



Clean Water And Natural Lands Advisory Commission

CITY AND COUNTY OF HONOLULU

530 South King Street, Room 208 • Honolulu, Hawaii 96813

COMMISSIONERS

Sherry P. Broder – Chairperson
Giorgio F. Caldarone – Vice Chairperson
William Reese Liggett
Elliott “Kai” Raymond Markell
William Kamana’olana Mills
Jason Kekahi “Kahi” Pacarro
Jamie Tanimoto

Meeting Minutes

Friday, August 14, 2020

9:00 a.m.

CALL TO ORDER – Chairperson Sherry Broder called the meeting to order at 9:07 a.m.

Commissioners Present – Vice-Chairperson Caldarone, William Reese Liggett, Elliot “Kai” Raymond Markell, Jason Kekahi “Kahi” Pacarro, Jamie Tanimoto and William Kamana’olana Mills.

Staff Resources Personnel Present

Dawn Spurlin, Deputy Corporation Counsel
Tammy Namihira, Budget and Fiscal Services (BFS)
Aaron Honda, BFS

Guests

Laura H. E. Kaakua, CEO, Hawaiian Island Land Trust (HILT)
Herb Lee, CEO, Pacific American Foundation (PAF)
Rebekah Walker, (HILT)
Shae Kamakaala (HILT)

APPROVAL OF THE JULY 10, 2020 MEETING MINUTES

Without any objections, the minutes of the July 10, 2020 meeting were approved, 7-0 (AYE: Broder, Caldarone, Liggett, Markell, Pacarro, Tanimoto and Mills; Nay: None; Abstain: None).

PRESENTATION BY THE DEPARTMENT OF BUDGET AND FISCAL SERVICES

Aaron Honda, BFS staff personnel, informed the Commission that HILT, the applicant for the Waikalua Fishpond Complex recently submitted its title report. Due to the timing of that submission, the title report was not included in the application packet that was presented to the Clean Water and Natural Lands Advisory Commission (Commission). Honda said that Department of Land Management would review the title report to provide comments and recommendations.

Honda explained that there are two letters that the Commission requested BFS to draft. The first letter recognizes former Commissioner Kim Falinski for her time served as a commissioner, which will be mailed to Ms. Falinski and the City Council after the meeting. Honda explained that he was waiting for the Chair’s signature before mailing out. The second letter, which is an update letter addressed to the City Council is also ready. However, the Pre-Application that the Commission requested BFS to draft is being reviewed by the City’s Corporation

Counsel (COR). Honda stated that the letter updating the City Council of the Pre-Application will be sent once the Pre-Application has been approved by COR. Chair Broder stated that there is no need to wait for COR's approval. Chair Broder instructed BFS to send the letter and once COR approves the Pre-Application, send a second letter with the attached Pre-Application.

PRESENTATION AND OR ACTION. HAWAIIAN ISLANDS LAND TRUST WILL PRESENT ITS CLEAN WATER AND NATURAL LANDS FUND APPLICATION TO THE COMMISSION

Laura Kaakua introduced Mr. Herb Lee, Ms. Rebekah Walker and Ms. Shae Kamakaala to the Commission. Kaakua described HILT as a non-profit organization and informed the Commission of its mission and vision. HILT stewards and owns seven places, which includes Maunawila Heiau. HILT also holds 44 conservation easements in partnership with the City.

Kaakua explained that the 17 acres that make up Waikalua Fishpond contains two fishponds, a larger, more recognizable fishpond and a smaller fishpond.

Herb Lee stated that Bay View, the nearby golf course was sold to foreign investors in the late 80's. An expansion of the golf course was done in the early 90's. Due to the location of the fishpond within the Bay View property, the community had concerns about its possible development. Lee worked with the new landowner of Bay View, the City and the community to start up a non-profit organization to steward the fishpond. It was agreed upon at that time that the ownership of the fishpond must remain with Bay View in order to allow Lee to steward the fishpond. This condition was required by the City. Lee continued to explain that he created the Waikalua Loko Fishpond Preservation Society in 1995 and started the restoration process of the fishpond.

Lee shared that over the years, his organization documented about 488 fishponds that were built from 800 years ago until the Great Mahele in 1848. Lee continued that there are about 15% of the fishponds left, which amounts to approximately 70 fishponds throughout the State of Hawaii. Each fishpond is on the verge of vanishing. Lee explained that no fishponds were brought back for its intended use, which is to provide food for the surrounding communities. Lee stated that he believes restoring fishponds will recapture the traditional wisdom and knowledge that the ponds held and he hopes that it would inspire a new generation to combine traditional wisdom with modern education.

