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*KŪKULU KE EA A KANALOA*  
**KAHO'OLAWÉ ISLAND RESERVE COMMISSION**

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**MEETING MINUTES**  
**Monday, December 17, 2012**

8:00 am

Department of Land and Natural Resources  
Boardroom  
1151 Punchbowl St, Room 130  
Honolulu, Hawaii

**COMMISSION MEMBERS**

**PRESENT:** Michele McLean, Chairperson; A. Nāmaka Whitehead, Vice Chair; N. Emmett Aluli, M.D.; C. Kaliko Baker, Ph.D; Colette Y. Machado (arrived at 9:06 am)

**EXCUSED:** William Aila, Jr.

**KIRC STAFF:** Michael Nāho'opi'i, Executive Director (ED); Ka'ōnohi Lee, Administrative Officer (AO); Rowena Somerville, Deputy Attorney General (DAG); Kuiokalani Gapero, Cultural Resource Project Coordinator (CRPC); Terri Gavagan, Commission Coordinator (CC)

**GUESTS:** Kylee Mar (PKO); Eric Brundage (Zapata); Ily Iglesias (The Nature Conservancy); Leilani Warren (The Nature Conservancy); Kanoe Morishige (The Nature Conservancy)

**I. CALL TO ORDER**

The meeting was called to order at 8:20 am by Chair McLean. A quorum was established with four Commissioners.

**II. APPROVAL OF OCTOBER 25, 2012 MEETING MINUTES**

Vice Chair Whitehead and Commissioner Baker requested that "Kaho'olawe" replace "Reserve" in their comments regarding the Strategic Planning Working Group. Commissioner Aluli clarified that he had requested the assistance of Mr. Hardy Spoehr with strategic planning, which was not reflected in the section on Report from the Strategic Planning Working Group.

The Commission requested CC Gavagan review the minutes and make grammatical and spelling corrections and resubmit them for approval at the next meeting.

### **III. COMMUNITY AND PUBLIC COMMENTS**

There were no public comments at this time.

The Commission decided to move **Item V. Administrative Business** before **Item IV. Action Items** as Commissioner Machado had not yet arrived.

### **IV. ADMINISTRATIVE BUSINESS**

#### **A. Executive Report**

##### **1. Status Update on Budget, Finance and Funding**

ED Nāho‘opi‘i reported no variances in the budget. The personnel part of the budget will increase slightly because the fringe rate used when developing the budget was a little low. The increase may be 1-2%.

An update on grants was given. KIRC was awarded a clean water grant of \$204,000 from the Department of Health (DOH) over the next 3-4 years. It will be used for planting and erosion control along the south trail down to Hakioawa. A grant proposal for \$250,000 is being submitted through Island Conservation to the National Fish and Wildlife Service for faunal restoration. Another proposal has been submitted to the Hawaiian Tourism Authority for a Kihei interactive nursery and heritage trail. Staff has not heard anything from the Office of Hawaiian Affairs (OHA) regarding the funding request for Pökāneloa. Commissioner Aluli stated staff should follow up on the request.

Staff has been answering follow up questions from the fiscal auditors. A copy of the questions and answers were included in the Commission packet. There were a lot of questions about the long range restoration plan. The inventory is mostly completed.

Commissioner Aluli asked for clarification regarding question 2.b, specifically about KIRC staff having the necessary skill, knowledge and experience to lobby government. He was under the impression that the KIRC was not allowed to lobby. DAG Somerville clarified staff can lobby, in the sense of conveying information and requesting assistance of legislators, but that KIRC cannot pay a lobbyist.

Vice Chair Whitehead asked if a clarification of the auditing consultant PKF could be made because she was confusing them with Protect Kaho‘olawe Fund (Kohemalamalama O Kanaloa). Staff explained PKF is the name of the auditing firm. A suggestion was made to add "audit consultant" to future documents.

Commissioner Aluli suggested a workshop should be held regarding the final audit report. Staff stated the report first comes to staff. Chair McLean added the Legislative Working Group or Task Force can be assigned to address the final report. She asked if staff has been given a release date for the final report and if the Commission will have the opportunity to comment on it before it is submitted

to the Legislature. Staff was not sure if the KIRC comments would be included with the final report to the Legislature. Chair McLean asked staff to find out what the procedure is. ED Nāho‘opi‘i stated he could brief the Legislative Working Group about the report and they could draft a response.

