

**Legacy Land Conservation Commission Minutes**

**DATE:** December 3, 2015

**TIME:** 8:30 a.m. to 1:30 p.m.

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

**COMMISSION MEMBERS PRESENT:**

Ms. Lori Buchanan (Chairperson)

Mr. Thorne Abbott

Ms. Theresa Menard

Dr. John Sinton (Vice Chairperson)

Mr. Rick Warshauer

Ms. Wendy Wiltse

Ms. Marjorie Zeigler

**COMMISSION MEMBERS ABSENT:**

None

**STAFF:**

Ms. Kirsten Gallaher, DLNR, DOFAW

Ms. Chauncey Hirose-Hulbert, DLNR, DOFAW

Ms. Julie China, Deputy Attorney General

**PUBLIC:**

Ms. Laura Ka'akua, Trust for Public Land

Mr. David Penn, DLNR, DOFAW (applicant)

Ms. Irene Sprecher, DLNR, DOFAW (applicant)

Mr. Stephen Rafferty, Trust for Public Land

Mr. John Vetter, DLNR, DOFAW (applicant)

Ms. Marigold Zoll, DLNR, DOFAW (applicant)

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

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

**ITEM 2. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2016 (FY16) projects (please see the list of applicants attached to this agenda).**

Member Menard restated she had a conflict of interest with Upper Kuka'iau Ranch application due to her employer, The Nature Conservancy, owning the Conservation Easement on the property.

**ITEM 3. Discussion of the process and method by which the Commission will form recommendations to the Department and Board of Land and Natural Resources regarding FY16 project funding.**

Ms. Gallaher provided an overview of the process and methods by which the Commission would form recommendations and rank the FY16 applications. First, each Commission member would have an opportunity to state their opinion of each project as well as ask for any further clarification about the

project if the applicant were present. Each Commission member would receive a new ranking sheet, and thereupon rank each project on a scale of one to five; with one being the highest recommendation and five being the lowest. If a Commission member had recused themselves from a ranking, they should write this on the form and leave the score blank. Once all the rankings had been completed and collected, the scores would be averaged and the projects would be funded as ranked. Only whole numbers could be used for ranking.

Ms. Gallaher added that partial funding was possible; so although the lowest ranked project may not be fully funded, it might receive some funds. If two projects were tied, each project would be reduced proportionally in order to use the available funding. This was relevant in the case that two low-ranked projects were tied.

Chair Buchanan inquired as to the outcome of the Turtle Bay Makai application. Due to the circumstances of the application, she asked what would happen if the application were to be ranked the lowest, and therefore not be fully funded; to which Ms. Gallaher replied that while the Commission members rank projects, they are only recommendations to the Board of Land and Natural Resources (BLNR), which would get the final say. Chair Buchanan mentioned the Commission members needed this clarified because certain projects that may be felt to supersede the Turtle Bay Makai application could end up not being funded by the BLNR. Keeping this in mind, she suggested it was important for Commission members to rank projects accordingly.

Ms. Gallaher referred to the previous Legacy Land Planner, Molly Schmidt, stating that she had wanted the project to remain a part of the process despite the arrangement made by the legislature. However, the project itself could be considered to be competitive with the other applications despite this arrangement; Chair Buchanan agreed. Ms. China stated this would likely be the process for some time, unless the legislature decided to fund it another way; an unlikely outcome for the upcoming legislative session.

Member Warshauer stated the Commission may be able to provide some incentive for the legislature to change the funding source of the Turtle Bay application. Ms. China noted that the legislature had been scrutinizing, not only this project, but the Commission as well, adding that during the previous legislative session, all funding for the Legacy Land Conservation Commission had been temporarily removed. The legislature had given the Commission the opportunity to be a part of the Turtle Bay funding process. Member Wiltse and Vice Chair Sinton both added discussion about the merits of the application.

