

Minutes of the December 8, 2009, Legacy Land Conservation Commission Meeting

DATE: December 8, 2009

TIME: 10:30 a.m. to 1:30 p.m.

PLACE: Board Room, 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:

Ian Hirokawa, DLNR, Land Division

Randall Kennedy, DLNR, DOFAW

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Kawika Burgess, Trust for Public Land

Lea Hong, Trust for Public Land

Cynthia Rezentes, Oahu Land Trust

MINUTES:

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

Chair Bonar called the meeting to order. The members of the Legacy Land Conservation Commission (“Commission”) and staff members present introduced themselves.

ITEM 2. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2010 (FY10) projects (a list of applicants is attached to this agenda).

Chair Bonar stated that he had no conflicts of interest to disclose. Each Commission member stated no conflict of interest.

ITEM 3. Commission recommendations regarding FY10 projects to the Board of Land and Natural Resources for funding from the Land Conservation Fund.

Chair Bonar stated that the Commission could take testimony on this item if there was any remaining after yesterday’s meeting. Ms. Schmidt stated that Fred Stone, Cave Conservancy of Hawaii (CCH), had sent written testimony to answer a question of the Commission from yesterday regarding the role of the National Speleological Society (NSS). She stated that, in short, caves owned by CCH would go to NSS upon CCH’s dissolution, however, she stated that the Commission should read the testimony

for CCH's answer. She added that Todd Cullison, Executive Director of Hui O Ko'olaupoko, had submitted written testimony for the Fong project. She distributed the testimony.

Kawika Burgess stated that the director of the Sidney Frank Foundation may be faxing over a letter of support during the meeting.

Member Shallenberger stated that he had received a call from Doug Sensenig of Hawaii Island Land Trust (HILT). In regard to the Kipuka Mosaic project, Mr. Sensenig had thought that the landowners would attend yesterday's meeting, which is why he didn't attend. Mr. Sensenig had stated that five landowners were ready to proceed and landowner Dan Taylor was leading. They expected to be before the Land Court in about a month, and would use the result of Mr. Taylor's property to set the tone for other projects. Chair Bonar asked what the purpose of going to Land Court was. Member Shallenberger replied that they were recording the donated conservation easement. Chair Bonar asked if Mr. Sensenig had made any comments on the project's budget. Member Shallenberger stated that he had referred to the email exchange between Ms. Schmidt and HILT, and not questioned the issue any further.

Chair Bonar explained that the purpose of this meeting was to produce recommendations on Fiscal Year (FY) 2010 projects. The next step would be conducting any further discussion that might need to occur before the rankings could be done. He commented that some of the criteria from the past years, like landowner letter, etc., had come into a different light this year – because of the poor economy, opportunities were now available via foreclosures. It was a conundrum, funding these projects might produce the chance for the owner to make a sale, however, the Commission ought to be looking at things where there is a strong willingness to sell and the project is likely to succeed.

Member Canfield stated that Kona Historical Society (KHS) had been able to keep its project alive based on the Commission's funding recommendation, even though the funds were not ultimately released by the Governor. The Commission could potentially keep some of these projects alive, even if they were not fully ready to go.

Member Richards stated that he looked at which lands might be sold and developed if the Commission didn't act. He stated that, if the Commission thought that a project was in the best interests of the State, it ought to act now, because the land would be sold. He stated that the actual amount of funds that would be released this year was not known.

Ms. Schmidt stated that Paul Conry, DOFAW Administrator, had instructed her to inform the Commission that the Governor had looked at secured match as the most important factor in releasing funds for projects last year.

Member Berg stated that there were a number of projects this year where match was not secure. He added that the Commission did not have the best foresight on these projects, for instance, if a property was in foreclosure, did this mean that it didn't have development potential, or that it would be snapped up by a developer right away. He had knowledge of Kauai real estate, but did not know what the danger of development was on other islands.

Member Richards stated that the lot near Hanalei was a good example: the owner was putting in foundation to keep his permit alive, however, if the project didn't go, what would happen? What will the heirs do? Would the County of Kauai have a shot at this property again at a reasonable price?

Member Berg stated that the Hanalei project this was a good example. On one hand, he's giving KPLT more time, on the other; he's securing it for development.

Member Richards said that the question was what happened to the owner, and whether the owner's financial situation would take a hit in either scenario.

Member Berg brought up perpetual protection, management plan, and long-term sustainability of organizations. He would like to see a plan for succession. In regards to the Hanalei property, it's been on the market for four years, it did not seem to be taking off.

Member Richards replied that, if the owner dropped the price, it might sell quickly and then the County would be working with another seller with a higher price.

