

Minutes of the December 2, 2010 Legacy Land Conservation Commission Meeting

DATE: December 2, 2010

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

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

Leah Laramee, DLNR, DOFAW

PUBLIC:

Representative Gene Ward

Chris Cramer

Lea Hong

Kaleo Manuel

Doug Cole

Sienna Byrne

Gail Byrne

Ken Van Bergen

Toni Withington

Jim Dittmar

Ralph Makaiau

Michael Whitt

Greg Knudsen

Ivan LaPrade

Mardi LaPrade

Emily Kirk

Ann Marie Kirk

Elizabeth Reilly

Laura Ka'akua

Laura Thompson

Ron Walker

Jean Rasor

MINTUES:

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

Chair Bonar called the meeting to order. Chair Bonar states that the purposes of today and tomorrow's meetings are to review applications to the fiscal year 2011 and a couple of other items. The Legacy Land Conservation Commission ("Commission") members, staff, and members of the public introduced themselves.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from October 13, 2010, meeting.

Chair Bonar gives the floor to Ms. Schmidt. Ms. Schmidt explains to the commission that all meeting documents are contained in folder in front of them. Chair Bonar asks if, besides last minute testimony, the information available on the internet. Ms. Schmidt clarifies what is available on the internet and what is not. Ms. Schmidt hands out copies of last minute testimony and supplementary information that came in from one of the projects to each of the commission members.

Chair Bonar states that the commission has not pre-scheduled an order to the meeting and asks all those making testimonies to identify themselves and asks if any peoples giving presentations or testimonies have time constraints. Ms. Reilly stated that she has to leave by around 11.

Chair Bonar asks Ms. Schmidt when Representative Gene Ward was going to come and speak. Ms. Schmidt confirms he would like to speak before ten. Chair Bonar asked what project Representative Ward would like to talk about. Ms. Schmidt answers Hāwea.

Chair Bonar explains new order of testimonies starting with Hāwea.

Chair Bonar asks for motion to approve minutes from October 13, 2010, meeting. Member Berg made the motion and Member Richards seconds. Chair Bonar asks if there are any new comments. Hearing none Chair Bonar calls for a vote on the motion. All were in favor.

Ms. Schmidt asks Chair Bonar if she may make an announcement, Chair Bonar allows it. Ms. Schmidt announces that Member Fletcher sends his apologies and that he will not be attending the meeting.

ITEM 3. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2011 (FY11) projects (a list of applicants is attached to this agenda).

Chair Bonar explains the need for disclosing real or perceived conflict and asks commission if they have real or perceived conflicts with Fiscal Year 2011 Projects. The members did not report any conflicts.

ITEM 4. Discussion of FY11 project recommendation process and methodology.

Chair Bonar explains the process of FY11 applicant review. Chair Bonar states that first the commission will receive testimony and welcomes everyone to give testimony up front or as the meeting progresses. He explained that some people are proponents of the applicants and will be updating the commission on new developments. Chair Bonar explained that today's meeting will be a discussion of the elements of each of the applications. He then explained that after hearing testimony the commission members would do individual personal ranking of the applications. He stated that there will be presentations made by members of the commission that had been on site visits to all the applicants. He explained that the decision making by the commission will take place the following day. Chair Bonar further explains the ranking process and that the committee is an advisory committee that gives recommendations to BLNR for decision making. He continues to explain that the recommendations are also considered by the legislature through a consultation with the house and senate leadership. He states that final decision is done by the BLNR.

Chair Bonar asks for comments or questions.

ITEM 5. Discussion by members of the Commission of the FY11 applications, reports by individuals and task forces regarding visits to FY11 project sites, and discussion of site visits to the FY11 project sites by Commission members.

(See next item)

Item 6. Optional presentations by applicants of new information or clarification of information concerning their proposals. Applicants should limit presentations to a maximum of 15 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 asks for those who want to give testimony for Hāwea to come forward. Chair Bonar asks those giving testimony to take the center seat, introduce themselves and their affiliation, give their testimony and allow the commission to ask questions.

Chair Bonar invites Representative Gene Ward to testify.

Representative Gene Ward introduced himself and stated that he had two conflicts of interest. First he represents the area in which Hāwea is found and he very strongly supports the project. Secondly he is a member of the state legislature. Representative Ward stated that he didn't realize that the legislature has a review of the applicants. He stated that like other overdeveloped communities Hawaii Kai has faced the difficulties of many development projects that have been very difficult for the community to understand or accept. He explained that the one more recent controversial project is the Hale Ali'i development but even more controversial is the development of the five acres of Hāwea Heiau and water lands. He stated that he sees the partnership with the Livable Hawaii Kai Hui (LHKH) and the Legacy Land Conservation Program (LLCP) as a win-win. The

petroglyphs and heiau were feared to be overrun, overcome and otherwise put aside as insignificant vis-à-vis what the developers' initial plan was. The partnership of LHKH and LLCP is a perfect situation to preserve and sustain what is culturally appropriate. If the five acres are set aside to protect the culture, the native species, the wetlands it would really be a superior solution. Representative Ward encouraged the commission to rank Hāwea the highest, and stated that as the representative of the area he has full confidence in LHKH. It actually does and means what it says. If this application is approved it would be a blessing to the community. Representative Ward thanked the Commission for their time asked if there were any questions. There were none.

Chair Bonar asks if there were others for Hāwea that wished to speak. He explains that since there were no people needing to leave soon the meeting would continue with testimonies and presentations for Hāwea.

Elizabeth Reilly introduced herself as the President of Livable Hawaii Kai Hui (LHKH). She explained that LHKH was formed in 2004 and they are a grassroots nonpartisan 501c3. The purpose of LHKH at the start was to uphold the East Honolulu Sustainable Communities Plan. Since Formation LHKH has adopted new missions that are now embedded within their charter. She continues to explain that LHKH does not just serve Hawaii Kai but all of East Honolulu because the Sustainable Communities Plan binds them together as one area. It's not just about the East Honolulu Sustainable Communities plan but it's also about caring for our cultural resources as well as our natural resources. Last year LHKH was working with the Office of Planning and the Governors' Office in ensuring that the lands on the makai side for Kaiwi were put into conservation. She continued that LHKH brings all types of people to the table and that they take pride in that. Ms. Reilly stated that in their six years LHKH discovered that Hawaii Kai is defunct of culture and in need of renaissance. Nine months ago LHKH hosted OHA in the celebration and the debut of Pahua Heiau. This triggered the start of the renaissance. Next is the Hāwea Heiau and the necessary cultural restoration work that needs to happen there. In addition to that will be the wetland restoration that has already been started on an adjacent piece of land known as the Oahu Club. The aiea has been nesting. The members of the board that conducted the Hāwea site visit were fortunate enough to be there when the chicks were out. The wetland restoration project is going well; LHKH was awarded \$100,000 to help with it. The adjacent five acre parcel has the remaining wetlands and LHKH has the opportunity through purchasing the land to make one continuous wetland, one conservation plan. LHKH recently engaged in a contract with the federal Natural Resources Conservation Service (NRCS) to help with the conservation planning. Ms. Reilly stated that later that day LHKH would be giving a presentation to the South Oahu Soils and Water Conservation District on their conservation plan. NRCS have helped LHKH look at the entire body of the wetland to create a conservation plan and in addition they will be helping LHKH with an upland restoration project which will include all the necessary native Hawaii plants that are important to being back to the area. Ms. Reilly invited all the members of the board to an event for LHKH in March and thanked them for their time.

Chair Bonar asks if there are questions.

Member Kaiwi asked Ms. Reilly to clarify where LHKH perceives the boundaries of East Honolulu to be. Ms. Reilly responds from the lighthouse at Makapu'u all the way to the boundary of the East Hawaii Sustainable Plan that includes a small section of Kahala. She continued to clarify that even though they have an area in which LHKH serves they see Waimanalo, Kahala and Kaimuki as cousins and they try to connect with them as well. For instance when LHKH was doing the Kaiwi project it was imperative to connect with Waimanalo.

Member Kaiwi asked if in the range of areas, from Waimanalo to Kaimuki or Makapu'u to Kahala, LHKH has been advocated or protected cultural sites before any threat of development. Ms. Reilly answered that the first threat of development that came across LHKH's path was Hāwea Heiau. She continued that LHKH had been working on Hāwea for about four years. In this time members of LHKH have come close to being sued because the entire five acre parcel was under the threat of development and at one time had illegal grubbing and grading and some of the wetland was filled. The work that LHKH does in conjunction with community members included being very watchful of that land because they knew that Hāwea and the wetland was there. At the time unfortunately you had a group of people managing the land that didn't have any appreciation for it at all. The first experience with a cultural site came from a controversial issue with trying to save it and give it a voice and that would be Hāwea. Pahua Heiau is something that we have celebrated long before we met with OHA. It was owned by Kamehameha Schools (KS) and through LHKH's work with the agricultural valley they became interested in Pahua. LHKH's interest was to help reintroduce some native Hawaiian vegetation but have it come from the valley.

Member Kaiwi asked Ms. Reilly if in the future other cultural sites arise under threat of development would LHKH do its best as its doing now to protect those sites, from Waimanalo to Kaimuki. Ms. Reilly answered that it is the duty of LHKH to do so and yes of course. She continued by saying that the recent fires in Kalama disclosed a shelf up on the mountain that some of the members of LHKH have gone to look at to see its significance and assess its needs for protection.

Member Kaiwi asked Ms. Reilly if LHKH would follow suit with their commitment. Ms. Reilly replied that yes, the people are very interested in this project. The community is very defunct of culture and in order to bring back the health you have to connect people with the land, and to best care for you land you have to look at the Hawaiian culture, that's truly the only way.

Member Shallenberger asked Ms. Reilly if LHKH had an estimate on what it would cost to implement the wetland restoration plan and if so did they have an idea of where the money was going to come from. Ms. Reilly answered that on the smaller parcel of land on the Oahu club site LHKH put together a three year program that would cost \$280,000. One hundred thousand of that was awarded to them for that project recently. The Oahu Club wetland is not as damaged as the five-acre parcel but the cost of its restoration gives a hint of what it would cost. The key to the wetland restoration is LHKH's partnership

with NRCS. With their science and ability to give LHKH a good plan they help maintain the perpetuity of the land. An additional layer or protection for the wetlands will be through an easement process. LHKH has already done the research, it is a federally-funded program and at such time that LHKH has title we will be looking to acquire those funds.

Chair Bonar asked Ms. Reilly if she is talking about the Wetlands Reserve Program. Ms. Reilly confirmed. Chair Bonar asked if Ms. Reilly knew that LHKH would need to own the land for seven years before they could enter that program. Ms. Reilly responded that LHKH was working very closely with NRCS on that and they are helping LHKH with the easement process but that she wasn't aware of the seven year stipulation. Ms. Reilly continued that LHKH does have a licensing agreement with the landowner for 27 years. Chair Bonar asked if the Oahu club has been included in the discussion of doing an easement. Ms. Reilly responded that the management side of the Oahu Club is 110 percent supportive and they contribute to LHKH's efforts where and when they can. Long term LHKH will continue to work with the landowner and show them how they can benefit by doing that. LHKH has met with them, shared with them and invited them to the wetland gatherings that they have through LHKH's Kokua program. The landowner is Kamehameha Schools and they have submitted a letter to the commission.

Chair Bonar asked Ms. Reilly if the current protection for the adjacent Oahu Club wetlands is a twenty seven year lease. Ms. Reilly confirmed. Member Berg clarified that it is a licensing agreement. Ms. Reilly agreed and stated that there is a plan for a community engaged timeline against the licensing agreement and once the five acre parcel is procured the NRCS conservation plan will be one continuous effort. Which LHKH is very excited about.

Chair Bonar stated that there is a restriction on the deed that the five acres must be a park. He asked Ms. Reilly who would be responsible for putting in that park. Ms. Reilly clarified that there are two deed restrictions on the parcel. One put on by the county and one put on by the landowner, Kamehameha Schools. The county had lifted the deed restrictions some years back and LHKH wanted to ensure that the Kamehameha Schools restriction was not lifted. To that end the land is a park and will be a park but not a park with swings and so forth, it will be a passive cultural piko of the area where community and visitor can come, but there will have to be certain protocols in place because we have to be cognizant of the cultural sites and first and foremost the habitat for the wetland bird. In LHKH's mapping and planning with NRCS thus far they are fully aware of the public use aspect and are confident that it will not be a problem. In fact it is important; to have a place in perpetuity you have to have stakeholders, what better then the community. In answer, yes, of course, it will remain a park.

Chair Bonar asked Mr. Hirokawa if he had reviewed the deed, the deed documents on the property. Mr. Hirokawa stated that he had read the title report. Chair Bonar expressed his concern that the park restriction could be lifted by KS at anytime, or if the landowner could lift it at anytime. Mr. Hirokawa stated that he didn't think that those types of restrictions were fatal flaws because if the landowner or whoever imposes the restriction

agrees to changes it is unlikely to happen. Ms. Reilly stated that the former managers of the park land had attempted several times to lift the deed restrictions. They succeeded with the city but they did not succeed with the landowner. What LHKH did was welcome the landowner to sit with us to learn about LHKH's project on the Oahu Club site and showed them the bigger picture of LHKH's attempts to purchase the land. LHKH asked them to support their efforts and to pause long enough to see if LHKH was successful. Ms. Reilly stated that she thought that the submission of a letter from the landowner was very telling.

Chair Bonar asked Ms. Reilly if of the eight acres the three of that will be developed would be developed by KS. Ms. Reilly responded no. Chair Bonar asked who would be developing the three acres. Ms. Reilly explained that the developers were Hale Ali'i but they changed their name to Hale Ka Lae. This change is indicative of their joining of this effort because LHKH asked them to change their name as it was offensive. Out of the eight acres that Hale Ka Lae own LHKH has asked for five. Hale Ka Lae has all the entitlements that are necessary to do their development and that has nothing to do with what LHKH's efforts are. Chair Bonar asked if there is a separate KS piece. Ms. Reilly responded that none of the land is owned by KS it is privately owned.

Member Young stated that she has a question but it can wait if there are more testimonies for Hāwea that might answer it for her. Ms. Ka'akua explained that Ms. Reilly is not doing the whole Hāwea presentation and that she was going to do a presentation that included maps and explained the area. Chair Bonar asked Ms. Ka'akua if she was willing to go next. Ms. Ka'akua confirmed. Chair Bonar asked if Ms. Ka'akua would discuss the status of the status of the matching funds, clean water and natural lands at that time. Ms. Ka'akua confirmed. Chair Bonar asked Member Young if she wanted to wait to ask her question. Member Young responded that she thought it would be best.

Chair Bonar stated that as the head of a non-profit that looks after land he knows how incredibly expensive this is to do even with great volunteers. He continued to ask about LHKH and what their current funding was. Ms. Reilly explained that LHKH's funding is private. Chair Bonar asked about what kind of budget is LHKH running on and looking at everything from taxes to insurance how is it run. Ms. Reilly responded that LHKH has insurance and that they operate in a very lean way. LHKH does not have an office, has no paid staff, and has dedicated board members. LHKH has been around since 2004 and has dedicated funders. Hāwea is definitely financially LHKH's biggest project but everyone has to start somewhere and LHKH would not take something on that they could not handle. Ms. Reilly continued that she believed that there had yet to be additional partners to be found. Moving forward, this has all happened so fast and the urgency of the land becoming available and sitting here in front of the Commission, I can only share so much of where we are at so far.

Chair Bonar asked what LHKH's annual budget right now. Ms. Reilly replied that LHKH runs just under \$25,000. Chair Bonar asked what the \$100,000 was for. Ms. Reilly explained that that money is earmarked for specific wetland restoration work. Chair Bonar asked if that money is from one private donor. Ms. Reilly explained that it comes

from several conservation groups that decided that LHKH was a viable project. They liked LHKH's plan and we will be awarded the money in the next couple of months. Chair Bonar explained that part of his question was to see if LHKH knew about tipping in the nonprofit world. Ms. Reilly confirmed that she did. Chair Bonar stated that the concern is perpetuity and asked if whether, for the long-term sustainability effort, LHKH has thought about the future. He asked if LHKH expect to be staffed, and if they have community members contributing memberships. Ms. Reilly answered, using the Oahu Club land as an example, stating that she understood that such projects call for staffing. She continued to say that there is a budget for staffing in the future. With any of the programs taken on by LHKH in the planning process there has to be paid staff. That particular program, which is already flushed through, does have a paid staff to manage that. In regard to the other five acre parcel absolutely there will be staff. She stated that she would never expect a program to be run on one hundred percent sweat equity and volunteers, that's not smart business. Chair Bonar approved of this statement and encouraged Ms. Reilly talk with Mr. Whitt at NRCS and the Wetlands Reserve Program to see when LHKH would be eligible, not only to do the planning but to do the on the ground restoration. Ms. Reilly told the commission that LHKH has had and will continue to have conversations with their adjoining landowner. Chair Bonar informed Ms. Reilly that LHKH could also effect easements with Oahu Land Trust. Ms. Reilly responded that she was aware of this option.