Lee stated that Waikalua Fishpond was considered one of the most endangered sites. Since 1995, there have been 6 landowners that owned the fishpond.

Lee stated that based on carbon dating test, the Waikalua Loko Fishpond is 400 years old. He hopes that a conservation easement will protect the fishpond for another 400 years. Lee presented a 1928 picture to the Commission that showed fields above the fishpond. The fields were once an area used to grow taro, which was later converted to rice fields. In the early 60's the City built the Kāne`ohe Sewage Treatment Facility (Kāne`ohe STF) adjacent to the Waikalua Fishpond. There are two streams located in the area of the Waikalua Fishpond. The larger stream, Kāne`ohe Stream provides approximately three-fourths of the fresh water into Kaneohe Bay. The smaller stream, above, Kea`ahala Stream provides the remaining one-fourth of the fresh water into Kaneohe Bay. All the fresh water going into Kaneohe Bay comes from between the Waikalua Loko l`a. Kawa Stream used to flow into the back of Waikalua Loko l`a. It was diverted in the 60's for storm water purposes due to the urbanization Kāne`ohe.

Lee stated that in 1995, the entire circumference of the pond was overgrown with mangrove. Lee stated that the Kāne`ohe STF was decommissioned in 1994 but it still has distribution lines underneath the ground that takes all the sewage from `Āhuimanu, Kāne`ohe that the Kāne`ohe STF collects, then goes to a covert under the Kawa Stream. Lee continued that about two years ago, the EPA and the City completed a Consent Decree Order that an underground tunnel the size of H-3 be constructed to take the collected sewage from Kāne`ohe STF three miles away to the `Aikahi Sewage Treatment Facility. Due to the age of the Kāne`ohe STF, heavy rains would cause the plant to overflow into the nearby stream and fishponds.

Lee described a picture locating the site of a smaller fishpond, approximately 2 acres in size and adjacent to the Kokokahi YMCA.

Lee described his relationship with a Castle High School teacher that reached out to him to allow her students to learn about the pond and discover its connection to science. Lee explained how the experience allowed the students to become inspired learners and teachers of the pond. Lee stated that he was inspired to duplicate the experience to provide students the opportunity to learn science, math, social studies, and language arts in the context of a fishpond. Lee discussed how he was able to obtain future grant monies from the U.S. Department of Education under the Native Hawaiian Education Act to develop curriculum for grades K-12. Funding from grants were also used to conserve various ahupua`a, island of Kahoolawe, reefs and projects in conjunction with tsunami sea level rise with the Pacific Tsunami Center, University of Alaska Fairbanks, University of Hawaii Smithsonian Institute, Hawaii Institute of Marine Biology and Windward Community College.

Lee discussed the history of PAF, the organization's impact on the fishpond restoration movement and how he became the CEO. Lee explained how Waikalua Fishpond has become the piko for transformation on how children are educated using traditional wisdom as part of the foundation of its curriculum development.

Lee discussed how PAF adapted to the current pandemic and how they are able to educate students and the community about the Waikalua Fishpond through distance learning.

Lee stated that over the years, 5,500 teachers, grade K-12 have been trained. There has been over 100,000 visitors to the fishpond since 1995. In 2009, PAF received a HUD grant to purchase the pond. In March 2019, after meeting certain conditions, PAF finalized the acquisition and received the title to the fishpond.

Lee highlighted various people and organizations that have been involved with studying and conducting research of the pond.

Lee stated that in 2000 the University of Hawaii-Hilo (U.H. Hilo) was successful in converting a sewage treatment facility into an aquaculture complex that was about one-third the size of the Kāne`ohe STF. The Kāne`ohe STF has the capacity to hold 4.5 million gallons of sewage. With the mentorship and guidance of U.H. Hilo, it is hopeful that the Kāne`ohe STF can become an aquaculture complex.

Lee stated that the idea for the conservation easement was born from discussions with HILT. Lee continued that he was concerned for the future for the Waikalua Fishpond and believes that a conservation easement will secure its future.

Chair Broder asked Honda if there is a timeframe for the Waikalua application. Honda responded that the title report is the only item that is pending and DLM will be asked to review so that it can make its comments to the Commission. Without a review of the title report, the Commission cannot make a recommendation of the application.