Member Young stated that, for her, the value is on whether the target property is more accessible for the local people. She stated that an increase in goods and/or services to the local people, as in organic farming, and the willingness of the future owner to increase these values of the property were important to her.

Member Shallenberger stated that the Commission's choices had not made it past the Governor last year and were up again this year, however, this should not factor into the Commission's decisions. They should look into the projects as they stand today.

Member Young asked whether Malu Aina could revert to its proposal from last year, its matching funds had been clearly present, but this year had included equipment, which wasn't preferable.

Member Shallenberger asked for the info from last year's application. Member Young listed the match from the previous year's application and stated that this year Malu Aina had added the cost of a conservation easement and costs labeled "other."

Member Shallenberger stated that Malu Aina had reported a \$10,000 donation plus a possible additional \$10,000 to \$15,000.

Chair Bonar asked whether the appraisal was current. Member Young stated that it was for \$255,000, Member Canfield added that the date was listed as 2008. Member Shallenberger added that he wasn't sure that was an appraised value. Member Young said that it was a county tax assessed value.

Chair Bonar stated that there had been significant drops in property value. Ms. Schmidt stated that Malu Aina had not turned in an appraisal. Member Shallenberger stated he had found the figures confusing. He stated that the confusion was in how they had filled out the form.

Chair Bonar stated that the Commission had not spent money on a project that would cost more than appraised value. Member Shallenberger stated that they had approved projects without appraisals before, with the understanding that they could not pay more than the appraised value.

Chair Bonar asked whether Malu Aina had a purchase agreement. Member Shallenberger indicated the letter that had been enclosed. Chair Bonar stated that he shared Member Young's concerns.

Member Canfield asked that the Commission to go through the list of projects.

Chair Bonar called for discussion of the CCH project. He stated that the NSS would be named as a takeover entity. The language in the article talking about this was typical for these deals. Ms. Schmidt added that organizations receiving Legacy Land funds would have to approach the BLNR for permission to transfer the property in any way.

Member Young asked whether, in situations where organizations that were seeking to purchase one parcel and donating another, the parcels ought to be contiguous.

Chair Bonar stated that, to him, it would matter whether it was within a given conservation area.

Member Young stated that Mr. Coons and two others made a donation of a three-acre parcel to the CCH of which Mr. Coons is president. This is listed as the match for the purchase of the 21-acre target parcel in a different area, and does not impact the purchase price of that parcel. Member Shallenberger said that, regardless, it was an interest in land.

Member Young stated that, in order to see the caves, members of the public would have to be scientists or researchers. She asked whether it was appropriate to spend taxpayer funds for the research purposes of this organization.

Member Canfield stated that this project might be like some other acquisitions where values of public benefit were being protected but access was not appropriate, like the Fong plantation. Member Young stated that the caves were impressive and unique; however public access was very specialized.

Member Shallenberger stated that this could be thought of as any other biologically unique area, with cultural and habitat values, however, this happened to have underground access. The question is whether the Commission, by approving the project, would end up aiding the protection of the resource, given the perceived threats to the resource. There's a difference between specific instances of degradation that have occurred and actual impending threats. He would have liked to see more conservation easements and solid management agreements.

Chair Bonar stated that he wasn't bothered by the limited access, given the special cultural and environmental nature of the resource. Member Young added that a guide needed to be present for visits. Chair Bonar stated that his concern was the sustainability of the CCH. If NSS did take over the resource, it would no longer be local people managing the resource.

Member Kaiwi stated that this was one of the most disastrous proposals. He respected the research with regard to restricted access. He said that with regard to the need to care for the resources in the cave, an assumption had been made that people know that the resource was not being taken care of. With cultural practices, often, a goal is to not have evidence of having been there. He cautioned the Commission: just because people with degrees have declared that the area is not being cared for, their opinion was not qualified culturally – they did not know what they were looking at. Part of the reason he had wanted to observe the cave was because Native Hawaiians have a different view on how to view it. Mr. Stone hadn't brought up the Native American Graves Protection and Repatriation Act (NAGPRA) or any instances where Native Hawaiians or American Indians had resolved conflicts regarding caves. One thing that had hit a nerve was Mr. Stone's reference to "those people." While

the reference had not been specific, he had suspected that “those people” referred to those against access in the caves. He didn’t answer conservation easement versus fee. Also, CCH had stated “no burials” in the caves, but member Kaiwi did not think that they had consulted with knowledgeable people. He brought up the example of the landowner in the Pao’o project not knowing of the konohiki burial next to an intended building site. He thought the proposal was selfish – it only considered the research needs of CCH. It was not pono.