Member Berg asked Ms. Reilly what urgency existed. Ms. Reilly responded that the urgency is the development and the developer. The previous management illegally grubbed and graded. The developer needs to move on with their residential development. They earmarked that area for their amenity package, swimming pool tennis and all that. Member Berg asked if this was possible even with the deed restriction. Ms. Reilly stated that it would remain as a park with these amenities. With the deed restriction there would still be many things that the developers would be able to do that would be permitted on the P2 land to accommodate the amenity package for their residential subdivision. They illegally grubbed and graded the archeological site, and LHKH had a troubling situation with the reports they were receiving that they felt were not of proper integrity from the State Historic Preservation Division. With all due respect, there was a problem there and a lack of understanding of what truly was there. LHKH went ahead and had their own archaeological study done which resulted in way more findings which you will hear about in the presentation. That is an example of the urgency. Another point of urgency is, and I am not a land use attorney, and I am not a developer, but what I can tell you is that there are ways to figure how to fill in wetlands and replacing it elsewhere. LHKH is deathly afraid of something like that happening. Being so close to the urban core, being so developed, people look at five acres and think its nothing. They look at huge tracts of land that they want to save but this is vitally important for the health of this community and the east end of Honolulu. To me that's the urgency right there people look at it and think, the wetland is only five acres and is so close to the urban core, why bother, lets go out and save the large tracts of land or pristine habitats. It's all important. Member Berg responded that Ms. Reilly still had not addressed the urgency. He asked if the developer of the three acre parcel is under construction and if so, if he has submitted plans for the swimming pools instead of making it a true park. Member Berg asked for clarification on

the timeline. Ms. Reilly responded that LHKH has met with the developer for the past six months. The developer is meeting with LHKH trying to figure out how to appease LHKH's concerns and at the same time do what they want. It was through that six month process one Saturday that LHKH pitched the idea. LHKH told the developer that it wasn't working that they were not interested in how the developer was going to retrofit between a wetland and a cultural site. LHKH told them that this was not going to hold anything up for them. LHKH explained that the process was coming up for funding and within a week LHKH was able to bring in Trust for Public Land for a meeting. The urgency is that there is a land owner that has changed management and is primed and willing. The wind could blow anyway and they could change their mind tomorrow. LHKH needs to continuously ride that wave and take them through this entire process successfully before things change. Anything could change; look at the way the economy changed and how it affected everything. Member Berg asked when the developers were going to start building on the three acres. Ms. Reilly responded that they are reworking on their product of what they are building. What I have heard through the media is in the spring of 2011. Member Berg asked if they had all their permits. Ms. Reilly responded that they have all their entitlements it's just a matter of delivering within the unilateral agreement that they have with the city. I hope that explains the urgency at least that's how I define the urgency. You have a new management that is primed, willing and sees the benefit.

Member Kaiwi stated that he had a couple more questions. He stated that LHKH letters of support are very potent letters of support from OHA, KS, and community members. All this support is working in your favor from a management stewardship standpoint to address this threat of development. If I was a developer aside from appealing to your concern versus your desires no one would touch this with a ten foot pole because of this encumbrance. You know what I am trying to say here. With this amount of attention given to Hāwea, the threat of development is actually more minimal then you might think. Ms. Reilly stated the she had to respond to that. It is true that we can say that today but why is that the case? That's the case because of how we brought to light through the media, through folk like Senator Yee, through complaints about how SHPD did a very poor study. Even as we did that the wheels were turning, even with our complaints the landowner still felt he had a right to illegally grub and grade. What you are maybe saying is you feel that the urgency isn't there and that we wouldn't get certain permits to do certain things, however, that does not mean they will steward the area the way that they should. That does not mean that they are going to allow the Hawaiian people to come and use the place in the way that they should. There are those that have been using it for drumming purposes. I doubt very much that the Hawaiian community and the community at large will ever benefit fully if those lands are left with the developer because they will value engineer, space save everywhere they could so that they could fit some sort of an amenity. We don't want them to tear everything down and then build it up into a likeness of what they think is a cultural site and what they think is an appropriate wetland. We want to go from a natural, holistic standpoint. The best way to do that is to care for the land and to have it and to own it, to separate it from a developer, that is what they do. I don't think we can count on the county and I don't think we can count on the State to do the necessary enforcements. Member Kaiwi asked to clarify his position. You have the

perception that I am not for protecting these sites that is incorrect, let me make that crystal clear. Part of my question is to tease out from you your commitment and how far you are going to take this because I have worked with commercial development companies I know how far these guys will go so I just need to find out your sincerity that's what I'm trying to tease out, not suggesting that I am for the developers. Ms. Reilly responded that she too has worked with development, master plans development, Castle & Cook, Kunia, and Maui Lani, lots of developments. I believe from a development standpoint this is an amazing opportunity to show how a developer and a community can work together. How you can take a multimillion dollar condominium development have an adjacent land with cultural and natural resource and start using things like that for marketing purposes of what is great for the community. Not fabricating it the way we traditionally fabricate it. I don't know how else I can put that to you I normally don't speak like this but I'm speaking to you as a marketing person that has worked in a lot of real estate development. This is an amazing opportunity for the developer and he sees it he understands it. It is a shining example for the developers to say, what do I have on my land? What do I have that is a cultural site that can be enjoined with the community, cared by the appropriate steward, and for better it helps them with the sell of their project. I really do believe that is the case. I hope that answers your question. The sincerity on my part is I take a lot of pride in where I live and I think it vitally important like I said again to make sure that that which was paved over so quickly and fast by Kaiser, there are pocket areas that are still existing for us to find them and preserve them. And perhaps maybe next year we will be sitting before you with another project because we would have discovered yet something else. I think this is only the start of what is to come for communities that are so close to the urban core. Member Kaiwi asked as a wahi kapu, place of sacredness, would LHKH consider in the future that the lands would be transferred to a transferred to a native Hawaiian trust. Ms. Reilly responded there are all kinds of possibilities that are there but I don't feel that it is right for me to speculate because I am only one person and one voice right now. She continued that as the current president of LHKH I personally think that that's a very interesting thought. Member Kaiwi stated that he only asked because you have given great numbers as far as the wetlands is concerned but when you got to Hāwea there were no numbers given as to what that might cost. Ms. Reilly responded that that was so because LHKH is still discovering. There is a lot to be discovered that is still there.

Member Shallenberger stated that he had a question but that it was probably just the choice of words that is confusing. In LHKH's proposal there are at least a couple of places where they say and I quote "once the property passes into public ownership." What you really mean is you representing the public. Ms. Reilly responded that not she but LHKH, as a grassroots nonprofit community group, would be representing the public. Member Shallenberger informed Ms. Reilly that he needed this clarification. Ms. Reilly stated that she understood. Member Young commented that there is a discourse in the application about the site being important for religious drums, one of which is Hāwea. She asked where the drums were now. Ms. Reilly asked to defer the question to Ann Marie Kirk or Jean, or Kaleo Pike.

Chair Bonar then asked the Hāwea group to do their formal presentation. Following that the members of the commission that did the site visit will report.

Laura Ka'akua, native lands representative for the Trust for Public Lands (TPL) introduced herself and gave a presentation on the updates that have occurred in Hāwea since the application was submitted. LHKH entered into a licensing agreement with the landowner formally allowing them to begin restoration of the wetland and upland areas. TPL received a letter of intent from the landowner for the purchase price of \$650,000 which is reflected in the application. We are working on an auction agreement to further finalize that amount. We received numerous letters of support that you have received most of by this point. The Hawaii Kai Neighborhood Board passed a resolution of support for this project. LHKH signed an agreement with NRCS, which was mentioned, to work on a comprehensive conservation plan for both the Hāwea site and the adjacent Oahu Club site so that it is a continuous wetland restoration plan. We hired Medusky and Company, Inc., an appraisal firm, and the appraisal came in at \$660,000 which is to some a low amount for a five acre parcel in this area but that price is largely in part because of the park restrictions and on top of that the cultural sites and the wetlands. LHKH has done periodic huli education and wetland volunteer days. LHKH is expanding their cultural advisory council, they are really trying to cast a broad net to learn all that they can about the cultural sites. Most of which they are just skimming the surface now as to a deeper understanding of them. They are trying to really pull in kupuna from the area and general cultural experts to be able to advise them on the proper protocol and the way to preserve these sites. A recent very exciting development is that three 'alae 'ula chicks were born, and had the great timing to be born the day of your site visit. Ms. Ka'akua showed pictures of the chicks. The next step is to sign the option agreement and we expect that to happen in the next couple of weeks to finalize that \$650,000 purchase price. The NRCS partnership will continue to grow and continue to work on the conservation plan which still has their target deadline of December. LHKH will be updating the Hawaii Kai Neighborhood Board in January and will have a further community outreach and education clean up event on March 5th. LHKH, with the assistance of TPL, will meet with the adjacent development, not the three acre parcel that Hale Ka Lae owns but a development that is already developed in the back of this property. That development has a private park restriction. There is a white picket fence park which has a private park restriction on it for that development. That private park right now is not being used by anybody in the development that it was intended for. LHKH has begun speaking with residents in that development about possibly working with them to amend the agreement so that it could be just part of the general park and the property. And so that private restriction could be removed. LHKH is expanding their cultural advisory council and through that process gain further knowledge through that site.

Member Young asked Ms. Ka'akua why no one uses the private park. Ms. Ka'akua responded that the park is a very poorly planned private park. There are no trees and it's just a very small parcel. Referring to a map, Ms. Ka'akua pointed out the parcel in question, the sites of historical preservation, the land to be developed, the Oahu Club property, and the private park. Ms. Young asked if the private park was part of the five acres. Ms. Ka'akua responded that it was. Ms. Young asked if it was owned by the adjacent development. Ms. Ka'akua answered that it is owned by Hale Ka Lae. She

explained that on the entire five acre parcel there is a park restriction and that on the very corner of the property there is also small private park restriction for the adjacent development. Chair Bonar stated that this was part of their codes, covenants and restrictions (“CCRs”). Ms. Ka’akua confirmed. Chair Bonar asked if there was access to the private park from the five acre parcel. Ms. Ka’akua answered that there was not and said that the park is something that doesn’t really make any practical sense. Chair Bonar asked if LHKH bought the five acres would they then buy the private park with it. Ms. Ka’akua confirmed that this was so. She stated that LHKH has been speaking with residents in the development adjacent to the private park and the general consensus is that they don’t like the private park and they are in full support of LHKH’s plan to really bring the community back to the area. That is something that needs to be worked out with LHKH, TPL, and the development. That is something you should be aware of as well. Member Young asked if the private park was also owned by Hale Ka Lae. Ms. Ka’akua confirmed. Chair Bonar clarified that it is all a part of one tax map key (“TMK”) and that it would transfer to the new ownership. He then asked what kind of legal implications does that have still being a part of the CCR’s of the other development. Ms. Ka’akua answered the private park restriction would survive that transfer. What could happen if the land was transferred to LHKH and TPL they could enter into an agreement with the development to remove the private park and really be able to share the area with the whole community and actually have this community be able to use this park in an enjoyable way.

Member Kaiwi asked Ms. Ka’akua if she had said that KS had a park restriction on that area. Ms. Ka’akua confirmed. Member Kaiwi asked who the land owner was. Ms. Ka’akua explained that the land was owned by KS. Member Kaiwi asked if the park restriction would survive the transfer. Ms. Ka’akua confirmed. She stated that the threat is not that there will be a massive luxury development built but with working within the park restriction on the property you can build tennis courts, you can build swimming pools, which was the plan of Hale Ka Lae to be able to compliment their development here. Since LHKH approached them and shared with them the cultural resources and the natural resources that are already there and that don’t need to be created in order for the residents of this new development and the surrounding residents to enjoy it they have since realized that they could have something even more special than a tennis court and a swimming pool. They now are supporting LHKH efforts to restore the area in its natural state. Member Kaiwi thanked Ms. Ka’akua for the clarification. Chair Bonar asked for the current plan for the three acres that are to be developed. He wondered if it would be luxury condos, single family homes, and asked for the density. Ms. Ka’akua did not know the density but believed that it was a luxury condo development. She then deferred the question to LHKH. Ms. Reilly said that it could be 160 to 300 units, towering up as high as 90 feet. These are all entitlements that they have for this little area.

Chair Bonar commented that the KS letter of support was one of the most lukewarm letters he had ever seen. Member Shallenberger asked Ms. Ka’akua to point out the spring source. Ms. Ka’akua did so. Member Berg asked where the water in the wetland to the left come from. Ms. Ka’akua explained that it is a spring-fed wetland. Member Berg asked where the spring was located Ms. Ka’akua answered that there were many springs

throughout the site. She continued to explain that the salinity level is very low although there is a little transfer from Hawaii Kai Mariana or Kuapa Park pond into the wetlands it is largely freshwater sprung fed. She points to a well on the property and said that it was mostly dry but there are other springs still feeding the wetland. Member Canfield asked if there was any transfer into the pond from the ocean. Ms. Ka'akua responded that there is a little bit of transfer and there are still Makaha, or fish pond sluice grates, and so one of the things that LHKH would like to do is work with fishpond experts and NRCS in finding out the right balance and reopening that inflow of water from the ocean, to have that balance and support of 'alae 'ula habitat to look into the possibility of it becoming a fishpond again.

Chair Bonar asked if hydrology has been done and if there had been any appreciable change in water coming from springs in the last few years. Ms. Ka'akua responded that she didn't think that there had been a hydrology study done. Member Richards asked if the air rights of the five acres have been sold. If they have been sold or if they are thinking about it, that is worth some money. That is something you may want to talk to the current owner or the person who is talking about building a high rise or something because if they are sold then this gives them way more than they currently have in that area. Ms. Ka'akua thanked Member Richards for informing her of that and stated that she will check on that issue although she didn't believe that was the case. Chair Bonar asked if there was more to the presentation. Ms. Ka'akua shares some pictures and maps of Hāwea with the meeting.

Member Shallenberger suggested that it would be helpful to keep the map up during the other presentations. Chair Bonar asked for final clarification regarding the private park and park restrictions. He asked if KS still had a park restriction on the whole 5 acres. Ms. Ka'akua answered that yes there is still that park restriction that goes with the property but was imposed by KS. Chair Bonar stated that the property is now owned by someone else and KS is not involved anymore. Ms. Ka'akua responded that KS is involved only in that they do own the adjacent property and as the community group begins to work to restore the wetlands they need the support of KS to have a continuous plan for the wetland.

Member Kaiwi asked Ms. Ka'akua if she knew that Pahua Heiau is two valleys over from Hāwea and it has been restored by outdoor circle back in 1984 or something like that. Hua Honau is now the owner of that heiau. My understanding of that heiau and its community involvement is that it is very minimal. Meaning the stewardship and management of that heiau, already restored, is actually very minimal. Is it your impression that after restoration of Hāwea, should that ever occur, that that same level of stewardship and management go into this area? Ms. Ka'akua asked for clarification if Member Kaiwi meant the stewardship would be minimal. Member Kaiwi confirmed and stated that he was just trying to tease out what exactly the commission was dealing with in stewardship and management with Hāwea. Ms. Ka'akua stated that she didn't think that it would be the same because this is Hāwea Heiau and there is a lot of community interest in reviving many cultural practices on the property and there has been talk about rededicating the heiau as a Mapele Heiau so that it could be open for the public but all of

these things are not set in stone and need to be worked through a larger community consultation process and bringing in cultural experts from the area. I think LHKH has always taken the position that they don't have all the information, that they just are the party willing to take on the kuleana of the management and being the central force to bring in everyone else's mana'ō on the best way to take care of the property.

Ms. Reilly stated that six years ago when LHKH first started focusing on the agricultural land and they first were finding out about Pahua Heiau being an agricultural heiau we looked to see who owned it. We thought it was KS but when we found out it was OHA we reached out to them and asked if LHKH could do something to help steward as I had said about the plans incoming from the valley. It wasn't quite on OHA's radar yet as being something actively engaged in but that ask wasn't forgotten because with Kevin Chang being brought on to OHA that opportunity was afforded in our first gathering in helping them debut the heiau to the community about eight months ago when we hosted them. I just wanted to point out to you that the interest was there from the organization and we had reached out in finding the owner. OHA at the time wasn't quite ready to engage. Since then I have been on the receiving end of really good action-oriented communication and planning from OHA for that Heiau. Please know again that from a community standpoint, yeah, we were interested and put our best foot forward there.

Ann Marie Kirk said she wanted to add that she had been going to Pahua Heiau for 20 years. I'm not really sure where you get your information about minimal involvement. I think that most people that go there wouldn't share the fact that they go there. The fact that I'm saying it right now it is not something that I would normally share. I want to change that impression I don't know where you got that understanding from. In continuing with Pahua Heiau, I'm a member of the Maunalua.net efforts targeted at the education of the larger community regarding Pahua Heiau. In addition, I did a documentary of our community and I shot the main parts of Pahua Heiau to show the connections between Hawaiians. So I just wanted to change your impression there are a lot of people out there like me and I have been going there since I was a teenager. Mr. Rasor informed the Commission that there are a lot of people that do things at Pahua. I am one of them. And when kahea came out from Hāwea we followed through with that. As far as some of the heiau throughout the kingdom that one is very well kept. The area is very clean it is well taken care of. I have been using the site for almost fifty years. Using it as an example in comparison to other heiau it is by far one of the best kept. It is small but there are parts that are really kept out of the public eye. It's on a busy street of a cul-de-sac so people can go there.

Chair Bonar expressed his concern that 300 condos sitting next to something like this; for somebody who is stewarding a chunk of land, there is a concern. Ms. Kirk asked what would be the problem with that. Chair Bonar responded that it depends who is in those condos. You can look at it as an attractive nuisance that we own property; people management is difficult. Member Kaiwi wished to clarify that the commission members are trying to help. This is kokua, this is not a challenge. We are addressing what is the threat. We want to see if you guys have the mana which it seems you guys do, to protect and preserve.

