

HAWAII COUNTY PUBLIC ACCESS, OPEN SPACE AND NATURAL RESOURCES
PRESERVATION COMMISSION

MINUTES-REGULAR SESSION

December 11, 2006
Department of Liquor Control Conference Room
101 Aupuni Street, Ste. 230
Hilo, Hawaii 96720

Present: Chair Kenneth Kaneshiro (left at 4:24 p.m.)
Vice-Chair Hannah Springer
Commissioner Paul Campbell
Commissioner E. Kalani Flores
Commissioner Jocelyn Garovoy (arrived at 10:17 a.m.)(left at 3:00 p.m.)
Commissioner Ruth Walker (left at 3:15 p.m.)
Commissioner Bill Gilmartin (arrived at 10:17 a.m.)

Absent: Commissioner Laura Schuster
Chair John Replogle
Commissioner Benedict Yung

Others Present:
Amy Self, Deputy Corporation Counsel
Stacie Waltjen, Secretary
Sharese Macomber, Clerk III, Finance Department
Harry Yada, Property Manager, Finance Department (left at 1:15 p.m.)

CALL TO ORDER

The meeting was called to order by Chair Kenneth Kaneshiro at 10:00 a.m.

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

None

APPROVAL OF MINUTES

Commissioner Walker moved for approval of the minutes of November 13, 2006 regular session, seconded by Commissioner Springer and carried unanimously by voice vote.

WRITTEN COMMUNICATION

Communication No. 06-126: Ms. Springer asked if the reports would come to this Commission from Finance as to how the negotiations proceed.

Mr. Yada stated he would report on that.

Communication No. 06-127: Mr. Kaneshiro stated this Survey Form would be considered for December 2007 updated list.

Communication No. 06-128: Ms. Self stated Mr. Gilmartin will be coming to this Commission meeting. Mr. Gilmartin will be sworn in and then come down to this meeting.

DEPARTMENT OF FINANCE REPORT

Mr. Yada stated the Council passed a resolution to rank the purchases that have already passed resolutions authorizing purchase. Mr. Yada stated Kawa'a, Waipi'o and Honoli'i was on their resolution in that order with Kawa'a being first.

Mr. Yada stated they also passed correcting the Ordinance and adding in the purpose.

Mr. Yada stated the other issue they are still waiting for clarification from Corporation Counsel regarding the 2% issue.

Ms. Self stated the most recent thing that Corporation Counsel, Lincoln Ashida said was that it would be better to have the new Council take this up.

Mr. Yada stated the administration was still working on interpretation regarding when the 2% would be paid in. Mr. Yada stated they will be seeking more clarification on that.

Mr. Yada stated based on the resolution, they did issue an offer letter on Kawa'a. The appraisal came out to \$1.92 million dollars. Mr. Yada stated their initial reaction when he verbally transmitted the information, wasn't the best however they are still waiting for a response to the letter.

Mr. Yada stated the other issue was the County would be looking at how to allocate the funds based on the balance and coming up with a plan. Mr. Yada stated the intent was to try and fund more monies into this fund out of the fund balance but the details are still pending. Mr. Yada stated they want to do it but they don't know what the numbers will be at this point. Mr. Yada stated they will wait and see what happens in the next month.

Ms. Springer asked if this was something that will be taken up with the new Council.

Mr. Yada replied that the administration usually comes up with the proposal for the fund balance and then it does get taken up by the Council.

Mr. Yada stated he had a phone conversation with the DLNR administrator of the State Fund Program and his impression was that the State legacy land fund will operate like a grant program. They are basically a source of fund and will accept grant applications for funding and they will review and make a decision as to who gets what.

Mr. Campbell asked if that was per project or like a grant for funding into the land acquisition fund in general.

Mr. Yada stated from what he was told, the applications were open to non-profit, State and/or County for acquisition. Mr. Yada stated those parties would apply for specific acquisitions and then a decision would be made however he didn't know the details of the process yet. Mr. Yada stated in his mind it was awkward because they have whole year to take applications and then make a decision towards the end of the year. Mr. Yada stated retail transaction needs to be taken right away.

