



KŪKULU KE EA A KANALOĀ

KAHO'OLAWE ISLAND RESERVE COMMISSION

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MINUTES OF THE 11th REGULAR MEETING Tuesday November 6, 2007 11:00 AM

Department of Land & Natural Resources
Kalanimoku Building, Land Board Conference Room
1151 Punchbowl Street
Honolulu, O'ahu, Hawai'i

COMMISSION MEMBERS

PRESENT: N. Emmett Aluli, Chairperson; Craig Neff; Milton Arakawa; and Laura Thielen (from 11 until 1:30).

KIRC Staff: Ka'onohi Lee, Commission Aide (AIDE); Ray Enos, Policy Advisor-Governmental Affairs (PA-GA); Michele McLean, Policy Advisor-Special Projects (PA-SP); Kathy Kaohu, Resource Manager; Stephen Fulton, Reserve Manager; Nicole McMullen, Commission Assistant (CA); Jamie Bruch and Paul Higashino.

OTHERS: Rowena Somerville, Deputy Attorney General (DAG); Don Cameron, Pacific Helicopter Tours; Kiki Hee, Momi Wheeler, Davianna McGregor, Kahale Saito, and Kylee Omo, PKO

I. CALL TO ORDER

Chair Aluli called the 11th meeting for the year 2007 to order at 11:04am, when Laura Thielen arrived, followed by *Pule Na 'Aumakua*. A quorum was established with four commissioners present. He next confirmed the December 12, 2007 Commission meeting on Maui with the commissioners present and Commissioner Burrows by phone.

Chair Aluli introduced audience members to Commissioner Thielen and explained the transition team of Michele McLean, Acting ED, Ka'onohi Lee, Acting Deputy ED, Kala Enos and Rowena Somerville.

II. APPROVAL OF AGENDA

Chair Aluli deferred the approval of minutes until the next meeting, as there would only be quorum until 1:00pm. Next he suggested holding the New Business V.B. presentations until after 1:00pm followed by the Program Update presentations.

MOTION: Commissioner Arakawa moved to amend and approve the agenda. Commissioner Neff seconded the motion.

ACTION: Motion approved by all Commissioners present.

IV. COMMUNITY and PUBLIC COMMENT

PA-SP McLean explained that Mike Naho'opi'i has provided a written update on the PAF grant. Kylee Omo was in attendance to answer any questions for the commissioners. Chair Aluli asked if global warming was included in the lessons. He said that it was part of the discussion at the Hawaiian Civic Clubs convention he and Commissioner Burrows attended. Ms. Omo said that

she thought it was part of the Earth Science unit. Davianna McGregor said that she worked with them on that unit.

V. NEW BUSINESS

A. Presentation for Approval - Solid Waste Management Plan in Hakioawa

DAG Somerville explained that Safety Officer Bart Maybee learned that KIRC was burning trash on Kaho‘olawe and it was immediately stopped. She explained that according to HAR Ch.13 Section 261-14(b)(7), the starting or maintaining of a fire is a prohibited activity. She was also informed that PKO was burning trash on island. She contacted Mike Naho‘opi‘i who explained that PKO’s burning of paper rubbish at Hakioawa follows DOH Clean Air Act procedures. She stated that the Commission needs to authorize the fires so that they can continue to burn the trash on their next access. DAG Somerville suggested that they authorize it in the motion and it be discussed at the next Stewardship Committee meeting in mid-December.

Davianna McGregor of the PKO commented that no action was necessary, as PKO activities are covered under Section 261-13, and the prohibited activities of Section 261-14 were meant to apply to people or activities on island without permission. Chair Aluli asked if it was discussed as part of the hearings. Ms. McGregor said that it should have been recorded. She said that burning was approved under previous administrations. PA-SP McLean said that PKO activities are usually detailed on the SAR. Ms. McGregor said that the PKO access manual also outlines the activities, and she has asked that the manual be formally approved. It provides for fire pits, and burning is part of their day-to-day operations.

DAG Somerville suggested that the fires be added to the Stewardship Agreement at the meeting and emphasized that allowing the PKO to burn is not reflected in the rule. Chair Aluli asked if they were allowed to burn during the cleanup. DAG Somerville believed that they were. PA-GA Enos said that they had a burn plan. Kiki Hee explained that the burning was only for brush reduction, and paper and plastic trash was flown off the island. DAG Somerville reiterated that the PKO is properly separating the rubbish per the DOH requirements.