Kaakua shared that there are recorded public testimony that HILT can share with the commission.

Commissioner Pacarro asked for an explanation on how the \$1.7 million will be used. Commissioner Pacarro asked if the Clean Water and Natural Lands Fund (Fund) will go towards some type of protection or will the Fund be used to continue the fishpond's operation.

Kaakua answered that the conservation easement will remove a lot of the development and general property rights (i.e. subdivision) and limit the development of a building to one structure. This structure will be used for educational purposes. All other existing structures will be removed. The conservation easement will also require managed public access for the community. The requested fund will be reinvested into the property and will be used to continue PAF's cost to steward the fishpond, construct the education center and fulfill all the requirements of the conservation easement.

Commissioner Liggett asked who will be awarded the \$1.7 million.

Kaakua responded that PAF will receive the Fund because they are holding certain ownership rights, such as, development rights and subdivision rights that they are willing to give up. Those rights have value, which is outlined in the appraisal report.

Commissioner Liggett stated it seems that the restriction to develop the property and provide educational opportunities is already PAF's mission. Liggett asked would the City be paying for something that PAF is already doing.

Lee responded that as a non-profit organization, PAF has limited ability to generate revenue. 98% of PAF's funding has come from grants. PAF plans to use the requested funding to be used to seed an endowment fund that will provide PAF a source of perpetual revenue to continue the stewardship, education and protection of the Waikalua Fishpond. Without the Fund, PAF will have to rely on applying for grant money on a regular basis, and does not offer PAF with much funding stability and security. Kaakua added that recognizing the community's need to protect the fishpond, PAF took on the role to care for the fishpond. The fishpond is not protected. Although PAF was able to purchase the fishpond, there are two long term goals for the property: 1) create community ownership; and 2) create a perpetual conservation easement over the property. Should PAF fold or dissolve, the land will always be protected no matter who owns the property.

Counsel Spurlin stated that she is familiar with the Kāne`ohe STF and the various issues related to that property. After reviewing the appraisal report for the Waikalua Fishpond, it was noted that there is no public access. Counsel Spurlin added that the roadway access for the Kāne`ohe STF and the Waikalua Fishpond is private. Counsel Spurlin continued by stating that except for Native Hawaiian rights to access the fishpond, the general public does not have the same right to use the roadway. Counsel Spurlin asked for an explanation on how the fishpond has legal access and did Mr. Lee obtain legal access from Bay View.

Lee responded that the short answer is yes. The current land owner that acquired Bay View in 2018 created an easement access in favor for PAF. With the purchase of the property, PAF could not be landlocked. PAF and Bay View reached an agreement and signed easement documents.

Lee continued that as part of the original approval for the expansion of Bay View golf course in 1994, the City Council required that the owner of the golf course provide public access through the property along Kāne`ohe Stream from dawn till dusk. Going onto the fishpond wall was prohibited. There were specific conditions of the approval in the PRU and the SMA that specifically outlined public access on Bay View's property so that the public could access the bay. The public has since used the road to access the bay.

Counsel Spurlin asked Lee if the access easement will be noted in the title report. Lee responded yes. Lee continued that PAF is in the process of getting final approval on the construction of the interpretive education facility and until the approval was completed, the easement documents was one of the last outstanding step, which was just signed in the last few weeks by the current Bay View owner.

Counsel Spurlin commented that PAF's proposal indicate the use of the City facility for aquaculture. Counsel Spurlin asked Lee what is the reason for the acquisition for the City facility for aquaculture purposes if PAF already owns a fishpond. Counsel Spurlin added that there are legal questions concerning the acquisition of the Kāne`ohe STF, but those questions can be raised at a later time.

Kaakua responded that PAF is not proposing the use or reuse of the Kāne`ohe STF for aquaculture purposes. The current application is strictly a request for a conservation easement. Counsel Spurlin replied that it was stated in the management plan and asked if what was submitted with the application not PAF's management plan.

Chair Broder suggested that COR work directly with Kaakua, Lee and Honda to ensure that all concerns raised by COR are addressed. Detailed questions for the applicant should be addressed during BFS' review process.

Danny Tate added his support for the applicant.

Commissioner Mills stated that the Commission does not question the value of an educational curriculum PAF has to offer. During this process, the Commission is trying to track the money to ensure that everything is complete. Commissioner Mills stated that it is his understanding that HILT is requesting \$1.7 million to purchase a conservation easement from PAF. Commissioner Mills inquired that if the money received by PAF to purchase the fishpond was federal funded, are there any conditions that PAF needs to abide by. Such as, reimbursing the federal government.