Ms. Gallaher updated the Commission members on the funding available for the FY16 projects, with approximately \$4.5 million in grant funding available. Chair Buchanan also mentioned, in the future, it would be beneficial to provide an updated spreadsheet including the projects and available funding. Ms. Gallaher replied that no changes to the spreadsheet or further public testimony had occurred since the previous day.

Member Warshauer requested clarification on the budget, but Ms. Gallaher could not provide specific figures at that time. The spending ceiling for this fund is \$5.1 million, with the difference going to administrative and Commission costs, and other fees. Due to not knowing exact costs of travel and other fees until they actually occurred, it would be difficult to provide actual numbers.

Member Ziegler asked for further clarification on the administrative fees, to which Ms. Gallaher stated the difference between the \$5.1 million spending ceiling and the \$4.5 million funding for grants goes to

Commission costs, associated fees that were tied to special funds, and staffing LLCPC personnel. Member Ziegler asked if this difference in spending ceiling and grant funding was set in stone, to which Ms. China stated the past legislative session set the spending ceiling at \$5.1 million. Even though there may be more funding available in the account, it was up to the legislature to decide whether or not to increase the spending ceiling of the Commission.

Member Warshauer inquired about where the amount of grant funding was defined, to which Ms. China stated this amount had likely been decided upon with Ms. Molly Schmidt, the previous Legacy Land Planner, and the BLNR.

Member Ziegler asked if there was a cap on the amount that could be spent on administrative costs and associated fees. Ms. China replied that 10% of the program's budget may go to administrative costs. Chair Buchanan stated the Commission's costs had always been low.

Ms. Sprecher added there was no specific cap that could be set on administrative money. In running the Legacy Land program, there were percentages allocated to Budget and Finance, Fiscal, DOFAW for Commission travel, and finally the salary of the LLCPC staff. Ms. Zoll also mentioned that another percentage was taken out simply because it the money was derived from a special fund.

Member Warshauer clarified that there are two separate piles, operational costs and overhead. Ms. Sprecher stated this was correct.

Member Warshauer asked if there was a rate, to which Ms. Sprecher stated there was. Although she did not know the exact numbers, approximately 7% went to Budget and Finance and another 3%, so a total of 10% goes to overhead.

Member Menard added that a breakdown of costs could be found in the legislative report from previous years. Chair Buchanan stated these legislative reports were available online. Ms. China reminded the Commission members that Ms. Schmidt had kept these records, but unfortunately she has recently left and the position had yet to be filled. Ms. Gallaher added the information can be found, but will have to take some time to find it. Ms. Gallaher stated that she would be able to get any other information about past cost breakdowns to Commission members after the meeting if they desired it.

Chair Buchanan stated that this discussion, although important, may be better suited for another time since it is not an agenda item and the rankings of the FY16 projects needed to be completed. Ms. China added that perhaps another meeting could be arranged to discuss the issue when staff were prepared with the information Member Ziegler had been requesting.

Member Ziegler stated she did not feel qualified to participate in the ranking process since she is still not fully knowledgeable about what is fully available for grants this year. Ms. Gallaher replied that, as had been the case in previous years, \$4.5 million was the allotted money for grants this fiscal year. This had been arranged by Ms. Schmidt before her departure. Chair Buchanan added this had been the average amount given the Commission in past years as well.

Member Ziegler stated that approximately \$600,000 had been going to overhead and operational costs for the Commission, to which Ms. China and others agreed.

Member Wiltse inquired about the \$10.8 million Legacy Land Conservation Fund balance and if that could be made available to pay for the Turtle Bay Makai project. Both Ms. Gallaher and Chair Buchanan stated this should be discussed in another meeting. Ms. Gallaher noted she would add this to the agenda for the following meeting.