Chair Bonar called for further comments and, receiving none, moved the conversation to the HILT Kipuka Mosaic project. Member Shallenberger stated that HILT had done itself a disservice by not attending the meeting yesterday and he had told them. He stated that that this was a good concept with a lot of conservation potential. It would be possible to contribute to the protection of a much larger area by focusing in where people are committed. He could envision this growing to 40, 50, or 100 properties. There was a lot of potential.

Chair Bonar stated that he would feel more comfortable if HILT already had several conservation easements in place. Member Shallenberger stated that he agreed, but it would be nice to devote resources to test the concept. Member Canfield stated that there did not appear to be urgency. Member Young stated that it would be affordable for the five property owners if they were committed to the concept. She did not have a sense that Legacy funding was necessary. Member Shallenberger stated that one of the owners was a guy that had spent his life preserving native forests in Volcano. He didn’t think motivation was in question, rather whether there was enough momentum to get the project rolling.

Member Richards stated that the sticking point was the management of the non-contiguous parcels. If HILT had a degree of contiguity, they might have a better time convincing the Commission with some of the pieces in place. Member Shallenberger stated that, with as little money as they were asking, it could be a catalyst for these projects and a sign that the State supports.

Member Berg supported because he sees longer term value – the urgency is not on the properties lined up for acquisition, but on those properties not lined up. The sooner the cooperating properties are acquired, the sooner they can provide the example. There is some urgency and this is the smallest grant ever requested. He added that this amount did not need to be provided only to organizations that were well established, it could be used to encourage the growth of these programs. They had talked before about larger experienced organizations icing out smaller groups -- this was an example of a small group with a very valid project.

Member Kaiwi asked what the preservation of the canopy would accomplish. Member Berg stated that some insects and birds wouldn’t fly over towns and breaks in the forest canopy to get from one forest to another. The canopy would provide a corridor that birds can fly to reach intact forests. This project would allow more stepping stones that a complete corridor, however, the more there is, the better, and the only way to do it is piece by piece.

Member Shallenberger stated an example of how birds had flown around a development in a past project.

Chair Bonar called for further discussion. He asked if there were further comments on the Malu Aina project. He then asked if there were comments on the DLNR Kainalu project.

Member Shallenberger stated that the large map had been a compelling part of the Kainalu presentation, in that it showed vision for the area. Plus, the ability to secure match had been impressive.

Member Berg asked if they were waiting for an appraisal on the project. Chair Bonar confirmed.

Member Young stated that the resources and funding were strong, and if they received funding from other sources, it could reduce the Legacy Land award. She asked how this would work.

Chair Bonar stated that putting in this understanding to the recommendation could be done. He checked with Ms. Schmidt. She replied that it could be put into the contract; however, the remaining funds would go back to the Land Conservation Fund and would not go to other projects from this year.

Member Shallenberger asked whether Chair Bonar meant projects with pending funds – a lot of projects had been approved in the past with pending funds. Chair Bonar specified that the funding wouldn't be conditional; rather, an amount would come back if pending funds were secured. Member Shallenberger stated that this project was requesting a small portion of the requested funds. Member Canfield clarified that only the Acres for America award was pending. Chair Bonar suggested talking about the issue later.

Member Berg stated that there were two variables: the price of the appraisal and the pending funds.

Per questions from Members Berg and Shallenberger, Chair Bonar clarified that the result would be a recommendation of "up to \$500,000." Member Richards added that if the matching funds came through, Legacy Land would not be needed, so the idea was to put a ceiling on it so the funds wouldn't be taken if not needed.

Chair Bonar said that the ceiling would be the contract for what they'd proposed. It was a legal question for the contract folks, whether; part of what they'd testified regarding not needing the funds could be included. Ms. Schmidt stated that a condition could be made to cap "up to \$500,000," however, this amount wouldn't be available until future years. Chair Bonar stated that they understood this.

Member Buchanan stated that Sheri Mann had worked very hard to get the project to this point, and would accomplish the protection of an entire ahupua'a.

Chair Bonar asked if there was further comment on the DLNR-HP Opaeka'a project. Chair Bonar stated that he thought it was seed money to get a large project started. Member Young stated that there had been many uncertainties. Member Richards added that it was a small and desirable piece of real estate. Chair Bonar added that it was a significant portion of the Legacy Land funding. Member Richards stated that, if it would move, it would probably move on its own.

Member Berg stated that the seller had been very imaginative, and was trying hard to recoup the investment on the property. If the owner had been able to sell, it would have. Member Berg added that he hadn't spoken with the sellers.

