Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

NOTICE OF PUBLIC MEETING
PUNA COMMUNITY DEVELOPMENT PLAN ACTION COMMITTEE

NOTICE IS HEREBY GIVEN of the following matters to be considered by the Puna Action Committee in accordance with the provisions of Section 92-7, Hawai'i Revised Statutes.

DATE: Monday, December 11, 2023

TIME: 4:00 PM

PLACE: This meeting will be held by Interactive Conference Technology (ICT) through Zoom. The public may provide verbal testimony at the meeting by joining online or calling into the Zoom meeting. Members of the public may also attend via Zoom, watch the live stream on the Planning Department's YouTube channel, or attend the in-person on-site location listed below.

To register for verbal testimony please contact staff at cdp@hawaiicounty.gov or (808)961-8188.

Zoom registration link:
https://www.zoomgov.com/meeting/register/vJIsdOyprDsoGRhBxMvZmU5I95uIa--7IUo

To view the live stream on YouTube, click the following link:
https://www.youtube.com/CountyofHawaiiPlanningDepartment
If internet connection is lost, the public meeting will be automatically recessed to restore communication. If lost connection exceeds 30 minutes, the meeting will be terminated.

In-Person site location:
Kamehameha School
East Hawaii Resource Center Conference Room
16-545 Old Volcano Road
Kea'au, HI 96749

AGENDA

CALL TO ORDER

ROLL CALL

ANNOUNCEMENTS

APPROVAL OF THE MINUTES: The Action Committee will consider the draft minutes for the Puna Action Committee Meetings on May 5, 2022 & February 27, 2023.

PUBLIC COMMENT ON AGENDA ITEMS: Written testimony may be submitted via email at cdp@hawaiicounty.gov or in person at the Hilo or Kona Planning Department, up to two (2) business days prior (Thursday, February 23, 2023) to the meeting (see the Notice Section below). In addition, members of the public may provide oral testimony at the meeting on any of the agenda items. To register for access to the Zoom meeting please email cdp@hawaiicounty.gov or click the link above. Comments may be made either during the public comment portion of the agenda or just prior to the relevant business item. With discretion of the Chair of the CDP Action Committee, comments may be limited to three (3) minutes in length per agenda item.

BUSINESS:

1. **Training on Permitted Interaction Groups and the Duties and Responsibilities of the Community Development Plan Action Committees:** Presentation by Deputy Corporation Counsel Suzanna Tiapula.
2. **Election of Committee Chairperson and Vice Chairperson for 2023.**
3. **Puna Action Committee Meeting Schedule Discussion:** The Action Committee will discuss and create a meeting schedule for 2024.

COMMUNICATIONS:

- Communication No. 2023-03 Who Board Members Can Talk to and When Pt1
- Communication No. 2023-04 Who Board Members Can Talk to and When Pt2
- Communication No. 2023-05 Who Board Members Can Talk to and When Pt3

AGENDA FOR NEXT MEETING: Action Committee members will discuss logistics (meeting date/time) and potential agenda items for the next meeting.

ADJOURNMENT

This agenda and all related documents are available in the Planning Department's Puna Community Development Plan Action Committee folder via the County of Hawaiʻi Public Documents Repository: https://records.hawaiicounty.gov/WebLink/1/fol/13985/Row1.aspx. These documents may also be requested from the Planning Department by calling (808) 961-8288 or emailing cdp@hawaiicounty.gov.

NOTICE: The purpose of the public hearings is to afford all interested persons a reasonable opportunity to be heard on the above items. A person desiring to submit oral or written testimony shall indicate their name and whether the testimony is on their behalf or as a representative of an organization or individual. Written testimony can be submitted via email or hard copy. Hard copies should include an original and nine copies and be submitted no later than 4:30pm two days prior to the hearing date.

Anyone who requires an auxiliary aid or service, other reasonable modification, or language interpretation to access this meeting please contact the Planning Department at (808) 961-8288 as soon as possible, but no later than five working days prior to the meeting date, to arrange for accommodations. "Other reasonable modification" refers to communication methods or devices for people with disabilities who are mentally and/or physically challenged.

If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist. (Article 15, Section 2-91.3(b), Hawai'i County Code). A lobbyist means, "any individual engaged for pay or other consideration who spends more than five hours in any month or $275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." (Article 15, Section 2-91.3(a)(6), Hawai'i County Code). Registration forms and expenditure report documents are available at the Office of the County Clerk-Council, 25 Aupuni Street, Hilo, Hawai'i 96720.

PUNA CDP ACTION COMMITTEE

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

County of Hawaiʻi
PLANNING DEPARTMENT

PUNA COMMUNITY DEVELOPMENT PLAN ACTION COMMITTEE

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaiʻi 96720

Phone (808) 961-8288 • Fax (808) 961-8742

Monday, February 27, 2023

DRAFT Meeting Minutes

CALL TO ORDER

Chair Brewer called the Puna Community Development Plan (PCDP) Action Committee (AC) to order at 2:05 P.M. This meeting was held online via Zoom, with one on-site location for community members at the Hilo Planning Department Conference Room. Quorum was not established at this meeting.

ROLL CALL

AC Members Present: Franny Brewer (*Chair*), Susie Osborne (*Vice-Chair*), Leilani DeMello, Kanoe Wilson

AC Members Absent-Excused: Leila Kealoha

County Staff: Heather Bartlett, April Surprenant (Planners)

County Officials: Deputy Corporation Counsel, Suzanna Tiapula

Members of the public attended the meeting via Zoom and two (2) members of the public attended in person. The meeting was also available for synchronous viewing via the COH Planning Department YouTube Livestream. The livestream is available at Puna CDP AC Meeting - February 27, 2023 - YouTube

APPROVAL OF MINUTES:

Consideration of the draft minutes for the Puna CDP Action Committee Meeting on May 5, 2022 was deferred to the next meeting as quorum was not established.

