

Minutes of the December 18, 2009, Legacy Land Conservation Commission Meeting

DATE: Thursday, December 18, 2008

TIME: 9:00 a.m. to 4:00 p.m.

PLACE: Room 322b, Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, Hawai`i

COMMISSION MEMBERS PRESENT:

Dr. Dale B. Bonar, Chair

Dr. Carl J. Berg

Ms. Lori Buchanan

Dr. Joan E. Canfield

Dr. Charles (“Chip”) Fletcher

Mr. Kaiwi Nui

Mr. Herbert (“Monty”) Richards

Dr. Robert J. Shallenberger

Ms. Karen G.S. Young

STAFF:

Julie China, Deputy AG

Ian Hirokawa, DLNR, Land Division

Randall Kennedy, DLNR, DOFAW

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Jim Albertini, Malu ‘Aina

Ku‘ulani Auld, Kalukalu Ranch Homestead Project

Gary Blaich, Kauai Public Land Trust

Fred Cachola, Kohala

Kevin Chang, Trust for Public Land

Luigi “Gigi” Cocquio, Hoa ‘Aina O Makaha

Chris Cramer, Maunalua Fishpond Heritage Center

Lea Hong, Trust for Public Land

Wally Inglis, Malu ‘Aina

Ati Jeffers-Fabro, DLNR, DOFAW

Kevin Kinvig, USDA, NRCS

Jennifer Luck, Kauai Public Land Trust

Blake McElheny, North Shore Community Land Trust

Jason Misaki, DLNR, DOFAW

Carol Murry, Malu ‘Aina

Jill Olson, Kona Historical Society

Greg Pietsch, Sunset Ranch

Cynthia Rezentes, Oahu Land Trust

Kaimi Scudder, Ahahui Malama I Ka Lokahi

Dave Smith, DLNR, DOFAW

Hector Valenzuela, Univ. of Hawaii at Mānoa

Martha Yent, DLNR, SP

JoAnn Yukimura, Kauai Public Land Trust

MINTUES:

ITEM 1. Call to order and introduction

Chair Bonar called the meeting to order and members of the Legacy Land Conservation Commission (“Commission”) and staff introduced themselves. He provided an overview of the meeting agenda and also sought time limitations from those wishing to testify. He reviewed the process for approval of projects and stated that the Commission would perform its duties under the current information regarding available funding.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from October 14, 2008, meeting.

Chair Bonar entertained a motion to approve minutes from the October 14, 2008, Commission meeting. Member Canfield made the motion, Member Young seconded the motion, and all were in favor.

ITEM 3. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2009 (FY09) projects (a list of applicants is attached to this agenda).

Chair Bonar opened the discussion to conflicts of interest. Chair Bonar stated that he had a conflict of interest regarding the Maui Coastal Land Trust’s (MCLT) project, given that he is the executive director of MCLT, and that he would be leaving the room during discussions of this project. He stated that Commission members would not provide a recommendation regarding any specific projects for which they had a conflict of interest. Each member would rank each project; the sum of the rankings would be divided by the number of members voting.

Chair Bonar asked members to state conflicts. Member Young stated that she had called the Ethics Commission staff to discuss the matter and had no conflicts to report. Member Shallenberger, an employee of The Nature Conservancy (TNC), stated that he had a conflict of interest regarding the Honouliuli project due TNC’s participation in the project. Member Richards stated that he may have to recuse himself as well as a TNC board member. Chair Bonar asked Ms. China whether there was a conflict. Ms. China replied that it was not a legal matter; members should contact the Ethics Commission staff before voting tomorrow. She suggested that members sit in on the conversation but check in with Ethics before voting. Chair Bonar asked whether the members could give fair and unbiased decision-making. Member Shallenberger asked Ms. China for clarification on her statement. She clarified. Chair Bonar asked Member Richards his thoughts, Member Richards stated that he had a sufficient distance from the project to make an unbiased decision. Ms. China restated that members should check in with Ethics staff.

Member Kaiwi stated that he had a possible perceived conflict of interest regarding the Maunalua Fishpond Heritage Center (MFHC) project. He asked Mr. Cramer if the project would be involving Office of Hawaiian Affairs (OHA). Mr. Cramer stated that they were still in discussions. Member Kaiwi stated that OHA Land Management would be handling the fishponds and stated that he would be recusing himself. The remaining members stated no conflicts.

Member Buchanan stated that some other commissions did not step out during discussions due to conflicts of interests and asked Ms. China to explain the proper protocol. Ms. China stated that stepping out during discussions was viewed as the more appropriate practice.

ITEM 4. Discussion of FY09 project recommendation process and methodology.

Chair Bonar went over the scheduled agenda items, stating that presentations, site visit presentations and testimony. He stated that decision-making would occur December 19. The Commission would rank the projects on a scale of one to five, excepting any projects which present conflicts of interest. The scores would be averaged and then the Commission would discuss any issues that arise, and then would take a final vote on the recommendation to the Board of Land and Natural Resources (BLNR).

Member Fletcher asked the status of the Kawela Bay project. Chair Bonar stated that the project had been deferred until the next funding cycle.

Member Fletcher asked the status of the Black Pot Beach project. Chair Bonar stated that the proponents of the projects could explain when the project occurred on the agenda.

Member Fletcher pointed out that, if these projects were unable to participate, there may be more funds available than requested. Chair Bonar stated that the Commission did not have to recommend all of the remaining projects if it did not feel the remaining projects were up to standard.

Chair Bonar briefly discussed presentation and testimony timing with members of the public. He announced that Member Fletcher was the co-chair of the Commission and would be chairing during Chair Bonar's absence.

ITEM 5. Discussion by members of the Commission of the FY09 applications, reports by task forces regarding visits to FY09 project sites, and discussion of site visits to the FY09 project sites by Commission members.

Chair Bonar stated that Items 5 and 6 would be merged so that the discussion could flow project-by-project. Member Berg reminded the Commission that the site visits that had been performed and written up ahead of the meeting would need to be discussed, per

Sunshine Law requirements. Ms. Schmidt stated that any questions asked of applicants by Commission members would also need to be discussed per the Sunshine Law. Chair Bonar asked Ms. Schmidt to bring these questions up during discussion.

ITEM 6. Optional presentations by applicants of new information or clarification of information concerning their proposal. Applicants should limit presentations to a maximum of 10 minutes to allow for questions from the Commission. (Public testimony on projects is encouraged under this item. The Commission requests that individual testimonies be limited to 3 minutes).

Chair Bonar asked the Kona Historical Society (KHS) to begin.

Jill Olson, executive director of KHS, introduced herself and stated that she did not be making a presentation, but had come to answer any questions from the Commission. She stated that KHS was asking for 2.1 acres for the Kona Heritage Ranch project. KHS is facing limited space, right now KHS's collections are starting to end up in Matson containers in pasture, very important to acquire the acres surrounding the old Greenwell store. She introduced Ku'ulani Auld, project director of the Kona Heritage Ranch project.

Ms. Auld stated that she was from Kona, 5th generation ranching family from area, excited to work on project, and has been R&D ranching homestead for several years. Would be outdoor interactive museum where Kona ranching history would be shared. The first piece is complete and includes the Greenwell Store. Plans for rest of site need land acquisition to proceed. Since the Commission has all of the information, she would just like to add that kama'aina rancher Billy Paris had wanted to come today to testify, but was not able to. She had met with him yesterday for two hours, he had talked about the Kona cowboys, their strength, that they were pa'a, grounded, good with animals and land, shared legends. He told stories that had been passed on through his family and shared knowledge of the land and environment. Different methods that malahini had brought to Hawaii that hadn't been successful... this wealth of knowledge was held by families. The Hawaiian culture has been preserved in this lifestyle, especially the language, which had been the working language on the ranch.

Ms. Auld stated that these Billy's stories are the kinds of stories KHS intends to continue to share in the ranching homestead. The land is important, as part of the original working homestead of Henry Nicholas Greenwell, it has significance. She stated she would answer any questions from the Commission.

