Beach and it was decided that we will not move forward with that acquisition.

Ms. Nicholson asked what is the process for deciding what to move forward with after there’s a resolution. Mr. Ventura replied that the administration looks at what’s submitted for the year, how much money is in the fund, how much we expect to receive and feasibility. The acquisition cost could be high which would require seeking additional funding to leverage funds. Ms. Nicholson commented that for Kohala they are waiting for the administration before they go out to look for additional funding. Mr. Ventura replied that it shouldn’t be contingent upon one funding source. In the past they have purchased lands without any participation from the County.

OFFICE OF THE CORPORATION COUNSEL’S REPORT

Mr. Kim had nothing to report. Ms. Bell told Mr. Kim that Ms. Eoff suggested they ask for an opinion on the policy questions identified by Mr. Armstrong relating to the stewardship grant application, i.e. ranges of grants, what constitutes education, matching fund requirement, etc. Mr. Kim replied that in regards to amending an application, it wouldn’t require Council approval unless it conflicts with the Code. We can purchase property for education with the PONC funds, but expending the maintenance funds for education is where we have a problem.

Ms. Bell noted that Mr. Armstrong was very hesitant and fell back on policy for the proposed changes. Mr. Kim replied that policy never came up at the meeting, P&R has limited resources and it would be difficult for P&R to amend the application in addition to accepting year-round applications. He doesn’t see why an amendment to the application couldn’t be made between a meeting with P&R, Finance and Corp. Counsel.

Ms. Siracusa asked if the Commission has the right to make changes to the application. Waipi‘o for example, there were very high line items in the budget that could’ve been reduced or removed. Mr. Kim replied that they cannot change the application however they can make recommendations to P&R and note their concern.

Mr. Bishaw asked if in the future could the stewardship program be turned over to Finance. Mr. Kim replied that it's set that way in the Charter. There's a lack of continuity where P&R receives the applications, the Commission reviews and make recommendations and Finance handles the financial aspect. Mr. Ventura commented that P&R's focus is maintaining and building parks, this program is not their line of specialty and outside their level of expertise. Mr. Kim added that P&R asked for funding for a new position to handle the applications but it wasn't approved by Council.

Mr. Ventura added that this is a relatively new process and moving forward with the acquisition of more lands the administration and Council may re-visit this in the future and it could end up not under P&R.

Ms. Bell asked Mr. Kim and Mr. Ventura if they are willing to meet with P&R and present the revised form. Mr. Kim replied yes that would be a good idea. Ms. Bell said it would be good to also have some of the commissioners present. Mr. Ventura added that finding time to meet with P&R between now and the new administration will be tough; they've got a list of projects that needs to be completed. Ms. Nicholson wants to talk to P&R about how the program should be designed in the future, not about the minor revisions that was done to the application. Mr. Kim suggested that PONC send a request to Molly Stebbins at Corp. Counsel for a legal opinion regarding the issues that was raised.

CHAIRPERSON'S REPORT

Ms. Bell had 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. Siracusa noted that Communication No. 16-018 submitted by Mr. Frank Commendador was based on a presentation she made to the Puna CDP Action Committee. She suggested that not only coastal properties are purchased by PONC; small connecting properties and parcels for recreation are also considered.

Mr. Tomich reported that he and Ms. Fischer attended and presented at the Kona CDP on May 25th and had some good questions regarding Amy Greenwell Gardens and easements.

NEW BUSINESS

- **Commission to discuss, review and assess Suggestion Forms submitted by the public for 2016**

Ms. Bell asked the commissioners to review the forms at home and at their next meeting they will discuss, review and rank the properties.

➤ **Commission to discuss the drafting of the 2016 Annual Report to the Mayor**

Ms. Siracusa asked isn't this premature. Ms. Kelepolo replied that this is on the agenda for the commissioners to assign sections of the annual report and discuss at the next meeting. Ms. Bell noted that since the maintenance fund and grant review is a new process for them they will have to comment that it's been an area of concern.

Ms. Nicholson asked in regards to the assessment of the suggestion forms don't they need to set a deadline to submit their scores by. Ms. Kelepolo asked if she could receive the forms by August 31st.

➤ **Commission to discuss and consider scheduling site visits by the PONC Investigative Ad Hoc committee for properties submitted by the public for 2016**

Ms. Bell suggested that they visit Pohue Bay. Ms. Nazara commented that in the testimony made by Ms. Winch she mentioned that there was a two-wheel drive road but it's always been four-wheel drive. She asked can they get the key for the property. Ms. Kelepolo replied that they tried to get access for a survey on an adjacent property but they wouldn't allow the County access. Ms. Bell noted that the realtor should be able to provide access since the County could be a potential buyer.

Ms. Nicholson also suggested that they take a look at the Mt. View parcel. Mr. Bishaw commented that it looks like they want to open up an access to Fern Acres since the only existing entrance is South Kulani Road.

Ms. Bell asked if there are any other properties to be visited. Ms. Kelepolo told them she will coordinate a date and time for the site visits and let the committee members know.

Mr. DeLozier asked why they're re-evaluating the two properties submitted by Ms. Withington if they have resolutions approved by Council. Mr. Ventura replied that the Charter doesn't prohibit them from nominating the properties every year; it's their way of keeping the properties in everyone's mind. If you as a Commission feel that you don't want to rank it high every year, it's up to you to decide. Overall, Kohala as a community submits very thorough applications every year and this gives them the opportunity to turn around and apply to other funding sources noting their consistency by applying every year.

ANNOUNCEMENTS

The next meeting is scheduled for Monday, September 12, 2016, 10:00 a.m. in the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Suite #1401, Hilo, Hawai'i.

Ms. Bell set the agenda for the next meeting to include the ranking of properties, drafting of annual report and assignment of write-ups and report by the ad hoc committee on site visits.

Ms. Nicholson commented that it would be nice to know how many stewardship grant applications came in. Ms. Kelepolo replied that the deadline to submit to P&R is August 31st and she will let them know at the September meeting.

Ms. Nazara asked if multiple groups can apply for stewardship of one property. Ms. Kelepolo replied that there's nothing in the Charter that says multiple groups cannot apply for the same property(s). There can be all different aspects of the grant, i.e. cultural restoration, public safety maintenance, turtle protection, etc.

Ms. Kelepolo asked if they want to include the stewardship grant review in their meeting or have a separate meeting on another day. Ms. Nicholson suggested that Ms. Kelepolo make that determination when she knows how many applications are submitted. Ms. Bell added that it would be easier to do everything all in one day.

ADJOURNMENT

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

Meeting adjourned at 2:20 p.m.

Respectfully submitted,

Alexandra Kelepolo
Property Management Technician