PUBLIC COMMENT ON AGENDA ITEMS: Six (6) members of the public provided oral testimony:

1. Community member Indy Rishi Singh, representing himself, provided testimony. He began by stating that he was thankful to be part of the process and to see everyone working toward building a stronger and more resilient community. He shared that he was from the Hāmākua community but was interested in learning about Puna as some of the same actions could be translated to Hāmākua with regard to farming and housing. He

encouraged everyone to get out of the space of feeling occupied, hurt and angry, and to shift towards possibilities, creativity, and love. He also encouraged everyone to be more pono and find solutions, and to have more in-person meetings.

2. Community member Hannah, representing herself, provided testimony on Agenda Item #1. She shared that she was very grateful and happy to see the project come to fruition as it was a primary recommendation from the PCDP. She praised the new administrator of the Hawaiʻi County Mass Transit Agency, for moving the project forward as they have had many discussions in the past about this and after all these years it is now happening. She hoped that the project would also focus on the Glenwood area. The Glenwood transit station is one of the main bus stops on Highway 11 and it is currently without a restroom. She would like to see this issue resolved.

3. Community member Robert Golden provided testimony on Agenda Items #2 and #3. He began by stating that he was originally from New York, but now lives in Leilani Estates and considers Puna to be his home after residing there for 10 years. He shared that he co-founded the Puna Rising website and is president of Lower Puna Rising. Mr. Golden shared his excitement for the opportunities that the AC provides with regard to decentralizing government and getting more citizens involved. He also expressed his concern as it seemed like the Puna CDP AC had not been very active in the last few years since the Kilauea eruption and quorum had not been met at this meeting. He would like the AC to play a more active role, so community feels as though they have influence on County policies.

4. Community member Madeline Whitehill, representing herself, shared testimony to echo Mr. Golden’s statements about the desire to make changes in order to see that quorum for the Puna AC meetings is met. She shared that she hoped the topic of intentional communities would be added to the next meeting agenda and how the County could work to support intentional communities.

5. Community member Elliot Fabri, representing himself, provided testimony. He shared that he would like to see more discussion related to zoning and to acknowledge intentional communities and different ways of living for residents in lava zones 1 and 2. He would like to bring awareness to the disaster-prone areas in Puna where temporary housing is not allowable with regard to zoning designation. He would like there to be more alignment with zoning and the creative solutions that people in Puna have found for their way of living in order to bring the County and community together to acknowledge these issues. Mr. Fabri felt that it was unfortunate that certain aspects of codes are enforced on other people more so than they are on the general community. He would like to create a path for these places to exist in a way that is acknowledged by the County and not in a way that has to be in the shadows and only brought up for specific issues or when something is needed. He explained that residents in lava zones 1 and 2 are unable to get insurance or bank loans and the building and zoning policies have not adapted to these types of places where residents are grounded in sustainability and living cooperatively and pono with the ʻāina.

6. Community member Tomas Mendola, representing himself, provided testimony to address Mr. Fabri's statements. He introduced the idea of creating a new zoning classification that would recognize the things that are happening and changing. He suggested a classification related to non-profit sustainable community which would allow those types of communities to contribute culturally as they proceed.

BUSINESS:

1. **Pāhoa Transit Hub and Library Presentation:**

Representatives of SSFM International, Melissa May and Austen Drake, led a presentation on the Pāhoa Transit Hub and Library project. Ms. May started by giving an overview of the project with regard to the history, defining hub and spoke, explaining the work done and how they got to the current phase today. She informed that the project had been funded through the planning phase and explained the overall project goals, tasks and next steps.

Mr. Austen Drake provided an overview of the site selection process. He explained the site suitability criteria and discussed the top preferred sites. He acknowledged that the design features to reflect Pahoa would be considered as well as those related to ADA compliance, lighting and security.

Ms. May also provided information on the teaming partners of the project, an anticipated schedule, and how community members could get involved and contribute. She encouraged everyone to check out the project website, sign up for email updates, and to participate in the virtual open house to provide feedback.

Community member Indy asked if there would be opportunity for community to participate in a civic hackathon for this project where people could come together to make different presentations on their ideas and wisdom. He encouraged creating more regenerative and inclusive spaces for ideas to flow from the community.

Ms. May acknowledged that this would be a great time to put those ideas forward as they are open to any and all input. She shared that there was a virtual forum on the project website that allowed people to share their ideas and respond to others' ideas. She noted that the upcoming community meeting would provide another forum for sharing as well. She also noted that this project would only take it through the conceptual design phase, so there would be more opportunities to provide ideas and input as it progressed into the full design.

Committee Member DeMello questioned if the private landowners, of the potential sites, were aware that they were contenders in this process. She also suggested that materials for construction be considered, to account for the weather in the location, in order to prevent deterioration in just a few years. She also expressed her support for using native plants on the site.

Ms. May confirmed that all property owners had been reached out to and have been responsive in varying degrees. She noted that that was also considered in the criteria for the site selection.

Community member Mia Luciano questioned who or what entity was providing funding for the development of this hub.

Hawaiʻi County Mass Transit Agency Administrator, John Andoh, informed that funds were received by the State of Hawaiʻi Office of Planning and Sustainable Development, Hawaiʻi Public Library System, Federal Transit Administration and County of Hawai'i General Excise Tax Fund.

Community member Lanell Lua-Dillard questioned why the bus loop was smaller than the parking lot in the design plan.

Mr. Andoh informed they were just conceptual design plans and would be refined once a site was selected.

Community member Elliot Fabri questioned if the transit hub and library must be on the same site. He noted that the transit hub was appropriate to the Puna Kai area, but the community buildings and library would be better placed close to the new park, closer to the school.

Ms. Malory Fujitani, of the Office of the State Librarian, informed that when conducting the latest planning study, the focus was on government owned properties, which at the time required substantial infrastructure build out for the library by itself. It was decided to pursue the opportunity to pair with the TOD transit hub as an opportunity to leverage infrastructure build out and be closer to areas where people would be transiting through. They also felt that this was a good opportunity to work with the County.