Chair Bonar stated that some secured match would have helped. Member Canfield added that the best description of the values had come from Member Berg. Member Berg added that DLNR had stated that it would not buy, so the project was preliminary.

Chair Bonar called for discussion on the KHS project. Member Shallenberger stated that he had been impressed by KHS's movement on the project since last year. Also, having been in the archive, he could tell they were in deep straights, there is valuable stuff sitting in those containers. Member Richards added that KHS had been active in its efforts for a long time. Member Canfield added that KHS might be able to decrease the amount needed from Legacy Land, pending word from Atherton and Cook.

Member Berg asked whether match was secured. Chair Bonar and Member Young confirmed that the Strong Foundation had committed \$100,000.

Chair Bonar called for discussion on the KPLT Hanalei project. Member Shallenberger stated that the other properties did not compete well with the urgency and threat surrounding this one.

Chair Bonar called for discussion on the County of Hawaii Pao'o project. He stated that the project had been exceedingly well put together and presented project.

Member Young stated that Ms. Hong had said that the fact that Aloha Properties not registered was a minor thing. Is this a typical practice?

Chair Bonar said yes. Member Berg stated that one could go online, pay a 25\$ fee, and receive registration for five years.

Member Shallenberger stated that he was impressed with the map, they are protecting the best of what's left, not just a piece here and there.

Chair Bonar stated that he is typically wary of only-volunteer management, but this is one of the strongest community volunteer efforts he's seen.

Chair Bonar called for discussion of the TPL Paukukalo project. He stated that the property was in foreclosure, and it was not clear what will happen with that... trying to get responses from foreclosing entity is very difficult, however it is incredible property, and should be back under local control. It would be nice to have more knowledge about outcome.

Member Shallenberger stated that it was overall a good project, however he'd spent too much of his career restoring degraded wetlands. While he appreciated the DHHL and local commitment, but whether that actually turns into money for restoration is questionable. Also, he was not completely convinced of the threat. The question about certified wetland boundaries and whether development was even legally feasible had not been answered.

Chair Bonar stated that from where land is, they could have put in the original design. It was feasible, legally, by current zoning laws.

Member Canfield stated that the wetland is a bit inland of the planned development. She stated that the wetland report stated that, for a substantial part of the property, the soil didn't meet the Corps of Engineers wetland definition, so they could have built in the edges surrounding the wetland.

Chair Bonar said that the moderately-priced housing was to go on the sand-filled areas. The iwi would have made excavation off-limits.

Member Fletcher stated that he did not find the project problematic at all. He didn't think of the project in terms of wetland restoration, but in terms of restoring community values. The most important goal is the community surrounding the project.

Member Canfield stated that they are looking to restore the lo'i – the group is focusing its funding on the community.

Member Fletcher stated that the coastal ridge was highly vulnerable to development.

Member Berg asked how the area had become sand-filled.

Chair Bonar stated that the sand dune system that starts at Waihe'e and used to run down Maalaea and then to Kihei...the estates up on the sand dunes that were under construction in 60s, 70s, and 80s. They transferred sand into swamp. This was prior to burial councils or any of the issues that led to the attention these matters get currently.

Member Richards stated that that the bones are all redistributed. Efforts at internment might be a masquerade at best. He asked whether time had moved on beyond what we can do to honor these ancestors, excepting a marker of some sort.

Member Kaiwi stated that, to follow up on what Member Fletcher said, with regard to wetland restoration, there wasn't much to lose by giving these programs a chance. They might succeed or fail; threats can be exterior threats of development but can also be interior. This community has been threatened... native kanaka maoli are another endangered species. This is exciting as a Hawaiian because this is one of the few that could give Hawaiian community direct access to resources. The conditions are right. The thinking over generations has been: restore the people and help restore malama 'aina. Giving the native people this chance is honorable.... and this would be the way to honor the graves.

Member Young stated that this project appealed to her much more than the Kipuka Mosaic project because of the number of people that would be affected. She thought this fact may assist in its approval. The groups had shown three years of hands-to-ground work to restore springs, lo'i, and the native garden. They had a record of stewardship, activism, and all of the things that Legacy Lands is for. At first I saw financial problems, but then with testimony, she had seen the commitment and knows they will see it through. It's a counterpoint to the luxuries of the hotels on Maui.

Member Kaiwi thanked Member Young for saying 'activism.' People were used to in-your-face activism, and this was an example of positive activism -- teaching children how to reestablish and connect -- this is pono and aloha-oriented. The knowledge of aina was there, as opposed to the Kipuka project. The application had stated that "no known native Hawaiian access other than hunting and gathering" -- what does that mean? If you look at the Molokai project or this project, the people

know aina: wind, rain, Hamakua, currents, waves. This project gave a present-tense presentation of native Hawaiian knowledge, not past-tense. It was refreshing.

