

February 4, 2010

RE: Compromise language for the Administration's amendment Comm. 105 for the 2% Land Fund

Aloha Chairman Haitsuka and charter commissioners,

On December 1, 2009, Director of Finance, Nancy Crawford, submitted Communication 105, which is a substitution amendment for amendment CA-15 -The 2% Land Fund. This substitution amendment was submitted to replace CA-15 -The 2% Land Fund. In an effort to compromise with the Keno administration, we used the language from Communication 105 and added critical clauses from CA-15. The attached language is submitted as a substitution for Communication 105. We submitted this information in a short email to Director of Finance Nancy Crawford. Please note that new additions are highlighted in yellow. There are several parts that are meant to be deleted, these parts are shown as bracketed and struck through.

This compromise language makes the following changes, which we believe are more consistent with the current existing 2% Land Fund ordinance, which is Chapter 2, Article 42 Section 2-214 of the Hawaii County Code:

1. We respectfully request that you reinstate the deposits to the land fund to be 2% of real property taxes, as it is written in the existing ordinance in the county code. This is what voters approved by a large 63% in 2006.
2. We are NOT asking for the deposits to be made any sooner than was stipulated in Communication 105. The next deposits to the Land Fund should be calculated on the taxes that are collected during the time period from January to July of 2011 and deposited after July 1, 2011. This money is sorely needed, because the Open Space commission recently posted their new list for acquisition. <http://www.hawaii-county.com/finance/ponc.htm> click on the 2009 report. The \$11 million that was in the land fund will be depleted with the purchase of Kaiholena for \$6.7 million (without matching funds) and the 2nd part of Kawa Bay for \$3.9 million. The Land Fund is 2% of real property taxes in the existing ordinance. This is what voters voted for in 2006, and was approved by 63%. Important lands that have been acquired are: Kawa Bay, Waipio Lookout, and Pao'o and Kaiholena. The second portion of Kawa Bay is in escrow. The south portion of Kaiholena is still for sale.
3. If deposits are made twice per year, it allows for more money to be available for acquisition and more interest to accrue. The existing ordinance has a provision that the land fund account be interest bearing. As of January 11, 2010, interest earned since January 2006 is \$403,551.00. Go to <http://www.hawaii-county.com/finance/ponc.htm> and click on the Financial Data Report to see this information. Director Crawford has said that this is a matter of course for the county to use interest-bearing accounts for these funds, but there is no guarantee that this will continue unless it is stipulated in the charter that the land fund be an interest bearing account. If the economy gets worse, interest from these funds could be used in the general fund, just like they suspended deposits to the fund.
4. We ask that a provision be included to require the county to look for matching funds to maximize the dollars in the fund. Two percent of property taxes are approximately \$4 million per year. The best benefit to having a dependable funding source is to attract 100% matching funds. MUCH more land can be obtained this way.

5. It is important to state that these funds can NOT be used for maintenance or development. Because \$4 million per year is not a large amount of money to obtain land, these funds must not be lost to maintenance or development. Maintenance and development are the responsibility of the Parks and Recreation Department. In the 2007- 2008 Hawaii County Annual Report it is stated that 33% of the Parks and Recreation budget of \$22, 308,183. million goes to maintenance or approximately \$7.11 million. All lands obtained do NOT have to be developed immediately, but can be "land banked". Mayor Kim proposed the idea to use the 2% money for maintenance to the Open Space Commission. The commission voted down this idea.
6. In the language submitted by the Department of Finance, "monies" was spelled "moneys". This change corrects a spelling error.
7. A Land Fund Bond should be floated separately from other bonds. If a land fund of open space bond is included with an aggregate group of bonds, it will be difficult to figure the pro rata share payable by the open space bond portion for brokerage fees, premiums, principal and interest. For the public to understand and watchdog this use of the fund, an open space bond should be kept separate.
8. In clause (d) in Communication 105, the language submitted by the Department of Finance (b) was included in error; it should have been (c) to show what lands could be acquired.

Please call with questions. A heartfelt Mahalo for your hard work and your service as representative of the citizens of Hawaii County.