Mr. Andoh added that the whole intent of the partnership with the library was to make the transit hub a community space. Transit is a part of a community and as livable communities are built with libraries, shopping, drug stores, dry cleaning, day care, bikes, and bike lanes, within a walkable distance of a transit hub, residents could start living car free and take advantage of the benefits that the transit hub could offer. He noted that this was the goal of the project and is a very common design in Europe.

Committee member Wilson questioned which group would be conducting the Environmental Assessment (EA) and if it would include an archaeology inventory study.

Ms. Jennifer Scheffel, of SSFM, confirmed that as the consultants for this project, they would be conducting the EA. She noted that an archaeological study and a cultural impact study would be included as part of the EA work, but whether or not an archaeological inventory survey would actually be completed would depend on what the State Historic Preservation Division (SHPD) requires.

Committee member Osborne would like the buildings to be solarized to address the state’s goal for energy efficiency. She encouraged innovative and forward thinking in that element of the design.

Community member Lanell Lua-Dillard asked what would happen if something were to be found during the archaeological study.

Ms. Scheffel shared that if something were to be identified, then consultation would concur with SHPD and any type of mitigation for what was found would be done with consultation with SHPD as well.

2. **Action Committee Recruitment Strategy:**

   Planning staff informed that there are currently five AC members seated on this board. The department has sent out press releases for new membership but have not received a lot of applications. It was noted that applications could be found on the mayor's office website and would be processed by the mayor's office. As the onboarding process is time intensive for staff, it was noted that a good pool of applicants are required before moving forward. Staff encouraged getting the word out through networking and expressed appreciation for the Puna AC's recruiting efforts as well.

3. **Puna Action Committee Meeting Schedule Discussion:**

   This item was deferred as quorum was not established.

ADJOURNMENT: The meeting was adjourned at 3:00 P.M.

These meeting minutes and all related documents are available in the Planning Department's Puna Community Development Plan Action Committee folder via the County of Hawaiʻi Public Documents Repository. These documents may also be requested from the Planning Department by calling (808) 961-8288 or emailing cdp@hawaiicounty.gov.

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Thursday, May 5, 2022

DRAFT Meeting Minutes

CALL TO ORDER

Chair Brewer called the Puna Community Development Plan (PCDP) Action Committee (AC) to order at 5:06 P.M. Due to restrictions related to the COVID-19 pandemic, this meeting was held via the Zoom interactive video platform with one on-site location for community members at the Pāhoa County Council Office.

ROLL CALL

AC Members Present: Franny Brewer (*Chair*), Susie Osborne (*Vice-Chair*), Leilani DeMello, Leila Kealoha, Kanoe Wilson

AC Members Absent-Excused: none

County Staff: Planners –Keiko Mercado, Heather Bartlett, Elyse Stevens; Kīlauea Recovery and Redevelopment Manager Garrett Smith

County Officials: Councilmember Matt Kaneali‘i-Kleinfelder

State Official: Representative Greggor Ilagan

Four (4) members of the public attended the meeting via Zoom and one (1) member of the public attended in person. The meeting was also available for synchronous viewing via the COH Planning Department YouTube Livestream. The livestream is available at Puna CDP AC Meeting - May 5 - YouTube

ANNOUNCEMENTS: Update from State Representative Greggor Ilagan

May 5th marked the close of the 2022 Legislative Session and State Representative Ilagan provided the Action Committee with session updates relative to the Puna community.

- An alternate route for Puna: a district-wide project that included 1.5 million for a site selection study for the best location for an alternate route. This will include a monetary match from the County of Hawai'i, resulting in a joint effort between the County and State.

- Widening a section of Highway 130: a State-wide initiative, with a 35 million budget. He stated he would follow up with the State Department of Transportation (DOT) with a focus on which portion of Highway 130 will be widened.
- Funding for albizia abatement along the Highway.
- Four (4) Capital Improvement Projects (CIP) were also discussed for Pāhoa High School girl's gym locker room, Pāhoa Elementary and High-School covered walkway, upgrades to Science Facility, and Keonepoko playground upgrades.
- 1.2 million for Emergency Medical Services islandwide, with a focus on facilitating an ambulance for Puna.
- Grants-in-Aid funding was earmarked for:
    - the Pāhoa Museum - $400,000,
    - Project Vision - $600,000,
    - Makuʻu Community Center - $220,000,
    - the Aloha ʻIlio Rescue - $50,000,
- Collaboration with the County of Hawai'i Prosecutorʻs Office to pass a bill related to the high volume of auto theft by increasing the penalty from a Class C Felony to a Class B Felony.

Action Committee Member Kealoha asked about funding for the Pohoiki Boat Ramp. Representative Ilagan stated that the bill requesting 1.5 million in additional funds for the Boat Ramp did not pass the House reading but would be addressed at the next legislative session.

Garrett Smith shared that the Recovery Team had an internal meeting with the Department of Parks and Recreation and DLNR that week which discussed the Pohoki Boat Ramp. Discussion centered around the EA process and the dredging to get the Boat Ramp functional. He stated that public sentiment centered around a safe swimming area and a boat washing area.

Vice-Chair Osborne asked whether the albizia mitigation funding received by the State Department of Transportation (DOT) could provide training and education for eradication. Chair Brewer asked how DOT prioritizes funding for albizia treatment and whether educational training for eradication was a possibility, as the ramification of poor eradication allows for continuous re-growth. Representative Ilagan agreed to follow up and get back to the Action Committee. Vice-Chair Osborne reiterated the need for albizia treatment and education asking for continued County and State support. She mentioned a free virtual albizia mitigation education session on June 30th and a hands-on training on August 20th. Staff will send additional information to the Puna CDP AC mailing list.

Vice-Chair Osborne shared that Kua O Ka Lā PCS Pre-k school in Nanāwale had applied for Grant-in-Aid funding though their NPO Hoʻoulu Lāhui and asked if it had been granted. Representative Ilagan agreed to follow up on this.

