

Minutes of the April 16, 2014, Legacy Land Conservation Commission Meeting

DATE: April 16, 2014

TIME: 9:00 a.m. – 1:00 p.m.

PLACE: Room 322A, Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, HI

COMMISSION MEMBERS PRESENT:

Mr. Thorne Abbott

Ms. Lori Buchanan

Ms. Joan Canfield

Mr. Kaiwi Nui

Mr. John Sinton

Mr. Robert Shallenberger

COMMISSION MEMBERS ABSENT:

Mr. Herbert Richards (“Monty”)

STAFF:

Carli Gardner, DLNR, DOFAW

Lisa Hadway, DLNR, DOFAW Administrator

Ian Hirokawa, DLNR, Land Division

Malama Minn, DLNR, Land Division

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Dan Purcell

Stephen Rafferty

MINUTES:

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

Legacy Land Conservation Commission (“Commission”) members, staff, and members of the public introduce themselves.

Staff requested the Commission move ITEM 4 up on the agenda. Chair Kaiwi and Commission Members approved.

ITEM 4. Review and update from staff, discussion, and possible action regarding the development of a grant cycle, timeline, and procedures for the disbursement of management funds grants through the Legacy Land Conservation Program.

Staff reviewed the history of Legacy Land management funds grants.

Ms. Schmidt explained that the Request for Proposal (RFP) process was determined to be the best process for awarding management grants. It was explained that under HRS103-D, the Commission would have to close a meeting in order to go through this RFP process for awarding management grants.

Ms. Schmidt addressed a few questions the Commission had for staff during the previous Legacy Land meeting regarding the management funds grants process. It was mentioned that public works laws appeared to be applicable for management funds. The issue from the previous Legacy Land meeting regarding Chapter 343 requirements was addressed; it was suggested that the Commission refer to the actual exemptions listed in the administrative rule. Ms. Schmidt also explained the administrative rule for procurement for goods and services that stated an evaluation committee must have three government employees, one of which is the contract administrator. It was mentioned that the administrative rule for procurement remained an issue for the Commission; Ms. Schmidt explained the easiest way to resolve the issue would be to go to procurement for limited exemption.

Ms. Schmidt asked the Commission to decide whether or not Legacy Land wanted to grant management funds before Staff addressed the existing issues any further.

Member Shallenberger was interested to hear the opinions of the other Commission members regarding the original statute. Chair Kaiwi asked if Clean Water Natural Lands had management grants. Staff stated not to their knowledge. Chair Kaiwi then asked if the criteria included site specific stewardship and management as a part of the grant. Ms. Schmidt stated that the criteria were very similar to the land acquisition criteria. Chair Kaiwi asked if the criteria would be an issue from a procurement standpoint. Ms. Schmidt explained that the grants were limited to Legacy Land recipients so the pool of applicants would be limited. Chair Kaiwi commented on Environmental Assessment (EA) and Environmental Impact Statement (EIS) exemptions. Staff explained that an EA/EIS would still be required for applicants, however, on a case-by-case basis, management grants applicants would potentially be eligible for EA/EIS exemptions.

Member Abbott presented an example of an exemption declaration to the Commission and discussed the possibilities for exemptions.

Chair Kaiwi asked the Commission to revisit Member Shallenberger's previous question regarding the necessity of funding management grants. Member Shallenberger explained the need for good management practices on acquired land.

For clarification, Ms. Schmidt and Member Canfield stated the amount of management grants was 5% of the total Legacy Land budget from the previous year (roughly \$180,000 - \$250,000).

Member Sinton asked staff's opinion on the topic. Ms. Schmidt discussed a few options; she mentioned the biennial process and suggested increasing the program ceiling in order to fund management grants without taking away from land acquisition funds. It was mentioned that proceeding now would require staff to seek an exemption to allow the Commission to be an evaluation committee and to develop an application form. Ms. Schmidt stated Commission members needed to develop the Scope of Work for the contract. It was also stated that updated criteria was necessary to continue with the process.

Ms. Hadway asked if the administrative rules allowed the Commission to put a cap on management funds grants. Member Shallenberger mentioned key criteria in the application would be matching funds or cost sharing. Ms. Schmidt stated that the law capped management funds at 5% and explained matching funds language was also a part of the administrative rules.

Member Abbott stated that it was the Commission's responsibility to make sure the land acquired was also well managed; he was in favor of Legacy Land management grants.

Dan Purcell asked for a brief explanation regarding this process. Member Buchanan explained the history of the discussed issue. Chair Kaiwi explained that \$180,000 to \$250,000 was little funding for management practices. Member Shallenberger explained that the funding could kick-start management practices.

Ms. Hadway added that there was limited staff for the amount of work required to follow through with management grants. Chair Kaiwi explained that budget and capacity was the concern; he recommended that staff address the administration and legislature to request funding to increase Legacy Land capacity. Member Abbott Agreed.