Chair Aluli asked if there was any burning of trash at Honokanai‘a. PA-GA Enos said that they are not supposed to burn. PA-GA Enos said that there might have been some when a helo was not available to extract rubbish from the island. Chair Aluli asked if KIRC planned to start burning trash at Honokanai‘a. DAG Somerville said that the rubbish would have to be separated and that the KIRC would have to follow the DOH requirements.

Commissioner Thielen asked Ms. McGregor if her main concern was not to set a precedent requiring PKO to get permission for activities they already do. She said yes and that they were told that they were covered under Section 261-13, and they are not doing anything they have not always done. Commissioner Thielen asked if the motion could be written to satisfy that the activities of the PKO, including fires are permitted under Section 261-13. Ms. McGregor asked that the motion reaffirm that the activities of the PKO are exempted.

PA-GA Enos recalled that when he helped draft the rules it was discussed that the PKO under the rules would have been violators for moving rocks and planting. He did not remember a discussion of fires. Ms. McGregor explained that fires are also part of the ceremonial activities. They have an imu and bonfires. She said that it was discussed then and has always been permitted. She said that it was an issue of contention at the time and was clarified.

Commissioner Neff added that to reaffirm the activities of the PKO in the motion should satisfy the safety officer and PKO’s concerns. PA-SP McLean suggested that Section 261-14 be reviewed by the Stewardship Task Force. Ms. McGregor said that this was already reviewed when the rules were adopted. She asked that the Commission reaffirm the interpretation that was given at the time, and that the activities listed by the PKO can take place on their access. DAG Somerville asked that the motion be tabled as she worked on the wording with Ms. McGregor.

MOTION: Commissioner Neff moved to reaffirm that reasonable and appropriate activities conducted by the PKO on approved accesses are deemed to be authorized by the KIRC as provided for in HAR Sections 13-261-13 and 13-261-14. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all commissioners present.

V. NEW BUSINESS

B. Pursuant to HRS Chapter 92-2.5 assign new member to Personnel Task Force

Chair Aluli said that the Personnel Task Force currently consists of himself and Commissioner Arakawa. He said that they would benefit from another member and asked Commissioner Neff to join.

MOTION: Commissioner Arakawa moved, pursuant to section 92-2.5(b), HRS, to assign a Commissioner Neff to the Personnel Task Force to provide policy guidance and direction to the full commission and to oversee the evaluation process of the Executive Director and all staff and to monitor the creation of new positions (Restoration and hybrid plan) and to monitor the recruitment and hiring for staff vacancies and to update existing position descriptions. Commissioner Thielen seconded the motion.

ACTION: Motion approved by all commissioners present.

V. NEW BUSINESS

C. Pursuant to HRS Chapter 92-2.5(1)(A to C) assign members to a task force to research cultural, historical, scientific mo‘olelo, records and data

Chair Aluli explained that due to the recent discovery of the adze and requests for ongoing research, a task force is needed to make recommendations to the Culture and Education Committee. Marshall Weisler would like to look at the adze quarry and coral at fishing shrines on Kaho‘olawe, which can be dated within two years with new technology. New research is showing the significance of Kaho‘olawe in migration throughout the Pacific.

Commissioner Neff asked if the task force is specific to the adze research. Chair Aluli said that it would be to begin with, but is written more broadly. PA-GA Enos explained that a task force, pursuant to the Sunshine Law, is meant to be specific to investigate an issue or problem. He said that it would cover the adze and coral research. Chair Aluli said that it would also include the adze quarry. Commissioner Neff asked that it include the raw material of the adze, as this is what was taken from Kaho‘olawe and the adze fashioned later. Commissioner Thielen asked if the task force would also prioritize the scientific research the KIRC wants to pursue. Chair Aluli agreed that it should. She asked if KIRC funds any of the research. Chair Aluli said no, but he is interested in partnering with universities to seek grants and begin to institutionalize research as part of the KIRC. PA-SP McLean said that we would like to know about research related to Kaho‘olawe as it is going on rather than after publication.

MOTION: Commissioner Neff moved to establish a Cultural Research Task Force to provide guidance, direction and prioritization regarding cultural, historical, scientific mo‘olelo, records and data and requests to further investigate adze, adze workshop materials and coral samples in the Reserve. Commissioner Thielen seconded the motion.

ACTION: Motion approved by all commissioners present.

MOTION: Commissioner Thielen moved to give the chairman authority to name not more than three commissioners, pursuant to section 92-2.5(b), HRS, to the Cultural Research

Task Force. Commissioner Arakawa seconded the motion. Commissioner Aluli named himself, Commissioner Neff and Commissioner Burrows.

ACTION: Motion approved by all commissioners present.