Community Member Stephanie Bath discussed the need for roadway redundancy for emergency preparedness from upper to lower Puna. She asked for this connectivity issue to be highlighted at the State level. Representative Ilagan shared that a resolution requesting the Hawai'i Emergency Management Agency to develop a preliminary draft evacuation plan for lava zones 1, 2, 3, 4, and 6 passed in both the House and Senate. He also shared there is an upcoming

Legislative session to discuss utilizing State money to assist subdivisions with private roads that are open to the public. He reiterated that an alternate route in Puna would assist with road redundancy, decrease traffic flow, and provide more access.

Representative Ilagan expressed interest in collaborating more intentionally with the Puna CDP Action Committee and requested priority projects from the Puna Action Committee, specifically within Puna's town centers, before the start of the next legislation session.

Action Committee Member Wilson asked if the Puna Action Committee could meet with Representative Ilagan prior to the next Legislative session to galvanize and strategize for more community support when Legislative measures are moving forward. Representative Ilagan agreed, noting the value and benefit of collaboration with the Puna Action Committee and suggested the AC prioritize three projects for him to advocate for.

Ms. Mercado suggested the Puna Action Committee Chair and Vice-Chair could establish an investigatory subcommittee with up to four members that could work directly with Representative Ilagan. They discussed the idea of having the Puna AC Chair and Vice-Chair meet with him in the meantime.

APPROVAL OF MINUTES:

Committee Member Kealoha made a motion to approve the March 3, 2022 meeting minutes. Motion seconded by Vice-Chair Osborne. Motion passed with 5 votes aye, 0 votes nay.

PUBLIC COMMENT ON AGENDA ITEMS: Three (3) members of the public and one (1) County Councilmember provided testimony:

Community Member Stephanie Bath, representing herself, testified on Agenda Item 1. She expressed her concerns about emergency preparedness sharing that infrastructure redundancy should continue to be a top priority. She stated that there continue to be concerns within the community about the implementation of proposed connectivity locations, noting that securing funding to acquire the connectivity locations identified by the community is the first step. She encouraged the AC to continue to push and stay on top of this issue. She reiterated the need for health and safety redundancy from upper to lower Puna with the need for State and County support.

Community Member Jon Olson, representing himself, testified on Agenda Item 1. He discussed the need for action regarding infrastructure to the Pohoiki Boat Ramp and described the significant amount of debris that is consistently washing out into the bay. He also emphasized the immediate need for an alternative route for Puna with hurricane season quickly approaching. He expressed that these issues were urgent over 10 years ago and that, with a quickly growing population in Puna, we need to address the problem as if "our hair was on fire."

Councilmember Matt Kaneali'i-Kleinfelder testified on Agenda Item 1. He said that with an increase in population and heavy road use in Puna, implementing an alternative route in Puna is imperative. He expressed that we are not prepared for continued growth or potential emergencies and that there needs to be a solution in which the County, State, and Federal government work together. He also discussed directing growth in Puna to the primary areas such as Kea'au, followed by secondary areas. He continued to express how connectivity to

Stainback Highway is a long-term goal that could be achieved by connecting North Kulani Road and Stainback to Saddle Road. This would alleviate traffic and create space for workforce and affordable housing in those areas.

Garrett Smith, representing himself, testified on Agenda Item 1. Mr. Smith commented on the road connectivity in Puna, specifically that the County and State do not spend funds on private roads. He commented that community members would benefit if the County or State could allocate funds for private infrastructure. He also discussed how FEMA funds were allocated for water, roads, and park improvements from the lava eruption. He stated that community members have been pushing for water improvements, and suggested we identify problems through the use of infrastructure standards.

BUSINESS:

1. Infrastructure Priority Discussion:

Ms. Mercado explained how Planning Director Kern has requested that Action Committee members and the community provide a list of needed infrastructure projects in their area. She stated that a lot has changed since the establishment of the Puna CDP making it necessary to look at needs beyond what is written in the plan. Ms. Mercado explained that Director Kern wants to be prepared for the federal infrastructure bill conversation. She explained that Planning Staff will summarize and provide the summary to the Director. She hoped that by being open to suggestions for State projects we could encourage cohesion between the State and the County. Planning Staff provided an infrastructure handout with information from the Puna CDP implementation table.

Chair Brewer voiced improvements for Stainback Highway and Kulani Road. She expressed that there needs to be more connectivity between subdivisions and furthered that existing subdivisions with no access should be prioritized.

Ms. Mercado mentioned the report from the Ad Hoc Committee on Puna Connectivity (Communication number 2016-25), sharing that much of the work is there and that funding was the major barrier.

You may find the Ad Hoc Committee on Puna Connectivity report (Communication Number 2016-25) in our public folders here: https://records.hawaiicounty.gov/Weblink/1/doc/82167/Page1.aspx

Action Committee Member DeMello agreed that the Action Committee could help to facilitate conversations to access funding for these projects. She stated that there is a need to assist communities with connectivity access for both upper and lower Puna.

Action Committee Member Kealoha stated that more than 20,000 people have moved into Puna since the pandemic started. She discussed the need to review or amend the CDP, control traffic congestion, and direct development toward town centers

Councilmember Kaneali'i-Kleinfelder discussed the direct health and safety issues along the Panaewa stretch. He mentioned the need to implement acceleration and deceleration lanes on the sides of Highway 11. He hoped that the State could expand Stainback Highway by also adding an acceleration lane as well. He shared that future projects could include a new fire station and police station in Kea'au that could tie into the town center with mass transit. He reiterated that there is a 1.6 billion budget surplus at the State level. General expenditures revenue is high and the fuel tax and highway fund amassed a surplus of more than 20 million.

Ms. Mercado gave the Puna Action Committee and community members two weeks from the meeting date to send any additional infrastructure priorities so staff could compile the feedback to relay to the Planning Director.

2. **Building in Puna Brochure:**

Due to the increase in residency over the years and the Kīlauea eruption in 2019, the Action Committee proposed revisiting the 2018 Building in Puna Brochure.