**2. Status Update on Plans, Policies and Procedures**

The master access planning schedule was reviewed. There were no questions or comments.

**3. Status Update on Administration, Staffing and Personnel**

Staff has provided copies of requested documents to the insurance adjuster for the Trilogy. They were redacted prior to their release to prevent the release of personal information. Mr. Jim Coons, the owner of Trilogy, asked if KIRC could intervene in the process regarding the July 29th incident. Staff reminded Mr. Coons that the KIRC did not charter the Trilogy. The Commission decided to conduct an executive session at the next meeting so that staff could update the Commission about the incident and they could consult with DAG Somerville.

**4. Status Update on Public Information, Outreach and Government Relations**  
**This will be discussed during Item IV. A. Discussion for 2013 Legislative Session; Discuss and Establish Legislative Task Force or Working Group.**

**5. Status Update on Capital Improvements, Reserve Operations and Logistics**

Construction of the Hakioawa Hale is scheduled to start the last week of March 2013 (after Spring Break) and is projected to last two months. The contractor plans to house its workers at Honokanai‘a Base Camp and they will hike daily to the jobsite. The KIRC will provide water. Entry into the construction area will not be permitted during construction.

Commissioner Baker asked who will be attending the onsite preconstruction meeting on March 26, 2013. ED Nāho‘opi‘i will be e-mailing an update to John Ching, Josh Kaakua, Craig Neff and Vice Chair Whitehead. Staff stated ED Nāho‘opi‘i, KIRC UXO Specialist and Safety Officer Maybee and a representative from DLNR Engineering will be attending the meeting.

The current passenger helicopter contractor, Windward Aviation, has informed staff it cannot fulfill its contract because their helicopter floats are nonfunctional and they will not be repairing or replacing the floats. Therefore there is no helicopter availability at this time. Staff has asked for a letter from Windward Aviation stating their inability to fulfill the contract.

Commissioner Baker asked how long it would take to get another vendor. Chair McLean responded it would take a couple of months to solicit a contract and set the contract in place. If there is an emergency staff can process it as a small purchase. Commissioner Baker asked if there are any other vendors available on

Maui. Staff will check to see if Blue Hawaiian Helicopters can be used for emergencies.

Chair McLean complimented staff on a good job on the DOH grant proposal.

Chair McLean noted that the labor categories in the expenditure report are finally within their percentage ranges and congratulated staff.

ED Nāho‘opi‘i stated there will be changes to the budget due to new grants (DOH, the HCF/NOAA grant for coastal restoration and the Atherton grant). The coastal restoration grant can be done without changes to the budget. The DOH grant will require staff to come back to the Commission for changes to the Restoration Program's non-personnel budget. There is not enough money in the budget for equipment and materials to cover the first year's spending of the DOH grant. These costs are reimbursable.

Chair McLean asked about the status of the heavy lift contract. Staff responded the vendor is still not compliant.

Chair McLean commented there has been concern amongst the Commissioners that there have not been many meetings. She wanted to point out that the hard costs of this meeting (air and ground transportation, etc.) was \$1700; the total cost for this meeting is \$4700 which includes the staff's labor costs in preparing for the meeting. She is conscientious about everyone's schedule. She wanted to assure the Commissioners they can contact ED Nāho‘opi‘i if there is an issue or concern they feel needs to be addressed immediately. He will contact her and she will try to schedule a timely meeting. One main consideration is having five Commissioners confirm their attendance so that there is still quorum in case one Commissioner is unable to attend at the last minute.

Staff reported that they have received a report from the Boards & Commissions office regarding the status of commissioners' terms. Staff will send them a letter providing corrected information regarding Commission membership. Commissioner Aluli asked for a copy of the letter. Vice Chair Whitehead asked for an update on the status of the Native Hawaiian Organization (NHO) seat. Staff explained that Boards & Commissions have Ms. Kai‘ulani Murphy listed as a holdover even though she submitted a letter stating she was not interested in serving another term.

#### **B. Update on Pōhaku Kāneloa Project**

Mr. Kuiokalani Gaperu, KIRC CRPC, presented an update of public testimony provided at the public listening session held in Hilo on December 7th. He reviewed a handout provided in the Commission packet which documented public testimony from O‘ahu, Maui and Hilo as well as other testimony provided via e-mail, prior consultation as well as professional input and suggestions. The two most popular suggestions are to preserve the stone in place and to move the stone.