Mr. Rasor said that one part that wasn't really expanded on was that Hale Ali'i was originally going to be three buildings. The cheapest model originally listed was \$1.2 million and then up. Now after the change of management because of what LHKH did, though semi-peaceful negotiations and some cultural help from our ancestors there are down to one building now. They fired their original CEO so that's a big step in this battle not a lot of developers will drop two third of their development to try to placate and be a part of a community that says an awful lot.

Ms. Ka'akua stated that she wished to respond to the development comment. LHKH has maintained throughout the process that they are not going to take on fighting against the adjacent development that already has its permits, its entitlements and its agreements with the county and so the real repeated focus is just to do everything they can to malama the cultural sites that are there and the wetland. Through that lens that is how they have come to this point here. That's their focus in moving forward as well. Chair Bonar stated that the three acres next to it there and there is at least on paper still the possibility of loads and loads of people there. Ms. Ka'akua stated that it's a development, just as other areas are developments; the goal is not to fight this development or any others but to protect the cultural sites. Chair Bonar stated that he understood; that he fully understands that just as most of the malama-ing comes from managing people, not the land area. It was a caution; we have a lot of lashes on our backs to share. Member Shallenberger stated that his cynical side says that the landowner sitting in the boardroom would have figured out that they cannot get a core permit to fill in that wetland even if they only want to do a park with some park benches and a few trees. Have you looked in the legality of this? If there is no threat of development because of a Clean Water Act, Section 404, regulation. Ms. Ka'akua answered that they did fill in part of the wetland illegally. Member Berg asked if this was the previous owner. Ms. Ka'akua clarified that it was the same owner it's under different management. So what happened was that there was a previous manager who really did go in one night, brought in the bulldozers, bulldozed part of the heiau, and filled in a large part of the wetland that is the reality of what we are dealing with. LHKH and a number of community members brought what happened to light and the media and they really tried to get out the word about what was happening and the cultural resources that were there. Through that process the manager was let go and a new property manager was brought in and so that new property manager has been the one that has been open to protecting the sites and working with LHKH.

Chair Bonar if there was any mitigation. Did the Corps come in and punish the offenders? Ms. Ka'akua believed that they were fined but wasn't sure how much. Member Shallenberger asked to go back to his question. Did it not suggest to Ms. Ka'akua that if they want to create some amenities for this new development how they could do that without filling the wetland? Where could they do it on that property? Member Berg stated that because the property has the cultural sites and the wetland sites it doesn't leave much property for amenities.

Member Young states that there is space. Ms. Ka'akua showed where development is possible and stated that LHKH doesn't know if there are cultural sites in there and if they

are not known there could be development there. The previous plans for tennis courts or a swimming pool paved over and even just recreation areas can still happen. They would have to piecemeal it around the cultural sites. That in and of itself in an area that is a wahi kapu is not appropriate. Chair Bonar stated that he didn't think that any of the Commission members disagree that LHKH would be the best steward here; we are just trying to address reality. We are being asked for eight or nine million dollars and we have to point some things out. Member Berg asked what the size of the matching funds of the program. Have the city and county allocated the funds? Ms. Ka'akua stated that the city and county had gone through this process with them already and they are going to have their ranking and funding recommendations on December 10th. We asked for equal amounts of funding \$325,000 from you and from them. I can't speak to whether we will get those funds or not. There is enough in that county pot of funds to fund us. Member Berg asked whether, at that moment, there were any other sources of funds. Ms. Ka'akua stated that no, LHKH and TPL has only applied to this commission and the county commission. Chair Bonar asked if there were more questions. Member Kaiwi asked is fee absolutely necessary to protect these spaces or can an easement be done. Ms. Ka'akua stated that fee is necessary because of the understanding of what type of resources are there; the control that an easement owner would have might not be the most appropriate.

Chair Bonar asked for those who would still like to testify for Hāwea to do so and to please keep the testimonies focused.

Emily Kirk a member of LHKH stated that she was on the natural resource cultural preservation committee. She asked for the commission's support in funding Hāwea Heiau. Things have come up that I just wish to address. One was the sense of urgency for Hāwea. For our kupuna, the sense of urgency has been going on for over one hundred years. To stand on the rubble of a heiau after it has been bulldozed really shakes you to the bone. We have been doing work there doing stewardship, but there is a sense of what LHKH do beyond East Oahu does. LHKH involved in federal investigation of the State Historical Preservation Division. We met with the federal government because we worked with other community groups on Kauai and the Big Island with field system problems like what is happening at Naue. We went outside of what we need to do because it's the responsibility and commitment to our kupuna. Not for a month not for a year but for generations. I am a product of stewardship. My mother is behind me and the work she has done with education and community, Auntie Laura Thompson is here. Fifty years from now I hope that somebody will see me as a kupuna that is responsible to my area. We look at Hāwea, its ipuka la'a makahiki. We are looking at 11th century, 13th, 14th century, part of the excitement of Hāwea is the revelation of information, we don't come in and say this is exactly what this place is because as we learn more what it does is that building of knowledge that connects us to our ancestors. Now, the drum Hāwea left our area and went to Kukaniloko in the 16th century and from there it went to there went to 'Alala Heiau in Lanikai. Physically, is it there today? No, but how do we know this we know this from our cultural advisors in our committee and the work we have done. David Kawika Parker is one of our cultural advisors; he is a kupuna, genealogist, and historian. Pulama Collier is on our cultural committee, he is a Hawaiian language speaker and a teacher and we have been going through Hawaiian language newspapers getting

information on Hāwea. This idea of revelation of what we are going to find there, the sad part of the destruction of Hāwea is that we lost key components that tell our story. But there is still so much there for us to find out. And the threat of development, development already happened there with the bulldozer in one day. In a few hours we wiped away a thousand years of history, something we will never get back. I have looked on the lands up in Hawi with archeologists and Dr. Michael Graves and just on those small little sites what was revealed about our ancestors, not our ali'i but the common people that's part of what Hāwea has, it is a Heiau complex. There is also the village site there. We often have stories about the ali'i but not the normal Hawaiians, the everyday Hawaiians, what their life was like, and that's what we have the opportunity to learn there. This is for Hawaiians, it is about all of us. I looked at that picture of Makea Napahi not just now but for fifty years from now, a hundred years from now. And when we create generational stewardship that's when we work with our high school students. We have students here today from Maryknoll we have students from Kaiser we have requests from so many people that already want to come and work. So if there is a sense of being sincere, or if we are going to be there? We are going to be there. We are not going away. I just think that all our sites are important throughout the islands. What Hāwea has can serve as a model of what a community group can do and how it can inspire other community groups and how it can serve as a model, and how it can show that community groups can work with a developer to have the luxury development but to still have the cultural site which to me is the oddest thing to go to Costco and five minutes away and walk back a thousand years, but not only that, to feel our kupuna there. They are the ones that are guiding us, through everything that has been done from Hāwea. People say: how have you done this, everything looks so different? I say I have no idea. All we are doing is following our instincts of what they are showing us, and kupuna like Gene Rasor and Kaleo Pike who continue to teach us. I am so excited about what's going to happen and what this is going to mean for our community so I do hope you will be able to support us, thank you.

Member Young asked Ms. Kirk about the drum that ended up in Lanikai. Mr. Kirk said that they ended up in 'Alala Heiau. Member Young asked if the drums still remained there. Ms. Kirk replied that it is not still. We don't know what happened to it. That came through the story of David Kawika Parker and his research. In more of his research he is saying that it might have later been moved to another park more down by Ka'a'awa, Kahuku side. It's so exciting to me its bits and pieces that Hāwea can give us. And what these bits and pieces can do, is be pieces of a puzzle and as we start putting that puzzle together we realize there is a larger piece. Koko Head and Koko Crater people call it Koko Crater its called Kohelepelepe which is a story of Pele and Kamapua'a. That story of Pele and Kamapua'a is really a metaphor between the Ulu and Nana-ulu clans and what they represent, and by that struggle we have, by the time Captain Cook comes, all the chiefs on every island their lineage goes back to Ulu or Nana-ulu. That is right there at Kohelepelepe and you see that from the platform of Hāwea. Hāwea was one of fifteen heiaus in Maunaloa. Although the physical heiau isn't still there, they are still there, their energy is still there. In Hāwea you can feel the ground shake when you go there. We have taken people there and they don't know what's happening to them. And I said, wow, this is our kupuna. And they felt that in that beginning part, when there was kiawe, when we were going through and trying to discover we all left feeling so tired and heavy and I

think it was because of what was done and some of the destruction that went on there. When we went in there and started to work the feeling is so different now. You still feel them but it is not that feeling of negativity. It is such a positive feeling and its all from Hāwea, it's from the kupuna there.

Chair Bonar asked if there were further questions and confirmed with Member Young that the site visit report would take place after the remaining testimony.

Laura Thompson stated that she is grateful for all that the Commission does. She stated that she feels that the Legacy Land Conservation Program is one of the most important things that Hawai'i has. As far as the site is concerned, it's that one place in dirty, dusty, loud Hawaii Kai that a person can watch a bird go into a pond and sit under a coconut tree and just be close to nature for a tiny, tiny bit. And I think that is important to all of us.

Chair Bonar thanked Ms. Thompson for her comments.

Ron Walker testified that he is a wildlife biologist, retired from the State Division of Forestry and Wildlife and the U.S. Fish and Wildlife service. He stated that he is now a full-time volunteer for a number of conservation organizations including the Hawaii Audubon Society. In June of this year I was invited by the Hale Ali'i Development, LLC, now called Hale Ka Lae, to serve on the advisory council formed by the organization which is intended to support the preservation of the cultural and wetland areas around Hawaii Kai Drive. My role was to advise on the protection and improvement of Keawaawa Wetland as a habitat for the endangered common moorhen or 'Alae 'Ula. In the past, before the development of Hawaii Kai, Kuapa Pond was a major wetland area supporting hundreds of migratory water fowl and shore birds including the moorhen, the Hawaiian stilt, the aiea, the coot and the duck. The wetland is just a fragment of Kuapa Pond. As you saw on the map the wetlands were very expensive and although not as studied and extensively as they are nowadays obviously it supported a large number of birds and other wildlife. So the wetland is just a fragment of that but represents an important wildlife area that should be protected in perpetuity. Much needs to be done to maximize the value of the site to endangered water birds including removal of most of the trees and ridding the area of non-native invasive plants, planting native vegetation and renovating the illegal fill area. Member Shallenberger asked the question about mitigation and there was just a fine involved in that. I raised that question why not mitigation, why not restore the wetland at their cost, and I cant answer why that didn't occur. It is possible that many of the native birds once associated with Kuapa Pond will return with these improvements. With the provision of minimally invasive interpretive facilities, viewing platforms, trails or kiosks, this would be added value for community environmental education opportunities. Over the years on the Big Island and over the years in different places I have dealt with developers, this is off the top of my head. I work with Ka'upulehu and the Kona Village management developer about what to do with the wetland down there and I said it should not be a pond in the middle of the development but should be adjacent to it and could afford some benefit to the development as an attribute and attraction to people who might want to buy a condo or investments in that

area. I have always supported that over the years, to point out to a developer that there could be a financial advantage to attract customers for a wetland or a wildlife area that was very attractive but adjacent to it and well-protected by the government. This is a case-in-point here in Hawaii Kai because I believe it will not be a negative thing for the developer or the community, but be a very positive thing for both the community and the developer. Hawaii Audubon Society is well aware of this project and they are supportive of it and I also recommend your favorable action.

Chair Bonar asked for questions. Member Berg stated that it seemed there have been a couple of moorhens living there which indicates there is probably a lot of pressure from cats and dogs and everything else but there is very little fledgling success there. I didn't see in proposal anything about how LHKH would really afford real protection for the birds except for the islets, they had mentioned making nesting islands. When you are in the middle of an urban setting with a huge number of dogs and cats, it doesn't seem like it has much chance of being a successful wetland bird habitat. And I say this not saying that we shouldn't do it, I am in favor of it, rather just to point out that in their management plans that this is maybe one of the major threats. What it may require is something that we don't like to see in a cultural standpoint – fencing off the wetlands to keep the dogs out. With my own work on Kauai at Kilauea Point, cats are real problem. The chances of major improvement in wildlife habitat in the middle of the city, this is a daunting task. Whereas it may be a part of the wetland restoration goal, it really shouldn't be the major goal because I don't think you will have an increase. The cats and dogs are one thing but then you have the West Nile Virus and all the other things that happen there. I see having you involved is a great thing because of your expertise to try and really afford the greatest protection for the birds for breeding successfully.

Mr. Walker responded that it takes a well-developed management plan. Acquiring a property is one thing, managing it is another. Predator control can be handled through some extent with fences which for some extent can be hidden with native vegetation so they are not visually bad but it takes an active predator control program. I do that a lot in other programs, I have been working in the wetlands for over fifty years. I had one over on the windward side of Kawainui, and at Kaelepulu there is another one we do active predator control, mostly rats and mongoose. Cats and dogs are another ballgame, which is the fencing part of it. Kaelepulu has a moat around the wetland. It's going to take and investment in time and money, and this has to be considered when taking over this place.

Member Berg stated that he did not get, from the proposal, the severity of the problem a bird habitat in the middle of an urban area, it had not been given the weight that it needs. I am very pleased to hear that you are involved with it because that in itself shows that they have addressed this.

Mr. Walker responded that as another example, at Na Pohaku o Hauwahine, which is another area of Hawaiian importance on the windward side, we are converting alien plants to native plants adjacent to a wetland in which twice a month I go down to do rat control. We have had 'alae 'ula that have been producing there every year; we have had up to nine of them there. Again, that is another example of an archeological Hawaiian

historic area adjacent to a wetland area very much parallel to this project that has work successfully. In terms of whether the volunteer core from Hawaii Kai from that whole district be enough to do anything in there without doing any major expenditure of funding, I point to this project because I have been working there for ten years and much of the area has been converted from alien plants and trees to native Hawaiian dry land vegetation, the wetland has increased from an eighth of an acre to almost a half acre. It is a demonstration area only and to some extent the Keawaawa wetland will be that too, a demonstration area. That's why I brought up the education aspects of it, it's important for that. In the long-term as far as the survival of the 'alae 'ula in the statewide basis it's probably pretty minor, everyone would agree with that.

Member Berg asked if Mr. Walker had any recent data on the size of the 'alae 'ula population. I know that they do the annual water bird counts, but I did not get a response from them. The numbers we have are from five years ago. Mr. Walker estimated the population between three and five hundred. The 'alae 'ula is a very secretive bird in most cases regardless of the fact that they brought the babies up on the lawn of the Oahu Club the other day. They are very difficult to numerate. In the old days we were counting 'alae 'ula by sound and even then if they are not sounding off you don't know how many there are. They are an Endangered Species and even though this is a small area you take all of these small areas that have half a dozen 'alae 'ula together that's important to the recovery of the species.

Ms. Ka'akua asked if she could make a follow-up statement to Mr. Walker's testimony. Mr. Walker has stated that he thought developer should pay for restoration of the wetland. The developer has said that he will be contributing a large portion from the proceeds from the sale to reinvest it back into the wetland restoration. Because realistically it will take money and it will take time and effort and what better person than the developer to reinvest. That is one funding source that will probably be very significant.

Mardi LaPrade introduced herself as a teacher for elementary school and a member of LHKH's natural resource preservation committee on the wetland project. I am currently working on the Keawaawa Wetland. This wetland extends along Hawaii Kai Drive its home currently to anywhere between three and nine birds. I have been photographing them since 2006 and I brought a picture of our most recent babies. They have chicks at least twice a year and I have seen from one to sometimes five. After our last clean up a couple of months ago we removed a large pile of palm fronds that has been allowed to build up and there were some mongoose in there. Last time we had a baby we only had one, now we have three so even with a little clean up we are seeing great improvement. When we first started talking about the possibility of restoring this I called up Rick Barboza and he said he did a wetland restoration in Waimanalo and they first had zero 'alae 'ula and after the cleanup and restoration they had eighteen. So our conservation plan with NCRS is very focused on survival of the bird. As Mr. Walker said every little pocket of wetland is important for genetic diversity and survival of the species. So I think we can see a great deal of success especially because our conservation plan calls for planting native plants that which will attract more insects and will provide more food

rather than just grass. The purchase of the land containing approximately half of the wetland will enable us to work with the Oahu Club and restore this wetland as one continuous wetland under the guidance of NCRS. It is our goal to maximize the 'alaie 'ula population in the wetland and give these birds a fighting chance. We have a dedicated group that recognizes the potential for not only helping the Hawaiian moorhen but for community enjoyment of the area and its educational value. Students of all ages would be able to participate in studies of topics ranging from wetlands, natural systems, hydrology, archeology, history and of course Hawaiian culture. The unique value of this property is unequaled and truly unique. For the sake of doing what is right I implore you to grant our petition for funding and make the purchase of Hāwea Heiau and Keawaawa Wetland possible. I also want to share that I had the idea of writing a little letter and asking my coworkers to sign so yesterday I was able to get this stack of letters, and one of my coworkers asked if her daughter had talked to me. Her daughter had a petition going signed by all her friends. I know I couldn't share it without parental permission but that's my dream come true, for my students to take on conservation as something they are interested in and excited about.

Chair Bonar asked if there are any other questions. There were none. He asked if there were other testifiers. Jean Rasor stated that he will keep his testimony short because his testimony tied into Kaiholena as well as Hāwea. He introduced himself as from Kahu O Kahiko, a 501c3 nonprofit, and Royal Order of Gaurds, and a makua kana lineal descendant for both of these two properties, to some degree. When Kamehameha left Oahu to go back to Moku o Keawe in 1740 after he unified Oahu, the chief steward in charge of the Island of Oahu name was Kuaihelani and the lands of Maunalua which originally was from the edge of Hahaione to Kaiwa Ridge, the Kailua end of Waimanalo; those were the lands of Kuaihelani. On the next agenda item, Kaiholena, you will see on the mahele award at the bottom that Kuaihelani is called Pua's kaikaina. The kahea went out a couple of years ago. For some reason I was tasked to be there for both of them. Chair Bonar asked if there were any questions. There were none.