Chair Brewer shared feedback she had heard suggesting the Building in Puna Brochure be made digital, easily accessible and mobile-friendly for broader public use. She suggested an additional need to include information about safe catchment tank use, County mulch sources, native plant landscaping, rat-lung worm, and little fire ant management in the brochure as well. She also expressed how different building needs are in Volcano due to the different climate and landscape.

Vice-Chair Osborne and Action Committee Member Kealoha agreed with the need for a Permitted Interaction Group (investigatory sub-committee) to revise the Building in Puna Brochure before bringing it back to the Action Committee for further discussion.

Committee Member DeMello shared manaʻo from Volcano community members who were concerned about pin-to-pin clearing and maintaining pono practices to protect Hawaiʻi's delicate ecosystems. She stated that the Action Committee needed to be assertive with language; maintain kūpaʻa and protect our land and natural resources. She reiterated the need to share this information to those moving to the State.

Councilmember Kanealiʻi-Kleinfelder stated that pin-to-pin clearing is a huge issue. He shared about the Real Property Tax Conservation Allowance that provides a property tax break for those with two acres or more who preserve native forest on their property. He also shared about the Puna flood study that was completed, but not implemented and how that information would provide the public with surface water inundation risk for their properties.

Committee Member Wilson agreed with creating an Permitted Interaction Group. She stressed including the ideas and language of aloha ʻāina and mālama ʻāina.

Chair Brewer moved to establish a Permitted Interaction Group that would re-evaluate and update the Building in Puna Brochure for the full Action Committee to review and approve. Vice-Chair Osborne seconded the motion. It was decided that Chair Brewer; Action Committee Members Kealoha, DeMello and Wilson would serve on the Permitted Interaction Group. On this motion a roll-call vote was taken, the motion passed unanimously. Councilmember Kanealiʻi-Kleinfelder also expressed interest in participating in the group.

3. **Synergies Between Implementation of the Puna CDP and the Kīlauea Recovery and Resilience Plan (KRRP):**

With consensus from the committee, Chair Brewer took agenda items 3 and 4 out of order.

Staff shared a spreadsheet with the goals and action items that were identified at the previous meeting. Action Committee members used the spreadsheet to explore mutual interests and discuss possible implementation actions. The goal was to provide updates and identify projects the Resilience Capacity Area (RCA) groups are currently working on and how that work is connected to their roles as AC members.

Chair Brewer praised the idea of bringing Puna AC items into the Puna RCA work. Committee Member Kealoha suggested converting the implementation table into a working document for AC members to work on. Ms. Mercado agreed that Planning Staff would include the Implementation Table working document in a follow-up email.

Information on the Kīlauea Eruption Recovery Planning Process available here: https://recovery.hawaiicounty.gov/planning-56

Information about the Resilience Capacity Area Teams available here: https://recovery.hawaiicounty.gov/revitalize-puna/resilience-capacity-areas.

Presentation slides available here: https://records.hawaiicounty.gov/Weblink/1/edoc/115524/Communication%20No.%202022-08%20-Puna%20AC.RCA%20Synergies.pdf

4. **Update on the budget:** Staff shared the FY2022-23 CIP (Capital Improvement Project) Budget spreadsheet that outlined capital project appropriations submitted to the County Council relating to the Puna District. Ms. Mercado offered to provide Financial Impact Statement (FIS) sheets with more information on specific projects as requested.

Vice-Chair Osborne asked about the status of the Pāhoa Master Plan and if a vendor had been selected. Mr. Smith confirmed that the panel was currently reviewing applications. He stated that the target was to have a firm identified, get the contract signed, and have the work initiated within the next couple of months.

Ms. Mercado stated that County Council would be having their budget meetings on May 17-19 and that Planning Staff would send the information and links to the budget meetings to AC members. She also reminded Puna AC members that they could provide testimony as individual community members, but not on behalf of the AC.

Committee Member Kealoha questioned the appropriation for mass transit in relation to the estimated cost. Ms. Mercado discussed the free mass transit system and offered to connect the AC Members with the Planning Department's Transportation Planner and with Mass Transit Administrator, John Andoh.

Chair Brewer reshared Councilmember Kaneali'i-Kleinfelder's comments in the Zoom chat, stating that there was time until the last Council reading of the budget to add or amend CIP projects. Ms. Mercado added that Action Committee members interested in adding or amending CIP projects should work directly with their councilmembers.

The handout listing Capital Improvement Projects related to the Puna area (Communication Number 2022-10) may be viewed in our public meeting folder here: https://records.hawaiicounty.gov/Weblink/1/edoc/115834/Communication%20No.%202022-10%20March%20CIP%20FY2022-23.pdf

PROPOSED AGENDA ITEMS FOR NEXT MEETING:

1. Puna Brochure - relay information from investigatory subcommittee
2. Representative Ilagan to provide budget follow up and priority discussion
3. FEMA update on submitted proposals for Kīlauea Recovery
4. HDOT roundabouts/albizia update

ADJOURNMENT: *Committee Member Kealoha moved to adjourn. Seconded by Committee Member DeMello. The motion passes with 5 votes aye, 0 votes nay.*

The meeting was adjourned at 7:15 P.M.

These meeting minutes and all related documents are available in the Planning Department's Puna Community Development Plan Action Committee folder via the County of Hawaiʻi Public Documents Repository. These documents may also be requested from the Planning Department by calling (808) 961-8288 or emailing cdp@hawaiicounty.gov.

Quick Review: Who Board Members Can Talk To and When (Part 1) (Revised July 2018)

OIP often is asked whether board members can talk to the board's staff, members of the public, or one another in various situations when not in a meeting. To help board members understand what they can talk about outside a meeting, and with whom, OIP has put together a three-part Quick Review.

