PUBLIC LANDS
COMMISSION
CAYMAN ISLANDS GOVERNMENT

Public Lands Commission
Cayman Islands

Annual Report
2018

Public Lands Commission Annual Report 2018

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1. Public Lands Commission - Membership

At its meeting dated 22nd May 2017 the Cabinet appointed members to the Public Lands Commission ("the Commission") for an initial two year term, pursuant to its authority contained in Section 6 Public Lands Law, 2017.

Membership	Position	Term Expiry
Director of Lands & Survey Department Rupert Vasquez, or designate	Chairman	25th May 2019
Chairman of the Tourism Attraction Board Ms Carla Reid, or designate	Member	25th May 2019
Chief Officer, Ministry of Tourism Stran Bodden, or designate	Member	25th May 2019
Christina McTaggart- Pineda	Member	25th May 2019
Ezmie Smith	Member	25th May 2019
J. Robert Bodden	Member	25th May 2019
Teddy Ebanks	Member	25th May 2019
Temple Cleveland Tatum (Cayman Brac & Little Cayman representative)	Member	Resigned 25th Jan 2019

Public Lands Commission – Meetings

Under Section 7 Public Lands Law 2017 the Commission shall meet at least six times annually. Members are remunerated in the amount of CI$100 per meeting attended (the Chairman, and other civil servant members receive no remuneration). All meetings are minuted.

During 2018, the Commission met on 18 occasions. Member attendance & total remuneration is shown below;

Member	**# Meetings attended**	**Remuneration Received CI$**
Rupert Vasquez / designate	17	Nil
Stran Bodden / designate	18	Nil
Carla Reid / designate	15	1,500
Teddy Ebanks	18	1,800
Christina McTaggart- Pineda	10	1,000
J Robert Bodden	18	1,800
Ezmie Smith	17	1,700
Temple Cleveland Tatum	0	0

2. Staffing

Under Section 11 Public Lands Law, 2017 the Chief Officer of the Ministry of Lands is authorized to appoint a Secretary to the Commission, a Chief Inspector, and such additional Inspectors as deemed necessary.

On 1st October 2018 the Chief Officer appointed Ms Jerray Brown as Secretary to the Commission.

Ms Jerray Brown, Secretary, Public Lands Commission

In January 2019 the Chief Officer anticipates appointing a Chief Inspector to the Commission.

No Inspectors were appointed to the Commission in 2018.

The Secretary is based at the Government Administration Building 133 Elgin Avenue, George Town, Grand Cayman.

The contact details for the Public Lands Commission Secretary are as follows;

Box 108
2nd Floor Government Administration Building
133 Elgin Avenue
George Town Grand Cayman
KY1-9000

Telephone: (345) 244 2467
Mobile: (345) 925 5739
Email: PLC@gov.ky

In 2018 the Commission did not have a website.

3. Mandate

The Mandate of the Public Lands Commission, set out in Section 5 of the Public Lands Law, 2017 is to regulate the use of public land in the public interest, and in particular;

- To regulate the use and enjoyment of public land by members of the public;
- To protect the right of access to and use of public land by members of the public, including the enforcement of public rights of way over private land;
- To respond to complaints regarding the use or misuse of public land;
- To issue permits for the use of, and activities on public land; and
- To advise the Chief Officer of the Ministry presided over by the Minister on general policies respecting the enforcement of the Law and in particular enforcement matters; and
- To exercise the powers and carry out the functions delegated to it by the Minister for Lands.

4. Laws, Regulations & Policy

The Public Lands Law, 2017 came into effect on 1st June 2017. A copy can be viewed and downloaded online at the Lands & Survey Department website www.caymanlandinfo.ky as at the time of writing the Commission does not have its own website.

Section 39 of the Public Lands Law gives the Cabinet authority, after consultation with the Commission, to make Regulations. During 2018 Regulations have not yet been passed, although considerable work has been undertaken towards production of a final working draft.

Section 3(3) of the Public Lands Law gives the Minister responsible for Lands, after consultation with the Commission, authority to give such general directions as to the policy to be followed by the Commission in the performance of its functions as necessary in the public interest. During 2018 no policy directives were given.