Ivan LaPrade, youth outreach coordinator for LHKH's wetland projects, testified; I recently spoke about this on the Olelo Show *Word With Ward*. I also managed LHKH's information booth at the forth of July at Maunalua Bay this past summer. According to the 2005 FWS count there were fewer then 300 'alaie 'ula in the world, found on Oahu and Kauai. Chair Bonar informed Mr. LaPrade that the 'alaie 'ula was also found on Maui. The 'alaie 'ula is the most endangered wetland bird in Hawaii and yet at the Keawaawa wetland they do come right up to you and are easy to see. Without the preservation of wetlands like Keawaawa wetland these birds, known in Hawaiian legends for bringing fire to the people, may one day become legends in reality as well. As I have grown up I have seen many generations of these birds grow up and I would like to see my children, my children's children, and their children watch these wonderful birds grow up. How would it look if they went extinct and my grandchildren asked me about them and I said I tried to save them but I couldn't. How would it feel if your grandchildren asked you about these birds and you said I turned down funding. This is a worthwhile project and its worthy of your funding. Chair Bonar asked if there were any questions. There were none.

Greg Knudsen Chair of the Hawai'i Kai Neighborhood Board stated that he had submitted written testimony. He wished to reiterate what was written and said that the Board did take a position in October supporting this project feeling it's a very welcome way to solve a lot of issues we have discussed over a number of years. We have seen the development of what had been Hale Ali'i and had great concerns over that adjoining property which was part of the whole project. The last development plans that we had seen said that it was being protected but we were seeing swimming pools and putting greens, little cabanas, paved paths, pretty densely used and for exclusive use of the Hale Ali'i residents. It really was cutting off public access. It wasn't being as attentive to all the cultural sites and to the wetlands as we had hoped it could be. It had identified a few cultural sites but a thorough examination of the entire site had not been conducted and we felt that more was necessary. There were some other sites on the property that were quite visible and whether or not historically significant is to be determined by those who really assess the actual value of that but they are certainly of historical interest; an old well, ancient groves, means of an ancient fishing village are still visible, so there are a lot of interesting sites within that urban setting that would be of great value if it could be preserved and perpetuated throughout the days so the folks of Hawaii Kai and the state could continue to enjoy that. We did see when ground was broken at Hale Ali'i that there were immediately violations of both the cultural sites and the wetlands and this presents a much more viable situation to the situation. We know that the TPL is interested in preserving and perpetuating the land. We know that LHKH has been fighting for this kind of protection of the land for a number of years so we feel very confident that this is the route to take and it can only really happen with your support. We very much appreciate your support of this application. Chair Bonar asked if there were any questions. There were none.

Chair Bonar asked if there was any other public testimony. Jim Dittmar stated that he submitted testimony already and what his wife had already said automatically covers how he feels. Chair Bonar thanks Mr. Dittmar and asks for other comments. There are none.

Chair Bonar asked Members Young and Nui to present their report from the site visit. Member young stated that they visited site on November 10th. Members Young, Nui and Fletcher were joined by two members from the City Clean Water and Natural Lands Commission who were also site visiting and ran into some NRCS people as well. This is a five acre undeveloped parcel in Hawaii Kai. The area was known as Maunalua before it became widely developed as Hawaii Kai. It's bordered by Hawaii Kai Drive, the Oahu Club, upscale residences and an empty lot destined to become developed into more residential units. The short history is that in the 1950's Kaiser looked down upon this area and its natural pond of 520 acres, which was the largest fishpond in Hawaii and decided to develop it. So the wetland and fishpond as I understood it was completely filled except for five acres. It was said at the site visit that he had in his mind to also make a park although that was never followed through. About four or six years ago LHKH began to steward it and use it for cultural practices while researching its history. A member did research and found that it was still deeded as a park. Since then LHKH has been involved in its restoration starting with the wetland on the Oahu Club side. We heard expert

testimony regarding the importance of wetlands itself as well as for the protection of native wildlife, the plan is to remove the invasive and restore native plant life. We did see the 'alae 'ula with their chicks. We were informed of what's gone on before and what's happening now. We saw evidence of the bulldozing such that in my view the wetland didn't even resemble one on the parcel side. It was shocking to see the one on the Oahu Club side and then see the one on the subject parcel. We also got to experience the Hāwea Heiau complex and saw petroglyphs. We visited the ancient coconut grove, the natural spring and multiple other cultural sites. The cultural practitioner who was there talked to us about the whole parcel being of spiritual significance rather than piecemeal. I found the applicant to be an energetic, vibrant and committed group, which has members of a variety of expertise which I think strengthens the group and they also have strong participating partners as listed in their application. They have already started a plan of restoration as described in the application including increasing active cultural practices, despite opposition. They also plan to open the property for appropriate public access. We went through the past ownership and the contention and the struggles but fortunately the current owner is willing to sell the five acre parcel and develop the remaining three acres. I think it was a good thing that the park wasn't developed by previous owners because now it is ready to do appropriately. During our site visit the appraisal had not been done but it is done today. My impression was that if the matching funds are met, that this is a very excellent acquisition with an applicant who has demonstrated a very strong level of commitment already.

Chair Bonar asked if Member Kaiwi had any comments to add. Member Kaiwi clarified that the report was a part of the minutes and each of the Commission members had to approve of those minutes so he echoes those sentiments. I wanted to clarify some perceptions and he is glad that everyone had a chance to voice their mana'o because a few gems came out of this presentation. Let me back up first. Going to the heiau, the only word that came to my mind was disgusting. It was disgusting that damage to that level was done. It was so disgusting that I could go no further into the Heiau. I sympathize and I understand what a detriment it was. As a Kaiwi of the coastline I think you can understand my connection to the eastside; I grew up in Waimanalo after that after that Kamiloiki and now Kuliouou. I am very close to this area, very close to Paha. I like the mana'o that the developer should restore to a large degree, the damage done to the wetlands. In addition he should also restore the damage to the heiau in the capacity the LHKH sees fit. I love and I needed to tease it out the urgency issue because the urgency is not defined by the development. The urgency is defined by the nohona Hawai'i, the practice of what it is and the restoration of that practice. Its general matters are secondary, tertiary, to urgency so I'm glad that it was teased out.

Chair Bonar asked if there were any questions or comments about the site visit. He asked for clarification of the comment made by Member Young stating "despite opposition". Member Young clarified that what she had heard from the people that were there was that when they were there practicing their cultural work they had been confronted with police and being threatened and so forth. I felt that they had gone through struggles to just have access, I thought that showed a lot of strength on their part, to continue and keep going. Chair Bonar asked members of LHKH who called the police. Ms. Kirk informed the

Commission that because of what was happening at Hāwea they put a kahea out for a ceremonial drumming at Hāwea. Within a week that kahea went around the world. We were drumming at Hāwea at six pm and the developer that called the police on us was the same developer that sent me three or four letters telling me that I was going to get sued. Chair Bonar asked if it was the current developer. Ms. Kirk answered no, it was the previous developer. Chair Bonar explained that the comment he had made earlier about people being the problem addresses this exactly. Those are the challenges we all face. Ms. Kirk answered that while those are the challenges we have the responsibility to have this and educate others. Ms. Reilly added that when we got letters that they were about to sue us we took a strong look at it and decided that these folks needed education and that was the roll that we decided to take. One we needed to step it up in friendship and two we have to get them to the table and make friends. Let them know the jewel that they have there. That's what we did. Of course we got an attorney to take a look at the letters but we said pause and we said lets do these three things; Lets welcome them to the table, lets give them an education and lets inspire them as to what they really have. So it was a part of this entire journey was to take that ugliness and give it a three-sixty spin. Chair Bonar stated that coming from experience of dealing with very similar issues is particularly if you are going to have high-end condos next door, how happy you're going to be if you have drumming practice all the time. But what you just said was the ways to minimize conflict. Member Young commented that she really appreciated the album of photos from the past because it gave you a connection somehow. Ms. Reilly stated that the photo album was provided by a cousin organization called Maunalua Fishpond and Heritage Center. It was made by Chris Cramer and he may still come today. Chair Bonar thanked all for bringing their mana'o and their insights and called a ten minute recess.

Chair Bonar called the meeting to order. He asked for the applicant for Kaiholena to present.

Mr. Van Bergen asked if the Commission had received the amendment to the grant amount Kaiholena was asking for. Chair Bonar confirmed that it had been received. Ken Van Bergen property manager for the county of Hawaii introduced himself. We wanted to start off by thanking you for approving funding for another project we were working on Pao'o we closed around three weeks ago it is now a part of county open space project. Today we are here to talk about Kaiholena in North Kohala. This is part of our Open Space Program on the Big Island. Two percent of all property tax goes into a fund and we are allowed to use that fund for different open space acquisitions. Some of the things that apply to that are; public outdoor recreation and education, including access to beaches and mountains, preservation of historically important cultural areas and sights, protection of natural resources including retro zones, preservation of forest, beaches, coastal areas, natural beauty and agricultural lands, protection of watershed lands to preserve water quality and water supply, those are the categories we can use our funds for. Two properties we have already closed on with the help of the Legacy Land Conservation Program are Kawa and 234 acres in Ka'u, the south part of the Big Island. As I mentioned we just closed on Pao'o which is very near the property we are talking about today. Kohala is very rich in archeological sites and history and it is a very special place and that is why we have so much of our open space activity in Kohala. We closed

on the two adjacent properties to the parcels we are applying to today. We own the coastline surrounding the property we are talking about today, around 3000 square feet. We amended our application which originally included all three parcels to only two, mostly for financial reasons. We are not giving up on the third parcel but are trying to acquire what we can. The appraised value for the lots is \$4,595,000 for the two lots, parcels 21 and 22. We are asking for \$1.65 million and our commitment would be \$2.945 million. We lowered our asking amount significantly. Right now we have about three and a half million in our open space fund so theoretically if we were to go get the funds today we could close soon.

Member Young asked for clarification of which parcels were to be acquired because the map showed three parcels. Mr. Van Bergen clarified that the third parcel was an access parcel created when the lots were going to be divided into a subdivision.

Member Shallenberger clarified that the sliver of land that follows the coastline, County of Hawaii acquired when they bought the parcels to the north, is the conservation zone portion but the parcels that they are trying to acquire are agricultural zoned. Mr. Van Bergen confirmed and asked if there were any questions on finances. Chair Bonar stated that in the original application it had showed that the County of Hawaii had allocated \$1.6 or so, is there currently County approval of the allocation of the \$2.945? Mr. Van Bergen confirmed and explained that resolutions to buy these properties were written several years ago. Chair Bonar asked if the resolution was written with specific expenditures for each property. Mr. Van Bergen stated that there was not. Chair Bonar asked is there a committed amount of money is there a match for absolute sure. Mr. Van Bergen confirmed and explained that in the fund right now there is \$3.5 million but that money isn't earmarked for Kaiholena south specifically. Chair Bonar asked if this would be a problem as there were six other properties looking for county funding. Mr. Van Bergen answered that it would not be a problem because Kaiholena South was second on the priority list and the first is probably not going to close because of problems with the title.

Member Canfield asked if the \$2.9 million is for more then just the two parcels. Mr. Van Bergen answered that \$4.95 million is the price for the two properties. Member Canfield responded that in looking at county match that is what you will apply to the two properties. Mr. Van Bergen confirmed.

Ms. Byrne stated that there was more then that in the two percent fund now. Chair Bonar clarified that what he was asking was if there was a promise for the \$2.945 to go to this if we award. Mr. Van Bergen responded that if the money is spent tomorrow we have more money coming in, in July, and so this property will be a priority because even in the charter it talks about if we have matching funds we become a priority and you give us two years to spend the money so the promise is real strong. If we are awarded this we will be awarded open space funds. Member Shallenberger stated that, conceivably, if Kawa got cleaned up you could buy Kawa and not have enough money to buy this until July. Mr. Van Bergen confirmed. Chair Bonar stated that as he recalls the charter amendment stated that there is one percent is going to go from here on out. Mr. Van

Bergen clarified that what the charter amendment did was make it so they can no longer go to zero. It is still two percent but in the future if we have financial restraints or the budget gets tight again they can only take it to one percent, they cannot take it to zero so we will always have something coming in.

Member Young stated that she had a question about the appraisal. She continued that in the initial report there was not an appraisal for parcel 25. She asked if this was because it was so small. Mr. Van Bergen answered that it is included. Chair Bonar asked if the appraisal was within the last year. Mr. Van Bergen answered that it was.

Mr. Van Bergen reiterated that Kaiholena is high on the open space priority list because there was a resolution passed in June for us to go out acquire these properties. The North Kohala Development Plan is driving this as well and immense community support. North Kohala has by far the most active, educated, on it community group I have seen in this kind of project. A couple are here today, but there is a whole army of them. There is a whole army actually which makes our job stewarding this property a whole bunch easier because there have been a lot of community involvement, they helped with the application and are very involved. Kaiholena has the highest concentration of intact pre-contact archeological and cultural sites in the state, 40-plus years of community preservation and commitments of stewardship partnerships. The site is not just for one thing there are already hiking trails there are jeep trails people do go there now and enjoy the open space of it, the coastline is beautiful, it is extremely cultural. There are many uses for this land and it strategic in our goal of securing the whole North Kohala Coast for open space and for our future descendents.

Member Young stated that as a minor correction that on page five of the application, recreational was not checked off although that is one of it uses. Mr. Van Bergen said that it is being used now as recreational and shouldn't stop once we acquire the land. Member Young pointed out that agriculture was also not checked off even though it says it is zoned for agriculture. Mr. Van Bergen explained that a lot of the big island is zoned for agriculture but that doesn't mean that it is used for it. Member Young asked if that means that they would have to go through a zoning change to make it non agricultural. Mr. Van Bergen explained that it is zoned agricultural but there is no reason to change that since they are not planning to develop the land.

Member Canfield asked about the option for purchase that was supposed to be happening in November. Mr. Van Bergen said that it hasn't happened but they are working on it and stated that a lot of it depends on the Commission's decision.

Member Shallenberger asked if Mr. Van Bergen could give any indication from owners that if they wanted to buy the two lots that they wouldn't develop the third one. Mr. Van Bergen answered that the owner had had a buyer that was very committed to buying that property that pulled out when in escrow and the owner told me directly that they want to sell to the county. We did not have the funds at the time \$6.9 million was the appraisal on all three lots. The owner has told me that if we buy these two the owner will try to work with us on the third.

Member Berg asked what the decision process was on picking these two lots versus the third lot and would you want to suddenly change if there was a buyer for the third lot. Mr. Van Bergen answered that the idea was to keep a continuous flow of properties. Our feeling is that there isn't a huge threat of them selling that lot on this market but, yes, we could amend our application and buy those two lots 21 and 23 if threat came up. We could revise our funds because we have a resolution to buy all three. Member Berg clarified that county's open spaces program is limited by what the Commission approves. And asks again in the decision process when they took it from three lots to two lots did you prioritize those two lots for some particular reason. Mr. Van Bergen answered because they were continuous. Member Berg asked if the third parcel was contiguous. Member Shallenberger replied that it was contiguous to the second two not to the lots that Open Spaces had already acquired. Ms. Byrne stated that county's open spaces program felt that the biggest threat would be to the middle lot because there is a potential buyer still trying to actively pursue that lot because it has more buildable space on it. And they don't need to go back for permits, only minor building permits. Fortunately the landowner was willing to wait but that was part of the reason as well.

Member Berg asked if the county's open spaces program had significantly less than the \$1.6 million to work with would they go for the one lot. Mr. Van Bergen answered that that wasn't their goal but to answer your question we would take what we can get so yes. Our goal is to acquire all three parcels, right now it is really in our favor because we have a willing owner who is willing to work with us. There have been several properties that we have gotten resolutions for but the owner didn't want to sell to us so it just dies. Our goal is to acquire as many as possible. We would like to buy two at least if we can.

Member Young stated that county's open spaces program had in the application, in section 3f where it says the county tax assessed value; it is marked not applicable and asked why that would be. Mr. Van Bergen answered that he was not sure but there was an assessed value. The appraisal is really important by law we can't go over that.

Chair Bonar informed Toni Withington that the Commission had already been through the application and asked him if he could focus on an update and quick summary.