Member Menard inquired about low-ranked projects. She suggested these projects would be ranked low for a reason and would not necessarily be not ready to move forward, so should not receive funding at all. Ms. Gallaher stated that historically, they should try to be funded if there is money available, since it would go unspent. Chair Buchanan stated it has been done on a case by case basis in the past; there are no rules or statues which dictate the allotment of remaining funds for lower ranking projects. At the point the projects are ranked, a motion could be made to determine the remainder of the funds.

Member Abbott asked about the ranking procedure and if the rankings for each project were mutually exclusive, which Vice Chair Sinton confirmed; a Commission member may assign multiple projects with the same score.

Chair Buchanan stated that all criteria must be considered when ranking, but there were no political criteria, so Turtle Bay Makai, for example, should be ranked according to the same criteria of the other projects. Member Menard asked about the procedure if a certain project did not appear to meet the criteria of a land acquisition. Chair Buchanan stated then that Commission members should rank the project very low.

Member Menard suggested Commission members should simply abstain from voting on the project. Member Ziegler asked if debt service was in the rules of this Commission, to which Ms. Gallaher stated she had a copy of the rules with her. Ms. China stated the Turtle Bay Makai project had applied with the merits and resources of the area and should not be ranked on any preconceived ideas or political aspects. Chair Buchanan suggested that further discussion on this topic should be held at a later time, as other people needed to be available and it was way off of the agenda item.

Member Ziegler asked then to reread the criteria. Member Menard stated the criteria could be found in HAR14 140-39. Ms. China stated in 13140-39 of the administrative rules the criteria of the project rankings were listed as: completeness of application; acquisition is beneficial to the preservation of watershed protection, coastal areas and beach access, habitat protection, cultural/historical sites, recreation/public hunting, parks, natural areas, agricultural production, and open spaces and scenic resources; linkage of protected acreage; public access and enjoyment; presence of environmental hazards; feasibility of project in the two year time frame for funding; cost; proportion of matching funds; urgency of acquisition; adequacy of management plan; community support of acquisition; completeness of funding; connection to regional plan.

Member Ziegler asked if a statement could be found which illustrated the uses of the LLC funds, to which Ms. Gallaher then read the Hawaii Administrative Rules, §13-140-18 (Eligible Lands). Member Ziegler asked about where this had been referenced in the statute, not rules, to which Ms. China stated it was located in HRS 173-a5 and then continued to read the statute. Unlike the rules, the statute mentioned debt service as an allowable expense for the program; Ms. China confirmed that where a conflict existed between the statute and the administrative rules, the rules took precedence.

Member Menard stated the Turtle Bay Makai project was applying through the land acquisition fund even though the land had already been acquired, which is where she felt there was a conflict. She understands

there would not be a conflict with the project being funded by the Legacy Land Conservation Fund; however, she believed routing the project through the land acquisition fund was inappropriate and could make DLNR vulnerable for a contested case hearing due to it violating its' own rules.

Vice Chair Sinton and Ms. Gallaher stated that it was probably not Ms. Schmidt's idea for the project to be funded in this way. Vice Chair Sinton stated that the legislature had originally wanted the entire Legacy Land fund to go to the debt service of Turtle Bay Makai, and that TPL had become advocates for the project to be reviewed by the Legacy Land Commission.

Ms. China agreed with Vice Chair Sinton, stating that in the bill that a designated non-profit (TPL) shall apply every year to the Legacy Land Conservation Program. Regardless of whether the Commission would like to rank the project or give the decision to the Land Board, this path of funding is likely to remain for some time, and enables the Commission to give its opinion on the project.

Member Menard agreed with Ms. China; however, she suggested it should be a stand-alone project outside of the Legacy Land acquisition program. Member Ziegler suggested that if this scenario were to occur, then it would free up another \$1.5 million in grant funding.

Vice Chair Sinton, among other Commission members and staff present, stated this would not be the case. Whether or not the project was to be ranked with the other applications, \$4.5 million was still the total grants budget for the Commission.