Aunty Pua Kanahale of Edith Kanaka'ole Foundation (EKF) was present at the Hilo listening session. She suggested moving the stone and noted the stone is aligned on an east-west line and this means that moving the stone either east or west will not change the alignment to the sun during the equinox or solstice. Her suggestion was to relocate the stone anywhere on the east-west line. Staff thinks this might be an easy option. The method of moving the stone will need to be developed. Relocating the stone along this axis would not limit where the stone could be moved.

Commissioner Baker had asked staff to provide an erosion control mapping.

A map of Site 110 and the surrounding watershed area from Luamakika down to the ocean was shown. Approximately half of the archaeological sites were plotted on it. There is an area where erosion control is possible. The Restoration Program has started placing paper bags with mulch and seeds in this area. Utilizing wattles (long rolls of hay) is also a possibility. They can be aligned every 20 feet which could catch sediment from the water flowing down. There has been a suggestion to build a wall in front of the stone to provide support. It can be done by dry stacking or perhaps a more fabricated dry stack which would be more solid and easier to place. Another consideration is how many other sites could be affected by these erosion control methods.

Commissioner Aluli noted outplantings done by Rene Sylva near the site and asked if the Restoration Program is paying attention to this area. CRPC Gapero responded that he and Restoration staff visited the area in July or August and noticed a lot of the planted a'ali'i has blown over and has been growing on its own. Restoration staff has experimented with sheets and plates to catch sediment. Staff also explained most of the restoration projects have been located on the northern slopes because restoration is connected to ocean conservation and most of the reefs are located along the northern coastline. The focus has been on the reduction of runoff into pristine reef areas. Commissioner Aluli suggested that in the future the Restoration Program focus on culturally important areas.

Vice Chair Whitehead thought it was great that the Culture Program is working with the Restoration Program to see what can be done to stabilize the site concurrently with conducting listening sessions. She asked if staff is thinking about what will happen to the redirected water. CRPC Gapero explained that is why he inspected the surrounding sites; to determine the effect the revegetation has on these sites.

Vice Chair Whitehead suggested focusing below for erosion control. The greatest impact will be wherever the water reenters the drainage.

CRPC Gapero noted there are three places where the water converges. Aunty Pua stated the stone is aligned with certain points, Halona, Pu'umōiwi and a stone located in Lua 'O Keāliālalo. Staff did take a look at the east-west line. The true east-west

line might be angled a little down based on the true north axis. Her suggestion was to move the stone anywhere along the east-west line.

There was also a suggestion to move the stone a little to the west to protect it from wind erosion.

Commissioner Aluli asked if the Hilo public listening session had been tape recorded. CRPC Gapero said no.

Vice Chair Whitehead asked if staff was sure Aunty Pua said to move it along the east-west line. She thought that Aunty Pua may have been talking about the line that goes from Halona to just above the ko‘a. Staff responded they initially thought this as well but realized if the stone is moved north or south it will change the sun dial characterization. It would have to be moved along the east-west line of the solstice. If it is moved either back or forth along that line the relationship of the shadows to the cupules will stay the same. If the stone is moved north or south the shadows will actually deviate on the solstice.

Staff is looking at doing a high resolution scan of the top of the stone so there is documentation of the cupule locations. They are looking for someone who is capable of doing high resolution photography which might be incorporated into a three dimensional mock up. Aunty Pua suggested making a mock up model of the stone and placing it at different points along the axis to find a permanent home. Staff would probably move it approximately 50 meters to the west, so it is protected from both water and wind damage. This could be the temporary home of the stone. The mock up could be moved around the island and its alignment could be observed in order to find a permanent placement. Staff presented a rough timeline of where staff is currently. Staff has contacted ‘Imiloa Astronomy Center of Hawai‘i and Dr. Terry Hunt at the University of Hawai‘i at Manoa for help with this. Dr. Hunt worked on the “walking the moai” project on Rapa Nui. He created a scaled-down version of the moai and made it walk. Staff is trying to get some input on how to create a mold or a model and about 3-D imaging. If it cannot be done with high technology equipment, staff has designed a frame system that is suspended above the pohaku with basic perpendicular scales. A plumb bob is used to measure distances from the level plane to the stone. All the features can be accurately located.