Ms. Withington from Kamakani 'O Kohala 'Ohana stated that she was the representative of the six communities from North Kohala that have nominated these parcels to the county for purchase. She also works with the North Kohala Community Development Plan Action Committee (NKCDP) and other various community groups that work with trying to preserve our coastal areas. As far as an archeological and cultural site this land is surrounded on both sides by state land. From Kawaihae to Mahukona is a string of incredibly important jewel-like historic sites. Kaiholena is two ahupua'a; it is a singular piece that has been since the Great Mahele treated as a singular piece. Mr. Sinoto, when he did his review of it, said that this is a culturally high, intellectually high settlement. On or near the land of Kaiholena there were three villages; Lamaloloa, Kaiholena in the middle and Kahena on the south. What is significant between this parcel and Lapakahi state park which is just north of this, is that these parcels have been noted to be of

exceptional quality because they are large, because they are high concentration of ahu, platforms of shrines. There are 45 ahu here there are 19 platforms; there is enormous number of C-enclosures and other things that could have been maintained for spiritual uses. They are connected to the village but they are also connected to the cultural history of the Kamehameha era and the prior to that. There is a social ranking that happens in this situation and what happened with Kaiholena was as soon as Kamehameha era was gone the migration of population out of here happened, so that these sites are actually almost all pre-contact sites. The sites at Lapakahi Park have had been amended and have been changed since that time and even though they are historic the sites through Kaiholena are particularly pristine in the sense of being pre-contact. The cultural significance of the land was traded after the first great Mahele to two very important chiefs connected to Kamehameha traded land for Kaiholena. All the land at Kualoa, on windward Oahu where the ali'i were, was traded for Kaiholena one and Kaiholena two was granted to a very intimately close member of the entourage of King Kamehameha, he traded the lands down by Kamakahonu where Kamehameha was living when he was ruling the islands in Kailua-Kona. Chief Kaopua was a personal guardian of Ka'ahumanu, a guardian of hers, his line of decedents were in charge of carrying the malo for King Kamehameha. It is a mystery to everyone why they would trade important lands like Kualoa and the main part of Kailua town for Kaiholena. Kamakahonu was related to the one who raised Kamehameha and his family was entrusted with taking care of Oahu. The sites are in really good condition. Communities have done stewardship and protected the rock walls from being intruded by kiawe.

Member Shallenberger asked about the white pipe that could be seen in a picture of the site. Ms. Withington answered that the white markers are the protection zones that the archeologist put in place. Most of these sites are part of a complex in fact there is about 35 complexes. The archeologist that worked for the owner marked areas he thought needed preservation. Unfortunately he rated it for preservation only after the work was done and was bulldozed. This is what makes the people of Kohala very strong about defending this land because the integrity of all these pieces is important to the whole. We have a history not only do we have a history that spans seven hundred years but we also have a history that shows the cultural set up of the Hawaiian people that was in place before outsiders came. These sights are so important for our children, they are so important for us to study more. I have been working on coastal preservation in Kohala for thirty years this land was at one time going to be developed into a resort; 5,000 hotel rooms, 3,200 condominiums, and 500 houses, 29,000 square feet of commercial land was to be put here. It was only thought the strong opposition and the work and long time efforts of the Kohala people that this land is in the condition it is. The NKCDP told the county exactly what it wanted to see in the future, it is an adjunct to our plan it was adopted unanimously by the steering committee, unanimously buy county council and is now law. It calls for public purchase of this land; it also puts public access to for the entire coastline as one of the highest priorities of community work. As a result every weekend we have people going to sites in the entire coastline. People have committed to going and helping to clearing up the land and keeping the trails. The County Council has had two resolutions to buy this property. It is the only one that has had two resolutions in its favor. The County Council is sick of it because the people of Kohala all come up and

testify about how this land is so important to their hearts and to their future and the future of their children. There nine community groups that are committed to do stewardship on this project. They are all working with the National Park Service on the Ala Kahakai, they have given us a lot of resources especially in ahupua'a stewardship. We are training our children in middle and high school on how to be good stewards of the land

Mr. Van Bergen concluded the presentation for Kaiholena by reiterating that Kaiholena is a very rich place with educational, historical, archeological significance. The county's open space program works, though I can not promise you that we would get the matching funds tomorrow this property has been through resolution twice and is a high priority.

Chair Bonar asked if the Commission had any questions. Member Young said that she had a comment about the appraisal. The appraiser says that he based his appraisal on highest and best use which he calls estate type/rural residential use. That was his assessment even though your description of the land around it is not developed. In other words he claimed that he made a site visit along with you however his assessment is that because the surrounding land is being used for estate type, rural residential use he's basing his appraisal on that. My question is: what is this referring to?

Mr. Van Bergen answered that when we hire appraisers typically they do a highest and best use appraisal because we have a reasonable price that the owners are willing to sell to us. Highest and best use includes zoning and surrounding areas. The property is zoned Agricultural 5 so theoretically you can build one home for every five acres and his appraisal reflects that. That is what you could do with it; that is not what we are doing with it, but the appraisal has to take that into account. Member Young stated that the appraisal reads as if he actually saw a developed area. Chair Bonar stated that highest and best use appraisals are required. Member Young clarified that she is aware of that but the appraisal is written as if that is what the appraiser sees from the property. Chair Bonar stated that he thought Member Young was misinterpreting the report. Ms. Byrne said the fact of the matter is that there could be luxury homes there within six months. Building permits only take six weeks now; there are no other permits required or public hearing process.

Member Shallenberger stated that in the application it was indicated that the property was not in a special management area but we agreed it was. Mr. Van Bergen clarified that portions of it are. Member Shallenberger questioned this assessment as the boundary is the highway and that is also the boundary of the property. Ms. Byrne answered it is labeled as a minor special management area; if it is labeled major you have to go through a much more extensive process. To build on a minor area is really not an issue.

Mr. Van Bergen further clarified that there is State land on either side of them and they own the other three parcels and there are no houses there. The appraiser is not sitting there looking at houses. He asked where the next house on the coast was. Ms. Byrne answered that it was 9 miles going north and seven miles going south.

Member Kaiwi informed Chair Bonar that he had a comment. Chair Bonar asked him to continue. Member Kaiwi commented that the county open space program said that the priority was open space and natural resource. Mr. Van Bergen confirmed. Member Kaiwi continued stating that they also said that the area has the highest concentration of cultural sites in the State. Mr. Van Bergen confirmed. Member Kaiwi asked why priorities don't address cultural resource management. This has been a question for that whole corridor; it has always remained an open space and natural resource, I agree with the findings that yes indeed these are probably the largest concentration of pre-contact sites and I will follow up with that saying sometimes the human impact due to human folly and recreation doesn't coincide with pure concentration of pre-contact sites so I am confused when you say we are going to have recreation where the dominance of the presentation had to do with Hawaiian cultural sites. You talk about community advocacy and the potency of that advocacy but when you do get into your management will the city and county be willing to allow the descending of cultural practitioners or community groups to decide on the kapu and access of these pre-contact sites.

Mr. Van Bergen stated that he is not the person to answer that question. Ms. Withington stated that she would like to attempt to answer it. There are six groups that nominated this land to the county. Three of the groups are Native Hawaiian groups whose focus is cultural and historic preservation. They are all very active in working with stewardship projects that deal with ahupua'a rights and native practitioners. It has been strong part of the preservation of this area since the beginning. As far as access to it goes, the Commissioners who went down there will tell you about how easy it is to get there. It is not easy. Most of the people that go down are almost all Kohala people who use the place well, clean up after themselves and respect the site. I can't say for the future but what I do know is that we have three groups with cultural preservation as their main thing involved in the stewardship. Mr. Van Bergen added that for similar properties like Kawa the county spent a lot of money on the management plan and an extensive community outreach, talked to local community groups and part of their plan was protecting the various areas. I imagine we will do something similar. I am fairly certain there will be a well thought-out plan.

Member Kaiwi asked if the community groups had a management plan. Ms. Byrne responded in terms of immediate management, passive management is fine. There are people that use it regularly and care for it. There isn't a dichotomy of recreational and cultural uses; they often go hand and hand. Down the line I imagine that funds will be available for a more structured management plan. Right now there are groups that are highly protective of those sites. There is an incredible sense of urgency, there is an idea of how to protect the sites and people are actively on the ground now.

Mr. Rasor stated that two years ago he was called to come see Kaiholena. On his way he picked up a real estate magazine and saw Kaiholena. They wanted \$6.7 million for it. I looked at it and I asked why are they calling? What am I supposed to do? When I got back to Oahu, Gail Byrne called me and said that the Hawaii County Council was having a meeting in Keauhou and asked me to come. That's when I first got seriously involved. A lot of things have happened since that time, maybe people don't go into that world but

I think you understand what I mean. It's not a choice, it's your kuleana, they are asking you to do something and you do it. A month and a half ago I was told that the other parcels had been purchased but there was still one more. Three days after that at the Hawaii Kai Neighborhood Board meeting was on Hāwea. As far as culture is concerned the land is pristine. If it was anywhere on Oahu there would be beer cans and opala everywhere, but it is absolutely spotless. The community is committed.

Chair Bonar stated that the question is not what the community commitment is, but the county's. My follow up with this is what will the county put up financially to take care of this? Mr. Rasor stated that the county may purchase the land but the lineal descendents do have a lot to say, a lot more than people think. Chair Bonar responded that depending on the county the process can be easy or hard.

Ms. Byrne stated we are fortunate because we have a county that listens right now and a mayor that does as well. The concerns of the Commission are very important.

Chair Bonar commented that the Commission is looking a hundred years ahead. He asked whether, since our counties are always trying to take land, there is a fanatical commitment on the county side for infrastructure, or are they going to expect the communities to do that. Mr. Van Bergen answered that every property is different, what the county has done with what we have already acquired, Kawa, has all has been passive management. Our goal with the acquisition is preservation initially and by acquiring those lands it has been accomplished. I can't guarantee how much will be put into the land. I don't see us putting dense amenities on there.

Member Berg asked if county open space monies be used for anything other than the purchase of the land. Mr. Van Bergen answered that it can be used for escrow fees, appraisals, things that lead up to or have to do with the purchase but they can not be used for management.

Member Berg asked if there was going to be development of a management plan after acquisition if so what moneys would be used? Mr. Van Bergen responded we can use moneys but not these moneys. These moneys are for the acquisition of open space land and preservation. Chair Bonar stated that part of the Commissions' assessment is stewardship. We are comfortable with the community part of that but what we think of 20, 50, or 100 years from now that concerns us.

Member Richards pointed out that Kohala is unique when compared to other parts of the State. Now is time to get the land while the people in the community that are ready to do a lot of this and pick up the responsibility of keeping it nice. The Kahua Ranch has a small piece down there and we got so sick of the beer cans so we fenced it. This has been picked up by the people in Kohala and they have been doing the policing on these other areas. I think that anyone who tries to do otherwise is going to have a hard time because the local guys are going to make sure that it is kept very clean. But the local people must figure they got to keep it clean at least they are starting from clean and not from someplace on Oahu that has already been trashed. People will keep it up. I started

working for Kahua Ranch in 1953, been there over 50 years and I have seen what has happened.

Member Kaiwi asked what would happen in the event that the community starts a non profit. Ms. Withington clarified that of the six community groups three are 501c3's. To answer your question about management plans on of the ways that the National Park Service is poised to help us is that they have a memorandum of understanding between the county and state and the federal government in terms of dealing funding and management plans, providing information on the Ala Kahakai which goes from all the way in the west side up to Volcanoes park. They have come up with their general management plan but their management plan says that each group, area, district will have the get-go to do their own management plan. The county has two people in the planning department who work on public access, those people are always involved in our meetings. As far as management goes all the tools are available it's just a matter of getting the get-go.

Ms. Byrne said the Community Development Plan was done, a consultant did it. All of the maps that were done were donated by community groups, using GIS, there is a high level of sophistication and planning that is available that we will donate to the county.

Member Kaiwi clarified that his question was with all the input and work why not just turn the land over to them for ownership. Mr. Van Bergen asked if Member Kaiwi meant ownership or stewardship. Member Kaiwi answered both, if no resources are going to go toward it now, 5, 10, 15 years from now and the community is over there day in and day out, why not turn it over to them? Mr. Van Bergen answered because tax payer money paid for that you can't pick and choose who that's going to go to. Parks and Recreation does not have the money to manage, luckily for the county the community is a huge benefit.

Chair Bonar explained that what the Commission has seen around the country is that governments decide that they can't support lands and they will sell if off for development. I'm not talking about today or tomorrow I'm talking about a hundred years fifty years from now. Ms. Byrne suggested that the community could work with the county to impose deed restrictions. Chair Bonar agreed that deed restrictions would help. Member Young stated that on the other hand the secured funding is quite substantial and it is wonderful that the county does that. The first step is the acquisition. Mr. Van Bergen confirmed that the county is very committed to this area. They have already put \$6.5 million into properties surrounding it.

Chair Bonar asked if there were any other questions. There were none. Chair Bonar asked if there was other testimony about the project.

Sienna Byrne, from Waikoloa, testified she was 11 years old and in the 5th grade at Waikoloa School. It is important to save Kaiholena because kids need to learn from more than just books. I learned from Uncle Fred Cachola that Chief Nae'ole saved Kamehameha from the men who wanted to kill him and Chief Nae'ole's grandson is one

of the people who saved Kaiholena in the Great Mahele. If we don't have Kaiholena it would feel like having a house on a park, it just wouldn't feel the same. It should be saved because it has so much cultural value. Please save Kaiholena and Kauhola Point, thank you.

Chair Bonar asked if there were any questions or testimony. Ms. Withington asked if it would be alright for her to display some photos from Kaiholena during the lunch break. Chair Bonar confirmed. Member Young asked about the difficulty of going to the sites and asked if there was a trail. Chair Bonar asked Member Shallenberger if he would present on the site visit to Kaiholena.

Member Shallenberger stated that Member Richards, Member Fletcher and himself with several people from community visited the site. The road was very rough but it does deter but all the most serious fisherman, and picnickers. The reason that I asked you to point out that line from the conservation zone and the parcel is that most of the concentration is in that coastal strip, but there are also sites on the mauka side. There is a road that pretty much parallels the line between the conservation and agricultural zones we could see the parcel on the right to be acquired and the parcel and the left already acquired through that purchase of North Kaiholena. We talked a lot about community groups, if they lined up from Kawaihae I think they could make it to Upolu Point. There is a serious long-term commitment and I am looking forward to having them around for a while. I learned that the ali'i said that the protection of this coastal strip had to go to the horizon as opposed to the 200 yards most of the area has been designated. The most immediate threat is kiawe not humans. It is disturbing even for someone who doesn't have an understanding of the cultural significance of it, a big tree standing in the middle of a heiau. I would hope that the county or the community members would be willing to put the time in to deal with that problem.

Member Richards commented that the problem with the kiawe is the threat of fire. The conservation line is the jeep road, what they have insisted is that the mauka boundary of the jeep road is the conservation line. That was done because you cannot fix road without a permit. To cut kiawe posts in the conservation area, land we own, would require 5 permits. I agree that kiawe is wrecking that country, and no tears for the burned kiawe.

Chair Bonar asked for other comments, questions or testimony. He called a recess for half an hour to return at 1:15 p.m.

Chair Bonar resumed the meeting and asked for the Kauhola project to present next.

Laura Ka'akua from TPL presented on behalf of Kauhola. There were many in Kohala that wanted to testify but couldn't so an intern made a short video for the Commission. Ms. Ka'akua showed the video. The video showed the landowner and members of the Kohala community giving testimony via video. The landowner explains the urgency of buying Kauhola point.

Member Berg asked about the status of matching funds. Ms. Ka'akua answered that because the county fund has different projects such as Kaiholena, they don't have the funds that we need. TPL has gone to two potential private funders because of that. TPL is looking at back options. Member Berg asked if TPL had any funds secured. Ms. Ka'akua responded there are no funds secured. Member Shallenberger asked if TPL applied for funds or submitted an application. Ms. Ka'akua explained that TPL's original plan was to apply for the remainder of the ask from the county fund and when we took a closer look at how much is in the plan and the projects that they are prioritizing and funding we decided to apply for private funding instead. We have applied at this point to two funding sources and are looking to apply to two additional ones. Chair Bonar asked if the funding sources are foundations or private sources. Ms. Ka'akua responded that there are two individuals and two foundations.

Member Young asked if TPL had a current appraisal. Ms. Ka'akua responded that they did not have a current appraisal and the appraisal they submitted was from 2008.

Ms. Ka'akua continued her presentation with the updated she did have. The landowner originally gave TPL a deadline of October and then pushed that deadline to January 2011. This is a deadline to be able to have some funding secured for this project. We don't need to close before then but he and her husband need the security of knowing that we are on our way to receiving full funding on that project. If there is not funding by January 1st 2011 the property will be relisted. The landowners have a balloon mortgage payment coming up in June. If TPL is successful in being funded by this Commission we will continue to peruse private funding for the match and work with the landowner to find creative ways to extend that time period to allow us to close by 2011.

There is growing community involvement, surfers, fishermen, campers, cultural practitioners, ocean warriors, a group of middle school students shown in the video, Maika'i Kamakani 'O Kohala is the take out partner. There was a briefing to the North Kohala Community Access Group, which has been a group that has been very instrumental in the North Kohala Community Development plan. Maika'i Kamakani 'O Kohala has been consulting with different cultural practitioners in the area. Maika'i Kamakani 'O Kohala is a group that has a board made up of all native Hawaiian practitioners, which is wonderful because when they are looking for the source and wondering what are the right protocols that need to be in place and the practices that the group need to take the property in the appropriate way they really don't need to look very far. They are taking amongst themselves and also expanding out the entire Kohala community. They are operating under the Kohala Protocol. In other places the appropriate thing might be to restore heiau, in this area of North Kohala, Halaula, they don't restore heiau. In the application it was left as an open question, the heiau could be restored if found appropriate by the community. The community decided that as there was no one in community that understands the full mana behind the heiau they didn't feel that it would be appropriate to rebuild it when they don't understand what they are rebuilding. There was a biological inventory survey done, the Commission received supplementary information on that. Ocean Warrior Cleanups invite the whole

community down to have a camp day and clean up. The next step is to have an option agreement with the landowner we would like to have that by the end of December.