Chair Buchanan requested an Executive Session to discuss duties as Commission members and the accompanying right with the Deputy Attorney General and staff. Seeing no opposition, the Commission entered into an Executive Session.

The Commission resumed its meeting at 10:16am.

**ITEM 4. Discussion by members of the Commission of the FY16 project applications and supplementary materials and recommendations to the Department and Board of Land and Natural Resources regarding funding for FY16 project applicants (please see the list of applicant attached to this agenda).**

Chair Buchanan stated the discussions of projects would correspond to the order in which they were presented the previous day with the Commission lead to initiate said discussion.

*Pu'ukua*

Member Menard stated she was inclined to recommend the project due to the threat of development. However, she suggested that having a conservation zoning lessened the urgency slightly. Member Warshauer and Member Wiltse both stated there had been much development in conservation areas, to which Member Menard agreed.

Member Menard further stated there was great community support for the acquisition, and that the management plan and overall context of the entire valley made it a great project.

Vice Chair Sinton suggested the purchase of 3.75 acres in Waimea Valley for approximately \$400,000 was a bargain, and a good example of the type of project the Commission should support. Hi'ipaka LLC had also shown it could be a great caretaker for the property.

Chair Buchanan added that she was impressed with the overall context of the area. Seeing numerous groups of school children from public and private schools, the switch from botanical garden to native species, and the constant revenue stream made this project very impressive.

Member Abbott expressed his appreciation to the three descendants of Hewahewa for their public testimony and presence the previous day.

Seeing no public testimony, the Commission moved on to the following project.

#### *Upper Kuka'iau Ranch*

Member Warshauer stated his approval for the project. It would be a large acquisition and although there were some conflicts, he suggested they could likely be resolved at a later time as they were similar to conflicts the state dealt with every day. There were good resources on the property, particularly the cultural resources, which were often not found in Forest Reserves.

Chair Buchanan asked if any Commission members who attended the site visit had any comments about the project. Vice Chair Sinton replied that he wished there were an explicit statement from The Nature Conservancy (TNC) to DOFAW in regards to the transference of the Conservation Easement. The verbal confirmation from TNC was considered somewhat insufficient. However, the land is typical of upper Mauna Kea and holds a lot of potential. It is also the largest parcel application of the FY16 projects. However, there was also no particular urgency in acquiring the property despite the inconvenience that would occur if it were not funded.

Member Wiltse stated her wish for a stronger management component to the project, especially the portion of the property which connected to the critical Palila habitat. Vice Chair Sinton also agreed with this.

Member Warshauer noted that the adjacent parcel managed by Pu'u Mali was coming on course with strong, necessary, components to the restoration of the forest so people, resources, and management options were available, but needed to be extended to this property. There were other options for the lower portions of the land too and also the potential to bring in other parties to assist with restoration efforts.

Member Wiltse stated she appreciated the fact that the project was on Hawai'i island since all the other FY16 projects were on O'ahu. Chair Buchanan added that historically there had been many projects from Hawai'i Island with a few from Molokai. As maka'ainana (those who live on the land), it would be important to acquire land anywhere, however, with any large acquisition of land, there were more problems that accompanied it. As stated previously, much credit is due to staff and David Penn for the work done on this project, however, she was hesitant to acquire it due to many of the project components still needing to be organized.

Member Warshauer asked Ms. China if having a private conservation easement (CE) on public land could cause the project to not be funded by either the BLNR or another party in the future. Member Menard and Vice Chair Sinton stated this scenario was similar to the Ka Iwi Mauka project the previous year.

Ms. China stated the land may not be put into a Forest Reserve, which would be a separate decision by the BLNR. The Forest Reserve idea had been proposed by DOFAW, but at this stage was simply an idea. If Commission members believed it to be a good project, they could vote accordingly. In the end, it may come down to a designation issue.

Member Ziegler believed the title was misleading, given that most of the land was hardly forested, with a long history of grazing. Member Ziegler further asked if only part of the property could be put into the Forest Reserve, to which Ms. Sprecher stated it could, by designation.