Chair Bonar asked Member Shallenberger if he wanted to present any site visit information. Using PowerPoint images Member Shallenberger discussed the site visit. He stated that Chair Bonar, Member Richards, and himself had visited and were met by Ms. Auld and others. He explained the photos and their locations, mentioning the current storage facilities, the Portuguese stone oven on the site, and the Greenwell store. He

stated that people tended to turn historical records over to KHS, whether or not they were asked for, and that extra space was needed.

Member Berg asked Ms. Auld to point out the buildings in a photo. Ms. Auld stated that there was an existing building, pointed to the KHS property line, and stated that they were leasing the remaining portion. She spoke about the popularity of the oven-baked bread and surrounding programs. She also talked about the uses and history of the buildings in the photos.

Ms. Olson stated that KHS had been funded for reconstructing some of the historical buildings and were currently seeking permits.

Member Shallenberger stated that he had been struck by the breadth of support for the project. He reiterated that there was a threat of missing the opportunity to purchase the land.

Member Richards stated that the third Greenwell generation does not have the same interest in the land that the previous two generations had. Ms. Olson confirmed this statement.

Ms. Olson stated that walking through the doors of the Greenwell store was like stepping in to the past, and put people, especially children, into the right frame of mind for learning about the past, by letting them ask the questions that were important to them. Ms. Auld stated that the number of visiting school children had grown.

Member Young asked the county assessed value since that question is not answered in the application. Ms. Olson stated that she did not know. Chair Bonar asked how KHS had gotten an estimate. Ms. Olson stated that a local appraiser had helped her base the estimate on two recent sales of land in the area. Ms. Young asked about the status of pending funds. Ms. Olson stated that KHS needed to wait to see their Legacy Land funding prospects before securing the match. Chair Bonar stated that the State cannot provide funds to a project involving an acquisition for over fair market value. Ms. Olson stated that they had done their best to estimate, but didn't want to aim too high or too low.

Ms. Schmidt stated for the record that a Commission member had previously asked for clarification of an amount on page 11 of the application. The response from KHS was that the figure was supposed to be \$4,050, not \$4,025.

Ms. Olson mentioned that KHS was also seeking a grant for training and educational resources coordination with a neighboring educational institution. She stated that the cooperation of schools in the area made the effort bigger than just KHS.

Chair Bonar asked about KHS' record of meeting capital campaign amounts. Ms. Olson stated that many kama'aina families in the State of Hawaii were very supportive of past and this current fundraising effort.

Member Kaiwi stated that he was glad that KHS had talked about cultural aspects of the project and wished that KHS had included this information earlier in the application materials. He stated that the discussion of paniolo culture had been an important consideration for him.

Ms. Auld replied that the culture was so central and inherent in the entire project that KHS sometimes overlooks talking about it as a separate aspect.

Member Berg asked about the subdivided portions that KHS was not seeking to acquire. Ms. Olson stated that it was too much for current funds and resources. Ms. Auld stated that the portion was enough for KHS to reach its current mission and goals; while it would be great to own a buffer zone, KHS had tried to be realistic about its management capacity.

Chair Bonar asked who would own the leftover parcel. Ms. Olson replied that it would still be within the Greenwell family.

Member Shallenberger asked where the additional collections building was in the plan drawing. Ms. Olson stated that it was not included in the drawing, but was in the long-range plan. It was not included because they did not own the land.

Ms. Schmidt asked the Commission members whether they had received all of the public testimony she had forwarded and printed.

Chair Bonar asked that members of the public that had recently come in to introduce themselves. He stated that the projects would be discussed in the following order (by applicant): Maunalua Fishpond Heritage Center, Kauai Public Land Trust, DLNR/DOFAW - Hamakua, Malu 'Aina, Maui Coastal Land Trust, DLNR North Kohala, Trust for Public Land - Honouliuli, Trust for Public Land - Lapakahi.

Member Kaiwi left the room for the Maunalua Fishpond Heritage Center (MFHC) discussions.

Ms. Cramer from MFHC prepared to present. Member Canfield asked, if MFHC was seeking management funds, the Commission could recommend them to BLNR for award. Ms. Schmidt replied that an act had passed to allow management funds to be spent from the Land Conservation Fund; however, a BLNR-approved mechanism for awarding the funds needed to be in place before the BLNR would award these funds.

Mr. Cramer introduced himself and stated that he would explain the updates and changed information regarding the MFHC project. He stated that the fishponds in the East Honolulu area are rare. It used to have the largest fishpond in Polynesia, but it had been destroyed for Koko Marina. MFHC is proposing to protect the remaining fishponds and coordinate with the Univ. of Hawaii to use them to teach aquaculture. He stated that one parcel had dropped out and was no longer on the table. He stated that MFHC would like

to preserve the Kalaula‘eha‘e fishpond (Lucas Spring) and its surrounding culture and history. He stated that the community had lost so many sites, heiau on every ridge, enormous fishponds. He used photos to present the areas discussed.

He stated that the site had been damaged, water blocked from pond in the mid-90’s, and MFHC would like to restore the flow. He stated that there were two structures, one built on top of the pond, owned by DOT, use for housing artifacts and photographs. He stated that the property was no longer accessible from the highway and that funding needed to be used to make the site accessible. Funding was also needed for potential auction of the lands by the State. MFHC had some non-written assurances from the State that the properties would not be auctioned. MFHC also needed funds for maintenance.

Chair Bonar stated that management fund expenditures were limited, by law, to 5% of the previous year’s revenues to the Land Conservation Fund. Ms. Schmidt added that these management funds could only be spent on land acquired using Legacy Land funds, per the statute.

Chair Bonar asked if DOT owned the property. Mr. Cramer replied that DOT was required to dispose of the property by the end of the year. Chair Bonar asked if an exchange of like-value lands was required for disposal to another agency. He suggested that Mr. Cramer consult an attorney regarding the laws for exchange. Mr. Cramer stated that the University and other State agencies would not be taking the land without sufficient management funding. Chair Bonar stated that the application did not discuss long-term restoration and renewal. He asked whether there was a reasonable and realistic management plan in place. Mr. Cramer stated that the University was ready to do its programs but that funding was needed for the actual management of the property.

Member Berg stated that the fishpond was very small, and that there was not a guarantee that freshwater was available for restoration. First, MFHC would have to get permits; second, they’d have to see if the water was physically accessible.

Chair Bonar asked Mr. Cramer wanted to continue his presentation. Mr. Cramer explained a poster that displayed the plan for the property. He stated that the freshwater source was about 25 yards from the pond and had turned from a flow to a seep in 1990. The goal was to restore the flow, but opening up the ocean auwai would sufficiently restore the fishpond without fresh water.

Ms. Schmidt asked for clarification on which parcel number was being dropped from the project. Member Canfield stated that the property located at 5995 Kalaniana‘ole Hwy. was out. Mr. Cramer concurred.

Member Richards asked for clarification regarding the parcels. Mr. Cramer stated that DOT would be consolidating two parcels into one parcel.

Chair Bonar asked Member Young if she would like to present site visit information. Member Young stated the group had been impressed with the dedication of MFHC and the UH Hawaiian Studies program and their vision of using the property for hands-on Hawaiian Studies teaching. The teaching includes opening the program to school-aged children. There were two problems. The funds are actually needed for major repair and renovation of the property. The applicant projected that DOT will transfer the property to another state department such as DLNR, which would in turn allow UH to use it. The second problem is the dropping out of 1 of the parcels. She and Member Berg had clarified to the MFHC and UH Hawaiian Studies representatives that LLCP funds were for land acquisition. If it could be worked out that LLCP is involved in some way in the acquisition of the property, then they would be eligible to apply for maintenance funds next year.

Ms. Schmidt stated that there may be challenges to assisting with the acquisition. Legacy Land acquisitions needed to be for fair market value or less, and the DOT planned to auction the property, in which case, a sale for fair market value or less would be unlikely. If the other option, an interagency land swap, is pursued, she was not sure where Legacy funds would come in.

Member Young stated that there would possibly be a transfer from DOT to DLNR.

Ms. China stated that DLNR staff had contacted DOT for clarification, and DOT had not at this point made any decision or commitment.

Member Berg stated that the University had looked at this site as a place to hold classes. Its real value was as the only fishpond in East Honolulu.

Chair Bonar stated that he agreed on the value of the resource, but the Commission may be caught in the technicalities of the situation.