Member Canfield stated that Venus Rosete-Hill and Iokepa Naeole were so eloquent; she questioned how they could not be successful in obtaining the needed funding. It would just be a matter of linking up with the right folks... DHHL, OHA and other folks were very charged about it. She stated that she thought it would come together.

Member Fletcher stated that he knew that it was important for the Commission to recommend technically feasible projects. If the Commission puts forward technically flawed projects, it loses some of its mana. He stated that he did not look at this as one-off, but as a group that the Commission is presenting this year, with a balance of values.

Member Fletcher stated that the Commission could send a message of support. Member Richards added that they could add "keep it up" to the message.

Member Berg stated that the Commission had limited funds and they're asking for one-sixth of our funds, if this project goes, others will not be funded. There's a real concern about foreclosure. The bank owns the property. This project is really iffy financially and \$500,000 of funds could go to other projects.

Member Young stated that the Governor had approved the projects that would ultimately end up in the State's hands. She asked if this fact would give it some bit of plausibility.

Chair Bonar stated that all projects from last year had match in place, like Paul Conry had said. Member Canfield asked when the Governor would be looking at the projects. Ms. Schmidt estimated March or April after the BLNR meeting. Member Canfield asked what the time span would be for changes to these projects.

Ms. Schmidt added that there was an issue with the grant agreements. The Governor needed to sign off before awards became final, however, she did this in April or May, and processing the grant agreements took at least a couple of months, with the deadline set by the Fiscal Office in late May. She would have to send out the grant agreements early, with a condition regarding the Governor's approval, if they were to get signed on time. Member Canfield asked when they would have to be done. Ms. Schmidt proposed working on them immediately after the Board meeting.

Chair Bonar asked when the Board meeting would be. Ms. Schmidt said that it had been in March last year. Ms. Schmidt apologized for boring the Commission with the admin details; however, it would affect the timing.

Member Kaiwi replied to Member Berg, stating that if one did the math and looked at the Kauai and Paukukalo project in terms of dollars per acre, the Paukukalo project was clearly favorable. Member Berg added that the acres did not reflect the community's use of the park.

Chair Bonar called for discussion on the Fong Plantation project. He stated that most of the Fong project's match had been recommended.

Member Berg stated that the appraised value had not been worked out.

Member Young stated that if this parcel goes through, there are two other large parcels adjacent that he will consider protecting.

Member Shallenberger stated that there was essentially no community involvement. Everybody is outside the gate. It's beautiful scenery but nobody is allowed to participate.

Member Young stated that the landowner had seemed open to access.

Member Richards said that there was no management plan -- it's a conservation easement. The same people will manage it.

Member Canfield added that she had been impressed by the owner's level of stewardship. She stated that he would continue to take good care of the land.

Member Young states the property would go to the grandchildren who may not have the same conservation ethic as the current trustees.

Member Berg stated that the property is a manicured garden, with no archeological sites on it.

Member Canfield stated that much of it was undeveloped and hilly. They had planted mango trees in the 1950's; it had grown into a wild orchard.

Member Berg stated that the issue was not what had occurred, but what the value of the land was from a Hawaiian perspective. He saw it as a manicured garden, and from a stream and watershed management perspective, this might not be the best use. This is the year we have projects that are proposing to be the beginning of larger-scale projects. Individuals and projects are coming in with shift in larger-scale land preservation. He stated that there was a value in that for the Fong project.

Member Young stated that it was true that it is tropical gardens; however, much of it is forest.

Member Canfield agreed and added that it had decent watershed management, the owner had let his friends come in to keep pig population down.

Member Shallenberger asked what would happen when it was passed down. Member Richards stated that it would be sold, but not for nearly the same price it would without the conservation easement. Member Canfield added that Oahu Land Trust would be monitoring the property annually for compliance with the conservation easement. Member Shallenberger stated that the conservation easement states what you can't do, not what you shall do.

Chair Bonar stated that the value was the protection; the land can't be converted to other uses.

Member Shallenberger stated that there is weakness in these kinds of easements. If there was some sort of intact value to protect, the conservation easement works, however, in a case like this, there is no tool for obligating the landowner. No obligation to maintain it in current state.

Chair Bonar stated that if the property were not cared for, it was then a question of the worst case scenario: would it degrade to unmanaged forest or would it be developed.