Member Menard and Vice Chair Sinton both expressed further concern about the private CE on public land which had almost derailed a similar project the previous year. Ms. China stated that any land owned by the state with a private CE was of concern, but the verbal agreement between TNC and the state had somewhat resolved the concern. Ms. Sprecher confirmed the agreement with TNC.

Chair Buchanan added her concerns about the CE, from another perspective, namely the CE restriction on public hunting and access. As one of the criteria for the ranking and the use of public funds for the acquisition, she considered the lack of public access for hunting problematic. Member Ziegler asked for clarification that the project could be considered multi-use, so public hunting could be allowed on parts of the property.. Chair Buchanan and others agreed with this statement, but Member Warshauer reminded Member Ziegler that, although this is possible, the CE currently stated there shall be no public hunting.

Member Abbott expressed his opinion of the project. Although the area was beautiful, in his opinion, the project would not be ranked highly for the following reasons: he viewed the private CE as an issue, and felt that funding was also an issue, including the lack of local funding, for example the open space funds: from the Hawaii Island, so funding support from the local area would be good. He also felt the project was not quite ready to move forward, and while there was a deadline for the USFWS money, he suggested a low degree of threat to the property due to the existing CE. Finally, he suggested the liability for the catchment area if taken over by the State to fund and manage, as there seemed to be no clear resources in place to address the problem. Great work had been done by staff to prepare the project, but it needed a little more to move forward.

Member Warshauer commented on the liability of the state regarding the catchment area, in that it already faces the same liability on the adjacent Forest Reserve lands.

Member Ziegler asked the public if there was a possibility for a lower funding request, to which Mr. Penn stated he would not know for sure until they received the results of the appraisal.

Mr. Penn addressed the comments and questions presented by the Commission. There is currently no certainty that the zone 1 and 2 conservation areas of the property would be put into the Forest Reserve at this stage; however, the fencing which borders the Forest Reserve and property in question encountered the same archeological situations that had concerned Commission members. A solution would be to lower the position of the boundary fence. Funding for that fence and the archeological inventory survey is available.

Member Ziegler asked if the fence in question would be a cattle fence or an ungulate fence, to which Member Warshauer replied it would be an ungulate fence.

Mr. Penn noted the differences between the Ka Iwi Coast project and this one. The Ka Iwi project did not have a CE; but in this case, DLNR would hold the fee title and CE to the property already.

Vice Chair Sinton commented that DLNR would have the fee title to the property until decided to no longer fund the project.

Member Warshauer asked if there would be any way to get a letter of intent from TNC, to which Mr. Penn stated it would be addressed before the project reached BLNR approval.

Mr. Penn addressed concerns about funding availability from the Hawai'i Island open space fund. Since the open space fund is at the county level, similar to the City and County of Honolulu, the county would like to have a stake in the area of which it is funding. Therefore, this project would not be eligible for the open space funding. Member Abbott noted that the Commission should be aware of this in the future.

Regarding the catchment tarp area, Mr. Penn stated at that time, it was in the hands of the landowner, SHPD, the Burial Council, and the descendants, with no involvement by DOFAW. There may be a possible burden placed on the state if the land is transferred while this process is ongoing, but that had yet to be determined. While the project overall still required work to be done, a lot of due diligence had been completed by staff already, and the appraisal and deeds were the only significant outstanding parts.

Member Ziegler asked if there would be any way to split the difference because in her opinion the two DOFAW projects would be ranked equally. Chair Buchanan stated that while this may be Member Ziegler's view, other Commission members may feel differently. Mr. Penn stated that within DOFAW, the Helemano project was of higher priority than the Kuka'iau project.