Mr. Hirokawa stated that the legality of the land swap option was questionable, given the involvement of federal funds.

Member Berg stated that the neighbors of the dropped property did not want an education facility. MFHC had respected the community's wishes and dropped the parcel.

Member Shallenberger asked if there were similar problems with the other property. Member Canfield stated that the fishpond was not shared in the same way.

Chair Bonar asked about MFHC's nonprofit status and annual budget. Mr. Cramer stated that MFHC was under fiscal sponsorship of Hawaii Kai Hui, which was a 501c3, and that MFHC was under this umbrella. As a community, MFHC wants to support UH and would raise money to allow UH to come in. MFHC has a Board of Directors, is not a member organization, currently limited by lack of access to the ponds. MFHC has been in existence for a year and a half and is currently operating on a shoestring budget.

Member Canfield asked about the status of matching funds. Mr. Cramer stated that two of the grants would not come through; two of them were still in discussion.

Chair Bonar stated that the Commission would discuss the MFHC project and possibilities. He stated that a Commission subcommittee would be discussion management fund issues.

Ms. Schmidt stated that it might have to be considered in a future grant cycle, and that consideration of the MFHC project would be limited by this year's deadlines and grant cycle.

The Commission took a short break.

Chair Bonar asked KPLT to begin its presentation.

Mr. Gary Blaich, President of the KPLT, introduced himself. Ms. Jennifer Luck, Executive Director of KPLT, introduced herself and provided information using a PowerPoint presentation. She pointed out parcels in the Hanalei River area owned by Mr. Sheehan, and a parcel owned by Mr. Hodge, who was willing to do a bargain sale. The Hodge parcel had recently been appraised at \$4.4 million and Mr. Hodge was willing to sell to KPLT for \$3.3 million. She described photos of Hanalei Pier, Hanalei River, the Sheehan lots, the Hodge parcel, and areas surrounding Black Pot Park.

She stated that KPLT and the community had worked for years on expanding the Black Pot Park to keep up with the population, which had grown 50% since the inception of the park. KPLT had a commitment from Montage Resorts to donate a parcel for park expansion. KPLT also wanted to acquire the Sheehan lot and was now seeking the Hodge parcel. KPLT had applied for acquisition of the Sheehan lot. However, is now seeking to revise its application instead, to acquire the Hodge parcel. This parcel already had building permits, and Mr. Hodge had given KPLT six months to secure the funds. The park expansion was also the top priority with the Kauai County open space commission, and preferred the Hodge parcel acquisition foremost. Ms. Luck stated that KPLT was asking to substitute the parcel due to the exigent circumstances.

Member Young asked whether KPLT was changing the application. Ms. Luck stated that it would be up to the Commission.

Chair Bonar asked if there was a legal reason that this could not be done. Ms. China stated that, as a matter of policy, the Department had expended time, funding, and research on the former project and that a completely different project was being proposed.

Ms. Schmidt stated that the Commission had not allowed the County of Hawaii to do this in a similar situation in Fiscal Year 2007.

Ms. JoAnn Yukimura introduced herself as a board member of KPLT and pointed out that this project was very similar in scope and location to the one it had replaced. She asked if the County of Hawaii had asked to replace its proposed parcel with one in the same area. Ms. Schmidt replied that it had.

Ms. Yukimura stated that Mr. Hodge needed to be told by March and that at least \$1 million in County funds would be ready, and an additional \$1.5 million would be available from the open space commission. If it was not possible, KPLT would still want funds for the Sheehan parcel.

Ms. Luck stated that Mr. Sheehan was willing to sell for fair market value, and the expected value was between \$2.7 and \$3 million.

Chair Bonar recommended that KPLT stick to the original proposal and fill the Commission in on the alternate. The Commission did not have its formal policies in place, however, at the moment the strongest case may be for the Sheehan parcel.

Ms. Yukimura stated that that Hodge parcel was on the coast and that KPLT had been trying to buy for the last 4 or 5 years. At last, a fence went up and KPLT became painfully aware that the parcel would be lost. Now that KPLT has a willing seller, it is trying hard to secure the funds.

Chair Bonar stated that the Commission appreciated the situation, but had to consult with counsel.

Ms. Yukimura stated again the urgency of the situation.

Member Shallenberger asked what the specific top priority was of the Kauai open space commission. Ms. Y replied that general "Black Pot Park expansion" was the top priority for acquisition.

Ms. Young stated that Commission members made a site visit with the understanding that the parcels in the application would be the ones under scrutiny. She questioned whether allowing this switch would allow any applicant to come in and switch the parcels at the last minute.

Ms. Yukimura apologized and stated that, had KPLT known the situation would change, they would have guided members to the correct parcel.

Member Berg asked whether acquisition of the Hodge parcel would take county open space funds away from the ability to acquire the Sheehan parcel.

Ms. Yukimura stated that acquisition of the Hodge parcel would set up momentum for seeking other funds for the Sheehan parcels, and that KPLT would not be limited by the same time constraints.

Ms. Luck stated that the Black Pot Park had begun as a private park. The owner (Henry Tai Hook) took his day's catch and cooked it in a big black pot to share with the community. She stated that there was a great tradition of love and stewardship and support in the area. She stated that KPLT now had a better chance of expanding the park than ever before.

Ms. Yukimura stated that Hanalei Bay was one of the most spectacular places in the world and that in the 1970s that a decision had been made to save the bay from development and put resorts in Princeville. From every standpoint, historical, cultural, environmental, it has been a very beloved place.

Member Berg asked whether there were any letters of support from the community. Ms. Luck replied that there was a letter from the office of the mayor and that several of the canoe clubs had offered their support in the past, as well as the Hanalei Watershed Hui.

Chair Bonar asked the status of the NOAA Coastal and Estuarine Land Conservation Program (CELCP) funds. Ms. Luck replied that KPLT would not receive CELCP funds; KPLT had set up meetings with private donors and would also explore other State and federal funding sources. Chair Bonar stated that the missing \$1.7 million was an aggressive amount. Ms. Yukimura stated that, with the Commission's commitment, they could do both the Hodge and Sheehan parcels.

Chair Bonar asked how much was available in the county open space fund. Ms. Luck stated there would be about \$2.1 million in June of 2009. She stated that the open space commission had expressed willingness to support the project, and it would be up to the Kauai County Council to decide how much funds would be awarded. Ms. Yukimura added that \$1 million was available from county general funds as a line item, so KPLT would need to seek \$1.5.

Chair Bonar asked if the general funds were tied to the Hodge parcel. Ms. Yukimura replied it was not.

Chair Bonar asked whether Mr. Hodge had agreed to the \$3.3 million sale price. Ms. Luck replied yes.

Member Richards asked whether it would be a county park and what the visitation numbers would be. Ms. Yukimura stated that it would be a county park, and was currently overflowing on weekends and holidays. People were starting to park on the land, the acquisition would allow the county to get cars back off of the beach. Visitors included: surfers, families, visitors, fishermen, and picnickers. Member Richards stated that it was a pretty important place.

Member Berg stated that the park also allowed access and facilities for a larger stretch of beach, such that the number of people sitting in the park did not fully represent the number of users of the park facilities.

Chair Bonar asked if the land was prone to flooding. Member Berg stated that the Hodge parcel and Sheehan property had flooded in the 1990s, and was an old path of the river.

Member Kaiwi asked the meaning of “Hanalei.” Nobody answered. He stated that it meant “valley of the lei,” then asked why it was called that. Member Berg stated that the bay was a like a lei wrapped around.... Member Kaiwi advised that protectors of the land truly know what they are protecting.

Member Berg stated that the area was a floodplain and beach before it was developed. Historically, it was the mouth of the river where people fished. Structures would have been wiped away by tsunamis and flooding. The entire ahupua’a and valley meets the ocean right there, and that is part of the significance of the land.

Member Shallenberger asked about KPLT’s funding strategy: whichever piece is gone for, take the million set aside, get as much open space up to 1.5 as possible and come back next year and ask for the other two.

Ms. Yukimura answered yes and stated that the Sheehan parcels are not the end expansion goal, either, there had been discussion acquiring a pedestrian pathway to the town.

Member Canfield asked whether a letter from the county had been submitted agreeing to hold the land. Ms. Luck stated that there was a letter from the mayor that had been submitted in the meeting packet.