Member Shallenberger stated that the aesthetic values being talked about would diminish under a conservation easement. There would be no obligation to maintain the trees.

Member Richards stated that he agreed, it would be between houses and greenery. At least this would give the current landowner an opportunity to sell part of his interest. In the case of farms, where there is a familial obligation not to sell, this makes things easier from a family standpoint. This project could call attention to other landowners to let them know the opportunity is there. Some of the larger landowners will have to take a look at this kind of thing.

Chair Bonar asked for further comments on the Fong project.

Member Buchanan stated that this project was comparable to the Molokai project, where large landowners look to other options than land development to pay off their taxes, keep themselves afloat, and take care of children. She stated that Member Richards was correct; there is not the component of a future management plan or endowment. Member Canfield stated that there actually was a planned endowment for management.

Member Young stated that the scenic values were visually dramatic.

Chair Bonar closed the discussion, called for a five-minute break and asked Ms. Schmidt for the ranking forms.

Chair Bonar reconvened the meeting. The Commission members used the ranking forms to rank projects and handed the forms to Ms. Schmidt. Ms. Schmidt and Mr. Hirokawa recorded and averaged the scores for each project.

The following rankings resulted:

<u>LLCC Rank</u>	<u>Agency or Organization</u>	<u>Fee or CE</u>	<u>End Holder</u>	<u>Location</u>	<u>Acres</u>	<u>Matching Funds</u>	<u>Legacy Land Request</u>	<u>Total Project Cost</u>
1	County of Hawai'i (assisted by TPL)	fee	County of Hawaii	Island of Hawai'i, coastline lot within Pao'o ahupua'a, North Kohala District	10.61	\$960,000	\$945,000	\$1,905,000
2	The Trust for Public Land	fee	State - DHHL	Island of Maui, 'ili of Paukukalo, ahupua'a of Wailuku and Wai'ehu, in the Wailuku District	63.701	\$2,522,300	\$500,000	\$3,022,300
3	DLNR - Division of Forestry & Wildlife	CE	State - DLNR/DOFAW	Island of Moloka'i, East Moloka'i, Kainalu; mauka of Kam. V Hwy.	614	\$4,274,000	\$500,000	\$4,274,000
4	Kaua'i Public Land Trust	fee	County of Kauai	Island of Kaua'i, on Hanalei Bay directly next to the Hanalei Pier	0.74	\$3,070,000	\$800,000	\$3,870,000
5	Kona Historical Society	fee	Kona Historical Society	Island of Hawai'i, South Kona, makai of Mamaloahoa Hwy	2.11	\$104,342	\$301,250	\$415,592
6	The Trust for Public Land	CE	Oahu Land Trust	Island of O'ahu, ahupua'a of Ka'alaea, in the Ko'olaupoko District	107.73	\$1,657,050	\$500,000	\$2,157,050
7	Malu Aina Center for Non-Violent Education and Action	fee	Malu Aina and HILT	Island of Hawai'i, Puna District; ten miles south of Hilo, makai side of Highway 11	11.14	\$77,262	\$231,788	\$309,050
8	Hawai'i Island Land Trust	CE	HILT	Island of Hawai'i, Puna District; in Hawaiian Orchid Island Estates next to Kahauale'e NAR	6	\$30,000	\$35,000	\$65,000
9	Cave Conservancy of Hawai'i, Inc.	fee	CCH	Island of Hawai'i, Kau District; Kula Kai View Estates and Keones Hawaiian Ranchos #2	24	\$72,870	\$80,000	\$152,870
10	DLNR - Historic Preservation Division	fee	State - DLNR/HP	Island of Kaua'i, Wailua, above 'Opaeka'a Falls	40	\$2,003,450	\$2,003,450	\$4,006,900

Chair Bonar stated that adding the request amounts of the first through fifth project resulted in a total requested amount of \$3,046,250. The Commission could recommend the first four plus the funding of Kona Historical at less than they had asked for. Alternatively, they could recommend that one of the other projects receive less.

He added that there was a possibility that the \$1.5 million awarded to County of Hawaii for the Kawa purchase in FY08 might become available. If the money could go back into the fund before the BLNR meeting, they might have an additional \$1.5 to the \$3 million now available. Chair Bonar recommended that the Commission rank them in order and recommend the next two or three projects on the ranked list to be funded. He asked the Commission members whether this was appropriate or the ranking should be adjusted.

Member Berg stated that he was pleased with the way the process had worked and felt that the projects should stay as ranked. He made a motion that the Commission recommend for funding in the order prioritized, with any additional funds that should become available going to the projects in the order ranked.

Member Richards seconded the motion.