Member Buchanan addressed the issues with the RFP process; she explained a cost analysis to administer the process was not done.

Dan Purcell asked who introduced the legislation for these management funds and when. Ms. Schmidt and Members of the Commission were unsure of the author; however, the bill had passed in 2008.

Member Abbott motioned that staff report to the Commission impediments to management program and solicit recommendations to pass the management grant options. Member Buchanan seconded for discussion. Member Shallenberger recommended funding for next year go to a staff position to kick-start the process of utilizing these management funds. Chair Kaiwi was concerned about Member Shallenberger's recommendation with regard to procurement and the process to create a new position. It was mentioned that a request for a new position could risk the legislature taking funds from the existing Legacy Land budget.

Member Buchanan wanted to see a dollar amount to validate the cost of implementing these management funds. It was recommended that staff work to raise the ceiling.

Ms. Minn cautioned the commissioners to resolve the issues with Chapter 343 and exemptions before going to the legislature. Ms. Schmidt agreed.

Member Shallenberger asked members of the Commission to confirm they want to go through with granting management funds. All members were in favor. Ms. Schmidt set Fiscal Year 2016 as the deadline to work toward.

Chair Kaiwi motioned for staff to provide a one-page breakdown of the implementation process, costs, and impediments for management funding grants preferably looking at the FY16 grant cycle, and affirmed that the Commission is interested in granting these funds. Member Canfield seconded the motion, all were in favor.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from the December 2, 2013, and December 3, 2013, meetings.

Member Canfield motioned for approval, Member Shallenberger seconded. All were in favor.

ITEM 3. Update from staff, discussion, and possible action regarding the Fiscal Year 2015 Legacy Land Conservation Program grant cycle, including the review of timeline, forms, and procedures to be implemented.

Staff presented the new online grant application process to the Commission.

Staff went over the Legacy Land timeline; June 1, 2014, consultation forms available; July 1, 2014, consultation forms due to the agencies; August 15, 2014, response from agencies due to applicant; September 15, 2014, applications due; roughly around October 15, 2014, Commission meets to coordinate site visits; roughly around December 15, 2014, Commission meets to recommend applicants for funding; and January/February 2015, Senate, President House Speaker consultation; March 2015, DLNR approval; April 2015, Governor approval; and July 2015, funds encumbered.

Commission members and Staff discussed outreach for Legacy Land applications.

Meeting adjourned for ten minute break.

Meeting reconvened at 11:00 a.m.

ITEM 5. Announcements.

- a. Update on the status of the Fiscal Year 2014 Legacy Land Conservation Program grant cycle by program staff.

Ms. Schmidt gave an update on the Board of Land and Natural Resources (BLNR) meeting. Member Buchanan explained the praise the Board gave the Commission on projects funded this FY14.

- b. Briefing by Lea Hong, Trust for Public Land, on Oahu Greenprint.

Lea Hong could not attend the meeting, briefing was moved to the next Legacy Land meeting.

- c. Briefing by program staff on new federal Agricultural Conservation Easement Program.

Ms. Schmidt discussed the new federal Agricultural Conservation Easement Program established through the Farm Bill. It was mentioned that one of the positive changes was the Natural Resources Conservation Service (NRCS) has the ability to contribute 50 percent of the fair market value and up to 75 percent for projects where they determine there is special environmental significance.

- d. Briefing by program staff on January 11, 2014, workshop held by Ka Huli Ao Center for Excellence in Native Hawaiian Law.

Staff briefed the Commission on the Ka Huli Ao Center for Excellence in Native Hawaiian Law workshop. Commission members were encouraged to look over the online documents from the workshop.

- e. Any other information updates from staff, Commission members, and members of the public.

Member Canfield had a question regarding the terms of Commission members. Ms. Schmidt explained that the current administration allowed holdovers, meaning the second term of a Commission Member does not expire until they reach eight years on the Commission. Member Canfield was concerned that there would be too many Commission members leaving at once. Member Shallenberger asked staff about the process for resignation. Ms. Schmidt explained that a formal letter of resignation needed to be submitted to the Governor's office.

Dan Purcell commented on the difficulty for outer-island residents to attend the meetings, he recommended video conferencing for the public. Chair Kaiwi mentioned the Commission conducts site visits on the outer-islands that the public can attend. Staff explained that the issue needed to be addressed statewide or agency-wide, not at the individual program level. Member Buchanan agreed and expressed her desire to have a facility on each island where satellite and video conferencing was available. Member Abbott provided the Maui College System as an example. Ms. Schmidt explained an increased number of staff would be required to host members of the public at each site.

Member Shallenberger asked staff to inform the Commission on upcoming outreach events.

There were no further comments from the Commission.

ITEM 6. Adjournment.

Meeting adjourned at 11:15 a.m.