Member Young asked whether Mr. Sheehan would go below \$3 million if the fair market value was lower. Ms. Luck stated that the hope was that the appraisal would be higher than \$3 million, and that Mr. Sheehan would be willing to go a slight bit lower if it was not.

Member Berg stated that it was problematic not to have a commitment in writing. He questioned whether the Sheehan parcel would appraise at \$3 million. KPLT’s attorney drafted a purchase agreement and had worked on it. The \$3 million contingency was in it.

Chair Bonar stated that it would be supportive to have that letter in place if the project goes forward. Ms. Luck agreed and thanked the Commission for its attention.

Chair Bonar asked whether the Center for Nonviolence (Malu ‘Aina) project would go next, ahead of the DLNR/DOFAW – Hamakua project, due to time constraints on those wishing to testify.

Mr. Jim Albertini, President of Malu ‘Aina, introduced himself and stated that Bernard Punikaia of Hale Mohalu and Kalaupapa gave the local name “Malu ‘Aina” to his organization which means "Land of Peace" but also means to nurture and protect the land, also a place of shade and shelter.

He introduced Dr. Hector Venezuela for the Univ. of Hawaii Agriculture Department and Mr. Luigi “Gigi” Cocquio, Hoa ‘Aina o Makaha, Vice-President of Malu ‘Aina. He stated he would give a brief summary of the project and cover some points that were raised in the site visit.

Mr. Albertini stated: Malu ‘Aina is a grassroots group started 30 years ago. The donated land includes 22 acres: 14 acres are forest, Kilauea, lava land; 8 acres of deep soil from Maunaloa. We started with a machete, a tent, and a grassroots group. We grow food to feed people in need, up to 150 people a month. The numbers have tripled in the last 6 months due to the economic crisis. We do peace and education work.

Mr. Albertini stated that the opportunity came about this summer when neighbor was able to get another 5-acre parcel and no longer needed the 11-acre lot and wanted to sell to Malu ‘Aina as first option. He understood the Malu ‘Aina mission and we saw it as an opportunity to expand the concept of feeding Hawaii. With this contraction, we need to get incubation centers and grassroots centers set up locally and globally. Along the lines of WWII, Victory Gardens generated 40% of fresh fruits and vegetables in the country. We need to reduce this 85 to 90 percent of the food that’s imported. I’ve been really impressed with the outpouring of support on this: within our grassroots group there’s \$60,000 pledged for the purchase of it, we have Hector here and Bill Steiner, Hawaiian dean of the UH Hilo College of Agriculture, Dr. Manu Meyer of the University, the Youth Project people ... really believe in the concept of people planting things in their home gardens and starting community gardens. We have a letter from Mr. Fukumoto stating that he’s willing to sell at fair market value. We have letters of support: Jason Scott Lee recently wrote a letter, as well as numerous other farmers in the area, and Ola‘a Hawaiian Church.

Mr. Albertini stated that Malu ‘Aina had held several visioning meetings within the community to gauge the possibilities and that it is a solid community project.

He mentioned the grassroots Hawaiian involvement: Dr. Manu Meyer is organizing a youth leadership food sovereignty conference. She asked him to give a presentation, but Mr. Albertini said that he would plant some food. Malu ‘Aina has taro ongoing. On December 6, Malu ‘Aina planted 600 feet of sweet potato, original cuttings from Kahua Ranch in 1981, 28 generations of Member Richard’s sweet potatoes. He offered them to Dr. Meyer for the conference, if they come through.

Mr. Albertini, responded to a question asked on a site visit. He stated that, with regard to public access, Malu ‘Aina is a farm project, and it will be a community garden and farm with public education, but there are no plans for walkways or bicycle paths. Regarding invasive species, on property and neighboring properties, Malu ‘Aina will do its best to manage that.

He stated that Hawaiian sovereignty groups are involved with the farm. Malu 'Aina's intent is to preserve prime agricultural land, to plant a seedling of hope for feeding people.

Dr. Hector Valenzuela stated that he was speaking in a personal capacity. He stated that, in the last few years, food security had become an important issue in the islands. In small communities, households secure food. Is about cultural heritage, value of green belt, engage community as a bridge, economic opportunity for youth, student farms are helpful stepping stone, government can help with policy and infrastructure, but food security can only be done from bottom-up with reliance on local knowledge.

Luigi "Gigi" Cocquio introduced himself and stated that he is Italian has been in Hawaii 31 years. Used to be a Catholic Priest in Waianae, 30 years ago he was assigned a piece of land in Waianae, 5 acres empty and abandoned. We started to clean the place with the youth from the high school, and it is still there. He stressed the importance of being aware beyond responding to crises, to be proactive. There was no crisis 30 years ago, but we felt the importance of taking care of the land; now 700 children per week visit Ho'o 'Aina O Makaha.

Chair Bonar asked if MA'O Organic Farms was the same operation. Mr. Kokio replied that Ho'o 'Aina had been there for 15 years, MA'O was about 6 or 7 years old.

He stated that Makaha Elementary School had about 550 children that came every other week, and about 5000 came from other schools. Ho'o 'Aina has done gardening, animal care, Hawaiian culture for about 30 years. About 50 to 100 people come on the weekends with family to cook and learn together. He stated that the important part of the farm was to change people, by giving them the feeling of being close to the land.

He gave an example: the farm teaches the children to say goodnight to their seeds. Many years later, adults are still remembering this. It is the attitude that is important. It is a different way of understanding life. We need to form a kipuka where people can grow together with the food.

Chair Bonar asked Member Buchanan if she wanted to comment on the site visit. Member Buchanan asked Ms. Schmidt to cue the pictures and presented information on the site visit. She stated that she, Member Shallenberger, Mr. Wally Inglis, Mr. Bill Steiner, and Mr. Jim Albertini had been present for the site visit. The members had observed the following: the most significant use would be agriculture. Mr. Albertini had developed strong relationships and the organization had capacity to provide education, produce marketable crops. She stated that Malu 'Aina planned to have the community drive management of the parcel. Malu 'Aina had existing 22 acre parcel adjacent with aquaculture and agriculture. She stated that they were aware of land value issues. She mentioned Mr. Steiner's support of Malu 'Aina and Malu 'Aina's structures for housing volunteers. She stated that solar power and water catchment were used, and Malu 'Aina had access to phone line and county water.

Member Fletcher asked about the farming practices. Mr. Albertini stated that Malu ‘Aina had started a grass waterway and small rotating crops to prevent erosion. No chemicals. No certification because not commercial operation.

Member Fletcher asked whether the ground cover had died. Mr. Albertini stated that the grass had been mowed for mulch.

Member Shallenberger stated that the real value in this project may be what it can do to stimulate and educate people in the trade. The location of the property is good. The weeds, however, provide a management challenge. Impressed with concept of working with community for planning but worried about land management strategy.

Mr. Albertini stated that key people and organizations (Micronesians United, for example) could form a steering committee. A konohiki committee could do actual management. Steering committee would be formed from those who had already come forward. He talked about his vision for the land. He stated that it would be a different, trading-center approach, than Malu ‘Aina had taken thus far.

Chair Bonar asked about the number of visitors to the farm. Mr. Albertini stated that Puna was the fastest growing area on the Big Island and that help for the farm had tripled in the last months. Mr. Albertini estimated that 20 Micronesians and a dozen others helped out. He stated that the University would be a supplier of visitors.

Member Kaiwi stated that this project was oozing with kanaka or Hawaiian values and thanked Malu ‘Aina. Unlike preserving a heiau or some species, this project is Hawaiian in action.

Member Richards stated that the project was important given the current lack of food supply in the islands.

Member Young commended the project.

Member Canfield asked whether there was any urgency regarding the sale. Mr. Albertini stated that the owner was hoping to close the sale as soon as possible, however, would like to see the land preserved in agriculture.

Member Berg asked if there was additional acreage available in the adjacent area. Mr. Albertini stated that there were some nearby possibilities with good Maunaloa soil.

Chair Bonar asked the DLNR/DOFAW – Hamakua project to come forward.