Maika'i Kamakani 'O Kohala's first priority for this group is to take care of the unfinished business there. There were iwi kupuna found on the property. A camper found remains of an infant on the property and brought it to SHPD. The SHPD archeologist did a site visit to find a place to return the iwi that was found passed away immediately after the site visit. It is unclear where the iwi are this point. Maika'i Kamakani 'O Kohala is concerned about what happened and want to bring peace to the project. Stephanie Naihe is the founder and president of Maika'i Kamakani 'O Kohala. She is the 4th generation of the Naihe line and it is her family's responsibility, passed down through many generations, to care for iwi and especially iwi of ali'i in the area. That was a family secret and private responsibility until the Pao'o case happened and it came to light at that time because of necessity. She asked me to share that today. Maika'i Kamakani 'O Kohala are very interested in getting the right experts on the land to form a coastal erosion management plan and a conservation plan. We would like to connect them with Kaho'olawe Island Reserve Commission, Kaho'olawe 'Ohana and others who work in areas where there is massive erosion, such as on this property that needs stabilization with native shoreline plants. Maika'i Kamakani 'O Kohala will continue the community consultation process from the natural resource experts, the cultural practitioners and regular users of the property.

Ms. Ka'akua showed the Commission a map of the subject property. Member Shallenberger asked Ms. Ka'akua to point out the parcel on the map. Ms. Ka'akua did so and explained that the property includes half the Point. Member Berg asked if the lighthouse was on the property. Ms. Ka'akua explained that it was not, that it is located on federal land managed by the coastguard. Member Berg asked about the land from the rest of the point. Ms. Ka'akua explained that the surrounding areas were owned by New Moon Foundation, Vipassana Foundation, and a private landowner.

Chair Bonar asked what was happening on the land adjacent. Ms. Ka'akua explained that New Moon Foundation is considered by the North Kohala Community as a good conservation partner. They have had open tours on trails on their land and have left it pretty much in its open state. Vipassana Foundation is the same but are trying to raise funds for a spiritual center. Ms. Ka'akua wasn't sure of the plans for the adjacent private landowner but explained that as of now it is open space around the entire area.

Member Shallenberger asked about the access easement that is used to access the site. Ms. Ka'akua explained that the public use a road called road to the lighthouse, a very bumpy road, to access the property. If funding was found to acquire the property there would be a much smoother road for the public to drive on. Ms. Ka'akua pointed out areas that were shown on the video. She pointed out a dirt road that is a public pedestrian easement that runs the length of the property. The landowner allows the public to enter the property through that road.

Member Kaiwi asked Ms. Ka'akua to point out Ohau. She did so and pointed out the iwi remains and explained that if they are successful in finding out where the iwi are the plan is to repatriate them.

Chair Bonar stated that the numbers are confusing. In one place it says that the fair market value is \$1.67 million, you have a two-year-old appraisal for \$1.3 million, the advertizing for the property said they are asking \$1.85 million firm. If we can guess that it is going to be less are they going to agree to that.

Ms. Ka'akua explained that the \$1.3 million is the understanding with the landowners that if the appraisal come in at \$1.3 million or greater but they understand that we will not be paying more then the appraised value of the property.

Chair Bonar asked if the appraisal came in less then a discussion with the landowners would then take place. Ms. Ka'akua confirmed and explained that the landowners have to be relieved of the financial burden of the property. They accept that the market may have slipped a little since the 2008 appraisal and so \$1.3 million they felt that if it slipped to \$1.5 million the \$1.3 million would be a reflection of their commitment of it going to conservation rather then a developer.

Member Shallenberger stated that on his site visit they discussed the issue of public access. In the video there was a very strong pitch for the community interest for this parcel as a place for people to gather. But I didn't get a response to question about the public what about the visitors to Pololu that are looking for other sites. The day after the site visit I went back to the site and I looked in the Hawai'i Revealed. The property is in there and I suspect what is deterring people is the description of the road. It is a spectacular site and there is nothing like it on the coastline. Are you prepared for it to become a real attraction for it to be for visitors as well as residents? Ms. Ka'akua answered there is already that picnic area at the top. Maika'i Kamakani 'O Kohala's interests is going to need to be developed more on how to educate the visitors that may come. They are not expecting that there will be a dramatic increase from this transfer of property but remain as it has been for many years as a regular place that Kohala residents go to and use on a regular basis. I think it could accommodate visitors as well.

Member Young pointed out that the land is currently under private ownership. Member Shallenberger agreed but amended that the landowners allow the public to use the road that travels through their land. Ms. Ka'akua clarified the parcel is privately owned but the community has treated it as if they own it already. The landowner has never stopped people from coming on the property. They had originally planned to build their dream home on the property and through the years of owning it without building realized that that perhaps was not the best thing to do. This is the public's place it has been for ever really.

Member Shallenberger asked Ms. Ka'akua if she felt there would be resistance from group if a higher percentage of the visitors came from out of state or outside of Kohala. I feel like there is nothing like that and I would go there. Ms. Ka'akua stated that Maika'i

Kamakani 'O Kohala is not worried about an immediate influx of people it can accommodate more visitors if there is more interest. I think that's why the educational component here, the project with ocean warriors that Elizabeth Pickett has been working on and the whole community is building on a rapid basis. With the education you can detour any fears that would come with visitor increase. Chair Bonar reiterated what Member Shallenberger stated and said it is necessary to think in the long term. With books like Maui Revealed the places that landowners used to keep people out by just trying to chain it off now go out with shotguns because the abuses get so bad. There will be more and more people coming and visiting, interested ecotourism or cultural things. Does MKK understand the responsibility of maybe having to take this on and maybe having to deal with this big influx. Ms. Ka'akua responded that MKK does understand that and individually they have been the cultural keepers of that area and together they understand the responsibility not only for Kauhola Point but for many other areas in North Kohala.

Chair Bonar asked if MKK owned any other land. Ms. Ka'akua said Kauhola would be their first land holding. Chair Bonar explained that he was asking about the sustainability of MKK as an organization that is going to hold a significant piece of land. It requires significant financial resources to get things done. He asked if MKK have a budget or sustainability plan or funding that supports them regularly. Ms. Ka'akua explained that they do have sources. Their focus has always been a Hawaiian cultural focus. Their plan for the management of area is largely passive. They do plan to apply to OHA other programs for any management or upkeep that they may need and are familiar with liability insurance and ownership. That was one of TPL's concerns because we go through the same sort of vetting process as well. We are sure that the project we propose to you will actually work. That is one of the steps that we took them through and the president has many experiences, making sure the community groups are paying their taxes, that they are up to speed on all the technical things that can stop you up if you are not paying attention to them. They are aware of everything that is required and are able to do so. They are descendants of this place and it is of the utmost priority to them that technical problems don't keep them from taking care of this land.

Member Shallenberger stated that in Kipahulu there were places that were known to the community and not communicated very widely. There were two problems with it; one was that it became contentious between tourists and local residents, telling them they are not supposed to go down there. I think there is a potential there when a group is so focused on satisfying community needs they might not account quickly or effectively to the wider public. The second thing is liability insurance. I would be pretty spooked if I was that landowner right now, maybe she feels comfortable given the fact that these are local residents that know the area but this is an easy place to kill yourself, 150 foot cliffs and no ropes and no barriers. As a public land manager we used to deal with that all the time but as a private land manager there are similar liabilities.

Member Young asked Ms. Ka'akua if the applicant would accept less than the asking price. She stated that TPL is asking for \$975,000 with no matching being secured and asked if the group accept a lesser amount and try to get other moneys. Ms. Ka'akua

replied if we are successful and are given a lesser amount we would just have to bump up our request for private funders to give a match to whatever this Commission gives. Member Young asked if city and county have indicated that they wouldn't fund the project. Ms. Ka'akua answered that they haven't indicated against it we are saying that we are looking at the funds and just to make sure that this happens in the timeframe that we need it to happen in, we are looking to private donors and private foundations as a back of plan for that county ask.

Chair Bonar stated that last year one of the projects was found by the Commission a very high priority and it was uncertain if there was going to be matching, the deal was, if by March 31st you find a match we approve it, otherwise never mind. He asked Ms. Ka'akua if the other sources of fund ones that you can get some comfort by March 31st whether there will be funds available. Ms. Ka'akua answered that it was possible, but there was no deadline that TPL will hear back from the potential funders. Member Young asked if it was the same pot of money that the Kaiholena is asking from. Ms. Ka'akua clarified that in the application we put that we were applying to the County's Open Space Fund and so when I talk about the two private funders it is a back up plan for the county chunk that we had planned on applying for. It is still a possibility that we would apply for that money. Member Young asked if it was the same cycle as Kaiholena who have already received their \$2.9. Chair Bonar clarified that Kaiholena have not received the funds yet there is a pot of money that is approved for purchasing, which is very similar but not the same. Ms. Ka'akua stated that there was an application put in by various community groups for a corridor that included this Kauhola point area but we figured that if we were going to risk the county money we would need to reapply just for this 27-acre property. Because there are limited funds in the county fund we decided to look elsewhere for possible funding sources.

Member Kaiwi asked if there another interested buyer. Ms. Ka'akua responded that there were two interested buyers when it was on the market. The landowner took it off the market when we stated speaking with her at the end of the summer but they did have two offers before that. Member Shallenberger asked if these were private offers. Ms. Ka'akua answered they were private individuals that wanted the property as their personal vacation residence. Member Shallenberger stated that having visited the site it would be a shame to see it go into private use. It's a terrific spot and would be a waste to turn it into a private inaccessible piece but you do have other challenges to deal with.

Member Kaiwi asked if TPL had approached any other native Hawaiian trusts. Ms. Ka'akua answered finding MKK as a take out partner, it was a native Hawaiian group that was deeply rooted in that particular property, in that particular area. OHA has been generally supportive but Kohala is such a small community and within that community there are people who are respected to be able to steward the land appropriately. This was the group that really shined as the one to do this. Chair Bonar clarified that Member Kaiwi was referring to the funding side of the project. Ms. Ka'akua answered that TPL haven't asked KS or OHA if they would be interested in financially supporting the project yet we have just been reporting that we are applying to the State Legacy Land Commission and this the project and trying to get their general support. Chair Bonar

stated that it have been disappointing to see the letters that have been coming in for some of these projects from KS and OHA as they are not very enthusiastic.

Member Young asked if the owner would consider a conservation easement. Ms. Ka'akua explained that the owner financially cannot consider. TPL talked to her about that possibility and the reality is that they need to sell.

Chair Bonar stated that in MKK's bylaws, it says "to protect and encourage public recreation and Native Hawaiian gathering rights, protect the balance of each of these things." The Commission is just being skeptical and thinking of the balance when the hoards may start going down there. He asked if MKK have staff or plans for staffing. Ms. Ka'akua answered that they would like to have a staff and be able to work on a management plan. As the property is now they don't feel like a staff is necessary. MKK and the volunteers are down there every weekend mowing grass or cleaning up or whatever needs to be done but if there were an influx of people they have thought about staff or if the conservation plan that is developed is very expensive then they would like to have a staff person on board.

Chair Bonar asked if there were any other questions for Ms. Ka'akua. There were none. He asked for testimony for Kauhola.

Ms. Withington reintroduced herself to the board as very familiar with the operations of MKK and speaking as a representative of the North Kohala Community Access group, part of the group that named Kauhola Point as its priority one public access area. The current landowner has been cooperative, when she first bought it she put up fences but the real problem was the previous owner. He had fenced it and dumped cars and trucks and road was blocked off. There was a great deal of animosity toward the previous land owner which carried over to the current landowners but once they realized how important the area was to everyone in Kohala they got on line. The reason that we did not make an application to the county because we didn't know it would be available until 4 to 5 months ago. The Davis', the current landowners, were hit by rough times and they wanted to do something good with their lands and they know the community is working very hard to put together a stewardship plan that is community based. Here we are talking about the exact kind of project that you're saying; here is a community that is saying that we want to take stewardship of a place, we don't want the county to own it, we don't want the federal government to own it. Give us a chance to do a stewardship project over a place that has high recreational value already. There is a town right behind there, half of Kohala grew up around Halaula, so everyone is descended from that area. They use that area even with all that junk that was dumped down there. It's a surfing site to end all surfing sites, in our district anyway. It has this high recreational value, we have the North Kohala Community Access Group that is working with stewardship. They are the ones that they have all those parties every weekend. Stephanie Naihe is the best grant-getter anywhere in Kohala, she is the most organized, she keeps all our groups paying taxes and doing all the right things. When it came down to what group would want to hold title to this place they were the obvious choice. The reason that this group was the best is that she is so organized and she can handle things like liability, grants for programs and

improving access down there. The main thing is that she's Hawaiian, she's a descendent, this is her area and her group is so good about this sort of thing. When I moved to Kohala forty years ago, most of coastline including Kauhola was hala trees with naupaka underneath it, shorebirds everywhere it was just beautiful coastline. After sugar went new owners put pasture in and allowed cattle to come right up to the edge of the cliff. Now the naupaka and hala is almost gone we did find some on the property and the first thing they said on coastal erosion was to plant hala and naupaka. We lost the lighthouse because of the land erosion.

Chair Bonar asked if the lighthouse was still there. Ms. Withington answered that it was not. She clarified that there is a light house there and last year they had to destroy their old historic light house because the erosion had come to twenty feet from it and NOAA said that they couldn't handle it being that close so they put a new ugly lighthouse further back. New Moon, the property next door, we are working with them, they have built a parking lot for the surfers, they have helped us with road access. Vipassana Foundation on the other side, we are talking with them about putting the bulk of the front of their property in public access. We are working on public access along the northern coast and Kauhola is priority one on the North Kohala Community Access group and Elizabeth Pickett has managed to get three or four grants for education kids how to do stewardship. She is a grant-getter. The North Kohala Community Access Group is directly mentoring her to take that area and make the community feel that they are a part of it.

Chair Bonar expressed concern that Ms. Withington expressed such importance on Ms. Naihe and asked what happens if she goes. He explained that one of the things the Commission looks at is the group's sustainability, they take it on for perpetuity. Ms. Withington explained that Ms. Naihe has six children. The reason that the stewardship program was designed for middle school students was to catch them at a young age. Graduates of the program, now entering high school want that program to continue into high school. The point for us was, get the kids involved because the kids get the families involved. That is the only thing I can answer you question with. It is not something we can promise.

Chair Bonar said that the Commission needs to know people are thinking really heavily about it that. Ms. Ka'akua stated that she has also expressed this to Ms. Naihe and she is training apprentices in grant writing, how to get liability insurance, where to look to see if your up on your taxes, in the technical side, and you have the stewardship from kids as well.

Member Kaiwi commented that his two girls are probably smarter than their dad but that doesn't mean that I would entrust them with taking care of 'aina that I was entrusted with. The point is that perhaps for future references having a backer so it seems like there is something solid that should incase something happen that you have someone to back them up.

Ms. Ka'akua reemphasized that it is a strong organization and not just the one woman. Every board member does have the same dedication as Ms. Naihe and she passing on her knowledge to the board.

Chair Bonar asked if there were any questions from the Commission. There were none. He asked for comments about the site visit. Member Shallenberger stated that he really appreciated how well they were taken care of on the visit. I know enough about Kohala to predict accurately that they numbers of visitors to that area are going to go up and I think you better be prepared to be the victims of your own success if you make it real attractive. I know Bennett Dorrance, and he would be doing things to improve the road and make it more accessible not just for the community but for others so what might happen you might have not control which would also create a problem. I'm impressed about the thought that has gone into this on the ecological side. We haven't talk about it too much but there is an interest in restoring this coastal strand plants and dealing with some of those other problems. I did discuss the issue of liability with some of the people on the site visit and I would feel really comfortable if you have looked at it and the implications for MKK.

Chair Bonar asked if MKK was familiar with property analysis record software that allows people to think thing through and see what the likely costs will be. Ms. Ka'akua stated that she believes that MKK has run those numbers so they were comfortable in taking on the property and the cost of taxes plus the liability insurance.

Chair Bonar asks for the presentation for Paukūkalo.

Ms. Ka'akua reintroduced herself and introduced Kaleo Manuel, a planner with the Department of Hawaiian Home Lands (DHHL). Chair Bonar stated that the Commission had all read through the application and asked that they stick to updates.

Ms. Ka'akua explained that this was the second year Paukūkalo had applied. The first update is that DHHL has begun a general conservation plan process but DHHL isn't going to be able to give us a full conservation plan for Paukūkalo and this is a relatively new undertaking for DHHL but they have begun a process on how to deal with this kind of a property.

Mr. Manuel expanded that during the site visit the question was asked whether or not the management plan was in place or could be developed to show that long-term legacy kind of management, to look at liability, access issues, etc. What I said at the meeting was that it is hard to allocate trust funds for doing a management plan for properties that we don't have control over. That said we do have a process that we go through to develop management plans and we have done them before like the Aina Mauna Legacy Management Plan that deals with dozens of acres in Humuula and cultural resource, natural resource management. We have the management plan that was developed in 1986 for Ka'ū and South Point, so DHHL is familiar with a resource management plan and a process to do so. Mr. Manuel handed the Commission an outline of the process DHHL goes through to make a management plan. We are obligated to our beneficiaries to take

them through this process. We have five homestead associations in the vicinity and there is some strong beneficiary participation. That is what I can present as a potential solution to the Commissioners who attended the meeting and expressed concerns about the management plan.

Member Shallenberger asked if the plan would include wetland restoration. Mr. Manuel stated that they would all be developed in that management plan, looking at the entire scope, what are we looking at, what is vision of this resource. That would come with our beneficiaries, DHHL as well as the surrounding community and stakeholders. Chair Bonar stated that he realizes that Mr. Manuel isn't the head of DHHL but reiterated his disappointment from earlier that for the past three or four years there hasn't been financial contributions from OHA, DHHL, or whoever. I am from Maui, I love this site it seems critical and is surrounded by Hawaiian community. Were you able to discuss allocating funds?