Ms. Walker asked what will Mr. Yada's role be when the State grants funding from the legacy land fund.

Mr. Yada stated he was not sure but he will get more detail from the State's process and how the County and State can coordinate together.

Mr. Flores stated getting back to Kawa'a, according to Ordinance Section 2-218, does that mean that the County can't pay more than the appraised price of 1.9 million but does that preclude enhancing it with another non-profit fund to add onto the appraised price?

Mr. Yada stated that was a good question. There was something on Waipi'o where private individuals were willing to donate funds over and beyond what the appraisal would be. Mr. Yada stated in conferring with Corporation Counsel, as long as the County was not putting out more than the appraised value then it would probably be okay. Mr. Yada stated he was not sure what the State's restrictions were.

Mr. Flores asked if the County or State would go thru condemnation proceedings.

Mr. Yada stated he was not sure what would take them to that point. The question was do you pursue condemnation or go down to number 2 on the list. Mr. Yada stated he was not sure if they did any actual condemnation while he was at DLNR. Mr. Yada stated it would depend on the issues and the reasons why you would condemn; if it's for archaeology or burial, those sites are already protected by law.

Mr. Flores stated he needed to look but he was sure there was a provision in the State law.

Mr. Yada stated they purchased GIS software however they still had to go thru the procurement process to obtain a laptop. Mr. Yada stated as they get further into the year, they will be able to facilitate more information.

Ms. Springer asked Mr. Yada if he and the GIS software would be available to come to the public meetings with the Commission.

Mr. Yada stated he thought so however he was not 100% sure how the program works.

Ms. Springer stated they were limited by the TMK maps when they were at public meetings because of the lack of specificity.

Mr. Yada stated when doing submittals for the Land board, he would print out aerials and label streets and/or label different reference points which made it easier for the board to see. Mr. Yada stated he hoped to be able to do that for the public meetings. Mr. Yada stated one problem was that aerials are not available for entire the island. Mr. Yada stated most of the coastline is available but not the inland areas. Mr. Yada stated they would need access to the internet to pull up the sites.

Ms. Self stated that one problem would be they wouldn't have the connections at all the places they had their public meetings at.

Mr. Flores stated the public meetings were held at County facilities.

Mr. Yada stated another thing he inquired about was getting internet cards that pulled the connection off the cellular sites. Mr. Yada stated he would see what he could do about that.

Ms. Springer stated if it was not possible, when they go to the community meetings, the Commission could tell the public what they tried to accomplish. The public would know the Commission was trying to improve their process.

Mr. Yada stated in terms of information that's available on the GIS, they know what properties they are looking for.

Mr. Yada stated aerials are very helpful especially when you overlay property boundaries.

Mr. Kaneshiro asked if he had the criteria and how to apply for the grants regarding Legacy Lands?

Mr. Yada stated he would bring that to the next meeting and pass it out.

Mr. Kaneshiro introduced Mr. Gilmartin to the Commission. He then sat with the Commissioners. Introductions were made by the Commission.

OFFICE OF THE CORPORATION COUNSEL'S REPORT

Ms. Self stated the resolution to prioritize the lands was discussed at the Council meeting on Nov. 29, 2006. Ms. Self stated Mr. Yada, Mr. Takaba and herself were called up for discussion with the Council regarding the need for some sort of order when purchasing lands. They tried to emphasize to the Council that the code now doesn't require them to purchase lands on this Commission's list. Ms. Self stated she advised the Council that they should keep in mind the hard work that the Commission puts into making the list and that the Commission would like the Council to make their list based on the Commission's list. Ms. Self stated she got the feeling that the Council wanted help in doing this. Ms. Self stated they would have to add the funding part anyway and they would have to determine when the money will get put into the fund.

Mr. Yada stated one of the key things was, knowing how much money would be in the fund and when it would be there. It gives stability to the process. Mr. Yada stated the most concerning thing about the Council meeting was there were questions about why there wasn't a property supporting this district on the list. Mr. Yada even though he wasn't here when the first list was made, the first three or four properties on the list wasn't necessarily based on whose district it was.