Mr. Ati Jeffers-Fabro, a DLNR/DOFAW (Wildlife Branch) employee, introduced himself and two others: Jason Misaki, Wildlife Manager, DLNR/DOFAW and Kaimi Scudder, representing Ahahui Malama I Ka Lokahi.

Mr. Jeffers-Fabro stated that DOFAW was trying to wrap up funding to purchase 65 acres of hillside adjacent to the Hamakua Wildlife Sanctuary, which DOFAW is already managing. Kaneohe Ranch has offered to sell to the State. The land will aid DOFAW in managing the sanctuary, will provide community recreational, open space, and scenic benefits. DOFAW has secured 68% of the funding needed to acquire the parcel and is hoping the Legacy Land funds will help them complete the acquisition.

Member Berg stated that he and Member Young had done the site visit to the Hamakua parcel. Member Berg stated the wildlife and scenic vistas had been very impressive. The members had been impressed by the stewardship of the sanctuary and the proposed trail throughout the area and thought the parcel to be very integral to the Kawainui system.

Member Young stated that she had some concern about re-interment of the iwi on the land. Mr. Jeffers-Fabro stated that there are bones that have not been re-interred and he couldn't state the inventory, but stated that the plan was to look at the specific area first, and if need for more places to re-inter, would go elsewhere.

Chair Bonar asked whether the issue had gone to burial council. Mr. Jeffers-Fabro stated that it had not yet gone to burial council but they had developed an extensive list of consultants for the issue. The burial council would be the next step. Member Young stated that there was support from Ahahui Malama.

Member Kaiwi asked if the bones were originally from the area. Mr. Jeffers-Fabro stated that the plans were to target the Hamakua area first, and that the plan was still conceptual.

Mr. David Smith, DLNR/DOFAW Oahu Branch Manager, DLNR/DOFAW, stated that the Kaneohe Ranch was working with several families (lineal descendants) in Kailua, including the Mahoes, Kalamas and DeSilvas, to find a site for the bones.

Member Kaiwi asked if they were ok with an iwi repository in one place. Mr. Smith replied yes. DOFAW did not currently have control of the issue; Kaneohe Ranch was working with the families to come up with a cooperative program for re-interment.

Chair Bonar asked if the project was the same parcel as the one proposed last year. Mr. Smith replied yes, and that RLA funding had been secured and is waiting for the project.

Member Canfield asked how long the funds would be available. Mr. Smith estimated two years.

Member Shallenberger asked what money would be available for management. Mr. Jeffers-Fabro stated that there was an annual budget for operations and the hillside would become a part of this budget. He stated that other programs may be supportive in funding the trail component.

Community component would also support management.

Mr. Scudder stated that his organization was working around the Kawainui Marsh and wetlands system with several organizations and volunteers. The Hamakua hillside provides the opportunity to tie together, visually and educationally, because it is a great place to bring groups without affecting the wildlife. He mentioned long-term agreements regarding Ulupo Heiau and other sites.

Chair Bonar asked whether they had the ability to take a hit in stewardship funding in the next few years. Mr. Misaki stated that they could, because they had been working with a limited budget for a long time. The restoration can wait.

Member Kaiwi asked for confirmation that this was the 10-year, \$2 million for 22 acres shared between Hamakua and Kawainui Stream. Mr. Misaki confirmed.

Member Kaiwi asked if the funding would be enough. Mr. Misaki stated that they would like more, but had enough experience applying for grants and meeting the commitments to know they could accomplish it.

Member Canfield asked about start-up funding from NRCS. Mr. Misaki replied that they had been implementing NRCS WHIP funds for specific projects.

Mr. Scudder referred to a poster and spoke about the status of Hamakua Marsh as the only wetland in Hawaii that is a Ramsar Wetlands site of international importance. It was designated for cultural values and the use of the marsh over time. He talked about the hui of community organizations and interpretive planning for the Kawainui Marsh area. He stated that the hui had taken these proactive measures to support the State's management.

Member Berg stated that funding the project this year may allow them to come to Legacy Land for management funds in future years.

Member Richards stated that funding the acquisition may give the project leverage to seek federal and other management funds.

Mr. Scudder stated that the Army Corps of Engineers would be initiating a project this year.

Member Kaiwi asked whether this acquisition was a top priority for DOFAW. Mr. Misaki stated that the lands hadn't been prioritized.

Member Fletcher asked what the status of the wetland would be if the Army Corps of Engineers levy had not split the waters to go two directions to the bay. Mr. Scudder stated that Kawainui used to drain toward Kailua Beach. The first levy that was built restricted this flow about 40 or 50 years ago... the kupuna would have more knowledge on how it was in 1930. He stated that he had talked story with elders about stilt hunting before the area had been filled in by Kamehameha Schools/Bishop Estate. "Kailua" means "two seas," Kawainui and Kaelepu. Years ago they were both open water.

Member Richards stated that his first job for Kahua Ranch, 55 years ago, had been trying to plant grass in Kaelepulu swamp. He had blasted dynamite to send the water down to Kailua Beach. He stated that he remembered the area in the 1950's. He added that he thought the program was a good one and that the Commission ought to fund it.

Mr. Smith added that Hamakua was a remnant of the way a lot of Kailua used to be. DLNR/DOFAW hoped to restore some of the original flow to the quarry as well. He stated that Hamakua Marsh also acts as a flood control for the area, when it overfills, it breaks through the sandbar at Kaelepulu.

Chair Bonar asked if there were any further questions and dismissed the Commission for a lunch break.

Member Fletcher took over as chair; Chair Bonar left the room for discussion regarding the next project.

Mr. Blake McElheny with the North Shore Community Land Trust (NSCLT) introduced himself, stating that he grew up in Pupukeya, and introduced Kevin Chang, Trust for Public Land. He stated that Chair Bonar had stepped out of the room because Maui Coastal Land Trust (MCLT) was involved in the project. He introduced Kevin Kinvig from the USDA NRCS and Greg Pietsch from Sunset Ranch.

He stated that the Commission should have the application materials, Sunset Ranch Conservation Plan, letters of support from Sunset Beach Community Association, Hi'ipaka, and several adjoining landowners. He asked Mr. Kinvig to highlight his program's involvement.

Mr. Kinvig thanked Members Canfield and Fletcher for visiting the site. He stated that Chair Bonar, as Executive Director for MCLT, had stepped in last year to assist USDA NRCS. Federal Farm and Ranchland Program (FRPP) funds were released late to his agency, with little time to obligate them, and they were limited to partners they had worked with in the previous year's agreement. He thanked TPL for assisting his agency as well. He thanked Mr. McElheny for helping his agency assist a community effort and stated that NRCS was strictly a voluntary source of assistance. He also thanked Mr. Pietsch for his cooperation.

He pointed out that the NRCS funds could be used for open space, agricultural, and cultural preservation. He distributed a fact sheet on the FRPP to the Commission members and explained how the project at hand fit the requirements of the program. He mentioned a past FRPP project in Kunia and its benefits. He stated that the program required an entity to hold the conservation easement, and that a community organization was the most appropriate entity for this. MCLT would turn the conservation easement over to NSCLT. He stated a conservation plan addressing erodible land and public resource concerns would be required and is being developed by NRCS staff. He pointed out a matrix that the State Technical Advisory Committee used to weight projects. He mentioned several other requirements for the program: a conservation easement over

private land, land large enough to sustain agricultural production, less than 2% impervious surfaces on property, accessible to markets, surrounding by other agriculturally productive lands, the fee landowner may not have an adjusted gross income in excess of a given amount.

He stated that the conservation easement was a unique voluntary tool to help the State maintain its agricultural production.

Mr. McElheny emphasized that the project had needed to pass through very strict criteria to receive FRPP funding. He stated that the agency would provide ongoing support to NSCLT to monitor the easement.

He stated that the land had been within one family since the 1960s, and that this family had assisted in past conservation efforts. He stated that implementing this project would be part of a larger county and government plans for the North Shore region. He mentioned the sheer numbers of people flocking to the North Shore for its rural values, and stated that the rural nature of North Shore was endangered. He referred to some visual aids to explain the layout of the property and surrounding properties. Surrounding areas included: Boy Scouts land, State Na Ala Hele trail, National Marine Sanctuary, Pupukea-Paumalu Marine Life Conservation District, a State-protected heiau, and several private lands with protection potential. He mentioned the zoning and development potentials and conservation potentials of the subject and neighboring properties.

