

**CULTURAL RESOURCES COMMISSION
COUNTY OF HAWAII**

**MINUTES
February 12, 2025**

MEETING LOCATION:

Hybrid in-person and interactive video conference through Zoom with live observation through YouTube. The in-person location was held at the Hilo Planning Department Conference Room, 101 Pauahi Street, Suite 3, Hilo, HI 96720.

The full YouTube video of this hearing can be found here:

https://www.youtube.com/watch?v=WRJE_Wi-QoA

COMMISSIONERS PRESENT VIA ZOOM: Matthew Clark (Chair), Desmon Haumea (Vice Chair) (arrived at 10:33 a.m. and left at 11:02 a.m.), Roberta “Ku‘ulei” Keakealani (arrived at 10:15 a.m.), Kealohanuiopuna Kinney, Natalie Kurashima, Scott Mahoney, and Janet Six.

COMMISSIONERS EXCUSED: Nicole Lui and Aaron Spielman.

ALSO PRESENT: Jean Campbell, Deputy Corporation Counsel; Kevin Sullivan, Planner; Kim Tanaka, Planner; and Ashley DeVera, Board Secretary.

Chair Clark called the Cultural Resources Commission (CRC) meeting to order at 10:03 a.m. A quorum was established with five members in attendance. It was announced that pursuant to Act 220, Session Laws of Hawaii 2021, which amended the Sunshine Law to allow meetings to be remotely conducted online, effective January 1, 2022, the Cultural Resources Commission meetings will be held online, with an in-person location for the public to provide testimony. The meeting can be viewed live online, and a link to YouTube can be located on the County website, as well as links to reports and surveys reviewed at this hearing. Commissioners were reminded that only one person may speak at a time and were asked to raise their hands to be recognized before speaking.

Commissioners were asked to introduce themselves and in accordance with the Sunshine Law, identify any member(s) present within the household. All members reported being alone in their location.

Staff introductions were made.

There were no addendums or supplemental agenda items.

STATEMENT(S) FROM THE PUBLIC

At 10:06 a.m., Chair Clark opened the floor to receive public testimony. Procedures for testimony were provided. There is a three-minute time limit on each agenda item; statements must relate to items on the agenda.

[SEE YOUTUBE TIMESTAMP – 3:12]

No testifiers were present on Zoom or in person.

Public testimony closed at 10:06 a.m.

BUSINESS OF THE COMMISSION

1. Hawai'i Historic Bridge Program Update

Presentation and Q&A with Hawai'i Department of Transportation (HDOT): Historic Bridge Programmatic Agreement (PA) for Minor bridge repairs; (PA) concerns ongoing maintenance, repair, and minor rehabilitation of certain historic bridges.

[*SEE YOUTUBE TIMESTAMP – 4:42*] This agenda item was called to order at 10:08 a.m. There were three team members from HDOT in attendance. There was one member of the public present on Zoom and no public testimony was provided.

[*SEE YOUTUBE TIMESTAMP – 6:30*] A presentation was provided by Mr. Ikaika Kincaid regarding the National Historic Preservation Act (NHPA) Section 106 PA for the Hawai'i Historic Bridge Program. The PA had been previously reviewed by the CRC.

HDOT initiated the project in February 2020, with the first public stakeholders meeting that took place in January 2021. The second draft PA was submitted to the State Historic Preservation Division (SHPD) in September 2021, and the third draft PA was created in February 2024. HDOT finalized the draft PA in January 2025 and presented it to the CRC for comments.

The purpose of the PA was to streamline the implementation, review, and reporting of minor historic bridge projects that had no adverse effects on historic properties, and to efficiently deliver federally funded repair and maintenance projects at both the state and local levels. HDOT encouraged the adoption of best practices for historic bridge types and materials and ensured safe public transportation.

The PA addressed ongoing maintenance, repair, and minor rehabilitation of historic bridges. Although state regulations, specifically HRS Chapter 6E, could not be incorporated into Section 106, it would be attached to the PA along with a memorandum of understanding (MOU). The PA did not apply to major bridge rehabilitation or replacements projects, and projects with an adverse effect to historic resources.

Commissioner Keakealani joined the meeting. Quorum was confirmed with six commissioners.