Mr. Manuel expressed that he had anticipated the question because there is just a simple road separating immense resources from the community. DHHL's focus has been on homestead development, that residential and agricultural development, and not resource management and the idea of resources. We are slowly trying to get that. I am trying to promote this concept as much as possible so that is connecting our people with the resources. We preach community building communities and what is a community, not just a house so practice what you preach. I am slowly starting to get into these meetings where discussions are happening about resource management. We do have tons of unencumbered lands throughout the State. Pololu Valley is owned by us, the whole point of Ka'ū is owned by DHHL and there is a lack of management. That place is getting shredded and every day that kills me because I'm from Ka'ū. There is someone there advocating for that but the focal point has not been on resource management. That may be something we can bring up with the new administration but there has been no venue for it to come out. Our two pools of beneficiaries, those that have houses and those who are asking for a lease not give me an opportunity to participate in a stewardship programs or give me access to these resources. Maybe there is a change in framework, consulting with our beneficiaries, education and awareness whatever it may be but that's where we stand.

Chair Bonar commented that in Paukūkalo there used to be a lot of lo'i there and there are fishponds, you have all the agricultural stuff there it isn't just isn't that a nice resource for the stilts. I would hope that that would be on their minds. Mr. Manuel stated that in the future the agricultural program has the potential to be revived and that whole new concept of what is agriculture now days. It does fit into our plan and the idea and intent of the act, its just pulling it out and making it relevant now.

Chair Bonar expressed that there would be a lot of people to write a letter of support in favor of that.

Member Kaiwi suggested that it should be a number of hours a month for homesteaders in homes to malama 'aina. Mr. Manuel explained that it is something they advocate in planning, to see the picture. People get their houses and they think yes I waited 25 years,

the end of the road I finally got my house but that is just the beginning of your journey. You are in the community and a part of it in perpetuity. The lease is 198 years is the lifetime of your lease and none of us will be around for that and I try to push that this is a community that will be around forever. That's one thing that DHHL can come forward with, ensuring that legacy. I am continually trying to advocate in DHHL for this type of endeavor. I think it will support the trust as a whole not just one component of it. Just to anticipate some questions before I leave, management costs would be deterrent in the development of that management plan that is something we look at in terms of resources management planning; what is the annual budget that we will need to allocate. This is one of the only none undeveloped pristine parcels of land in Paukūkalo area and the community is very active, keeping agricultural lands agricultural lands, water is a big issue the idea that this parcel is surrounded by two streams that could potentially flow, that we can advocate for the return of that water and restore that wetland is important. And the perpetuity of our associations and our home sellers in that area I think it's very important to emphasize that we are here for the long term. And I will take what you said back to DHHL and let it be known that the Commission has concerns. In the future we look forward to working with TPL and potentially coming back with solid proposals for funding.

Member Kaiwi stated that he knew it is for him to say but asked if DHHL Deputy Chairman, Robert Hall, gave his support for natural resource management for DHHL. Mr. Manuel explained that he had not spoken to him but that Deputy Hall has a housing background. The planning office has been working to revive the agricultural program and he is looking forward to bringing that forward in this administration. Agriculture is totally different from residential so there is a component of agricultural parks, community agriculture, what does it look like; is it creating a community lo'i where every family has a leased lo'i that they are responsibly for the next 99 years. I don't know but it is defiantly something I will promote.

Chair Bonar asked if Deputy Hall was the one that is focusing on that part of agriculture, community agriculture. Mr. Manuel answered that he had been working a lot with the planning office so he has been focused on that type of program.

Chair Bonar commented that he sees a lot of potential partnerships coming up that he thought would explode in the next couple of years. Mr. Manuel stated that he thinks DHHL has hit the maximum in terms of residential development so they need to start looking at alternatives to serve the people and beneficiaries.

Chair Bonar thanked Mr. Manuel for his time and told him it was enlightening and nice to know there are voices of reason that will look to the future. He asked if there were any questions.

Ms. Ka'akua stated that TPL was hoping that Paukūkalo could be the model for future DHHL land stewardships projects like this. There is a continued regular community use of the property. At the site visit we heard from different cultural groups, there is a women's group that regularly uses this site because of the convenience of the daily

protocol as well as the privacy that it affords. DHHL and Neighborhood Place of Wailuku (NPW) which had been the long time steward of the area are working together to bring different community members together to understand the different cultural practices that are happening down there and to be able to support those practices through the protection of the property. NPW's programs have been expanding they have been serving numerous families. They are focused on family strengthening and building. They have found that this property has been very successful in working with their clients most of whom are native Hawaiian and have a strong bond to the land. Stream flow has been restored to some extent in the streams 'Īao and Waiehu that are bordering the property. The hope is that with the restored stream flow the fishing grounds will increase in production, agriculture can be revitalized in the area, fish ponds and lo'i for entire area supported the community and the hope is that it could support the community once again. Member Shallenberger asked if there was some water assessment that indicates that the settling of that court case is going to provide so much additional water. I understand it there were some specific requirements. Chair Bonar responded that it is still not final and they did increase, they brought up to twelve million a day or more. Ms. Ka'akua pointed out a picture of the stream and said that it is trickling sometimes but it does not have that full flow that you would need to restore a thriving ocean estuary environment. Chair Bonar commented that with the increase of the last few months there was more coming in for the lo'i. Ms. Ka'akua said that it is an exciting time but there is much more that needs to be done.

Member Shallenberger asked for an update on the status of the match. Ms. Ka'akua informed the Commission that they did apply for NOAA kelp funding and were ranked 18 out of 42 and unfortunately it doesn't look like there will be enough appropriated in the presidents budget to fund down to 18 and so our options, because it is a large ask from that NOAA kelp program is to reapply for a kelp fund and we are also looking at applying for a Wal-Mart Acres For America grant because the Wal-Mart is located six minutes from the property. The local Wal-Mart manager is supportive of the project even though he is not in control of the Acres of America decision. Chair Bonar commented that the ones he is familiar with are in the \$50,000 to \$75,000 max. Do you know if they will consider significantly greater? Ms. Ka'akua confirmed and explained that it is a viable backup fund for that pot of money. We also applied for Maui County's open space fund and they have also been supportive but we have not received a decision yet and with the new administration coming in we will probably have to reapply on a new form. Chair Bonar commented that in the presentation it said that TPL had applied early in the year but it did not get into the budget cycle. He asked if it was in the budget. Ms. Ka'akua responded that it was not. Chair Bonar asked if she knew why. Ms. Ka'akua answered that the mayor was supportive of the project the last that we had heard from the Maui County Parks and Recreation which is in charge of the grant is that they have a new form that they need us to fill out so the new administration coming in and the new form that will be our next step to take.

Member Young asked about the properties foreclosure status and if it was to be sold at auction. Ms. Ka'akua responded that the auction had still yet to be rescheduled. The plan

for TPL is to let the public foreclosure sale happen and negotiate with the new owner who will likely be the creditor.

Member Berg asked if TPL had talked to Chase Manhattan Bank to see if they have a price they would be willing to do a short sale on. Ms. Ka'akua stated that they had not received a price at that point. Chair Bonar asked if they had been resistant to responding to TPL. Ms. Ka'akua thinks that they are just waiting for their foreclosure auction sale. If it is then sold to the creditor, Chevy Chase Bank we will deal directly with them. The hope is that we will have funding to bring to that negotiation table when we are meeting with the new owner.

Member Canfield asked if Ms. Ka'akua could speak to operational and maintenance funding down the line. Ms. Ka'akua explained that the maintenance and operation will be wrapped up in DHHL's conservation plan. There is a lot of work to be done on the property and so DHHL is going to have to begin that process with the consultation with the beneficiaries. Unfortunately, I don't have numbers to give you.

Chair Bonar asked if an appraisal had been done recently. Ms. Ka'akua stated that it had not. Member Berg commented that an appraisal is not important when it's in foreclosure. Chair Bonar explained that it was if the Commission was looking at allocating money, frankly most of us think that it may be a couple of million dollars if that because of the limitations.

Member Young summarized that the matching funds are being applied for, but and the property will be auctioned and you expect the creditor to purchase it and then you will approach the creditor to try to strategize as to how to purchase. You don't have a set price though. Member Berg explained that someone else could come in instead of it coming back to the creditor and we have no idea as to who it could be. Member Young asked if there was any idea as to what it would start at. Ms. Ka'akua answered that she thought it would be the number that the Commissioners were discussing. We don't know the credit bid amount, how much is owed so there could be higher bidders at the auction sale that is a real possibility but what we can plan for is that it would be sold to the creditor and we could go to the negotiation table with funds. Chair Bonar said that he thought the outstanding was at \$1.3 million. Typically the creditor will bid if it's less than that. Member Berg commented that in these economic times sometimes they will take a million just to take it off hand. Chair Bonar added that a number of banks are not pushing foreclosure because once they admit it as a liability it makes the books look a lot worse so there are many banks that are not doing anything. Member Berg said that he did know first hand that Chase is doing a lot of short sales and discounting the price, they will take a 25% hit just to get rid of it and it is impossible to call unless you are working directly with their real estate office.

Member Kaiwi asked if TPL had talked to OHA. He explained that he was asking because of DHHL's commitment to do stewardship and management which is a challenge to OHA. If someone accepted that roll I imagine that OHA would be more open. Ms. Ka'akua asked if Member Kaiwi meant as a financial backer. Member Kaiwi

confirmed. Ms. Ka'akua explained that TPL and DHHL had been keeping OHA in loop and that they have an interest in this property for the interest of OHA's beneficiaries and we haven't received a commitment from them financially and we might not be at the point where they would be willing to do that but they are following the process along and we are trying to keep them updated.

Chair Bonar asked whether the Commission was to put the same conditions on Paukūkalo that they put on a project last year would it give extra leverage to use with other potential funders like OHA. Ms. Ka'akua responded that since we are considering for a large chunk the large funder would be Maui's open space fund and their deadline is their deadline.

Chair Bonar stated that there is no deadline, there is not a statute, and the choice to go with the parks department was made by the last administration. Ms. Ka'akua said that they will start with resubmission and this will be the third format that they have submitted in. The other funding options are to reapply to NOAA for the following year and to apply not to the Wal-Mart grant. It would give us some leveraging power but more so in dealing with NOAA we have to work within that time frame. Chair Bonar commented that Ms. Ka'akua didn't mention OHA so he assumed that OHA was not a viable option. Ms. Ka'akua said that TPL would like to have that conversation with them. If we were given a March deadline to work within we would defiantly be approaching OHA. Our plan now without a deadline imposed by this Commission we haven't made a formal request of OHA like we have of this Commission and Maui County and NOAA's CELCP Program, but we might if we were given a deadline to work within.

Chair Bonar asked if there were any more questions. Member Berg commented that if TPL and DHHL were to go to Wal-Mart's Acres for America, I would suggest getting in touch with other organizations on other islands because I think on Kauai we could get our Wal-Mart to support Maui Wal-Mart's because I'm pretty sure that no one is approaching Wal-Mart for funds. At least initially to canvas because maybe it would be a lot better if the guy on Maui knew this was a statewide application. And that is just a matter of networking to drum up support from other places.

Chair Bonar explained as that \$8 million had been requested from the Commission and we have \$4 million to allocate. Ms. Schmidt clarified that the funds available were \$4.3 to \$4.4 million after a second look at the budget, but that sum needed to be run past Paul Conry. Chair Bonar explained that is why the Commission did what they did with Paukūkalo last year. Member Young asked Ms. Schmidt if the funds available were after the \$400,000 was removed for invasive species. Ms. Schmidt explained that each program had a ceiling which it requests at the end of the fiscal year to a spending limit. That is not considered over our spending limit but we have both the funds available and the spending limit to do that.

Leah Hong, TPL's Hawaiian Islands Program Director, explained that Ms. Ka'akua started in April so perhaps she just forgot, but Kawika Burgess, who was in Ms. Ka'akua's position before, and I submitted a fairly detailed outline of the situation to

OHA outlining different financial alternatives from a grant to help fund acquisition to a loan at a low interest to help tide us over and the administration has been considering it for over a year. I'm not really sure what has happened with it but we have been proposing all kinds of financial plans and alternatives to OHA, we haven't just been sitting around hoping the money will come but we haven't heard back from the administration. Member Kaiwi stated that he is far distant from the land management side and didn't know about it. Member Young asked if it was possible to contact Chase and make them an offer. Ms. Hong replied that both Kawika and Ms. Ka'akua have addressed Chase and have had no response. The problem with buying out the position of the creditor is that you are not buying land you buy the position of the creditor so you step into the shoes of the bank and become the lender. You have to do the foreclosure proceeding to then foreclose the land so there are a lot of problems and risks. Member Young commented that it seems that the property had been in limbo for so long. Ms. Hong stated she didn't think that Chase was in a hurry to foreclose on this property because it has been under legal proceeding for foreclosure for over a year and a half. The last time I looked at the file I don't think they had even finished serving everybody, you can't foreclose unless you serve everybody.

Member Young commented that it is hard to make a recommendation when the project is in this situation. As much as I admire the program and all the people in it but the money is important too and it needs to be in stable and certain hands. Chair Bonar told Ms. Ka'akua that last year the project was the Commission's highest rank project even though many of the things flew in the face of what we rank with. No agreements, no matching funds.

Chair Bonar asked if there were any other questions; there were none. He called a fifteen minute recess until 3:10. Chair Bonar called the meeting back in session at 3:10 p.m. He asked Ms. Hong to present for the Turtle Bay project.

Leah Hong introduced herself and her co-presenters Doug Cole from the North Shore Community Land Trust (NSCLT) and Ralph Makaiau, Senior Project Manager at Turtle Bay. Ms. Hong mentioned that Pao'o closed two weeks ago and thanked Ms. Schmidt and Mr. Hirokawa for their work for that project. We also had a closing celebration for Sunset Ranch two weeks ago as well and once again thank you to the Commission and the staff. The partners for this project are TPL and NSCLT. TPL have completed 20 projects in Hawaii and conserved over 39,000 acres. Mr. Cole commented since the Sunset Ranch transaction, there have been landowners approaching us and I think that highlights the impact the Commission makes beyond the projects. NSCLT was established to protect, steward and enhance the natural landscapes, cultural heritage and rural character of ahupua'a from Kahuku Point to Ka'ena. This project falls on the eastern edge of our mission area. NSCLT was established in 1997 and like TPL we work with land owners and other non profits to find ways to conserve land. We often find ourselves partnered with TPL because they do an excellent job and we have a great relationship with them.

Ms. Hong explained that TPL and NSCLT are proposing to purchase a conservation agricultural easement, over 469 acres of land, owned by the Turtle Bay Mauka, LLC. The land is in active agricultural production. It is located Mauka of the Turtle Bay Resort. Ms. Hong passed around a map of the lands. She continued the presentation and told the Commission that there are some exclusions from the easement like a waste water treatment plant, a HECO plot and a few kuleana that are not owned by the resort. Our proposal is \$1.4 million from NRCS, pending one million from the Army Buffer Program, also pending \$1.5 from the State Legacy Land Commission and \$1.5 million from the County's Clean Water Natural Lands Commission. As Ms. Ka'akua mentioned there was a meeting similar to this type of meeting where there were project proposal presentations to the Clean Water Natural Lands Commission a few weeks ago and next week Friday they will have their ranking meeting. There seems to be ample money in the Clean Water Natural Lands Commission fund and it looks like we will be successful. In regard to the Army Buffer money, I have to check with the Army to be sure but depending on some of the year-end funding that they received at the end of the fiscal year, there is some Galbraith funding but I have to check with them if there is another million that is secured. But they are very supportive of this project because mauka of this project they do drop zone air landing training where they are flying these huge planes and training to drop striker vehicles or other big loads right behind there at Kahuku Training Area they would very much like to see that area remain in agriculture for as long as possible. Ms. Hong stated that she knew Member Yong had some questions about licensees of this property. It is in active agriculture production. Ms. Hong shows the Commission a map of all current licensees. She explained that there are 18 to 20 folk that farm the land in active agriculture production. They grow a variety of crops. Member Young asked how much of 469 acres is in agricultural production. Ms. Hong pointed out wastage land, too rutted to use, on the map and explained that most of it is in active agricultural production. Member Berg asked the date of the photo of the map. Ms. Hong informed him they were taken in April 2010.

Member Shallenberger asked if the tenants were leasing the land. Ms. Hong explained that they all have short term license agreements and the land owner hopes that the agricultural easement will allow them to give longer term leases to the farmers to allow them to get loans or enter into NRCS programs. Member Young asked how long the leases were for.

Mr. Makaiiau explained that the land was purchased by o3 Capital in October 2005. What came with the land were 21 tenant leases from Campbell Estate. Of those 21 leases, 15 are still retained, however within the lots the 15 grew. They are primarily immigrant farmers, Laotian, Chinese, Vietnamese, Filipino, and they don't necessarily speak English well. Their method of farming is without major use of herbicide and pesticide programs. Their rotation involves leaving sections of land fallow. There are arable lands that are computed to their leases. From the standpoint of the usage of those 469 acres, which is one TMK, the plantation is everything. These farmers only have a mini-tractor so they are limited to where they can go. That is how we compute the arable land. Campbell Estate laid out the lots but never had it surveyed but they all go from mauka to makai. They share in a percentage of arable land in each lot. We managed to keep truck-

farming as the primary agriculture; we see that as an advantage to us. The owner has a strip of land around 30 acres where we have located the farmer roadside stand. We are managing that with consideration for the projects own long term nursery and water easements with the Board of Water Supply. The land makai of the waste treatment plan is about 30 acres and that's about to be leased out. Those are the only two inactive lands with the exception of the extreme mauka foothill properties. There used to be ranchers there but we have not sought to replace the ranchers because the extreme south boundary is not enough land to graze.