He referred to the conservation plan and pointed out some of the agricultural activities on the property. He stated that NSCLT would like to continue the strong pattern of protection in the area. He stated that the landowner had come forward seeking to protect the land, as opposed to seeking development and facing community opposition.

Mr. Pietsch stated that the property had been in his family since the 1960s, he acquired it in 2005 from a group that had a lease option to purchase but was not able to purchase. Mr. Pietsch purchased the property and researched what he was able to do with it. He had been approached by Mr. McElheny and Ms. Lea Hong, TPL, about preserving the property.

Member Kaiwi asked if Mr. Pietsch had any conversations with OHA regarding a potential partnership for acquiring the property. He stated that he was concerned about any conflicts of interest he might have. Mr. Pietsch replied that he had met with Mr. Jonathan Scheuer from OHA to consult on the area and plans for the property.

Member Canfield stated that the members visiting the site had been impressed by the beauty of the property and its location at the nexus of several protected areas. She stated that there were not many agricultural activities at the moment, but was reassured by the presence of the conservation plan that there would be in the future, especially with federal support. She stated that the critical part of the project is that it is the fourth FRPP project in the State, and that successful projects like this one increased the State's likelihood of receiving increased federal funds in the future.

Member Berg asked whether county matching funds had progressed since the proposal was submitted. Mr. McElheny stated that the county commission was following a process similar to Legacy Land's. Mr. Chang stated that the commission had intended to follow this process, however, it was stuck in administrative review of its proposed process and hoped to disburse funds after receiving approval. Mr. McElheny stated that support for the project might support the commission show the importance of pushing their process through.

Mr. Kinvig stated that there needed to be at least 25% commitment to obligate the funds. Of the total 50% matching fund requirement, 25% needed to be obligated. The other 25% could come later in the form of land value donation, private funds, etc.

Member Berg stated his concern over the possibility of a raid on county funds. Mr. McElheny stated that showing the county that several federal and state projects are ready to go, with the last piece of county commitment waiting, it may help them come through sooner.

Member Richards asked whether NSCLT could have chosen to conserve only a portion of the property. Mr. Kinvig stated that it was up to the landowner to decide, and also a factor of the funds available for acquisition. He continued that matching funds had been a constraint in the past, and it was important for future federal fund commitments.

Mr. Pietsch stated that there were other options if the county funds fell through, like an increased land value donation.

Ms. Young asked whether Mr. Pietsch would be able to sell the property afterward. Mr. Pietsch replied that he would only be able to sell the property with the conservation easement on it. Future owners would be limited to the 2% impervious surface restriction.

Mr. McElheny stated that Oahu was behind the progress that had been made in Maui using conservation easements to preserve agricultural land.

Member Shallenberger asked what percent the easement value would be of the entire valuation. Mr. Pietsch stated that he believed the value without the conservation easement to be worth about \$5.5 to \$6 million.

Member Kaiwi asked how many applicants the county had received. Ms. Hong stated that the cycle hadn't opened yet, but she was aware of about three potential projects. The fund had over \$4 million available.

Member Kaiwi stated that he was trying to get a sense of whether the county would find this project to be a priority. Mr. McElheny stated that the project was in line with the priorities and the county had taken a strong role in neighboring projects.

Member Kaiwi asked how large the NSCLT stewardship endowment fund would be. Mr. McElheny stated that MCLT had advised \$25,000 to \$100,000 be set aside for conservation easement management, monitoring, and legal defense. NSCLT would continue its discussion with Sunset Ranch regarding the endowment.

Member Canfield asked whether the acquisition costs would be paid by applicants, the owner, or other sources. Ms. Hong replied that the amounts would add to the total costs of the acquisition.

Member Berg asked Mr. McElheny whether NSCLT owned any other lands. Mr. McElheny replied that NSCLT did not own any lands or easements, but NSCLT had played an instrumental role in the Pupukea-Paumalu property protection, including fundraising, public access, stewardship, community coordination. He added that TPL and MCLT were experienced and were assisting NSCLT on technical aspects.

The Commission took a five-minute break.

Chair Bonar called the meeting back into session.

Ms. Schmidt stated that the Kawela Bay project had been deferred until the next grant cycle. Member Canfield stated that she had spoken to Paul Conry and he had confirmed this fact.

Chair Bonar invited DLNR, Division of State Parks (SP) to give its presentation.

Ms. Martha Yent stated that SP was requesting a small amount to cover the title search and Phase 1 for the Kukuipahu acquisition. Chair Bonar stated that he had been impressed with the photos. Ms. Yent stated Surety Kohala has subdivided and been willing to donate the property for at least two years now, but SP has been unable to come up with the funding to cover title search and Phase 1. Land Division had suggested approaching the Legacy Land Conservation Program. This would provide a 7-acre buffer around a heiau that currently only has a 100-foot buffer on all four sides. SP has discovered in managing other heiaus that a 100-foot buffer is not enough.

Ms. Yent stated that DLNR formed an advisory committee in 1994 and 1995, including representatives of Parker Ranch, Kamehameha Schools, OHA, Surety Kohala, Royal Order of Kamehameha, Mookini Foundation, Kohala Hawaiian Civic Club, and other groups and families, to talk about the site and its management.

She stated that there was difficulty in getting to the site, although legal access existed.

She stated that the advisory committee group, two individuals Papa Henry Auwae and Clive Luhiau, both in their late 80s at the time, observed cultural activities from 1916 to 1918, recorded it as a place where mostly healers were involved... they would go up, collect medicinal plant and leave offerings. There were thatched hale within the structure

for ceremonial items and outside the heiau walls, there were other hale for caretakers and gardens. It was a living site up into the early 1900s.

Member Shallenberger stated that when he approached the site, he began to see the core of a substantial structure that had not been visible from a distance. Studies and surveys had confirmed this structure. He stated that SP was taking care of invasive weeds. He pointed out the carvings in the stones on the site: animal carvings, patterns of pukas. The area around the heiau is being groomed and mowed regularly. He stated that there was concern, given the areas surrounding were being subdivided and developed.

Member Young asked whether the State did its own environmental investigations. Ms. Yent stated that they were contracted out.

Member Kaiwi asked why SP wanted to do the acquisition. Ms. Yent stated that, at other heiaus within the SP system, the development had come right up to the 100-foot buffers provided, and it was clearly not enough space. It did not keep the historical setting, the cultural landscape, it imposed on the cultural nature of the site.

Ms. Yent stated that during the establishment of the North Kohala Historic Sites Monument in 1992, part of the legislation had directed DLNR to seek buffer zones for sites within that district.

Chair Bonar asked about the meaning of “Kukuipahu.” Ms. Yent stated that Papa Henry Auwae had talked about four kukui lamps at the corners of the heiau, but SP is not sure whether these lamps might be the source for the name of the heiau. Kukuipahu is the name of the ahupua’a. Papa Auwae also talked about the walls being 4 feet high.

Member Kaiwi asked if SP would reconstruct the heiau. Ms. Yent stated that there were no plans to at the time; the advisory committee had not pushed that matter.

Member Shallenberger asked about public access. Ms. Yent stated that there was an old government road providing access to the property, but because of the current ranching, the gates were allowed to remain.

Ms. Yent stated that community groups, curators, sometimes step forward to aid in the care of sites. The Luhiau family stepped up to help maintain Kukuipahu and is recognized by State Parks as a curator for the site. There have been very few requests for public access.

Ms. Young asked about restoration. Ms. Yent stated that restoration presented difficulties because of the uncertainties.

Member Kaiwi asked if this would set precedent for a larger State heiau buffer. Ms. Yent stated that 100 feet was no longer the standard. Member Kaiwi asked if there were efforts to seek buffers for other heiau. Ms. Yent stated that SP would probably try wherever possible to gain a buffer.

Ms. Yent thanked the Commission for its attention.

Ms. Hong from TPL came forward to discuss the Honouliuli project. Member Shallenberger left the room for discussions regarding this project.

Member Kaiwi asked if there had been any new conversations involving OHA and the current project. Ms. Hong replied there had not.