HDOT created a tiered activity list. Tier-one included activities that had no effect on historic properties. Tier-two encompassed activities that required the application of guidance from the Best Practices Manual to achieve an outcome of having no adverse effect and no effect on historic properties. Tier-three involved activities that required both the guidance manual and a review by a Secretary of the Interior (SOI) qualified professional.

[*SEE YOUTUBE TIMESTAMP – 16:30*] Mr. Kincaid provided a list of minor repairs categorized by material type (concrete, steel, stone masonry, and wood) rather than by bridge element. He also included pictures as examples of the activities.

A compliance form was required for minor activity repairs and had to be filed with HDOT. HDOT would then provide it to SHPD during the first year of the PA on a six-month cycle. After the first year, the submittal would occur on a yearly basis. HDOT proposed an archaeological

clear zone list for limitations on ground disturbing activities and provided an example.

HDOT requested consolidated comments from CRC by the end of March 2025. HDOT would address the comments, revise the PA and related documents, and then finalize them for signature. This concluded the presentation. Mr. Kincaid then opened the floor for any questions.

[*SEE YOUTUBE TIMESTAMP – 27:01*] Chair Clark questioned when the PA would go into effect and whether it would apply to any ongoing Section 106 projects or if it would need to be filled out again. Ms. Pua Aiu responded that the road PA included language addressing this issue, and HDOT would take that same language for this PA.

Chair Clark also inquired about who would fill out the compliance verification forms. Ms. Barbara Shideler responded that the forms were intended to be completed by a qualified project manager with HDOT, with the input from the county. The SOI provided training to the project manager to ensure understanding of Section 106 and how the Best Practices Manual was applied. The project manager would identify the activities proposed under the tiered activity list, the standard scope of work, and the trigger for Section 106, such as federal funding, U.S. Army Corps permits, or other types of state or county funding. Standard documentation would include the initial Section 106, the bridge location, and potential effects. In the event of disputes, mechanisms were outlined in the PA. Mr. Kincaid added that the U.S. Army Corps was also a signatory to the PA.

Vice Chair Haumea joined the meeting. Quorum was confirmed with seven commissioners.

[*SEE YOUTUBE TIMESTAMP – 34:38*] Chair Clark followed up with one more question regarding HRS Chapter 6E work on a bridge that had no adverse effect and no effect on historic properties, asked if the entire Section 106 process would need to be followed. Ms. Shideler responded that SHPD would not allow the MOU to be used solely for HRS Chapter 6E projects. The Section 106 process must be completed first, then the HRS Chapter 6E process would follow as an additional step.

[*SEE YOUTUBE TIMESTAMP – 35:43*] Commissioner Six questioned whether there would be documentation and a state inventory of historic place numbers for any remnant architecture potentially found underneath newer bridges, especially if it did not already have one. Ms. Shideler responded that under Section 106, the first steps were inventory and evaluation. The PA assumed that inventory and evaluation had already been completed in the state historic bridge inventory. If remnant structures were potentially affected, they would need to be reviewed by a qualified SOI professional to determine whether they were historic. These structures were currently listed under tier-three. Mr. Kincaid added that the structure needed to be associated with the historic bridge being repaired and located within the project area.

[*SEE YOUTUBE TIMESTAMP – 40:51*] Mr. Sullivan questioned whether the PA deadline could be extended. He asked about any collation of the batch form submittals, every six months, confirming that the progress was being monitored. He also inquired if there was a possibility of extending the period beyond five years. Ms. Aiu responded that it would depend on how well the PA went, and that the extension would be determined by SHPD.

Mr. Sullivan asked about contract performance, enforcement, and how that may be structured in the PA. Mr. Kincaid responded that the certified project manager would have the right to use the

PA and follow through to ensure the repairs were done appropriately. If it was a tier-three activity, the SOI would be responsible for signing the compliance form. The compliance form would begin at the scoping phase of the bridge repair activities and would be completed when the project was finished then submitted to SHPD.

Mr. Sullivan also asked about the training required prior to becoming a project manager, or prerequisite for base knowledge of historic preservation. Mr. Kincaid responded that they had developed a scope of work for the training, which would be included in the revisions to the document. The scope outlined the duration and prerequisites, including the Section 106 introductory course and specialized preservation training. The training was about two days long, with an assessment at the end to earn a certificate.