‘Imiloa can create holographic images; they can take the sun, stars, etc. and place it on the stone. Commissioner Aluli suggested staff speak with Mr. Chad Baybayan of ‘Imiloa. Staff will discuss with ‘Imiloa the possibility of dropping a sun line on the island at different times of the year. They could drop the solstice sun line, map it down on the island and staff could recreate that line on-island.

Vice Chair Whitehead asked staff to confirm with Aunty Pua what line she was referring to and to get a second opinion from someone else who is familiar with alignments by the next meeting. Staff explained looking at a map this line does

follow east-west line on a magnetic compass. Staff will confirm with Aunty Pua what line she was referring to.

The next step is to determine a preferred treatment so that a detailed treatment plan can be developed. The plan would be presented at public listening sessions for public consultation. It would then be brought before the Commission for final approval.

Commissioner Baker asked if the mold was going to be made. Staff responded they are trying to figure out what technique to use. If someone cannot be found to do a scan, then the frame system discussed earlier would be utilized. Commissioner Baker commented that during the early part of the Hilo public listening session there was a lot of discussion about making the mold and making another lightweight stone which could be moved around on the east-west line and determine how it works. Staff responded they need to gather documentation of the stone (the high precision mapping of the stone) and determine how to move it. Staff is still in conversation with the National Guard about the heavy lifting. Commissioner Baker asked if the scarifier used for earlier plantings was still available. Staff responded no. Commissioner Baker asked if the Restoration Program was going to continue with restoration in that area. CRPC Gapero was not sure. Commissioner Baker stated he would like to see restoration efforts started in at least the yellow area. There are a lot of sites in the area so something needs to be done even if Pōkāneloa is moved. Staff responded that those 50 sites represent 10% of sites that are on open, barren hard pan. Commissioner Baker suggested using 2-3 wattles to make planting areas to get plants growing.

Vice Chair Whitehead noted plantings in that area may not be the answer; by disturbing soil there is a potential for more erosion. The wattles may be the faster solution to redirect the water. Perhaps the Restoration Program should focus on redirecting the water rather than trying to establish tiny pockets of vegetation which would probably not work fast enough. AO Lee commented the key is to be careful where the water goes. Vice Chair Whitehead agreed. Staff noted that plants in that area have been slow to grow based on Mr. Sylva's 30 year old plantings.

## **V. ACTION ITEMS**

### **A. Discussion for 2013 Legislative Session (continued from October 25, 2012 meeting); Discuss and Establish Legislative Task Force or Working Group**

Chair McLean noted there have been no changes in the status and position on: CIP funding for alternative energy; asset forfeiture as a KIRC enforcement tool; renewal of KIRC's food and fuel exemption and opposition to limited commercial activities within the Reserve at least until strategic planning discussions can take place.

ED Nāho'opi'i explained the Commission had decided to reintroduce the Conveyance Tax and asset forfeiture as part of the DLNR legislative package. The initial meetings with the governor's policy groups were favorable for both proposals. There was a meeting on October 31st with the Governor, the policy staff, DLNR Chair and each division head on the DLNR legislative package. The Governor was in favor of asset

forfeiture but did not support the Conveyance Tax proposal. The department was unaware of his opposition prior to the briefing.

The Commission wanted to know who was at the meeting. Staff responded the people present at the original briefing no longer work for the Governor; Ms. Kate Stanley, Mr. Blake Oshiro and Mr. Marvin Wong were at the October 31<sup>st</sup> meeting. The Governor's position was that money was depleted during the clean up and that Hawaiians should pay for Kaho'olawe. ED Nāho'opi'i explained to the Governor that the KIRC is a state agency requesting funding for operations to benefit the whole state. He acknowledged this and suggested "bridge" funding in the biennial budget with eventual transfer of the Reserve. He also directed DLNR to look at legislation to transfer the Reserve to OHA. Commissioner Aluli asked for DLNR Chair Aila's response. Staff responded that everyone at the meeting was stunned by the Governor's position.

Commissioner Aluli suggested the Commissioners needed to speak with the Governor. Commissioner Machado did not think this would work as a decision has already been made.

Staff conveyed the Governor's remarks about Senator Inouye's trip to Hawaii in which he (Senator Inouye) was informing other organizations that federal funding for any Native Hawaiian programs would be drying up.