Sincerely,
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Compromise language to add to Communication 105- The Land Fund

Changes are made by bracketed and stricken language - additions to the language in Comm. 105 are highlighted in yellow.

BE IT ENACTED BY TE PEOPLE OF THE COUNTY OF HAWAII:

Section 1. Article X, Hawaii County charter is amend to add a new section to read as follow, with added language underscored and deleted language bracketed and stricken through:

Section 10-. Public Access, Open Space and Natural Resource Preservation Fund.

(a) In adopting each fiscal year's budget and capital program the council shall appropriate a minimum of **two percent (2%)** **1** of the certified real property tax revenue, including penalty and interest, to a fund known as the public access, open space and natural resource preservation fund. **Deposits to the fund shall be made twice per year after the property taxes are collected and as soon as the tax amounts are certified. Monies in the land fund shall be placed in an interest bearing account.** **2**

(b) Funding shall consist of a minimum of **two percent (2%)** **1** of the actual revenue received in the fiscal year. Additional revenue may consist of proceeds from the sale of general obligation bonds, authorized and issued for the purpose of this section; additional Council appropriations for this purposes of this section; grants and private contributions intended for the purpose of this section and any other sources of revenue. **The highest and best use of the land fund monies is to obtain equal matching funds.****3** **Money from the fund shall not be used for maintenance or development of land or parks.** **4**

(c) Mon[**yes**]ies **5** in this fund shall be used to purchase or otherwise acquire lands or property entitlements in the County of Hawaii for public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites, protection of natural resources, significant habitat or eco-systems, including buffer zones; preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and protection of watershed lands to preserve water quality and water supply.

(d) Mon [**yes**]ies **5** in this fund may also be used to pay the [**applicable**] principal, interest and premium, if any, due with respect to **a bond[s]** issued [**in whole or in part**] **6** for the purposes enumerated in subsection [~~(b)~~] **(c)** **7** of this section and for the payment of costs associated with the purchase, redemption or refunding of [**such**] **a bond[s]**-used to acquire lands as outlined in **(c)**.

(e) Any balance remaining in the fund at the end of a fiscal year shall not lapse, but shall remain in the fund accumulating interest from year to year. The monies in the fund shall not be used for any purpose except those listed in this section.

(f) The Council shall by ordinance establish procedures for the administration and expenditure of monies in this fund.

Section 2. This amendment shall take effect he fist day of the fiscal year following approval of the electorate, on July 1, 2011.

Footnotes:

1. The Land Fund is 2% of real property taxes in the existing ordinance. 63 % of voters approved the 2% amount in 2006. Important lands have been acquired: Kawa Bay, Waipio Lookout, Pao'o and Kaiholena. The second portion of Kawa Bay is in escrow.
2. If deposits are made twice per year, it allows for more money to be available for acquisition and more interest to accrue. The existing ordinance has a provision that the land fund account be interest bearing. As of January 11, 2010, interest earned since January 2006 is \$403,551.00. Go to <http://www.hawaii-county.com/finance/ponc.htm> and click on the Financial Data Report to see this information.
3. Two percent of property taxes are approximately \$4 million per year. The best benefit to having a dependable funding source is to attract 100% matching funds. MUCH more land can be obtained this way.
4. Because \$4 million per year is not a large amount of money to obtain land, these funds must not be lost to maintenance or development. Parks and Recreation has a \$20 million per year budget. Maintenance and development are the responsibility of the Parks and Recreation Department. All lands obtained do NOT have to be developed immediately, but can be "land banked". Mayor Kim proposed the idea to use the 2% money for maintenance.
5. In the language submitted by the Department of Finance, "monies" was spelled "moneys". This corrects a spelling error.
6. If you include a land fund bond when a group of bonds are to be floated, it will be difficult to figure the pro rata share of fees, premiums, principal and interest that could be paid for an open space bond. For the public to understand and watchdog this use of the fund, an open space bond should be kept separate.
7. In the language submitted by the Department of Finance (b) was included in error; it should have been (c) to show what lands could be acquired.