#### *Turtle Bay Makai*

Member Wiltse stated the inherent value of this project, regardless of how the project had come to the Commission. This area is coastal land on O'ahu, with strengths including the opening of eight miles of coastal trails and five miles of coastal access to the public, unique habitat for endangered monk seals, and potential sea bird habitat. And the threat of development was considered to be extremely high, with the adjacent development and mining of sand on the coast as examples. If the political aspects of the project were removed and it was coming before the Commission in an ordinary manner, Member Wiltse would still recommend it for funding. Overall, she believed it to be a high value property.

Member Ziegler suggested the project would be highly ranked, in terms of resources. However, \$1.5 million was a large portion of the Legacy Land grants budget, but in comparison to the state budget as a whole, \$1.5 million is not very significant.

Vice Chair Sinton added his opinion about the many merits about the project, further stating he would be prepared to rank it on this information. They included vastly improved access, parking, and Kawela Bay preservation. However, he was concerned about the possible development which could still occur in the purple section of the map, and some other aspects which might result in the project being ranked lower. Ms. China replied that the purple section was zoned for residential.

Member Warshauer stated that despite the problems, it met all the criteria and qualifications. A particular concern of his was that the most valuable native vegetation on Kahuku Point would be under

the control of the City and County as a park. In his opinion, the Kawela Bay (with ironwoods) would be better suited to a park, rather than the almost pristine coastal dunes.

Member Warshauer asked if some of the land at Kahuku Point, could be traded in order for the park to be placed on Kawela Bay rather than Kahuku Point, to which Ms. China stated the area would be a city park if the second hotel permit were to be pulled.

Chair Buchanan praised Governor Abercrombie for pushing this project through the legislature, despite many people who had relatively little involvement. At the bottom line, eight miles of coastal trails would be protected, along with greatly improved public access. She saw great community support to improve and manage the land, especially the Kahuku Point area.

No public testimony was given.

#### *Helemano*

Chair Buchanan voiced her excitement about the evolution of the project over the years. It had been impressive to see the previous recommendations by the Commission taken to heart by staff. The involvement of TPL was also a good to see. In her opinion, this project would be ranked highly and was in a position to move forward. The support that the project had from the potential users and the legislature was also considered very important. She felt that there was a real need for more open space for recreation; Helemano would help to answer the demand for this open space. There is legislative support from this community area, and this is their year.

Member Abbott also thanked staff for their patience in reapplying and mentioned he thought the threat to the land was urgent. The project had improved greatly, and although Dole is willing to work with staff and TPL at the moment, they would prioritize their commercial interests.

Member Wiltse concurred with fellow Commission members that the project should be ranked highly as a large parcel on O'ahu with native forest and bat habitat.

Vice Chair Sinton had liked both the lower and upper areas of the property. The lower area would be suitable for recreation and camping, and the upper contained native forest and provided access to the Poamoho trail.

Member Menard agreed on the high threat of development, and the provision of much needed habitat for bat mitigation. However, she had some concerns about it being right next to a super fund site.

Member Warshauer added that DOFAW had the opportunity to be creative with the project and its uses.

Having no public testimony, the Commission moved on to the following project.

#### *Kanewai Springs*

Vice Chair Sinton suggested that this was the type of project, and kind of place, in which true preservation could occur. The intact connection from the spring, to the fishpond, to the lagoon, and into the bay occurring in such a developed area was unusual and the Maunaloa Fishpond Heritage Center is a

competent group. He had great confidence in their ability to manage the property and appreciated their inclusion of the descendants of the area.

Member Warshauer agreed and suggested it was a very important educational tool with special resources. The community involvement was also impressive.

Member Menard stated although the project was expensive, the connection to the entire ecosystem gave it the potential to impact the entire system. This acquisition also provided a 1/10<sup>th</sup> stake in the management of the fishpond.

Member Wiltse wished she had had the opportunity to attend the site visit; the project looked fantastic and the public testimony had been moving.