Commissioner Machado stated she was upset with ED Nāho'opi'i for not informing her as the OHA representative. She found out about this from Dr. Kamana'opono Crabbe who had received a call from William Aila, Jr. and Esther Kia'aina. OHA does not have the resources to make this commitment and Kaho'olawe was intended for the Nation. She foresees a battle with the senators. She asked if Senator Michelle Kidani was returning as Vice Chair of the Ways and Means (WAM) Committee. Staff confirmed she is.

Staff reported the Department briefed Senator Malama Solomon who is the Chair of Water and Land (WTL) Committee on the status of each division. Her position is that she does not want to fund the department's bill unless there is an agreement between the department and OHA. She is not going to press for transfer or funding. If there is no more funding, the island can be shut down until the Nation is established.

The Commission discussed the possibility of establishing a working group or task force to address this issue. However, the Commission needs to decide what direction it is going to go. Chair McLean noted Commissioner Machado's guidance will be needed from the OHA side so that the Commission's position will not be contrary to OHA's. Chair McLean asked Commissioner Machado if there has been any discussion of this at the trustee level. Commissioner Machado responded the trustees just reconvened after the election and that this was not on OHA's radar. OHA has other pressing issues.



Staff reported receiving an email from Deputy Director Kia'aina stating no bill for transfer will be coming from the department at this time. There will be no funding bill for Kaho'olawe either. The Governor is willing to provide some funding until the transfer to OHA.

Commissioner Machado stated it is looking bleak and she does not know if the Commission can handle another fight at the Legislature. The Commission needs to figure out how to proceed. Staff added that the Governor stated he did not want another fight at the Legislature and did not want to see a former governor having to testify at the Legislature.

Commissioner Baker asked for clarification about the Governor's offer regarding the biennium budget. Staff explained he might be willing to provide bridge funding which is basically funding for a few years if there is an end goal, i.e. transferring the Reserve to OHA.

Commissioner Machado pointed out OHA would need to agree and it is not going to agree. She asked staff the amount of the current operating budget. They responded \$2.8 million. She stated a transfer would not happen this session.

Commissioner Baker observed the only other option is sovereignty.

Commissioner Machado asked how much time is left with the federal trust fund. Staff replied a decision would need to be made in FY15. FY16 is the shut down year. Commissioner Machado stated the bridge funding is needed for FY 15-16. Staff stated there is funding for FY14-15 and could bridge FY16-17 and transfer in FY18.

Vice Chair Whitehead asked staff if the Commission was going to make the decision in FY14. Staff responded FY15 is programmed so if there is no funding by FY15, it becomes the transition year and FY16 is the shut down year. Vice Chair Whitehead summarized that by the beginning of FY15 the Commission will have made a decision.

Chair McLean asked if there was legislative support for Conveyances Tax would the Governor veto it. Commissioner Machado stated the Governor believes the Conveyance Tax is his money.

Commissioner Aluli asked for clarification of the FY15 budget. Staff explained the budget would be used for demobilization. Vice Chair Whitehead wondered if \$2.8 million would be enough. Staff explained things would be put away and everything would be turned over. Things will not be taken off island because there is no place to store them on Maui. Commissioner Machado asked if the things will be given to DLNR. Staff stated yes but the Commission will still exist; the field portion of the KIRC will terminate. The Commission will still approve access to the island. The active programs and projects would be adopted by the appropriate DLNR divisions.

Chair McLean asked if OHA could help financially with any KIRC programs. Commissioner Machado responded OHA is not a land management organization so this would be a large leap for them. Chair McLean stated she was thinking about the liability. Could there be a way for KIRC to stay administratively where it is but merge any KIRC programs with OHA. Commissioner Machado responded OHA distributes \$14 million annually for beneficiary work; it does not have the capacity to provide those types of services. The most recent hire in the last four years was the full-time cultural specialist at Wao Kele o Puna and OHA has an agreement with DLNR to oversee a series of studies to be completed before OHA goes in to manage. That whole operation is close to \$500,000 including the contract with DLNR which will end very soon.

Staff noted that the Commission cannot be an attached agency to OHA because OHA is not a department of the State. There is also the liability issue of the State-signed MOUs and title as well as long term agreements. If there is a transfer, the title states the receiving party has to sign onto the conditions stated in the title as well as all the MOUs.

Commissioner Aluli commented the issue of transfer should be addressed by the Strategic Planning Working Group and the Legislative Working Group. Two separate issues need to be addressed: management and Kaho'olawe. Is the KIRC planning for the Island or for the Commission? The Commission itself has yet to discuss this. It is important that there is a planning process in place this legislative session so it can be presented to the Legislature to see if it will fund a task force or conveyance commission or if outside funding will need to be sought. Stakeholders have an obligation to make sure the Reserve goes somewhere even if there is not a nation.