[SEE YOUTUBE TIMESTAMP – 46:59] Commissioner Kinney understood that the PA focused on repairs, infrastructure maintenance, and preservation of historic qualities, but questioned the bridges that crossed over cultural spaces. He asked about consultation with community members and requested additional information. He suggested placing small plaques with the architectural period, location of the bridge, and the significance of the space to the people of Hawai‘i. Mr. Kincaid responded that they tried to avoid any ground disturbance and referred to the archaeological clearance zone.

Commissioner Kinney clarified his question, asking how the story of the stream and the infrastructure passing through it would be addressed. Ms. Shideler responded that there was no requirement in the PA, but it could be proposed as mitigation for a larger project. Ms. Aiu noted that Native Hawaiian groups were not interested in the bridge itself, but rather in the area around it.

[SEE YOUTUBE TIMESTAMP – 53:37] Commissioner Six requested the place names of the gulches and streams, along with their meanings and the history.

[SEE YOUTUBE TIMESTAMP – 55:00] Commissioner Keakealani recommended freestanding signs displaying the name of the stream, the ahupua‘a, and moku. She also recommended implementing something to catch the waste that falls into the water from the project area.

[SEE YOUTUBE TIMESTAMP – 59:08] Chair Clark requested the comment sheet from HDOT and asked if the CRC comments would be incorporated. Mr. Kincaid clarified that the deadline for comments was March 31st. Mr. Sullivan responded that the CRC could respond as a commission, or members could comment individually. Mr. Kincaid requested that any conflicting comments be resolved prior to submission to HDOT.

Vice Chair Haumea left the meeting at this time. Quorum was confirmed with six remaining participating commissioners.

This matter concluded at 11:03 a.m.

2. Sunshine Law Training for Boards & Commissions

Deputy Corporation Counsel Jean Campbell to provide training on Sunshine Law and Robert’s Rules applicability and requirements.

[SEE YOUTUBE TIMESTAMP – 1:01:37] This agenda item was called to order at 11:03 a.m. There were no members of the public present, and no public testimony provided.

[SEE YOUTUBE TIMESTAMP – 1:03:25] A presentation was provided by Ms. Jean Campbell regarding the Sunshine Law and Robert’s Rules. The Sunshine Law is a state law in HRS Chapter 92, designed to protect the public interest and ensure that the functioning of boards and commissions remains open to public scrutiny and participation. Every meeting had to be open to the public unless an executive session or limited meeting was allowed. There could be no discussion of board business outside of an open meeting, with a few exceptions. The board was required to provide notice, accept testimony, and keep minutes. The meeting could not consider matters that were not included on the agenda. Board business referred to matters over which the board had supervision, control, and jurisdiction or advisory power that were before the board or expected in the foreseeable future. Every meeting was to be open to the public.

Three types of meetings were identified: one-site, multiple sites, and remote meetings. If connectivity was lost and could not be restored within thirty minutes, the meeting had to be terminated. A quorum of board members had to be visible to the public. For remote meetings, the presiding officer was required to announce the names of participating members and each person had to state who else was present at their location. Voting had to generally be taken by roll call and the board was generally required to record the meeting and make the recording electronically available to the public.

If someone was being disruptive, the board could remove them from the meeting. All items that the board intended to consider had to be listed on the agenda. The item had to be sufficiently detailed to provide the public with adequate notice of the matters to be considered, and the notice and agenda had to be filed at least six days prior with the County Clerk's office and the Board's office. There were a few emergency exceptions. To amend the agenda, a two-thirds vote of all members was required. The agenda could not be amended if it was of major importance and/or would affect a significant number of people.

All interested persons could submit written and/or oral testimony on any agenda item. The County usually limited testimony to three minutes, but this was at the Chair's discretion. The Sunshine Law did not apply to social gatherings where board business was not discussed. A board member could discuss board business with a non-board member outside of a meeting, except during a closed executive session.

[SEE YOUTUBE TIMESTAMP – 1:15:22] Mr. Sullivan questioned about staff being considered non-board members. Ms. Campbell clarified that staff were non-board members, so if board members wanted to discuss board business with staff, they were permitted to do so. Ms. Campbell then continued with her presentation. She explained that two board members could discuss board business outside of a meeting to seek information, as long as no commitment to vote was sought or made. The law prohibited serial communication. Board members could attend informational meetings with two or more members, but fewer than a quorum. They would then report back at the next meeting to the full board.