5. Operational Overview

Beach Access

The Cayman Islands Government appreciates that the beaches and seashore of the Cayman Islands are an outstanding natural and cultural resource that play an integral social and recreational role for the local population. Therefore, during 2016-2017 the Survey team in the Lands & Survey Department located, inspected and mapped all existing registered and unregistered beach accesses on Grand Cayman, Cayman Brac, and Little Cayman and compiled a comprehensive Beach Access Report. This finalised Report was brought to Cabinet on 13th February 2018 and approved for public release.

The findings from the Survey team are presented in the form of a comprehensive 1,174 page Report detailing each access individually, including photographs and map extracts. The Report has been cross-checked against the Lands Register, and notes the legal width and status of the accesses. In regard to public accesses, the Report notes whether the accesses are clear or obstructed and the nature of any obstruction, and the presence or absence of public beach access signage.

The report can be found online for public viewing on the Lands & Survey Department's website www.caymanlandinfo.ky (Document Library / Beach Access Report) and as a link on the Ministry of Education, Youth, Sports, Agriculture & Lands website www.education.gov.ky . It may also now be viewed in hard-copy binder format at the Lands & Survey Department's public counter on the ground floor of the Government Administration Building, at the Lands Office, Cayman Brac, and at the Post Office, Little Cayman.

The Ministry of Lands anticipates that this report will allow the Commission to:

1) Clearly identify and arrange clearance of any registered public rights of way on Crown land that are currently overgrown.
2) Arrange erection of beach access signage for all registered public rights of way to the beach.
3) Take action under the Public Lands Law 2017 to ensure existing registered public rights of way to the beach over private land are clear and unobstructed.
4) Ensure the regular maintenance of all registered public access ways by the Recreation, Parks & Cemeteries Section of the Public Works Department.
5) Effectively intervene on behalf of the public to bring disputed cases to the Grand Court in seeking to register prescriptive public rights of way to the beach, by inviting affidavits from the general public evidencing continuous and regular use.

It is expected that the roll out of these initiatives by the Commission will significantly improve public access to the beaches.

Registered Public Rights of Way to the Beach / Seashore

Initial actions taken upon completion of the Beach Access Report were, firstly, to check and clear all registered public rights of way over Crown land, and secondly, to review the signage of these accesses.

The Beach Access Report found there to be 121 registered public beach accesses in the Cayman Islands, of which only 17 were clear and had identification signage in place. Most of these were clear but unsigned. An updated beach access sign was ordered and roll-out commenced in 2018. By the end of 2018 the number of cleared & signed registered public beach accesses increased to 53.

It should be noted that where registered public rights of way are classified as obstructed, these rights are over privately-owned land, where pathways may be fully or partially obstructed by mature trees, shrubs, overgrown vegetation and / or utility poles/cabinets. It is unclear if ensuring these rights of way are kept clear is the responsibility of the landowner. Some registered public rights of way were found to be obstructed by man-made obstacles such as fences, walls or structures.

Legal advice received indicated some uncertainty with regards to the extent of the Commission's existing rights to clear obstructions of public rights of way registered over private land. The legal recommendation was to specifically address this in Regulations, ie the explicit right to enter private land to clear obstructed public rights of way, and to recover associated costs if it is considered appropriate. As such, the passing of the Regulations is considered a key action required to move forwards with the priority of clearing all obstructed registered pedestrian public rights of way to the beach/shoreline.

Upon the passing of Regulations, the Commission will liaise with the Recreation, Parks and Cemeteries Unit (RPCU) to ensure regular maintenance of all registered public rights of way by trimming vegetation to facilitate public access at all times. The RPCU only maintain a small number of registered public beach accesses at present.

Unregistered Public Rights of Way to the Beach / Seashore

Progress to formally protect public beach access rights through the registration of unregistered prescriptive public rights of way to the beach/shoreline has been facilitated, in principle, by the enactment of recent amendments to the Prescription Law. These amendments enable the Commission to act on behalf of the public to instigate applications to the Grand Court for the registration of prescriptive beach accesses that can be proven to have been used by the public without interruption for at least 20 years. The Commission expects to launch this key project soon by way of a public campaign of evidence gathering.