Chair Buchanan and Member Abbott agreed that the threat of development was extremely urgent. The resource seemed to be the primary priority, with everything else revolving around the spring.

Ms. Ka'akua invited the Commission to be a part of the monthly workday/open house the following Saturday at 8:30am.

Vice Chair Sinton recommended that the Commission rank the projects, and then while the votes were being tallied, members could take a break.

Ms. Gallaher reminded the Commission to place their names at the top of their ballot sheets, which would then become public record. If one were to recuse oneself from ranking a particular project, it should be recorded on the form, without assigning a score.

Commission Members thanked Ms. China for her help and commentary.

Ms. Gallaher stated the addition and averaging of rankings had been checked by herself and Ms. Hirose-Hulbert to rank the projects as follows:

| Rank | Total Score | Number of Commission Members Voting | Average Score | Project Title    | Applicant          | LLCP Funding Recommended |
|------|-------------|-------------------------------------|---------------|------------------|--------------------|--------------------------|
| 1    | 7           | 7                                   | 1             | Pu'ukua          | Hi'ipaka LLC & TPL | \$175,000                |
| 2    | 8           | 7                                   | 1.14          | Kanewai Springs  | MFHC & TPL         | \$1,300,000              |
| 3    | 11          | 7                                   | 1.57          | Helemano         | DLNR, DOFAW & TPL  | \$1,500,000              |
| 4    | 14          | 5                                   | 2.8           | Turtle Bay Makai | TPL & DLNR         | \$1,500,000              |
| 5    | 20          | 7                                   | 3.33          | Upper Kuka'iau   | DLNR, DOFAW        | \$25,000                 |

Ms. Gallaher stated that according to the rankings, the top four projects would be fully funded, while the fifth ranked project would receive \$25,000.

Member Ziegler stated she abstained from ranking a project, but would qualify that on the recommendation to the Board.

Ms. Gallaher read Member Menard's statement for the record: "Abstaining due to ethical reasons relating to DLNR rules. Although debt service is an allowable expense from the Land Conservation Fund, debt service is not an eligible expense through the grant program of which DOFAW routed this application, the Land Acquisition Grant program. I would hate to see this project held up by a contested case claiming the DLNR did not follow its own rules. Turtle Bay clearly is of high resource value to the state."

Member Ziegler asked if a qualifying memo could be attached to the recommendation that goes to the Board, to which Ms. Gallaher agreed.

Member Ziegler stated her reasoning to the Commission on her ranking choices, with her statement as follows: "I did not rank the Turtle Bay request for \$1.5 million for debt service for the Turtle Bay acquisition because I am unable to rank a debt service request using the criteria for land acquisition applications."

Ms. Gallaher stated that DOFAW staff was likely to propose legislation to increase the spending ceiling in the upcoming legislative session. Chair Buchanan clarified that, if approved, this proposed increase in spending ceiling would only go into effect next cycle, not this grant cycle.

Member Ziegler continued to clarify her position of necessary funding increase to account for the Turtle Bay project and suggested she was considering not voting to accept the rankings based on her views that

Member Abbott stated the context in which the recommendation would be made to the BLNR was important and could be taken the wrong way, if not presented in the right way. He suggested Member Ziegler could vote to accept rankings, but then give a statement explaining the need to increase the spending ceiling.

Discussion continued further on Member Ziegler's funding possibilities for the projects. Chair Buchanan stated that hypothetically, this scenario is correct, but the Commission would have to vote of multiple aspects of her proposal.

Vice Chair Sinton stated, in his opinion, removing the Turtle Bay project funding would only leave the Commission with \$3 million in grant funding because the Turtle Bay project would be funded regardless of the Commission's recommendation. Member Warshauer added that the current funding model allows for the Commission to continue being included in the Turtle Bay project in the future. Further discussion between Member Ziegler and other Commission members continued.

Ms. Zoll noted DOFAW had put in a supplemental budget request for an increase of \$1.75 million. Ms. Gallaher added that she would request Ms. Emma Yuen to attend the following meeting to discuss the spending ceiling increase.