Commissioner Machado asked Commissioner Aluli who would appoint the members of the legislative task force or working group. He responded it would be discussed by the Commission in the same way the Strategic Planning Working Group was established.

Chair McLean clarified that until this issue came up the thinking had been a couple of Commissioners would be designated to meet with legislators and to testify in person if needed; to be the representatives of the Commission. If bills get amended on the fly there should be Commission representatives available without the Commission having to vote and take a position every single time. She is unsure now if this is the correct mechanism to continue this discussion.

Commissioner Aluli stated there is more support outside the Hawaiian Caucus than within it. The former governor may need to set things straight as he did two years ago.

Commissioner Machado stated he will not do it again. This position is a consequence of what happened two years ago.

Commissioner Machado stated there needs to be a dialogue between OHA and the Governor. There is the question of whether OHA can afford to fund KIRC at \$2.8 million per year indefinitely because it is not known when the Nation will be established. The Native Hawaiian Roll Call Commission has less than 18 months to create the roll. Once the roll is created and federal recognition is granted it might be possible to transfer certain assets.

Commissioner Aluli clarified he was speaking of former Governor Waihe'e. He set up things differently. Commissioner Machado stated she understood but having the former Governor testify challenged the current Governor. Commissioner Aluli disagreed. Commissioner Machado stated he would need to be at the Legislature full time this session; it is going to be very tough.

Ms. Mar (PKO) commented she agreed with Commissioner Machado that there is no money and even when the Reserve goes to the Nation there will be no money.

Commissioner Machado explained there will be money as OHA will sunset with approximately \$400 million going to the Nation. Ms. Mar commented that the Reserve may not be a priority. Commissioner Machado stated that according to the statute, Kaho'olawe will be one of the first pieces of property to be transferred.

Ms. Mar stated this will take time. In the meantime, the Commission needs to have a plan. There are partners who are willing to do the restoration, the ocean and cultural work, who are not KIRC. There are strategic partners like The Nature Conservancy doing existing contribution work that should know about this. It may require stewardship agreements with each of these groups. It is another way to think of how the work can get done without the money. The Commission should anticipate that staff should help to educate partners.

ED Nāho'opi'i pointed out there is the question of infrastructure.

Commissioner Machado stated Ms. Mar made a good point. The conservation community can start to show their support for Kaho'olawe.

ED Nāho'opi'i added that during the last legislative session most of the legislators were under the impression that the Native Hawaiian Roll Call Commission will take care of Kaho'olawe.

Commissioner Baker asked if the establishment of the Nation can serve as the end date the Governor wants in exchange for funding.

Commissioner Machado stated the Commission is in a crisis and that it may want to create and expand the Legislative Working Group to include other core people. They need to crunch the numbers and establish a realistic time table. Right now the Commission is looking at the biennium which will go to the end of 2014. If the KIRC can come up with a short term plan to 2014, then look to see if OHA might be able to

be a part of the plan beyond 2014 and in what capacity. Another possibility is to offer a dollar to dollar match with other funding.

ED Nāho‘opi‘i noted that only HRS 6-K requires federal recognition of the sovereign governing entity. One idea is to delete the federal recognition requirement from that statute so that if the state recognizes the governing entity the transfer can happen more quickly.

Chair McLean stated the Commission, OHA and PKO should work in concert. The KIRC's position should reflect concern for funding; it does not mean that it demands OHA provide it. Commissioner Machado commented that a dollar to dollar match may be possible after 2014. DLNR needs to speak with the OHA trustees.

Commissioner Aluli stated he did not see the KIRC pursuing funding during this session. He did not see the KIRC going in to support any bills because the Commission has not developed any for this session. He did not know whether the KIRC needs to have a presence at the Legislature. However, he did see the value in KIRC, OHA and PKO working together at the Legislature as well as either a legislative working group or task force being formed.

Vice Chair Whitehead agreed that forming a legislative working group or task force would be valuable. It could develop a simple set of talking points which could be shared with the other groups: this is what the Reserve is; it is held in trust for the Nation; it is the land base; the Commission will run out of money in a few years.