1. Topics that Are Not 'Board Business'

The Sunshine Law applies whenever board members are discussing board business, i.e., specific matters within the board's authority that are on a board's upcoming agenda or reasonably likely to appear on an agenda in the foreseeable future. When board members are discussing matters that are **not board business, the Sunshine Law does not apply** to restrict the discussion. Thus, board members could discuss with one another, or with anyone else:

- Matters **unrelated** to what the board does, such as the weather, sports teams, personal news, vacation plans, world events, or similar topics beyond the scope of the board's responsibilities;

- Matters related to what the board does, but that are **not being considered by the board** as a whole or a committee of the board at a meeting because they are ministerial (i.e., handled by staff) or within the Chair's sole purview, such as scheduling of meetings, including which items will appear on which meeting's agenda, members' travel arrangements, logistical arrangements for an award ceremony, or similar topics; or

- Matters that the board considered in the past but **does not expect to reconsider** in the foreseeable future because the **matter has concluded**, such as dedication of a completed baseball field that the board gave approval to at an earlier stage, or a report that the board was required to and did submit to a legislative body by a now-past date.

These sorts of matters can be discussed by board members in any number, and need not be discussed in a meeting, because they are **not board business** at the time they are being discussed and, thus, the discussion is not controlled by the Sunshine Law.

Board members may also attend lunches, social and ceremonial events, or board retreats, without violating the Sunshine Law, **so long as board business is not discussed, deliberated, or decided upon.**

2. Staff, Lobbyists, and the General Public

The Sunshine Law only applies to boards and their discussions, deliberations, decisions, and actions. Because the Sunshine Law does not apply to a board member's communications with people who are not members of the covered board, **a member may discuss board business with people who are not board members** outside of a meeting, without needing to fall into one of the permitted interactions. Board members, therefore, can freely talk or otherwise communicate with:

- Citizens concerned about a particular issue
- Reporters
- Lobbyists
- Board or agency staff
- Other government officials, and
- The general public.

It is possible that in some of those cases, the information from one board member will be transmitted to other board members. For instance, a lobbyist may be going from one county council member's office to the next to talk about a piece of board business and may carry information over, as in, "Councilmember A said she'd be willing to support us on this if the bill is amended to cover frogs as well. Could you support that?" However, this would not be considered a discussion directly between the council members. Similarly, a reporter might speak to multiple council members and say something like, "Member B told me that the Board expects to reconsider the motion next month. Can you confirm that?" Again, even though information was passed on, **because the actual communication was through a third party, it would not be considered a discussion between the board members.**

Note: If board members would like to discuss board business with individuals who are not board members, **members should be mindful not to improperly disclose information that was part of an executive meeting closed to the public**, and may wish to consult with the board's attorney in such situations.

Information and materials provided by members to the staff may be incorporated into the staff's own analysis or report on a board matter and may be distributed by staff to the board members in advance of a meeting. The staff's report should not identify individual board members' positions on an issue, but can recognize and discuss the various viewpoints in general and provide recommendations for actions.

Board members should also refrain from using staffers as mere go-betweens to carry messages between board members, as that could be found to be a discussion directly between board members, depending on the circumstances. Telling a staffer, "I have concerns about the direction we're taking on this issue and I'd like you to do some research on this aspect of it," is fine, even if the staffer tells other members, "Member C asked me to research this topic because of her concerns about the way the board is handling the issue." But telling a staffer, "Please go tell Members D and E that I have concerns about the way we're handing this issue," would be inadvisable, as it could be construed as a serial communication with members D and E.

3. Other Board Members

As discussed above, the Sunshine Law applies whenever board members are discussing board business. **When board members communicate to one another about board business, they need to do so either in (1) a properly noticed meeting, or (2) in circumstances where the discussion is specifically permitted by one of the Sunshine Law's exceptions.** When board members are prohibited by the Sunshine Law from discussing or communicating about board business face to face, they also cannot do so by telephone, e-mail, letters or memoranda, social media such as Facebook and Twitter, or any other means of communication.

Before communicating with other board members outside a meeting, a board member should check whether one of the Sunshine Law's permitted interactions applies. **Permitted interactions are specific circumstances in which the law permits board members to discuss board business outside a meeting, so long as the statutory requirements are met.**

The most frequently used permitted interaction, section 92-2.5(a), HRS, allows **two board members to discuss any board business, without limitation, so long as they do not make or seek a commitment to vote and do not constitute a quorum of their board.** This limitation on making a commitment to vote does allow discussion of the two board members' views and inclinations on an issue, but prohibits, for example, horse-trading of votes such as, "If you'll agree to vote my way on this issue, I'll give you my vote on your pet project next month."

The two-person permitted interaction does not require any prior arrangement on the part of the two members using it; they can run into each other on the street, e-mail each other, or telephone each other, so long as only two members are part of the discussion. Other people who are not members of the board can be present, as their discussions with board members are not regulated by the Sunshine Law.

Permitted interactions cannot be used to circumvent the requirements or the spirit of the law to make a decision or to deliberate towards a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. Specifically, where two members have discussed an issue using the two-person permitted interaction, they cannot then extend the discussion out to other board members through **serial use** of the permitted interaction. If Member X called Member Y to talk about the feral cat issue on the upcoming agenda, Member Y cannot then stop in the hallway to talk to Member Z about it, as there would then be three members who were privy to the discussion. Both Member X and Member Y must refrain from discussing the feral cat issue with other members until after the board has next discussed it at a meeting, which essentially clears the slate as to members' previous discussions.

The other permitted interactions listed in section 92-2.5, HRS, generally require prior planning, or apply only in certain circumstances, or both. OIP will discuss them in the forthcoming Parts 2 and 3 of this Quick Review series.

Quick Review: Who Board Members Can Talk To and When (Part 2)
(Revised August 2022)

Hawaii's Sunshine Law, Part I of chapter 92, Hawaii Revised Statutes (HRS), generally requires board members to discuss all board business in open meetings that have been properly noticed to allow for public participation. OIP often is asked whether board members can talk to one another in various situations when not in a meeting. To help board members understand when they can talk to each other outside a meeting, OIP put together a three-part Quick Review. This Quick Review is the second in the series. Part 1 concerned discussions of matters that are not board business, and Part 3 will follow and explain "permitted interaction groups" ("PIGs"). The entire series, along with other educational materials, is posted on the training page of OIP's website at oip.hawaii.gov.