Commercial Vending

Private commercial vending, generally uncontrolled, has historically been a prevalent issue at certain Crown land locations, in particular at Seven Mile Public Beach and West Bay Public Beach, and from various public docks.

In December 2016 Cabinet approved the issuance of one year licences (permits) to existing Seven Mile Beach Beach vendors, to all watersports users of public docks, and to the Cayman Turtle Centre at West Bay Public Beach, pending the enactment of the Public Lands Law, to pass responsibility for authorizing and managing beach vending on Crown land to a Commission.

The Public Lands Law came into effect in June 2017 and now requires a vendor who wishes to carry on a commercial activity on public land to apply to the Public Lands Commission for a Permit in respect of each location where the activity is proposed to take place. The Commission may grant Permits for a maximum two year term, and may charge Permit fees in accordance with Regulations. The Commission also has powers of enforcement in this respect under the Law.

Throughout 2018 many vendors have been identified operating on Seven Mile Public Beach Park, and West Bay Public Beach, and it is suspected some are not Cabinet approved. Many watersports companies operate from public docks.

In 2018/19 DECCO is due to implement a $3 million improvement plan to the Seven Mile Public Beach Park, including construction of an area off the beach to be set aside for private vendors to operate from kiosks. This facility is scheduled to complete in 2019.

The Commission has sought specific policy direction from the Honourable Minister for Lands on the matter of beach vending and the commercial use of public land including docks. Notwithstanding policy direction, the Commission is unable to charge Permit fees until Regulations are passed. New vendor applications cannot be considered by the Commission, nor can new Permits be issued.

In January 2019 the Ministry anticipates appointing a Chief Inspector to the Commission, who will be expected to patrol Seven Mile Beach Park regularly.

Coastal Works

Under the Public Lands Law, the definition of public land includes the seabed and territorial waters of the Cayman Islands. This expressly excludes Cayman waters designated as marine Protected Areas under Section 7 of the National Conservation Law, 2013.

All coastal works require a permit to be granted by Cabinet or its delegates, under Section 21 of the National Conservation Law, 2013.

The Public Lands Commission has a mandate to issue Permits for commercial use of Crown land. However, the Commission is unable to grant any permits until Regulations under the Public Lands Law are passed.

To date the Commission has confined itself to providing the Ministry of the Environment with comments on applications the latter prepares for Cabinet, rather than issuing permits, which it notes may only be for a maximum two year duration.

Going forwards, the Commission may ask the Ministry of Lands to recommend that Cabinet clarifies the role expected of the Commission with regards to coastal works, pursuant to Cabinet’s authority under Section 40 Public Lands Law.

Enforcement

The effectiveness and enforcement of the Public Lands Law is dependent upon the passing and implementation of Regulations. These remain in preparation.

The Commission also requires Inspectorate staffing to take enforcement action where appropriate. During the period of this Report, the only specific staffing available to the Commission was its full time Secretary, who commenced employment in October 2018. However, the Ministry anticipates appointing a Chief Inspector in January 2019, and it has budgeted funding to recruit an Inspector.

Given the lack of an Inspectorate & Regulations, no penalty tickets were issued during 2018, and thus no fines were collected

Finances

During the financial year 2018 the Commission had no funding budgeted specifically to it. As an employee of the Ministry of Education, Youth, Sports, Agriculture & Lands, the Secretary's salary is funded by that entity. The Ministry also funded Commission member remuneration. During 2018 the Lands & Survey Department funded the provision of the new 'Public Beach Access' signage.

Other

The Commission has taken possession of a vehicle. A second vehicle has been purchased, and is temporarily in use by the Lands &Survey Department, pending the employment of an Inspector.

7. Media Coverage

During 2018 there were a total of 6 press releases / media coverage pertaining to the Public Lands Commission and the Public Lands Law.

These reports consist of the following:

- Appointment of Commission Members
- Release of the Beach Access Report
- New Public Lands Commission Beach Access Signs Erected
- Commercial Activity on the Smith Barcadere
- Land Commission to deal with rogue beach vendors
- Mobi mat to facilitate disabled-person access over the beach to the sea at Seven Mile Public Beach.

A public education campaign would improve the profile of the Commission and its Inspectorate.