Ms. Hong stated that TPL had worked for several years with James Campbell Co., LLC., and DLNR DOFAW, US FWS, and U.S. Army Garrison Hawaii on options to conserve the over 3500 acres of native forest in Honouliuli. Acquisition of the preserve and stewardship by DOFAW would allow DOFAW to connect the Nanakuli Forest Reserve management to Honouliuli. She used slides to illustrate Honouliuli and the surrounding areas. She talked about the biodiversity and the endangered and endemic species of the area. She stated that the preserve was critical habitat for the Oahu 'elepaio and kahuli snails. She stated that there were recreation resources in the preserve; Na Ala Hele was working with the land owner to establish a trail. She stated that there were cultural sites, carved stones and possible former ali'i and warrior training grounds.

She stated that over \$2.5 million in army funding, \$600,000 of US FWS, county money would be pending. A resolution supporting funding for the preserve up to \$1 million had been passed. TPL was confident that this project would be competitive for county funds. The Nature Conservancy (TNC) had offered to donate \$300,000, contingent on closing, to a stewardship fund and organization. Two private donors had given \$50,000 to the stewardship fund. US Army is committed to continuing management activities in a half of a million dollars per year.

Member Young stated that she and Member Berg had met Ms. Hong, Mr. Chang, and TNC and Army employees. They hiked on the Kalua'a trail. She commended the preservation of plants at risk within reserve, and the use of work partnerships to manage and protect the preserve. She stated appreciation for the community involvement and work efforts, and stated that her and Member Berg strongly supported acquisition of the site.

Member Berg added that they had only seen a tiny part of the preserve but had still been impressed with the quality of the acquisition.

Chair Bonar asked whether TNC would give up its lease and step out of involvement. Ms. Hong confirmed. Chair Bonar asked if conservation would be taken over by DOD and DLNR, where there any other partners? Mr. Smith answered that DLNR expected the site to become part of the Waianae Mountains Watershed Partnership.

Chair Bonar asked what commitment the Army had made. Ms. Hong replied that the Army commitment had been long term, because the commitment is based on obligations it made to seek training and Stryker privileges.

Ms. Hong stated that TNC had a devoted group of volunteers, and she hoped that the new Friends of the Preserve organization would continue the work.

Member Canfield stated that a few of them had been on last year's site visit, and were impressive folks.

Member Kaiwi asked if the military lease in Makua expired around 2012. Ms. Cynthia Rezendes replied it expired in 2029. Member Kaiwi asked if this property included cottages. Ms. Hong replied it did not.

Chair Bonar asked TPL to discuss the Lapakahi project. Member Shallenberger reentered the room.

Mr. Fred Cachola introduced himself and stated that he was a Hawaiian from Kohala, born and raised, and a retired from Kamehameha Schools and doing historic preservation work in west Kona west Hawaii on Oahu and other places. He had worked with the National Park Service (NPS) in 1972 for the creation of Kaloko-Honokohau National Park and Kalaupapa National Historical Park.

He stated that this acquisition meant a lot to him and others in Kohala. It is the iwi of their ancestors, in order to maintain their kuleana, they needed to have access. It is unconscionable that they do not and leaves a deep spiritual wound among Native Hawaiians that cannot fulfill their kuleana. Consider that the community of Kohala and the kupuna that we are losing. We need places where we can immerse ourselves into the cultural and spiritual aspects of our ancestors and there are precious few left.

The parcel is surrounded completely by State land and Lapakahi is just North, less than half a mile. This would be a terrific extension of Lapakahi and would protect one of the last stretches where you cannot see any buildings. Any investment we make to protect the past of Kohala is going to double or triple in the future. Another reason to fund this project is the potential leverage that it will generate to seek funds from other entities to manage and protect Kohala. Here where we see the most significant cultural and historical resources in the State, developers see ocean-view properties. This land, protected, will be priceless in the future. He spoke about his past in the area and the people in the area, and how this project could help restore community pride. He mentioned a county law mandating preservation of the past of Kohala, after 30 years of community efforts.

Chair Bonar asked Member Shallenberger to summarize the site visit. Using photographs on a projector, he described the property. He stated that there were a large number of obvious cultural archeological sites, and that the structures were threatened by kiawe growth. Member Richards commented that fire makes a good kiawe control.

Member Young asked whether Mr. Reisch would accept \$2.5 million. Ms. Hong stated that he was willing to sell for \$2.5 million.

She stated that the property bordered on the Lapakahi Marine Life Conservation District. She stated that TPL has been working a long time with SP and the community to figure out how to add this to Lapakahi State Historical Park. She stated that there were over 112 species in the MLC, including 10 species of concern. NOAA CELCP had been applied to for half of the acquisition costs and the proposal had ranked as 27 out of 54 proposals and is pending the next appropriation cycle. Congress would have to fund the program for \$40 million in order to fund this project; it was unclear whether this would happen. She added that appropriations would be done in January or February.

She explained that management activities on the property were difficult to initiate because of the regulatory approvals that were needed first. She mentioned Hawaii Tourism Authority (HTA) funding had been applied for.

Member Young asked if Ms. Hong would know the status of these funds within the next two years. Ms. Hong replied that she would.

Member Shallenberger asked Ms. Hong what TPL would do if it were not funded for this project. Ms. Hong stated that they would keep trying to seek funding from county or private sources. She stated that the County of Hawaii did not currently have this property on its list; however, it was only submitted recently.

Member Kaiwi commented on the understaffed and under-funded status of SP and asked whether this was the only management option available.

Mr. Cachola stated that the community had played a konohiki role in managing the property and this acquisition would help the community continue this role.

Ms. Schmidt asked whether the applicants had looked into Chapter 173A-10, HRS, in deciding who the official project applicant would be in proceeding to the BLNR. Ms. Hong replied that DLNR, DOFAW and DLNR, SP would be the official applicants and TPL would step back and assist as needed.

Mr. Cachola stated that several working groups were looking at access and management liability concerns and that the Kohala community was ready to take on the responsibility.

Ms. Hong stated that SP has a long track record of forming successful cooperative agreements with community groups for managing and stewardship. She mentioned the agreement NSCLT had regarding Pupukea-Paumalu.

Chair Bonar stated that he had been on the site visit, and five or six different groups had exhibited a lot of passion for the place.

Mr. Cachola stated that they were trying to restore the sense of respect and stewardship that had existed before fences started going up. He stated that the highway had really changed the character of the area by making it much more accessible. The older generation was leading the effort because they remembered the way it used to be.

Member Richards stated that his family had fenced their parcel in Kohala because of all of the trash that had been left. He stated that the younger generation did not have the same respect for the land.

Ms. Hong stated that the landowner had been very patient with conservationists, but had indicated that he would not wait much longer to pursue his plans for development.

Mr. Cachola stated that the organizations were prepared to file a contested case hearing if the BLNR approved the permits required for development.

Ms. Hong stated that the community organizations should not be forced into the role of defending the land without funding or legal representation.

Chair Bonar asked if there was water available for the land. Mr. Cachola stated that he believed there was. Ms. Hong stated that there was some irrigation to the State Park. Mr. Cachola stated that the Kohala Ditch was restored but it would take a while for the flow to develop.

Member Shallenberger asked what other developments had been proposed in the area. Mr. Cachola stated that there were further developments pending in the Mahukona area and that the planning director had made decisions and gone to the appeals court. He stated that it was taking a lot of community effort to maintain the coastline. They had to compromise with the renewable resource people when the windmills went up... the entire coast was being looked at as a resource for development and the community was being left out of the picture. The community had to make itself known.

Ms. Schmidt stated that, as the approval process moves forward, it is important to document that the applicants would be divisions of DLNR. Ms. Hong replied that she would supply letters.

Chair Bonar stated that Chapter 173A, HRS, is written to show that, if the property is transferred after it is acquired; funds must be given back to the Land Conservation Fund.

Ms. Schmidt stated that it was a legal question. Ms. Hong stated that it would be better if the State were the applicant in these two projects. Ms. Schmidt stated that she needed the letters in time for the consultation appointment with the Senate President and Speaker of the House.

The Commission took a short break.

