

Legacy Land Conservation Committee Meeting

DATE: October 13, 2015

TIME: 12:10 p.m. – 2:00 p.m.

PLACE: Room 132 (Board Room), Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, Hawai`i

COMMISSION MEMBERS PRESENT:

Mr. Thorne Abbott  
Ms. Lori Buchanan  
Ms. Theresa Menard  
Dr. John Sinton  
Mr. Rick Warshauer  
Ms. Wendy Wiltse  
Ms. Marjorie Ziegler

COMMISSION MEMBERS ABSENT:

None

STAFF:

Kirsten Gallaher, DLNR, DOFAW  
Chauncey Hirose-Hulbert, DLNR, DOFAW  
Emma Yuen, DLNR, DOFAW  
Marigold Zoll, DLNR, DOFAW

PUBLIC:

Ms. Shannon Wood

MINUTES:

ITEM 1. Call to order and introduction of members of staff.

Legacy Land Conservation Commission members, staff, and members of the public introduced themselves.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from August 18, 2015.

Ms. Menard noted an error on page two in the last sentence, where “advertised” should be “amortized.”

Member Sinton motioned for approval as amended by Ms. Menard, Member Abbott seconded. All were in favor.

ITEM 3. Discussion of the Fiscal Year 2016 Legacy Land Conservation Program timeline, process, site visits, and meetings; possible formation of task forces for site visits to proposed project locations.

Ms. Gallaher reminded the Commission that pursuant to Sunshine Law requirements, the content of the proposals should not be discussed at this time. This discussion would take place during the December meetings. The current meeting was to secure site visit dates and the formation of task forces to attend the site visits.

Member Wiltse inquired as to the location of the proposals online. Ms. Gallaher stated that a link to the proposal site was sent via email to Commission members approximately three weeks prior to the meeting. Member Wiltse and Member Warshauer expressed an inability to open the link given. Ms. Gallaher stated she would resend the link to be made available to all Commission Members.

Ms. Gallaher stated although the online portal to view the Legacy Land Applications was convenient, hard copies could be given to Commission Members upon request. Members Buchanan and Menard had previously requested hard copies, while Members Warshauer and Wiltse requested hard copies to be obtained following the meeting.

Ms. Gallaher provided an overview of the 2016 Legacy Land grant cycle process. With six applications received, Commission members would use the meeting to determine the date and time of proposed site visits which would take place between late October and the end of November. Following the site visits, recommendations by the Commission would usually be produced in early December; the December meetings had been proposed for December 2<sup>nd</sup> and 3<sup>rd</sup>, 2015. Opportunities to hear testimony from members of the public, any further updates to the project by the applicants, and site evaluations by fellow Commission members would be heard prior to the rankings being made by the Commission. The recommendations would then be sent to the Speaker of the House and Senate President for consultation, with responses typically being received in January or February. The available information about applications up to that point would then be submitted to the Board of Land and Natural Resources (BLNR) for approval at one of their regular monthly meetings. The final step after approval by the BLNR would be Governor approval, typically received by April or May.

Member Wiltse inquired as to the form that would be used for the rankings.

Chair Buchanan stated there is a worksheet that is used. Rankings are given using whole numbers, with 1 being the highest score and 5 being the lowest.

Member Warshauer then inquired if there were any written guidelines, to which Ms. Yuen stated that while there are no written guidelines, there are clear criteria. Member Buchanan stated the rankings of the project were collective and that there must be written documentation behind the rationale of the rankings. During the second day of Commission meetings, the projects would be discussed further among Commission members, followed by rankings being assigned by each

Commission member and tallied on a sheet. Member Sinton reiterated that rankings would be assigned after the testimony by the public and applicants on the prior day.

Chair Buchanan reminded the Commission the leader of the site visit would submit a written summary report of the site visit and have the opportunity to present a PowerPoint during the first day of the December Commission meeting. This site visit summary report by the task force Leader would be in addition to the presentation by the applicant. Ms. Gallaher mentioned that the applicant and/or public tended to present pictures of the site.

Member Menard asked what would be the appropriate time to recuse oneself from a particular project if a member was affiliated with the applicant or project, and if they were still able to go on a site visit even though they would not participate in the official ranking of the project in the future. While there was nothing to prevent a Commission member from attending a site visit or discussion of any particular project, Chair Buchanan confirmed that it was necessary to recuse oneself for the official ranking of a particular project if necessary; especially if there was a possibility of financial gain. Ms. Gallaher added that there is an ethics hotline if Commission members were unsure of any potential conflicts of interest.

Member Warshauer asked if by recusing oneself from a particular project, that recusal would inhibit the Commission member from participating in any other project rankings. Member Sinton clarified that the Commission member would have the ability to participate in any remaining rankings despite the recusal from a particular project.

Member Abbott stated there were sometimes conflicting criteria for evaluating the applications like the preservation of agriculture and native ecosystems, and the possibility of cultural and historical components of the applications. Another component of the application to be considered was the “do-ability.” Oftentimes there could be great intentions by the applicant, but a lack of public support to actually complete the outlined project.

Member Menard inquired as to whether the lowest ranked projects always received funding left over if other projects fell through before closing. Member Menard believed that in some cases, those lower ranking projects might not have been ready for funding, which is why they were not initially earmarked for funding by the Commission.

Chair Buchanan replied that although the Commission had gone both ways on the issue, it had been decided that should a project fail, the newly available funding would go to the next project in line. It could still be discussed further during the second day of Commission meetings.