Mr. Kaneshiro stated what the councilman said was he noticed 3 of the 4 on the list came out of Holschuh's district. Mr. Kaneshiro stated this had nothing to do with district.

Ms. Self stated another thing that came up was, out of the 4 properties they prioritized, one property wasn't on the list. Ms. Self stated the bill Council member Stay Higa introduced didn't say the funding should come out of this Commission's fund. The actual bill said that any available funds.

Mr. Campbell asked if what they were asking for was more of the Commissioner's to attend the public meetings or did they want to be able to contact the Commissioner's individually.

Mr. Yada stated his sense was that some of the Council people didn't really understand the process itself. If they were educated about the process this Commission went through in preparing the list, some of their comments/questions wouldn't come up.

Ms. Self stated it should be mentioned the way Council member Stacy Higa presented his bill for the purchase of Honoli'i to the Council, he stressed the urgency was that it was for sale and there was only a limited window of opportunity to purchase the property. Ms. Self stated in her discussion with Mr. Yada, it may not be a good thing to use this as a reason for making a property a priority.

Mr. Yada stated there are certain legal requirements that we all would need to go through depending on the property being purchased. Even if the County is a lot smaller, it still takes time for the process for purchasing. Mr. Yada stated that will always be a challenge

no matter what property they are looking at. Mr. Yada stated whether that should be used for ranking, it's was hard to say. It's a case by case basis.

Ms. Springer stated her concern would be that the properties not be competitive with each other for funding. Ms. Springer stated the Commission's task was to generate a list and prioritize it and then be protective of that. Ms. Springer wondered if they should articulate in their report some sort of reference to the non-political merits of the properties.

Ms. Self stated maybe the Commission could indicate in their report how they feel the process should go through. The Council wants guidance in that. Ms. Self stated if the Commission gave the Council some feedback, they would be appreciative.

Ms. Springer asked if it should it go in the report or as a letter attached to report.

Mr. Yada suggested in report. Mr. Yada stated an example of having a property that was 12 million dollars and based on the funding, it would take 4 or 5 years to build up the monies for purchase. Even though it may be first on the list, it would take longer to purchase. You may have to pursue different types of funding and set aside a certain amount of funding.

Mr. Campbell stated it was his understanding that funding should be looked at no matter what.

Mr. Yada stated when it's a large number, its hard for the County to do it alone.

Ms. Garovoy stated that Maui County has 1% set aside for property taxes, the way they do it is through a grant process where some entity proposes to the County that the money from their Public Access Open Space Fund becomes available for a certain property. Ms. Garovoy stated she was sure one of the components of the grant application was probably whether or not they had matching funds from other sources.

Mr. Gilmartin stated if the Commission gets the reputation of going to properties that were for sale, that person could basically jack up the prices.

Mr. Flores stated it wouldn't shift the ranking because it would've been already assessed. Mr. Flores stated in the ranking process, it got certain points because of the overall components. If you follow the assessment scoring, it would place the property where it should be with regards to ranking. Mr. Flores stated with regards to educating the Council, maybe having the Chair do a briefing with the Mayor, his staff and the Council when the list comes out would be helpful.

Ms. Self stated with Council, they wouldn't all be able to meet unless it's on the agenda.

Mr. Yada asked if the Mayor's list gets agendized because that would be a good time for that.

Ms. Self stated she would have to check on that.

CHAIRPERSON'S REPORT

Mr. Kaneshiro stated he testified at the Council meeting on November 29, 2006 regarding Resolution 544-06 which was submitted by Councilman Holschuh on prioritizing four of the projects; Kawa'a, Waipi'o, Honoli'i and Puapua'a. Mr. Kaneshiro stated when they did the testimony, one Council member asked for help to come up with a priority list. Mr. Kaneshiro stated the list went from the Mayor to the Council, a flurry of Resolutions came thorough. Their suggestion was that Council comes up with a methodology as to how to prioritize. Mr. Kaneshiro stated in the Ordinance 05-166, there is no guidance in there that says the how the Council will present through Resolutions back to the Mayor on acquisition. Maybe now would be a good opportunity to add something about coming up with prioritizing a list.