Chair McLean stated her concern had been that there was not enough clarity for the Commission as a whole to give direction to a select few. After this discussion, though, it was clear to her what the Commission's collective position is. The Commissioners need to make sure that is where everyone is coming from. The Commission is not prepared to take a position on any bill because there needs to be agreement on the affected entities, i.e. the KIRC, PKO, OHA, DLNR and the Governor's office. She asked the Commissioners if they agreed that the KIRC should take no position on any funding bill this session since there is not agreement among the affected entities.

Vice Chair Whitehead suggested the KIRC could support a funding bill but not introduce any funding bill.

Commissioner Aluli agreed that there needs to be a collective decision as a Commission to direct the Executive Director and it should include the major stakeholders. He thought a task force would better address these issues and do its own discoveries.

Staff reported Senator Shan Tsutsui had agreed to introduce the procurement exemption bill this legislative session.

Commissioner Baker agreed with Vice Chair Whitehead that if some kind of funding comes up, the Commission should be willing to listen and be supportive of funding for KIRC.

Chair McLean asked if KIRC supported a Conveyance Tax bill would it be putting itself at odds with the Governor. Commissioner Baker replied that would be a great issue for the Legislative Task Force or Working Group. He added it should also go through each of Commissioner Machado's points one by one and see in what direction the Commission should move forward.

DAG Somerville explained that a task force has to have an assignment, report its findings at a subsequent Commission meeting and then sunset at the next Commission meeting.

Commissioner Aluli and Chair McLean volunteered to be on the working group. The working group can delegate Commissioner Baker to testify if either Chair McLean or Commissioner Aluli is unavailable.

**MOTION:** Commissioner Aluli moved to establish a Legislative Working Group consisting of Chair McLean and Commissioner Aluli. The assignment of the working group is reflected in the minutes. Vice Chair Whitehead seconded the motion.

**Discussion:** Vice Chair Whitehead was concerned that the working group be fully authorized to act quickly. Chair McLean stated the motion states the assignments are reflected in the minutes and the working group will take things as they come.

**ACTION:** The motion was approved by all Commissioners present.

Commissioner Machado asked what is in the KIRC's legislative package for this session.

Chair McLean responded asset forfeiture as a KIRC enforcement tool and renewal of KIRC's food and fuel procurement exemption. The Conveyance Tax proposal will not be submitted by the administration.

ED Nāho'opi'i reported he will be speaking with Representative Mele Carroll regarding CIP money for alternative energy.

There was a recess from 10:30 to 10:40 am.

**B. Review and Approve Proposed Access Dates and Activities for the Protect Kaho'olawe Ohana**

KIRC Staff reported meeting with PKO representatives regarding stewardship agreement activities for the next calendar year. Staff reviewed that under the

Stewardship Agreement the activity needs to be authorized (compliant with HRS 6-K); it also needs to be a KIRC approved activity if the volunteers are to be treated as state employees during the activity. A KIRC approved activity supports an existing KIRC activity; it would also be an activity in which the volunteers would be doing tasks KIRC staff would also be doing.

Staff requested approval for Kilohōkū and Kilo Pae Honua (Worldly and Celestial Observations) as part of objective 2.5 of the FY 09-13 Cultural Restoration Action Plan (Provide for the implementation of Kūkulu Ke Ea A Kanaloa, A Cultural Plan). Staff is still examining the Ka‘apuni Kaulona activity (Circumnavigating Observation) and more discussion is needed.

Chair McLean asked why there were dates listed in the memo with no activities.

Ms. Mar (PKO) stated that in section 8 of the ‘Aelike it says the PKO needs to submit activities for approval and in section 9 it states that the PKO just needs to submit dates. She had asked CRPC Gapero to clarify on the agenda that the PKO is seeking approval of the amendment of the objective 2.5 to include Kilohōkū and Kilo Pae Honua and just submitting the dates. There is nothing that states that dates need to be assigned to the activities.

Chair McLean stated she understood; any of the approved activities could occur on any of the approved dates, additionally the PKO has specific Makahiki preparations.

Commissioner Aluli asked if the PKO has groups assigned for these activities. Ms. Mar responded yes; there is a proposed list of groups and PKO will be confirming in the next two to three weeks. They may try to do the Ala Loa work with smaller groups in April and May due to the Hakioawa kitchen construction.