VI. OLD BUSINESS

A. Transition Team's Report

PA-SP McLean explained that the transition team was charged with priority tasks. Those related to personnel can be discussed further in executive session. Managers are completing state employee evaluation goal setting forms with the goal of finishing them December 1. Business Consulting Resources (BCR) is doing 360 evaluations of the senior managers. Recruiting will have to be redone for the Cultural Resources Specialist II position as all of the applicants have accepted other positions. Interviews for the two Natural Resources Specialists II positions will be Friday. The interview panel will be Commissioners Neff and Burrows, AIDE Lee, Resource Manager Kaohu and Restoration Manager Paul Higashino. The KIR Specialist II position received five applicants, and Commissioner Arakawa, Reserve Manager Fulton and PA-SP McLean will interview them. October 22 was the deadline to apply for the Ocean Resources Specialist position. Nine resumes are being reviewed and four or five will probably be interviewed.

Commissioner Neff asked if they pursued Commissioner Burrows' concern with accelerating the hiring process. PA-SP McLean said that she thought the staff could be more diligent in following up with Personnel. She said that some delays have been related to processing time. PA-SP McLean suggested that they soon have a Personnel task force meeting. DAG Somerville suggested a short executive session on personnel issues.

MOTION: At 12:00 pm Commissioner Thielen moved to enter into **Executive Session** - Pursuant to Chapter 92-4 & 5 (a)(2) the Commission will resolve into executive session to consult with legal counsel and staff on personnel issues where consideration of matters affecting privacy will be involved. Commissioner Arakawa seconded the motion.

ACTION: Motion approved by all commissioners present.

The commissioners, DAG Somerville, PA-GA Enos, PA-SP McLean, AIDE Lee and CA McMullen resolved into Executive Session.

MOTION: Commissioner Arakawa at 12:25 pm rose to report out of Executive Session. He reported that the Commission met regarding personnel issues and no decisions were made. Commissioner Neff seconded the motion.

ACTION: Motion approved by all commissioners present.

PA-SP McLean continued the transition team report with the budget report. There were no major expenditures in October. She added a column on contracts status for the balance. Next month she will supply a breakdown of helo transportation. Chair Aluli asked if they could include a quarterly trust fund report. AIDE Lee informed the Commission that a draft of the FY2007 Annual Report to the Legislature was submitted and the final report should be received soon.

VI. OLD BUSINESS

B. Landing Craft Cost Analysis Presentation and Proposed Storage Options

PA-SP McLean explained that at the last meeting, the Commission deferred the boathouse addition decision. The new landing craft is expected on November 23. The Commission asked

the staff for a more detailed cost analysis. She explained that the cost analysis includes the landing craft and truck, contract, shipping, and employee travel and per diem for viewing and sea trials. The manufacturer will cover their own travel for training. There is discussion of a potential donation of a truck. The costs also include new and modified moorings and transportation of the boat to Maui. The boat cost includes the trailer.

Commissioner Neff asked about Keone Laepa'a travel to Tacoma. Reserve Manager Fulton explained that he will be serving as first mate and has his captain's license. RM Fulton said that he brought photos of the landing craft from Tacoma to share with the Commission. Chair Aluli asked about naming the landing craft. PA-SP McLean explained that any suggestions will be run through the cultural program.

Commissioner Neff said that there is an existing buoy at Hakioawa and wondered if it could be used to cut the cost. RM Fulton said that they would be doing an assessment on Friday. Commissioner Neff asked if he had a chain and a float. RM Fulton said that they have a chain and will know what will be needed after Friday's assessment.

Chair Aluli asked about the Mobi-Mat. PA-SP McLean said that it is figured under the cargo equipment costs that include a forklift, refrigerator, and watertight containers. RM Fulton said that 160 feet of Mobi-Mat would be needed. Commissioner Neff asked about TrakMat. PA-SP McLean said that it was another bid and they are waiting to hear from them for a demonstration. It is \$5,000 cheaper and a local vendor, but is not so much geared to beach landing. Chair Aluli asked if the cost would come under the CIP for road maintenance. PA-SP McLean said that that is where it would come out of the budget. PA-SP McLean said that all other items were indicated in the budget, although some were previously under estimated.

Under fueling equipment, it is proposed that fuel tanks be placed on the trailer empty and filled. The staff will be trained in spill response. If there is a spill, the Coast Guard may require a contractor, and that retainer has been included. The contractor is on O'ahu. PA-SP McLean said that operating and maintenance costs include the fuel, truck, forklift, and utilities. An additional van may be required for large groups. She said that they would be looking into government surplus for a used van.