Mr. Hirokawa stated that additional funds may go to the HILT Kipuka project, and the Commission had not resolved the issue regarding proper matching funds and grant expenditures.

Ms. Schmidt suggested some minor rewording of the recommendation. Chair Bonar amended the motion and Member Richards seconded.

Chair Bonar called for discussion of the motion and stated that the legitimate request from HILT was \$20,000. The "other" costs were shown to be in a fuzzy area. His suggestion was to modify the award from \$30,000 to \$20,000 for that project. He asked whether it should be a separate motion.

Member Fletcher asked for clarification. Ms. Schmidt stated that the "other" costs had been for legal and recording fees and administrative costs. She referred the Commission to the email sent from HILT, and stated that those costs were not permissible expenditures of grant funds. She stated that the Commission could make the recommendation or let the Department deal with it. Chair Bonar preferred the latter.

Member Canfield stated that, with the additional funds from Kawa, the Commission could fund all the way down the list to part of the Opaeka'a project. Ms. Schmidt agreed. Member Canfield stated that she did not know whether the Commission wanted these projects funded.

Member Shallenberger stated that there were also two projects that might reject funding such that more would be available. Chair Bonar stated that the Commission's recommendation would take care of this instance. Ms. Schmidt re-read the motion to the Commission.

Member Canfield stated that there was potential to at least partially fund all of them. Chair Bonar stated that DLNR would not allow the Opaeka'a project to proceed. Chair Bonar and Member Canfield stated that they would be opposed to recommending the project.

Member Kaiwi stated that he was opposed to recommending funding for the CCH project. Member Fletcher stated that he agreed.

Chair Bonar stated that there was a motion on the floor. On request, Ms. Schmidt re-read the motion: that the Commission recommend to the Board, in the order prioritized, if additional funding be available, provide further down the list.

Member Berg stated that it might not be prudent for the Commission to make changes to proposals. Chair Bonar asked whether amending the recommendation to omit the CCH and Opaeka'a projects would work. Member Canfield stated that this was an option.

Member Shallenberger objected to dropping the CCH project. He stated that the Commission should look for ways to help them succeed in the cultural realm.

Chair Bonar recommended proceeding with the first motion prior to moving on to these issues; he called for a vote on this motion. All were in favor.

Chair Bonar clarified that the issue was not whether to omit the ninth or tenth projects.

Member Canfield moved to exclude the tenth project from the list. Member Young seconded this motion.

Member Fletcher stated that he would prefer different wording for the motion, he did not know whether taking items out of order created a process issue. Member Canfield stated that this particular motion would not create any issues, the projects would still be in order.

Chair Bonar called for a vote on Member Canfield's motion. All were in favor.

Chair Bonar stated that he would entertain a motion regarding CCH. Member Shallenberger moved to keep CCH on the list. Ms. Schmidt questioned stated that this motion was not necessary, as CCH was already on the list. Chair Bonar agreed.

Member Fletcher moved to drop CCH from the list. Member Kaiwi seconded.

Chair Bonar called for discussion. Member Berg questioned the process and asked whether the collective wisdom of the Commission had already been asserted in the ranking process.

Member Canfield disagreed; the last few projects had been vastly lower in their rankings than the first projects. Some of the later-ranked projects had received the lowest-possible ranking from Commission members, showing, maybe, that these projects were not currently suitable for funding.

Member Fletcher stated that the original process had been abided by, and that this process was in addition to that. Chair Bonar added that the rankings had been given, the Commission was now drawing the line between "acceptable" and "unacceptable" projects.

Member Shallenberger stated that he did not think there were fatal deficiencies in this project, the protection of the resources, including cultural resources, would be accomplished by funding the project. He disagreed with removing it from the list.

Member Fletcher stated that there are at least some small deficiencies with most projects, however, the message here is that while they were funded before, need to get act together now.

Member Kaiwi stated that these deficiencies were in the character of the request. Applicants need to cover the bases that are inherently important, or, from a gut-feeling standpoint, and culturally speaking, doesn't feel right. It is like small group of people want to control a very finite resource.

Member Berg asked whether the problem is that there is not a cultural konohiki.

Member Kaiwi stated that he was looking for, from the applicant, a willingness to be open to cooperation, some demonstrated learning from Native American Indian experiences with the NSS, and intent to make the caves open to traditional access rights. This type of presentation would have been much more palatable than a "this is what I want" perspective.

Member Shallenberger asked where CCH had given a "keep out" point of view. Member Kaiwi stated that they had indicated "No Trespassing" signs would be put up. Member Berg added that this had been to address questions of liability.