Member Ziegler asked about the partial funding of the lowest ranked project, and whether funding \$25,000 out of a \$1.5 million request would be worthwhile to the applicant given all the requirements attached to the funding. It would also be important to ask the applicant if they want to receive the partial funding.

Member Abbott added the partial funding might be worthwhile to show support, for the project to seek funding in other places. If another project were to fail, the funds would be allocated to the next lowest-ranked project. Chair Buchanan asked the applicant, Mr. Penn, if he would like to accept the \$25,000 in partial funding for the project, to which Mr. Penn agreed..

Chair Buchanan requested a motion to accept the rankings of the Commission with the recommendation to fully fund projects ranked one through four and allocating the remaining funds to the lowest ranked project. If, for whatever reason, a project could not use its awarded funding, that money would be given to the remaining unfunded project up to their original requested amount.

Member Ziegler asked what would happen if she abstained from the recommendation vote, to which Chair Buchanan stated it was possible, as long as a justifying statement was given for the record.

Vice Chair Sinton motioned to accept the Commission's recommendations regarding ranking. Seconded by Member Abbott. Six were in favor, one abstained.

Member Ziegler stated she supported full funding for all projects, except Turtle Bay. Given the Turtle Bay project had been included in the recommendation for \$1.5 million; she felt she could not, in good conscience, vote to recommend it, based on her view that it would not be an acquisition.

#### **ITEM 5. Announcements.**

Ms. Gallaher gave an update on the status of filling the Legacy Land Planner's position. She had been informed Ms. Schmidt's position was the 4<sup>th</sup> highest priority behind high level management positions; however, the process was slow and the position would likely be vacant for many more months.

Member Menard asked about the positions of higher priority than this one, to which Ms. Gallaher replied they were the DOFAW Administrator, the Kauai Branch Manager, and the Native Ecosystem Protection and Management Section Manager.

Vice Chair Sinton asked when applications usually opened to which Ms. Sprecher stated it usually happened in June.

Member Warshauer asked how someone would be recommended for the vacant Cultural and Agricultural positions on the Commission. Ms. Gallaher stated she would check the status of all Commission members and their respective terms and report back in the following meeting

In terms of general comments on the FY16 applications process, Member Menard stated that as a Global Information Systems professional, submission of the corresponding TMKs by applicants at the agency consultation stage was very important.

Ms. Gallaher also mentioned the Commission's previous comments on stricter deadlines for additional application material. Chair Buchanan stated that they had remained flexible with the additional information, as projects that were ready to be funded generally had their application materials together in advance, and those that consistently added new documents would be viewed negatively.

Ms. Gallaher asked the Commission for items for the following meeting's agenda.

Member Wiltse noted the importance of raising the spending ceiling and requesting Ms. Yuen to attend the meeting. A detailed explanation of the budget, including a history of past ceiling requests was also requested. Member Warshauer requested a discussion of the statute and rules, to which Ms. Gallaher stated she had sent the Commission members links to the statutes and rules, so to Commission members should come prepared with questions.

Chair Buchanan recommended Ms. Gallaher remind new Commission members about their Native Hawaiian Law and ethics training. She also requested that Ms. Gallaher add an item for voting in a new Chairperson, as her term would be complete in June.

Member Abbott requested that Commission members be informed when the DOFAW budget went to the Legislature. Ms. Gallaher stated she would contact Ms. Yuen for this information.

Chair Buchanan requested the next meeting date. After discussion among Commission members, the last week of February was decided upon. Ms. Gallaher would send out a poll to choose an exact date.

Member Abbott and Commission members thanked Ms. Gallaher and Ms. Hirose-Hulbert for their work with meeting preparation.

#### **ITEM 6. Adjournment.**

Chair Buchanan adjourned the meeting at 1:20pm.