Lee responded that as long as PAF is the owner of the fishpond, they do not have to reimburse the federal government.

Commissioner Pacarro asked how the resources of the fishpond will be managed in order to feed the community. Once it becomes a public resource, how will PAF or HILT protect the contents for the community and not have everyone harvest whenever they want.

Lee commented that PAF will always be in control in managing the property and its access. Lee added that PAF is looking into multiple revenue sources. Growing native limu is key, as it will bring back various herbivore fishes back to the bay and to the fishpond. Lee added that PAF has a Memorandum of Understanding with Windward Community College to co-develop a new aquaculture program at the college level in hopes to push the research and the science in this particularly area. Due to the location of the City facility to the bay, converting the Kāne`ohe STF into an aquaculture complex is a larger goal that was inspired by U.H. Hilo.

Vice-Chair Calderone asked how much did Lee pay for the property.

Lee responded five-hundred thousand. At the time, the appraisal came in at \$2 million. The HUD grant was for \$800,000.

Vice-Chair Calderone asked if there is anything beyond the 17 acres and does PAF own any other land adjacent to the 17 acre parcel.

Lee responded that PAF did not acquire any other property adjacent to the fishpond property.

Shae Kamakaala added that the value HILT is proposing is based on the appraisal of the conservation easement and the restrictions that were outlined.

Chair Broder asked if the pre-recorded testimony contains anything that wasn't discussed in today's meeting.

Kaakua responded that pre-recorded testimony contains a diverse perspective supporting the proposal. Kaakua offered to post the video and send the Commission the link.

Chair Broder suggested that BFS post the link with the minutes.

Chair Broder stated that the Commission is very interested in HILT's application. In summary, more information and details are needed to address access issues that COR mentioned. Since we will be using public money the Commission also needs to preserve the rights of the public. Another issue is to determine how all the money shakes out. There is concern about the federal money that was used to purchase the property, which is a lot less than what the City is being asked to spend. As the application process proceeds, the Commission wants to be prudent and reasonable. The Chair believes there will be more questions on financing and how it all works out in later discussions.

PUBLIC TESTIMONY

Kamakaala notified the Commission that HILT submitted 14 letters in support of the project. HILT also submitted a support petition that has over 300 signatures that is also accompanied by 60 comments.

ANNOUNCEMENTS

Chair Broder thanked Commissioner Pacarro who offered to follow-up and provide testimony to the City Council. Chair Broder also mentioned that Commissioner Pacarro wants to speak on behalf of the Commission to bring public awareness of the Fund. Chair Broder explained that Commissioner Pacarro will need approval from the Commission to speak on its behalf and since it was not on today's meeting agenda, the Commission cannot take any action. The Commission's approval will be placed on the next meeting's agenda for a discussion and a vote.

Commissioner Pacarro inquired if it needs to be placed on the agenda.

Commissioner Pacarro clarified that if acceptable, it would allow him to speak on behalf of the Commission to news outlets, such as Hawaii News Now.

Chair Broder supports Commissioner Pacarro's idea. However, Commissioner Pacarro's request will need to be placed on the next meeting agenda.

The next meeting will be on September 11, 2020 at 9:00 a.m.

ADJOURNMENT – The meeting was adjourned at 10:22 a.m.

Respectfully Submitted,

Aaron Honda

APPROVED:

Chair Sherry P. Broder

Date

The minutes of the Commission Meeting on August 14, 2020 were approved at the September 11, 2020 Commission Meeting.

| | <u>Aye</u> | <u>No</u> | <u>Comment</u> |
|-------------------------------|--------------------------|--------------------------|----------------|
| Sherry P. Broder | <input type="checkbox"/> | <input type="checkbox"/> | |
| Giorgio F. Caldarone | <input type="checkbox"/> | <input type="checkbox"/> | |
| Jamie Tanimoto | <input type="checkbox"/> | <input type="checkbox"/> | |
| William Reese Liggett | <input type="checkbox"/> | <input type="checkbox"/> | |
| Elliott "Kai" Raymond Markell | <input type="checkbox"/> | <input type="checkbox"/> | |
| William Kamana'olana Mills | <input type="checkbox"/> | <input type="checkbox"/> | |
| Jason Kekahi "Kahi" Pacarro | <input type="checkbox"/> | <input type="checkbox"/> | |