Ms. Campbell described a permitted interaction investigatory group, which could consist of two or more members, but fewer than a quorum, assigned to investigate a matter relating to the official business of the board. It was a three-meeting process. At the first meeting, the group would identify the members and the scope of the investigation. At the second meeting, they would report all findings with no discussion. At the third meeting, there would be a full board discussion and any decision-making. If on-site meetings occurred with the full board, it would

be considered a public meeting.

Board members were allowed to discuss the election of officers. If no quorum was met and there were people who wanted to testify, they could do so. Executive meetings were closed to the public. A motion had to be made by a board member and must state the reason. It required two-thirds of the vote by board members. The purposes of executive meetings included personnel decisions, consultations with the board's attorney, investigations into criminal conduct, and matters confidential by law or court order.

[*SEE YOUTUBE TIMESTAMP – 1:21:06*] Commissioner Mahoney questioned whether an executive session needed to be on the agenda. Ms. Campbell responded that it should be included on the agenda as an option. Items that didn't qualify for executive session were those containing information that was embarrassing or personal. The minutes were required by HRS 92-9, which included the date, time, and place of the meeting; members absent or present; the substance of all matters proposed, discussed, or decided, and votes taken; along with any other relevant information. Executive meeting minutes could be withheld.

Robert's Rules of Order governed the procedure for board meetings. Generally, there was a main motion, which had to be seconded, followed by discussion. Members could debate the motion by obtaining the floor, then close the debate with an "all in favor" vote, and a majority vote was needed to take action. The chairperson would maintain order, facilitate the meeting, and provide structure and efficiency. Every member had to have an equal opportunity to participate, and the rules had to be consistently applied. Remarks during the debate were to be confined to matters on the floor.

The motion was a formal proposal by a member, made during a meeting, for the commission to take a specific action. A motion could be made to postpone the substantive motion or any other matter on the agenda to a specific time or after a specific event. It needed to be seconded and passed by a majority vote. To amend the motion was used to modify the language of the pending substantive motion before it was voted upon. A member could motion for a recess at any time, provided it was seconded and passed by a majority vote. A motion could be withdrawn by the maker at any time, as long as it was before the motion had been decided upon or amended.

This matter concluded at 11:32 a.m.

ANNOUNCEMENTS

[*SEE YOUTUBE TIMESTAMP – 1:29:56*] There were no announcements or updates from Commissioners.

ADMINISTRATIVE MATTERS

1. Approval of minutes of the meeting held on January 8, 2025.

[*SEE YOUTUBE TIMESTAMP – 1:30:27*] Commissioner Six motioned to approve the minutes as circulated; seconded by Commissioner Kurashima. No discussion occurred. The minutes were approved without opposition with a unanimous aye voice vote.

2. Planning Department staff updates: State Legislative Bills: SB575, SB15, SB578, HB195.

[*SEE YOUTUBE TIMESTAMP – 1:31:05*] Mr. Sullivan provided the 2025 State Legislative updates relating to historic preservation. SB 15 was about historic property preservation and amended the definition of "historic property," adding significance criteria. SB 575 addressed historic preservation reviews and allowed the Department of Land and Natural Resources (DLNR) to contract third-party consultants if they were unable to complete their review within sixty days. SB 578 aimed to amend the definition of "historic property" to include those that predated Statehood Day, specifically with respect to buildings and structures. HB 195 focused on historic preservation at port heritage sites. Links were provided to the commissioners.

3. Next meeting tentatively scheduled for Wednesday, April 9, 2025.

[*SEE YOUTUBE TIMESTAMP – 1:35:15*] Mr. Sullivan received an inquiry about the March 12th meeting. Ms. Aiu from HDOT wanted to provide an update on the 2024 bridge inventory list. The commissioners briefly discussed it and agreed to have a meeting on March 12th, 2025.

ADJOURNMENT

There being no further business, a motion to adjourn was made by Commissioner Kurashima and seconded by Commissioner Mahoney. The meeting was adjourned at 11:41 a.m. with a unanimous aye vote.

Respectfully Submitted,

Ashley DeVera, Board Secretary

A T T E S T :

Matthew Clark, Chairman
Cultural Resources Commission