Chair Bonar stated that his concern was that CCH was not a sustainable, mature organization. Had they come in with some examples, conservation easements on some of their members' properties, he would have felt better about it.

Member Canfield stated that one part of the application had stated that the natural area was being protected for "future generations of researchers."

Chair Bonar stated that, if CCH could get the cultural practitioners involved, they could come back next year with a much stronger proposal.

Member Berg stated that, if this was to be the case, the Commission needed a method for getting this information to applicants. Chair Bonar stated that Ms. Schmidt would have the minutes. Ms. Schmidt stated that she could be responsible; however, the applicants might appreciate it if a Commission member from their island made an effort to speak with them.

Member Fletcher stated that NSS would receive the land if CCH dissolves, and asked where the kuleana family was for these lands. He stated that he wanted it to be recorded in the minutes that applicants should be reporting to the Commission the status of the kuleana family.

Member Berg stated that this had been a deficiency in the report.

Member Young stated that she appreciated the science and its value; however, the project was lacking some essential Hawaiian soul and connection. Chair Bonar stated that an archeological survey would have helped.

Member Shallenberger stated that the group had been represented by long-term members on the site visit that had a clear interest in the broader protection of resources, whereas Mr. Stone and the written proposal had been more science-focused.

Member Kaiwi stated that “get your act together” needed to be more specifically defined. Member Shallenberger stated that Member Kaiwi was concerned with cultural sensitivity, however, he suspected that the issue appeared direr than it was due to the representation being more science-focused.

Member Kaiwi stated that he was actually more concerned about the quality of the cave and the degradation of it that may occur. They do not know into which realm they are entering.

Chair Bonar stated that CCH had provided area legends, animal studies, and the area was in gated community... there was no indication in the application that there was more than a scientific cave to be protected.

Member Shallenberger asked members to think about long-term protection of land and how degradation of resources could be prevented. He had not been impressed by the proposal’s well-roundedness ... they were mostly seeking to link together pieces of the system; however, the ultimate goal of protection was there.

Member Fletcher stated CCH held a classic caver point of view.

Member Shallenberger stated that the Commission could keep some momentum in this project so that the ultimate protection of the land could be accomplished.

Member Kaiwi asked Chair Bonar whether this proposal could water down traditional access rights. Chair Bonar stated that law was law.

Member Kaiwi asked how trashed motorcycles ended up in a gated community. Member Berg stated that they had predated the community.

Member Berg stated that the Commission was stuck on an issue that was very unlikely to produce funding. He called for a vote on the motion. Chair Bonar called the vote. Seven of nine Commission members were in favor; Member Buchanan and Member Shallenberger opposed.

Chair Bonar stated that Ms. Schmidt would have minutes to distribute to the applicants and would also have a general sense of the conversation to communicate.

Member Shallenberger stated that he would hope that regardless of the vote, the Commission communicates that it share the vision that they get it right later down the road. Members of the Commission indicated agreement. Member Berg added that options with conservation easements should be investigated.

Member Shallenberger stated that the project might have more input than the Commission had known of.

ITEM 5. Set next meeting date(s).

Chair Bonar stated that he did not see a reason to set the next meeting date at this time. Ms. Schmidt agreed and added that another meeting of the Subcommittee on Rules and Management Funds needed to be held, however, she would contact members by email.

Ms. Hong suggested having applicants pay to fly Commission members to annual site visits, if possible. Ms. Schmidt stated that there might be an ethics issue for Commission members in accepting this travel. The Ethics Office staff would be able to answer this question. Chair Bonar asked Ms. Schmidt to check.

ITEM 6. Announcements.

Member Fletcher asked Chair Bonar how much longer he would act as Chair. Chair Bonar replied that there was currently an administrative bill in for this session that would allow the Natural Area Reserves System Commission (NARSC) Chairperson to delegate his or her position as on this Commission to another NARSC member. This member from the NARSC would no longer be the chair of this Commission.

Member Fletcher stated that the Commission would need to vote a new chair in at the next meeting. Ms. Schmidt added that the bill would probably, if passed, be effective July 1, 2010, so, if the meeting was held after this date, a vote would be needed.

Member Berg asked when Chair Bonar's term as NARSC Chair would be over. Chair Bonar stated that he was into the first year of his second term, so he would have three years left. Ms. Schmidt clarified that the bill as written would allow Chair Bonar, as NARSC Chair, to delegate his membership on the LLCC to another NARSC member, and this Commission would then elect its own chair.

ITEM 7. Adjournment.

Chair Bonar called for adjournment. Member Fletcher made the motion to adjourn the meeting. Member Richards seconded the motion and all were in favor.