What constitutes board business was discussed in Part I. There are, however, a number of exceptions and "permitted interactions" that allow board members to have discussions outside of a meeting, even on matters that constitute board business. A few of these exceptions and permitted interactions are described below.

Members should note that the **Sunshine Law expressly states that no permitted interaction shall be used to circumvent the spirit or requirements of the Sunshine Law** to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. For this reason, permitted interactions generally may not be mixed and matched or used serially, as doing so can result in a discussion of board business outside a meeting that does not fit within the limits of any one of the permitted interactions and thus is not authorized under the Sunshine Law.

1. Selection of Board Officers (HRS § 92-2.5(c))

The selection of the board's officers may be discussed between two or more board members, but less than a quorum, in private without limitation or subsequent reporting.

2. Members May Continue to Accept Testimony When a Multi-site Meeting Must be Cancelled or Terminated (HRS §§ 92-2.5(d) and 92-3.5(c))

The Sunshine Law defines a "meeting" at HRS § 92-2 as the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. When a meeting must be **cancelled for lack of quorum or terminated when quorum is lost** during the meeting, the board members present may nevertheless receive testimony and presentations on agenda items and may question testifiers or presenters under HRS § 92-2.5(d).

Under HRS § 92-3.5(c), when a board is holding a **multi-site meeting by interactive conference technology (ICT) and an audio connection to all meeting locations is interrupted for more than 30 minutes, the meeting must be terminated,** even if a quorum of the board is physically present in one location. However, under HRS § 92-2.5(d), members present at one location may continue to receive testimony and presentations on agenda items and may question testifiers or presenters, but cannot discuss, deliberate, or decide such matters. **Note that the permitted interaction under HRS § 92-2.5(d) specifically applies to HRS § 92-3.5(c) regarding multi-site meetings, and not when remote meetings held by ICT under HRS § 92-3.7 lose their audio or video connection.** Also note that this permitted interaction does not address Sunshine Law requirements to **continue** a meeting, instead of terminating it, which are addressed in a different training document posted on OIP's website at oip.hawaii.gov/training, "Quick Review: Continuance of a Meeting Under the Sunshine Law."

For both cancelled and terminated meetings, HRS § 92-2.5(d) requires that board members' discussion, deliberation and decision-making on agenda items for which testimony or presentations are received must occur only at a subsequent, properly noticed meeting held after the cancelled or terminated meeting at which the testimony and presentations were received.

And, members who received the testimony at a cancelled or terminated meeting are required to create a record of the oral testimony or presentations in the same manner as would be required for testimony or presentations heard during a meeting of the board. In other words, the members must keep notes of the receipt of testimony and presentations in the same manner that the board would keep minutes of testimony and presentations received at a meeting.

Before deliberation or decision-making at a subsequent meeting, the board must provide copies of the testimony and presentations received at the cancelled meeting to all members. The members who were present at the cancelled or terminated meeting must also report about the testimony and presentations received.

3. Informational Meetings (HRS § 92-2.5(e))

Two or more members of a board, but less than a quorum, may attend an **informational meeting or presentation** on matters relating to official board business, **including a meeting of another entity, legislative hearing, convention, seminar, or community meeting**; provided that the meeting or presentation is **not specifically and exclusively organized for or directed toward members** of the board.

The board members in attendance may participate in discussions, including discussions among themselves, provided that the discussions occur during and as part of the informational meeting or presentation and that no commitment relating to a vote on the matter is made or sought.

At the next board meeting, the members who attended the informational meeting are required to report their attendance and the matters presented and discussed that related to official board business at the informational meeting.

4. Circulation of Proposed Legislative Testimony (HRS § 92-2.5(h)

A board that has previously adopted a position on a legislative measure may circulate its proposed testimony among board members for review and written comment when it does not have enough time to notice a meeting before a legislative deadline, so long as all proposed testimony drafts and board member communications about the testimony are publicly posted online within 48 hours of the testimony's circulation to the board. This permitted interaction is best used for proposed testimony drafted by board staff or a single member, rather than by multiple board members using another permitted interaction to confer, in order to avoid conflicts with other permitted interactions as discussed in OIP's Quick Review on Sunshine Law Options to Address State Legislative Issues and Measures, which is posted on the Training page at oip.hawaii.gov.

5. Discussions with the Governor (HRS § 92-2.5(f))

Discussions between the Governor and one or more board members may be conducted in private without limitation or subsequent reporting; provided that the discussion does not relate to a matter over which a board is exercising its adjudicatory function.

Some boards that have adjudicatory powers include the: Hawaii Labor Relations Board; Labor and Industrial Relations Board; Hawaii Paroling Authority; Civil Service Commission; Employees' Retirement System Board of Trustees; Crime Victim Compensation; and State Ethics Commission.

6. Discussions with Department Head (HRS § 92-2.5(g))

Discussions between two or more members of a board and the head of a department to which the board is administratively attached may be conducted in private without limitation; provided that the discussion is limited to matters specified in section 26-35, HRS.

Section 26-35, HRS, provides that:

- department heads shall represent attached boards in communications with the Governor and the Legislature, unless otherwise requested by the Legislature;
- a board’s financial requirements from state funds shall be submitted through the department head and included in the department’s budget;
- rules adopted by the board are subject to approval of the Governor;
- employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of officers and employees of or under a board must be determined by the board subject to approval of the department head, and subject to applicable personnel laws;
- purchases of supplies, equipment, or furniture by a board are subject to approval by the department head;
- the department head has the power to allocate the spaces available for the board to occupy;
- quasi-judicial functions of a board are not be subject to the approval, review, or control of the department head; and
- the department head shall not have the power to supervise or control the board in the exercise of its functions, duties, and powers.