She explained that the two bids for the boathouse extension at the Kihei site exceeded the budget. The gate at the boathouse has been widened in preparation for delivery of the boat. The building permit waiver has also been approved. Costs are listed for the boathouse addition and an alternative plan. Commissioner Lu'uwai assisted with the alternative boathouse plan. It would include storing the Hakilo outside of the boathouse, widening the doors, relocating parking spaces, extending the fencing, added security and a concrete pad. Other options would be replacing concrete with asphalt, installing cameras and higher fencing. The alternative plan would be \$30,000 under budget, while the current boathouse projection is \$150,000 over budget.

VI. OLD BUSINESS

C. Presentation for Approval - Proposed Reduction and/or Reallocation of FY2008 Budget Line Items

PA-SP McLean presented the FY08 budget reallocation to offset the costs of the boathouse. It contains both cuts and increases with a net difference of \$9,382 over the budget. The Commission will have to decide what is needed and what will be a good investment. She said that RM Fulton feels that the boathouse addition is a worthwhile and necessary investment. RM Fulton read an Operations position statement on the new boathouse extension (summarized below).

He said that the operations staff has done extensive work on the logistics, procurement and the support requirements in planning for the purchase of the landing craft. He thanked the commissioners for the positive support that the KIRC staff has received and their belief in this

project. What the KIRC staff has achieved in roughly eighteen months is because of their commitment and belief that this landing craft would provide the KIRC with a more cost effective and less intrusive means of accomplishing their short and long-term strategic goals. The operations staff strongly advocates that the extension to the existing boathouse be allowed to continue even with the increased costs as provided to the commissioners.

He presented important issues that led to the belief in the necessity of the landing craft and the support requirements including the boathouse. He has presented the Commission with long and short term cost benefits of the landing craft. The landing craft would help the KIRC control its own needs, including the ways and means of movement to and from the island. He noted the noise of the helicopter and its attachment to the militaristic history of Kaho'olawe. RM Fulton noted that they are committing \$900,000 for continued helicopter support for nine months with no asset value.

He added that the landing craft and the Hakilo are performance specific operating assets. They must be maintained to the highest levels of performance. He said that we have to establish sound protection measures to maintain their performance life and reduce and impede their depreciation with whatever resources the KIRC is willing to invest. He continued about the need to be good neighbors by saying that the KIRC has been fortunate to be provided a prime piece of land in south Kihei. He asked what the reaction would be to an eight-foot high barbed wire fence, security cameras, a five-ton Army truck, a forklift, trailer with fuel tanks, the trailered Hakilo, and portable toilet. He closed by saying that the KIRC staff has found budget reductions to offset the increased costs of the boathouse addition and the increased helicopter costs. Although the approved line items were important to operations, they found that the boathouse was more important. He thanked that Commission for the opportunity to speak.

Kiki Hee asked the Commission if the KIRC did an environmental assessment concerning the use of the new vessel. DAG Somerville asked that the Commission move into executive session to consult with legal counsel on the KIRC's legal responsibilities, liabilities, and duties.

MOTION: At 12:55 pm Commissioner Arakawa moved to enter into **Executive Session -** Pursuant to Chapter 92-4 & 5 (a)(4) to consult with legal counsel and staff on matters pertaining to its powers, duties, liabilities, and responsibilities.

Commissioner Neff seconded the motion.

ACTION: Motion approved by all commissioners present.

The commissioners, DAG Somerville, PA-GA Enos, PA-SP McLean, AIDE Lee and CA McMullen resolved into Executive Session.

MOTION: Commissioner Arakawa at 1:30 pm moved to report out of Executive Session. He reported that the Commission met regarding matters pertaining to its powers, duties, liabilities, and responsibilities and no decisions were made. Commissioner Neff seconded the motion.

ACTION: Motion approved by all commissioners present.

PA-SP McLean said that at the December meeting, the staff and the DAG can present a report on environmental review requirements, and the Commission will determine the applicability on the landing craft project as a whole and if an EA is required. It would be appropriate to defer taking action on the budget changes and the contract to access the costs in the case an EA is necessary.

Chair Aluli asked if it would be possible to keep the boat at Tacoma until after an EA.

Commissioner Thielen suggested that existing facilities could be used and to defer to the staff and AG's office to determine what steps are appropriate. A formal determination may be necessary. Chair Aluli said that he would table the boathouse and budget decision until the next

meeting. DAG Somerville said that she and the staff would research appropriate uses of the landing craft during an EA.

The next KIRC Commission meeting will be December 12, 2007 on Maui.

IX. ADJOURNMENT

The meeting adjourned at 1:30 p.m. after losing quorum.