Chair Bonar asked Ms. Schmidt to review the forms for voting. Ms. Schmidt stated that the following forms would be used: the evaluation form that the Commission had developed for personal note-taking (if these forms were brought to the meeting and discussed, they became public record); voting forms with a one-to-five ranking for each

project that would be collected for the public record; and the tally sheet which was enlarged and used to tally and average the votes.

Ms. Schmidt asked if anyone needed additional evaluation forms. Ms. Schmidt stated that she would print them after the meeting.

Chair Bonar stated that Gmail had been a poor method for communicating documents. Ms. Schmidt stated that DLNR had switched to a different system for its website, and she was not able to put up the same kind of website she had used in the previous year. She was told that she was supposed to create a new unlinked page; DLNR had intentionally standardized the website so that individual unlinked web pages would not be put up. Chair Bonar requested that the people within the Department responsible for this policy be present at the next Commission meeting for a discussion.

Ms. Schmidt stated that she would work on a proposal for next year and seek the Commission's approval prior to using either a website or an email account.

Member Fletcher asked what the Commission would do in case of a tie. Chair Bonar stated that it would be a policy discussion for a separate meeting. Member Berg stated that it was very unlikely that the problem would occur this year. Member Shallenberger stated that it was on the list of policies to be discussed.

Member Fletcher asked whether the available budget would be discussed in advance. Chair Bonar suggested that the discussion be based on the proposals. He stated that the discussion of the MFHC proposal may be informative to this issue.

Member Richards stated that the Commission should be certain to assign rankings in case a smaller amount of funding is provided than expected. He asked if the projects had to be assigned numerical rankings. Ms. Schmidt stated that it had been done this way last year, but it was ultimately up to the Commission.

Chair Bonar stated that the Legislature would be looking for its cash in the bank, and the Land Conservation Fund may be subject to raid. The Governor would have to sign for the release of the funds. Chair Bonar stated that it would be best for Legacy Land to make its case for this year's projects as soon as possible.

Ms. Schmidt stated that the earliest Board meeting where submission would be possible would be January 23; however, the timing of the submittal was based on a few factors outside her control. She stated that the Governor's approval could be sought after the Board's approval had been granted.

Ms. Young asked if all projects were sent to the legislators or if only the recommended projects were sent. Ms. Schmidt replied that the approved projects had been sent in the past and this year all of the project applications had been sent over. Chair Bonar clarified that the legislators had a list of all of the projects for both years. Ms. Schmidt added that,

in the past, a list of all projects was sent, applications for the recommended projects were sent, and a summary of the Commission's recommendations was sent.

Chair Bonar moved the discussion to the Kauai Public Land Trust projects. He asked Ms. Schmidt why the Hawaii County project had not been allowed to switch parcels. Ms. Schmidt replied that she recalled the policies to be unfairness to other applicants and integrity of deadline for the program.

Ms. China added that future applicants might come in future years to change a project after the deadline and state that the Commission had allowed previous applicants to do this, therefore, they must be allowed. Ms. Schmidt stated that the general legal review on decisions was whether they are arbitrary or capricious.

Member Shallenberger stated that an extremely critical property was involved. Member Richards added that it was in the same area as the original property. Member Shallenberger stated that he had worked in federal land acquisition under a program that allowed acquisition within a specific area or objective, based on availability. The system was tightly controlled because it had to be the same objective.

Chair Bonar stated that a proposal offering an alternative acquisition might be acceptable. Ms. Schmidt stated that the application asked for the tax map key (TMK) of the parcel being acquired; it did not indicate that alternates were acceptable. Member Berg stated that a dropped project was another matter. Ms. China stated that this type of change in a proposal would affect its ranking. Member Young stated that she and Member Kaiwi had seen both properties, but the urgency at the time had been for the Sheehan parcels. Member Berg stated that the urgency behind the Hodge parcel had been a new matter and explained the values behind the Hodge parcel.

Chair Bonar stated that, had KPLT come in at the deadline, the Commission would know which property it was voting on. Ms. China added that the site visit and other investigations would have been targeted to the right property. She asked how much information the Commission needed to make a decision.

Chair Bonar stated that they needed enough to make a decision.

Ms. China stated that it would be a departmental policy decision. Ms. Schmidt stated that the initial policies and deadlines that had been approved by the Board had not included consideration of how strictly the deadline would be enforced. She stated that there was a precedent from Fiscal Year 2007. She added that some decisions could be made on a case-by-case basis, however, some policies needed to be set in order to let applicants know what to expect.

Member Shallenberger stated that it was an evolving program, and that he could see a proposal allowing application for properties within a specific area.

Member Canfield added that application materials would have to be revised to notify all applicants that this was an option.

Chair Bonar added that flexibility was necessary. He stated that the Commission was still figuring out policy and he was much more comfortable approving the Hodge parcel. Ms. Schmidt asked what would happen if an applicant approaches the Commission with a similar request next year. Chair Bonar added that there was no policy in place.

Member Richards stated that the purchase of the Hodge parcel would be better for the people of Kauai.

Member Berg stated that he had strong feelings about the project... the Hodge property is supported by the community whereas the Sheehan property is not as valued. He stated that KPLT saw the value of getting the Hodge parcel. He stated that he thought the most important thing, as long as there was no policy against it, was protecting this property.

Chair Bonar stated that he was concerned about the legality. He asked Ms. China if it would be illegal to switch the parcels. She replied that it was a matter of policy, not law.

Ms. Schmidt stated that she wanted to see the property protected, but also felt that it was very important to maintain the integrity of the program's deadline. She stated that it was a substantive change to the project that was not there at the deadline.

Member Berg asked Ms. Schmidt if she was taking a bureaucratic standpoint. Ms. Schmidt stated that she was concerned about the long-term well-being of the Legacy Land program.

Mr. Hirokawa asked if the Commission was evaluating the projects on different criteria. All projects were being evaluated on application materials; the KPLT project was being evaluated on the testimony of three persons.

Member Fletcher stated that KPLT had clearly explained that the project was a consistent part of a project based on the protection of a larger area.

Mr. Hirokawa stated that park expansion had only been one consideration of the first parcel. Member Canfield stated that it all applied to this parcel. Member Fletcher stated that the other parcel was only 200 feet away.

Member Berg stated that he and other members of the Commission had seen the property.

Member Kaiwi asked if there could be some discussion of the policy surrounding this discussion. He stated that there were also some funding issues to discuss, but that it would not be fair to have these issues bottleneck into the specific discussion of KPLT.

Chair Bonar replied that he felt that this was more a discussion of criteria. He stated that the likelihood of project completion for the Hodge property was much higher.

Member Berg stated that KPLT would probably get the Hodge property if funded by Legacy, but may not get the Sheehan parcel, even if Legacy contributed.

Member Young stated that on the Kauai site visit the entire focus and discussion with members of the KPLT was on the importance and urgency of acquiring the Sheehan property. Despite the difficulty, the KPLT seemed determined to negotiate with Mr. Sheehan. The Hodge property was not proposed as an alternate at all. Chair Bonar stated that he had a different impression. He was not sure whether KPLT had the CELCP funds. Member Shallenberger stated that the County funds would be available. Chair Bonar stated that the \$1 million was for the Hodge property only.

Ms. China stated that the Commission should stick to discussion of specific applications; policy was not on the agenda.

Member Shallenberger stated that the Commission was talking about a deviation from existing policy or practices. Ms. Schmidt added that the Commission could make a recommendation to the Department on its policies.

Member Richards asked Chair Bonar to take a vote on the parcel that would be considered with regards to the KPLT application.

Chair Bonar asked Member Buchanan if she wanted to provide input. Member Buchanan stated that she would not discuss policy per the counsel's recommendation. In regards to the KPLT application, she did not believe it was fair to other applicants to allow one applicant to change its project after the deadline. She stated that the Hodge project itself had a lot of merit, but that the fairness considerations surrounding the deadline concerned her. She recommended getting a fair and consistent policy in place and stated that it was important to her that the Commission operates with integrity.

Member Richards moved for convening the meeting.

Chair Bonar stated that the discussion could begin again at tomorrow's meeting.

ITEM 7. Announcements.

Ms. Schmidt stated that the Fiscal Year 2007 Kona Historical Society project had closed and that the check for the Fiscal Year 2008 MA'O Organic Farms had been delivered to escrow that day.

ITEM 8. Adjournment.