Quick Review: Who Board Members Can Talk To and When (Part 3)
(Revised December 2022)

OIP often is asked whether board members can talk to one another in various situations when not in a meeting. To help board members understand what they can talk about when they are not in a meeting, OIP put together a three-part Quick Review. The entire series can be found online on OIP's Sunshine Law training webpage at oip.hawaii.gov.

Boards subject to the Sunshine Law, Part I of Chapter 92, Hawaii Revised Statutes (HRS), are generally required to conduct all business in open meetings that have been properly noticed to allow for public participation. This Quick Review discusses an exception to the open meeting requirement for "permitted interaction groups" or "PIGs," as set forth in section 92-2.5(b), HRS. While other types of permitted interactions were previously discussed in Part 2 of this Quick Review series, this article explains how members of a board may form a PIG to investigate or to negotiate a matter.

PIGs Established to Investigate

Two or more members of a board, but less than the number of members which would constitute a quorum, may be assigned to investigate a matter relating to the official business of their board.

In order for a board to take action on a matter investigated by a PIG, **three separate board meetings must occur** in the order described below. At the **FIRST** meeting of the full board, the investigative PIG is formed and the scope of the investigation and the scope of each member's authority are defined. No new members or issues can be added to the PIG after the first board meeting. The PIG may then conduct its investigation outside of open meetings, which may take months to complete.

At a **SECOND** meeting of the full board, the findings and recommendations of the PIG are presented to the board, **but the board cannot discuss or act on the report at this meeting.**

- A PIG may present its findings to the full board in an executive session *if* the reason for entering into the executive meeting is one of those set forth in section 92-5(a), HRS, or other law. For example, if a PIG was created to investigate whether to take certain disciplinary action against an employee, it may present its findings to the full board in accordance with section 92-5(a)(2), HRS, which allows boards to enter executive meetings to consider the discipline of an employee. In such a situation, OIP generally recommends that the PIG also present a "sanitized" report during the public session that omits the confidential information but informs the public of the general nature of the PIG's findings and recommendations, so the public is at least generally informed of the PIG's work and has something upon which to base testimony at the subsequent meeting where the board will discuss and perhaps act on the report.

After the PIG makes its report to the board at the second meeting, the PIG is automatically dissolved and should not continue working. The Sunshine Law does not allow a PIG to make more than one report or to continue working on its assignment after its report, so a PIG should not be providing "updates" on its work or more than one report. See **OIP Op. Ltr. No. F23-01** on OIP's Opinions page for an in-depth discussion on investigative PIGs.

The board cannot discuss, deliberate, or make any decisions regarding the PIG's report until a **THIRD meeting** held separately and after the meeting at which the findings and recommendations of the investigation were presented by the PIG.

Waiting until a subsequent board meeting to discuss and act on the PIG's report gives the public the opportunity to present informed testimony at the meeting where the board will discuss and act on the report.

Some Practical Considerations for Investigative PIGs

- A PIG is fundamentally a permitted interaction with detailed reporting requirements, not a special type of committee.
- Because they are a permitted interaction rather than a type of committee, PIGs are not subject to the Sunshine Law's requirements for giving notice, holding open meetings, or keeping minutes.
- PIG members may communicate by interactive technology (Skype, teleconference, etc.), and by email, telephone, etc., on matters within the scope of the PIG's authority without violating the Sunshine Law.
- Although a PIG is not required to hold public meetings, it can choose to do so if it wishes.
- PIGs may solicit input from the public as part of an investigation without the need of filing a meeting agenda in accordance with the Sunshine Law.

- A PIG may include among its members people who are not members of the board that created the PIG. A PIG may also consult with others (i.e., staff, members of the public, individuals with expertise in a field, stakeholders, etc.) in furtherance of its investigation, but should NOT consult with other members of its parent board.

- Members of a board who are not part of the PIG may NOT attend PIG meetings or be included in PIG communications.

- Before the PIG reports to the board, PIG members should not discuss the status of their investigation with other board members who are not part of the PIG.

- A standing committee of a board may create a PIG, and such PIGs must follow all the requirements of section 92-2.5(b), HRS, including reporting back to the committee that created them.

- Sometimes, it may be better for a board to establish a temporary committee instead of a PIG, or to delegate authority to one member to perform a task and report back to the board. See OIP Op. Ltr. No. F23-01 at 15-16 for more information.

- A PIG may continue its work after the loss of a PIG member. For example, if a PIG's member's term on the board ends, that member also ceases to be a PIG member, but the PIG can continue working with the remaining original members. The board should not substitute another board member into that vacant PIG position. The PIG's membership was previously established at the initial meeting that created the PIG and new members cannot be added. The PIG can continue without the now-departed member, but if a board wants to change the PIG's membership, it should first allow the current PIG to report back and automatically dissolve. After hearing the investigative PIG's report and waiting until a subsequent board meeting to discuss and act on the report, the board can then create a new PIG to carry on the now-dissolved PIG's work.

- Similarly, once a PIG is formed, the board may not add new assigned tasks to an existing PIG.

PIGs Established to Negotiate

Another less common type of PIG can be formed when two or more members of a board, but less than a quorum, are assigned to present, discuss, or negotiate any position adopted by the board at a meeting. The assignment of members to a PIG for the purpose of negotiation, and the scope of each member's authority, must be defined at a board meeting prior to the presentation, discussion, or negotiation. The three-meeting requirement for investigative PIGs does not apply to PIGs established to negotiate.

As a final note, boards should keep in mind that they may be subject to other laws or rules in addition to the Sunshine Law, which could affect members' ability to discuss pending matters. This may be particularly relevant for boards that exercise adjudicatory functions (which are not subject to the Sunshine Law), as they must generally avoid *ex parte* communications. Similarly, some boards are subject to confidentiality provisions outside the Sunshine Law, and if a board is involved in a procurement, it must follow procurement laws. Boards should consult with their own attorneys on the application of such laws and rules.