Chair McLean asked for clarification regarding the double access in June; are there two different groups, one going to Hakioawa and one to Honokanai‘a? Ms. Mar clarified the most recent proposal is that the access from June 20-23 will be just the ‘Ohana kua to move the kitchen in and have kua training. Staff added during the Hawaiian Canoe Club access they will be in Honokanai‘a for one day.

Vice Chair Whitehead asked if the PKO needed to come back to the Commission once all the dates had been determined.

Commissioner Baker stated the Commission approves the proposed accesses and dates are only informational.

Vice Chair Whitehead commented that it is unclear if Ka Holo Ka Lani will be held at Honokanai‘a or at Hakioawa because of the low amount of KIRC staff participation.

Ms. Mar wanted to know what are the concerns regarding Ka‘apuni Kaulona. ED Nāho‘opi‘i responded vessel registration and liability; in order for a vessel to receive

an HA number the owner must provide proof of insurance. However, canoes do not have to have an HA number. A requirement to show proof of insurance of the vessel may be needed.

**MOTION:** Vice Chair Whitehead moved to approve the amendment of Objective 2.5 to the FY 09-13 Cultural Restoration Plan and defer the proposed Ka‘apuni Kaulona activity for further discussion. Additionally, the Commission will be notified by the ‘Ohana of the dates and location of the October Ka Holo Ka Lani as well as the November Makahiki access. Commissioner Aluli seconded the motion.

**DISCUSSION:** The Commission requested that the record show approval of activities and the dates with the understanding that the dates may change.

**ACTION:** The motion was approved by all Commissioners present.

#### **C. Update from the Strategic Planning Working Group**

Commissioner Aluli reported he and Vice Chair Whitehead have been speaking with Mr. Stanton Enomoto.

Vice Chair Whitehead stated the Strategic Planning Working Group is recommending that the strategic plan be for the Reserve and not for the KIRC.

Commissioner Aluli stated Mr. Enomoto wanted to clarify his role as guiding rather than facilitating because those are two different roles; guiding could be considered part of his job dealing with climate change.

Vice Chair Whitehead explained climate change is a huge issue and there are a lot of impacts already being seen. This should be incorporated into any plan for the future. Impacts include dry lands getting drier, rising sea levels, changing weather patterns, etc. The Strategic Planning Working Group recommends considering climate change during strategic planning. Current KIRC actions are already in response to this issue. It is recommended that it should be stated at the forefront of the plan. KIRC could help to be a leader for climate change organizations in Hawai‘i because of KIRC's and Kaho‘olawe's unique position at the forefront of integration between natural and cultural resources management. Additionally, this could be incorporated into Mr. Enomoto's job. Chair McLean asked if he needed something in writing. Commissioner Aluli replied no; just a guarantee this is where the Commission is going. A lot of money may be available to the island because of climate change.

The Working Group will continue to work with Mr. Enomoto and work on the development of an advisory group list to help develop a draft plan to take to the public for comment. If anyone has suggestions for who should be on the list they can

either email the working group or ED Nāho‘opi‘i and he can forward the list to Chair McLean.

**VI. PROGRAM STATUS UPDATES**

The Commissioners decided to review the program updates on their own.

**VII. ANNOUNCEMENTS/FYI**

There were no announcements from the Commissioners.

**VIII. NEXT MEETING/FOLLOW UPS**

ED Nāho‘opi‘i suggested CC Gavagan poll Commissioners for the most convenient days of the month (i.e., second Thursday, third Wednesday of each month, etc.) for each Commissioner. This information might make scheduling future meetings easier.

The Commission decided that the following items should be on the next agenda:

- an executive session regarding the Trilogy accident
- budget change request to support the DOH grant
- update on Kihei Executive Order
- Strategic Plan update

The Commission decided that the staff is to follow up on:

- correction of the meeting minutes for October 25, 2012
- follow up on the grant request to OHA regarding Pōkāneloa
- confirm with Aunty Pua what line she is referring to when discussing moving Pōkāneloa
- update the Commissioners on the process of the audit; will the Commission get to see it before it goes public and is it revised based on the Commission's comments
- follow up with Boards & Commissions regarding membership of the KIRC (Commissioner Aluli requested a copy of the letter to be sent to him)
- compile list of participants for Strategic Planning and send a draft to Chair McLean

**IX. ADJOURNMENT**

**MOTION:** Commissioner Aluli moved to adjourn the meeting. Vice Chair Whitehead seconded the motion.

**ACTION:** Motion was approved by all Commissioners present.

The meeting adjourned at 11:05 am.