Member Berg asked if the 30 acres by the wastewater plant will be leased for agriculture. Mr. Makaiiau explained that it would be used for an orchard. Member Shallenberger asked who manages the distribution of water. Mr. Makaiiau explained that Turtle Bay Mauka LLC does and that he manages the upper operations of the farm, the brackish water well source. Member Shallenberger asked if it was limiting. Mr. Makaiiau answered that at this time they have had not limitations on them. Member Shallenberger asked if there was a waiting list of farmers trying to get onto the property. Mr. Makaiiau responded Campbell Estate left their agreements one year agreements and since that time we have pursued the purchase of the land so that we could created a flood control program. Since the plantation left in 1972 no one has managed the runoff network, the streams are typically dry streams for the majority of the year. Campbell Estates let the runoff run across the highway which eventually became enough to shut down Kamehameha Highway. Hawaii Department of Transportation (DOT) would be very happy for us to redesign the runoff network on the mauka side. Member Shallenberger asked who would pay for that. Mr. Makaiiau answered, at this point Turtle Bay Mauka, LLC, has pursued a preliminary design to recommend. Tomorrow I don't know how we would manage that, I cannot speak for the owners on what they will approve but for a preliminary plan we still have to go back to the owners to get it approved. Member Shallenberger commented that he gets spooked by choice of words such as the landowner anticipates constructing storm water retention but is not obligated to do so by the easement. Mr. Makaiiau responded the reason he was able to convince o3 Capital to buy it was because the sheet flood also floods the resort. If we can get a handle on it on the mauka side as the plantation had, keeping in mind the plantation did have a reservoir and they distributed it as much as they could back into the system. It's not to our benefit to let it stream out the bay. We have also done studies in mid-2000 with the City and County of Honolulu establishing a baseline on sample gathering for water quality for Kawela Stream and Oio Stream. Member Canfield asked if they were getting NRCS help on that. Mr. Makaiiau confirmed that they will be seeking NRCS' help to design the runoff system.

Chair Bonar asked how limiting the salinity of the water is to what they can grow as it is brackish water. Mr. Makaiiau stated that he didn't have that info, but they do monitor the output of the well. Chair Bonar stated that he was wondering if there were things that don't grow well because of the salinity. Mr. Makaiiau explained that to the existing farmers and the absence of the processing plant most of them are limited to the flea market or Chinatown distribution. We want to help them get to the next level where they can get better prices. That is what drives them; if papaya price is up they grow small acreage of papaya. They don't have a schedule of production. What we are trying to do at

the hotel is to be able to produce what the resort needs, because they rely less on herbicides, pesticides and fertilizer their windows of opportunity are real small so they haven't been about to meet large demands consistently but that is how we eventually intend it to be.

Chair Bonar rephrased his question and asked if the salinity keeps rising in the ground water and the farmers are not able to raise Manoa lettuce and other crops are you responsible for supplying them with agricultural water. Mr. Makaiau answered that there are agreements with each tenant to provide them with water. Ms. Hong asked if the salinity of the wells rising. Mr. Makaiau said they were not. Historically the wells were used for cane that extended much farther then the mauka boundary. Mr. Cole said that his understanding of the land was that they are growing a diverse range of crops so the salinity is not limiting farming. Member Richards asked if there is one well putting out water. Mr. Makaiau confirmed that there is one well that is committed to farm use. Member Richards asked if there was more then one well. Mr. Makaiau confirmed.

Member Young asked if the landowner was the same as the owner of the hotel. Mr. Makaiau confirmed. Member Young asked Mr. Makaiau if he worked for the landowner. Mr. Makaiau confirmed.

Member Kaiwi asked if any of the agriculture do plant research or GMOs or anything like that. Mr. Makaiau said that is something that they have to get to. One of the big challenges is English as a training course. Ms. Hong clarified Member Kaiwi's question and asked Mr. Makaiau if the land will be used to grow GMO crops and the answer to that is no unless it's the papaya that has been altered to resist the virus but they are not going to lease to Monsanto. Member Kaiwi asked that when Monsanto comes in is there an economic force that will deter your decision from organic or other farming that is going on now. Mr. Makaiau stated that he cannot comment on that. Mr. Cole commented that the farming gong on the land is low-tech and it doesn't appear to be an area that researchers are involved in. Member Berg state that it is not research that the Commission is concerned about it is companies coming in and planting GMO seed crop. Mr. Makaiau responded that they want the food to plate product. Chair Bonar asked for clarification. Mr. Makaiau clarified that he meant the resort.

Member Shallenberger asked if the decision to train foreign national or Asian farmers as opposed to the objective of maximum production is driven by the relationship between the resort and the farmers or if something that would sell better in the resort. Mr. Makaiau answered that the resort looks at the agriculture property as another feature of the resort. What they grow there makes sense to be consumed by the resort. Chair Bonar asked what percent of the product goes to resort. Mr. Makaiau answered they can only fill one shift at Ola's, which is actively bringing them in. When they have opportunity to fill windows they go through the hotel's purchasing department. The other restraint on the property that is independently-run deals with them in that one shot purchase. Chair Bonar asked for a specific percent estimate. Mr. Makaiau said they did not have those figures but the appeal will eventually become where we can corral all of the shifts, project what will be produced for the next quarter and then have the farmers plan their annual crops to fill

those windows. One farmer cannot fill all the demand, especially when they rotate biased on fallow. If we can get them to the larger producer, that is a benefit.

Member Berg stated that the larger benefit to the resort would be if the leaseholders paid ten times more for that leased land. Mr. Makaiau responded that wasn't the case. We are using the same rates that Campbell charged in 2005. The only place we have difficulty with is we anticipate change in the landscape of the lots because of the flood control requirements. Member Canfield stated then that the value to the resort is the view plan. Mr. Makaiau agreed and added the benefit of the flood plan to the list. Mr. Cole stated that a representative of the resort conveyed to him the resort would possibly be investing in facility upgrades to increase farmer productivity. Mr. Makaiau stated that the lot with the road stand would also be used to build a processing plant so that the collective can use that. The view is to get the farmers to form an association and use that facility to their collective benefits. Member Berg stated that the concern is that this is an easement to put land into agriculture with no condition on it about whatever crops they wanted to grow and there is nothing in the easement that says they have to go to NRCS and come up with a good soil conservation plan. Ms. Hong replied that the soil conservation plan is a requirement of funding from NRCS. Member Shallenberger clarified that the plan was a requirement, not the implementation. Ms. Hong stated that is something that hopefully NSCLT would handle.

Mr. Cole stated that would like to make a few points on behalf of NSCLT. He stated that the Turtle Bay project was worthy of Commission funding. He continued that NSCLT is at the beginning of the process, we are requesting the funding. The terms of the easement are not final but what is there now are the following five points. There is 469 acres of sugar land that has been successfully diversified. NSCLT cannot guarantee that it is going to be forever diversified agriculture but it is an example of land that currently is. The State has talked about the need for diversified agriculture, and probably all of the food produced is saying in state. The land consists of all small farmers there are rare opportunities for small farmers to get land they can invest in and put in the infrastructures that they need to improve their productivity level. By permanently conserving this we don't guarantee that s going to happen but we make that more of a possibility. The land is highly visible, it is on Kamehameha Highway, it is important as a state we remind ourselves of the importance of agriculture. The land is highly vulnerable; it is adjacent to a resort owned by the landowner, it's on the North Shore where much of the land is currently for sale and it is an area that has been targeted by developers for a long time now. We have a rare opportunity to work with the landowner who is willing to permanently conserve this land. There have been seven landowners and there will be other landowners in the future. By placing conservation easement over this land now we prevent it from becoming a golf course or condos. It is a great return on your investment. We are asking for \$1.5 million from Commission funding we are bringing in \$3.9 million of matching funding. It is a lower cost because it is a conservation easement. The stewardship element is reduced however it severs two compelling government interests by advancing diversified agriculture and is providing opportunities for small farmers to lease out small tracts of land.

Member Berg asked for clarification on the easement agreement; whether they would be required to do agriculture as apposed to leaving the land fallow or if they do agriculture would there be anything that says that it has to be diversified small farmer agriculture. In one sense it doesn't really matter if you are trying to protect an open space but the other aspect of it is are stipulations put into the conservation easement to keep the land in diversified agriculture. Ms. Hong said that the answer to that question is are you willing to pay for because the more restrictions that you impose on a landowner and what the landowner can or cannot do on that land the more the appraiser will have to take into consideration. In general the agricultural easements that have been done in Hawaii have not been that specific. Chair Bonar commented that there is a variety of things to think about, wind farms, solar energy and geothermal are all promoted things on agriculture land within Hawaii. With Sunset Ranch, we had very specific stipulations, such as don't do confined cattle operations, these things that you need to be talking about. Mr. Cole stated that there wouldn't be landowners willing to work with us if we were overly restrictive on conservation easements. This is land is currently being used as diversified agriculture. Very little of land is diversified and here you have 469 acres that are being actively farmed by several small farmers. NSCLT would love to see that in perpetuity but the more restrictive we get the less easy it is going to be to find these opportunities to work with landowners. Chair Bonar stated that he thinks there needs to be more discussion and thought about it. The fact that it gets mentioned means that it can play a big role in an agricultural easements.

Ms. Schmidt asked whether, if this is a NRCS Farm and Ranchland Protection Program project, isn't there a minimum that needs to be done just for that program. Ms. Hong confirmed.

Ms. Schmidt announced to the board that the site visit must be presented in this meeting under the Sunshine Law. Mr. Whitt stated that there are certain requirements like the subservice from electric and all the lights and stuff and access to those. Member Richards asked if the agricultural easement is in perpetuity. Ms. Hong confirmed. Member Richards commented that it would be interesting to see what gets laid out as potentially acceptable agriculture because that is something that you people have to work out. If windbreaks are needed and they grow trees, trees are under agriculture. I think you have a good approach to teach English first so the farmers can talk to the people in the hotels and agree what should be farmed. The landowner gets money now as he is leasing the land but I think picking what constitutes acceptable agriculture will take time.

Member Young asked Mr. Makaiau if he said there were 15 leases to farmers. Mr. Makaiau explained that they received 21 from Campbell estates we have gone down to 15, but that includes addition of the waste treatment plant land, 30 acres, and the lot that the owner has but the other lots that have changed have been leased to other farmers. Member Young asked what the capacity of the leased land. At the site visit she didn't have the impression that the land was being used. She asked where all the farms were. Mr. Makaiau answered that there are two parcels available the owners parcel, the one in front of the waste treatment plant. Member Young asked if there was any land available to be leased. Mr. Makaiau explained that there wasn't and but clarified that they now had

one farmer with 90 acres and depending on how well they succeed it will change. The leases are still only on one year but the deciding factor is how we design to do flood control. Chair Bonar commented that saving agricultural lands doesn't do any good if there is nobody on it. He asked how you allow a tenant farmer to build up some sort of equity so that it is worth it for them to keep increasing the lands quality and for them to know they can pass the land onto their kids. There are models around the country and think this is an incredible site for doing that especially being able to supply them with water and letting them take that long term vision. Mr. Makaiau stated that they are already in the process of seeking flood control designs that are in motion. Once we have an easement in perpetuity it is easier for us to make a commitment. Chair Bonar asked if they will need that for WHIP programs and for some of the others. Mr. Makaiau confirmed and explained that the strategy is to apply to NRCS as one owner; we are looking at the property as one TMK when we are looking at NRCS involvement to make it easier to facilitate the greater program.

Ms. Schmidt reminded the Commission that for Sunshine Law purposes any discussion of the site visit should be done in today's meeting that technically ends at 4pm. Chair Bonar asked the Commission to do a quick summary of the site visit.

Member Young informed the room that the site visit was done on October 25th by Members Canfield, Fletcher and Young and two members from the County's Clean Water and Natural Lands Program. There are some errors in report like the estimation of the average size of a farm lot. One of my concerns in that site visit, I asked Mr. Makaiau if there were any local people interested in farming or if there was any effort in that regard. I noticed in the application there were no assessments, surveys, analysis, even though it is 469 acres and it goes up to 1,680 feet. There is a record of a historic figure who talks about the verdant landscape and people who had farmed there previously prior to the sugarcane era. Those activities may have covered structures. We saw Kawela bay which is gorgeous and should be protected in every way. There was some question about limited public access to the Bay.

Chair Bonar asked Member Young what she meant the public access to be for. Member Young answered that it could be for Kawela Bay and even the farm. I wondered if there could somehow be more community involvement: school visits, UH, community gardening. Although you mentioned that it is a good bargain, \$1.5 M is nevertheless a third of this years' Legacy budget. Mr. Cole agreed that it is a huge amount of money but the return on that is \$3.9 million of matching funding.

Chair Bonar asked if there were any other points from the Commission. Member Canfield commented on the urgency of the lot and said that as the army will be doing open warfare upslope and so land usage defiantly fits better then having housing up mauka.

Chair Bonar asked if there were any more questions for the petitioners. There were not. Chair Bonar stated that as the meeting is now out of Sunshine if there was informal testimony to be given. Ms. Schmidt pointed out that wasn't actually allowed. Chair Bonar said he would take responsibility if there are any questions.

Michael Whitt from NRCS's Farm and Ranchland Protection Program stated that they were approached by TPL for their interest in the Farm and Ranchland Protection Program. The site is prime soils for farming and if the site is good for crops its great for any other development. It is great for houses because you can have good landscaping and it is good for roads because there will be no subsidence. That is one of the things we have to watch because we are loosing agricultural land. Between 2002 and 2007, 10,000 acres of agricultural land came out of production on Oahu alone. The more land that comes out of production the higher cost of the inputs is for those remaining producers. This would be one great step in the right direction to help protect those agricultural lands. You are not only protecting this land but helping the surrounding farmers that are all aware of the cost of shipping things in. I heard some of your concerns about GMO's and I wanted to Echo what Ms. Hong said the more restriction put on there the more you have to purchase. But you also have to look to the future, if there is a restriction that says no GMO crops 100 or 200 years from now that may be only thing available and you have rendered that land useless. Ideally the Commission and landowner would like to keep the land for small farmers but worst case if Monsanto gets land its still in agricultural use and still employing workers. It is important to protect Hawaii's agriculture the more land that comes out production, the more food needs to be shipped in, more opportunity to bring in pests and diseases.

Chair Bonar asked if there were any questions for Mr. Whitt Member Shallenberger asked if NRCS would seek proposals from the organization to implement the sedimentation basin project would that rank out NRCS programs for farmer assistance. Mr. Whitt answered that there are different programs such as the Environmental Quality Incentives Program you have to see what the environmental benefit is. Each year ranking changes because there is national, statewide, and local points to take into account. There could be some potential based on the application. Chair Bonar asked if NRCS contributes to programs such as stream bank stabilization and things to protect water quality. Mr. Whitt confirmed and said that NRCS work throughout the entire pacific islands and cover American Samoa and Guam and so work a lot with small farmers and large farmers to install conservation practices that will reduce soil erosion and improve water quality. Chair Bonar asked if there is still a seven year ownership requirement for the WRP program. Mr. Whitt clarified that there is a seven year ownership requirement if you are interested in an easement and the subsequent restoration at 100%. If you are interested in restoration and restoration reimbursement rate of 75% there is no minimum ownership requirement you don't even have to own the land, you just have to demonstrate that you have control of the land.

Chair Bonar asked if there were any other questions. There were none. He asked for more testimony about Turtle Bay. There was none. Chair Bonar invited Chris Cramer to testify.

Chris Cramer with Maunalua Fishpond Heritage Center (MFHC) explained that MFHC is working to restore the last fishponds in Maunalua Bay. Part of that work is to meet and preserve the knowledge of the elderly folks in the area that are mostly in their 80's and 90's. One of the things they all talk about is the coconut grove that is on the proposal.

They all cherish that area and it is one of the few things that Kaiser didn't pave over, so it is very special to many people. It was always intended to be a historical park and through twists and turns it got into the hands of developers. It's a miracle that its still there and that the community actually put this proposal together. The other thing is that we have actually gone there with the old timers who have shared their stories from that area. This will be something special to have the passing of knowledge and practices in the original place that has been there for centuries. This place is in intact, the spring, the heiau, the coconut grove, there is even a connection to Kuapa which was the huge fishponds. This is something the community fought for, we were threatened by the previous developers lawyers. The Community went to bat for it and they are not going to walk away from it, so you can be assured that this money goes to this project.

Chair Bonar asked if there were any questions. Member Shallenberger asked if there was any potential to restore the connection to Kuapa and would that be a good thing. Mr. Cramer clarified that it is already open. There is a pipe that goes underneath the road that goes to Kuapa so it overflows when the spring gets to a certain level. Member Berg asked what Mr. Cramer meant by overflows. Mr. Cramer clarified that when there are heavy rains the wetlands overflow into the pipe. How it used to be managed as a fishpond was they would open close it depending on the tides. Member Berg asked if Mr. Cramer thought that area would receive tidal flux. Mr. Cramer stated that it already does, sometimes its dry and sometimes there is water. Member Young commented that she really appreciated the work Mr. Cramer did on the on album and maps at the site visit. Chair Bonar thanked Mr. Cramer for his testimony.

Ms. Schmidt explained how to get to tomorrow's meeting location. Chair Bonar closed the meeting at 4:16pm.