Ms. Yuen mentioned that due to the budgetary process, it was not beneficial to not fund a project. Any money not spent on funding projects would go back into the fund, which was vulnerable to use by the legislature.

Member Abbott inquired if partial funding was a possibility for projects if the funding was available. Both Member Sinton and Member Buchanan confirmed that partial funding had been given in the past.

Ms. Zoll mentioned that there would be further discussion on the second day of Commission meetings prior to the rankings. Member Menard confirmed that official rankings were not the first item on the second day; there was time to review and discuss the projects one final time. Chair Buchanan suggested to the new Commission members that the best projects did usually “rise to the surface”.

Chair Buchanan requested confirmation that there would be four Commission members on each site visit.

Ms. Gallaher proceeded to give an overview of the task force process and possible dates for site visits. They could be between two and four Commission members, and they must be established and approved at this meeting. No Commission members could be added to a task force after this meeting; but, members were able to drop out in the future if something arose. The usual approach was therefore to fill all site visits with as many Commission members as possible. Among the Commission members at the site visit, a lead would be established, who would be responsible for the organization of the site visit and follow up report.

Chair Buchanan inquired, since there were four site visits on Oahu, if there was any chance multiple site visits could be done on the same day. Ms. Gallaher confirmed this would be possible.

Member Ziegler requested confirmation on laws and criteria for the Legacy Land Conservation Commission; to which Member Menard responded that HRS 137 was the applicable law and the criteria were available in the administrative rules for the program. Both the law and criteria were available online on the Legacy Land website as well. Chair Buchanan mentioned that the criteria were also available on each application.

Member Ziegler inquired about the average funding amount the Commission was given annually to fund projects. Member Buchanan confirmed that it had usually been \$4–6 million. Ms. Yuen stated that the funding is capped at either 10% of the conveyance tax or \$6.8 million, whichever was lower. Whichever amount was given, there is a set spending ceiling of \$4.5 million; this scenario applied to both FY15 and FY16. Ms. Yuen stated that although the Legacy Land Conservation Program may get more than \$4.5 million (closer to \$5 million) from the conveyance tax, other assessment fees and administrative salaries lowered this spending ceiling to the \$4.5 million.

Member Ziegler requested clarification on whether unused funding would carry over from year to year, although it would be subject to legislative use and the spending ceiling. Ms. Yuen confirmed that this was the case.

Member Ziegler asked if airfare to neighbor islands for site visits would be covered by the Commission. Ms. Gallaher replied that it would be paid for by the Commission. Chair Buchanan clarified that all site visit task forces were voluntary and at times based on the expertise of Commission members.

The site visits to be attended by Commission members (as agreed by all members) were as follows:

Helemano Wilderness Recreation Area (Waialua District, Central Oahu), October 26, 2015  
Chair Buchanan (lead), Members Warshauer, Abbott, and Wiltse

Pu'ukua (Waimea Valley, Oahu), October 29, 2015  
Members Menard (Lead), Chair Buchanan, Warshauer, and Wiltse

Turtle Bay Makai – Kahuku Kawela Forever (Ko'olauloa, North Shore Oahu), October 29, 2015  
Members Wiltse (Lead), Chair Buchanan, Warshauer, and Menard

Mauna Kea Forest Reserve, Upper Kuka'iau Ranch (Hamakua, Hawaii), November 6, 2015  
Members Warshauer (Lead), Sinton, Chair Buchanan, and Abbott

Preserving Moanalua Gardens for Future Generations (Moanalua, Oahu), November 20, 2015  
Members Abbott (Lead), Sinton, Menard, and Warshauer

Kanewai Springs (Kuli'ou'ou, Oahu), November 20, 2015  
Members Sinton (Lead), Warshauer, Menard, and Abbott

Member Warshauer motioned for approval. Member Sinton seconded the motion, all were in favor.

Member Abbott requested the contact information for the Moanalua Gardens. Ms. Gallaher stated Pauline Worsham as the contact, but mentioned that an email would be sent to both applicants and Commission Members following the meeting including contact details and confirming the dates of the site visits. Member Sinton also mentioned that the applicant contact information was in the applications.

#### ITEM 4. Announcements

Ms. Zoll wanted the Commission to know that DOFAW has submitted a request to fill Ms. Schmidt's position as the Legacy Land coordinator, but recognized the lengthy process in finding a replacement. However, Ms. Schmidt's role had been temporarily assigned to other staff members: Kirsten Gallaher would be assisting with general administration related to the FY16 grants process and Commission meetings, David Penn with the closing of previous year projects, and Emma Yuen and Marigold Zoll with general Program enquiries.

Chair Buchanan asked for clarification on travel to the site visits. Ms. Gallaher stated flight requests would go through either Ms. Laramee or Ms. Hirose-Hulbert, and that requests should be made as soon as possible since the first site visit was 2 weeks away. Member Sinton mentioned that government flights could be changed for no fee (apart from the difference in price of the flight itself), if organized through the correct channels.

Member Menard inquired about what could be done to fast-track funding for Ms. Schmidt's open position since Governor Ige and Chair Case had made points about the Turtle Bay Makai project.

Ms. Zoll replied that funding was not the problem, but rather the length in procedure due to DLNR hiring procedures.

Ms. Gallaher thanked Member Menard for submitting an abstract about the Legacy Land Conservation Commission to the IUCN (International Union for Conservation of Nature) to possibly have a poster at the Forum.

Member Abbott asked if there would be an opportunity to attend the IUCN Forum and requested the link to submit a poster. Member Menard agreed to forward the link.

#### ITEM 5. Adjournment

Chair Buchanan adjourned the meeting at 2:00pm.