Ms. Self stated the Commission can't participate in the negotiations for properties, but she didn't see a problem with providing guidance to the Council.

Mr. Kaneshiro stated there was no timeline from the time the Council receives the list from the Mayor to prepare resolutions to give back to the Mayor for acquisition.

Ms. Self stated under the County Code, it states where there are multiple lands under consideration at one time, the priority shall be given to coastal lands or when matching funds are available. Ms. Self stated Waipi'o was not a coastal property.

Mr. Flores asked if they were still revising the language of the fund.

Ms. Self stated Ms. Isbell introduced a bill to put Section (d) back into the code which has already been done. Any other revisions/amendments of the code would have to come under a new bill. Ms. Self stated she spoke to Lincoln Ashida, Corporation Counsel, and he stated they all will need to sit down with Finance and discuss how to draft a bill to go before the new Council.

Ms. Garovoy stated she had been offered a position with a law firm that is based in San Francisco that wants her to join their conservation transactions practice. Ms. Garovoy stated she would be taking it therefore she will not be a full time resident of District 7 come this spring. She will also have to take the California bar exam.

Upon discussion amongst the Commissioner's, by April 9, 2007 a new Commissioner will be needed to take Ms. Garovoy's place.

OLD BUSINESS

- Process and apply Assessment Criteria Sheet to complete intake survey forms received by September 5, 2006 along with reassessing the top twelve from 2006 submittal

Recess taken at 11:13 a.m.

Reconvened at 11:18 a.m.

The Commission went into discussions regarding scoring the survey forms.

Lunch at 12:00 p.m.

Reconvened at 1:30 p.m.

Ms. Walker announced the order of the scoring:

Pōhue Bay: 87%

Kawa‘a: 87%

Waipi‘o Lookout Point: 85%

Punalu‘u Beach Park: 84%

Cape Kumukahi: 83%

‘O‘oma II: 71%

Puapua‘a Bay: 68%

Maulua Gulch: 60%

Spencer Beach Park expansion: 59%

Māhukona, Kamano, Kou, Hihui, Kamou: 54%

Ke‘ei Beach: 52%

Keamuku: 49%

Mr. Flores moved to create a comprehensive list with suggestion forms received between February 11 through September 5, 2006 together with the reassessed prioritized list and to combine Punalu‘u together and Spencer Beach Park together and take the higher score.

Upon further discussion, Mr. Flores withdrew his original Motion. Mr. Flores then moved to create a comprehensive list with suggestion forms received between February 11 and September 5, 2006 together with the April 5, 2006 reassessed prioritized list, seconded by Ms. Springer and carried unanimously by voice vote.

Ms. Walker moved to consider the assessment forms that scored 80% or more to be submitted to the Mayor as the new prioritized list, seconded by Mr. Campbell. Friendly amendment by Ms. Springer to add “properties” and take out “assessment forms” and carried unanimously by voice vote.

- Discuss how report will be completed, including drafting letter to accompany updated list.

The Commissioner's went into discussion regarding the draft letter to accompany the updated list.

Ms. Garovoy moved to accept the letter as amended, seconded by Ms. Springer and carried unanimously by voice vote.

Upon discussion by the Commission with regards to the top 7 properties that will be on the prioritized list with scores 80% and higher. Ms. Waltjen announced the top 7 properties that will be on the Prioritized List.

1. Kawa'a Bay-87%
2. Pōhue Bay-87%
3. Honolulu Landing-85%
4. Waipi'o Lookout-85%
5. Punalu'u-84%
6. Cape Kumukahi-83%
7. Wai'ele-80%

The Commissioner's went into discussion with regards to the updated Prioritized List.

Recess taken at 3:15 p.m.

Reconvened at 3:20 p.m.

The Commissioner's went into discussion with regards to the updated Prioritized List.

A Special Meeting was set for December 18, 2006 at the Department of Liquor Conference Room in Hilo to begin at 8:30 a.m.

Meeting was continued to December 15, 2006.

Meeting was cancelled on December 15, 2006 due to lack of quorum.

Respectfully submitted,

Stacie T. Waltjen, Secretary