

Minutes of the December 5, 2012, Legacy Land Conservation Commission Meeting

Date: December 5, 2012

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

Place: Room 132, Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, Hawai'i

COMMISSION MEMBERS PRESENT:

Mr. Thorne Abbott

Dr. Carl J. Berg

Ms. Lori Buchanan

Dr. Joan E. Canfield

Mr. Kaiwi Nui

Mr. Herbert ("Monty") Richards

Dr. Robert J. Shallenberger

Ms. Karen Young

COMMISSION MEMBERS ABSENT:

Ms. Rebecca Alakai

STAFF:

Ian Hirokawa, DLNR, Land Division

Randall Kennedy, DLNR, DOFAW

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Laura Ka'akua

Rick Kaimi Scudder

Sophie V. Schweitzer

Wally Inglis

Noa Ching

Jesse Vega

Michele McDonald

Kevin Kinvig

Catherine Chang

Quynh Nguyen

Lea Hong

Nicola Miller

Xuan Huynh

Monique Vander Stroom

Shannon Wood

Terrence George

Martha Yent

Richard Ha

Scott Fisher

MINUTES:

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

Chair Kaiwi welcomed Legacy Land Conservation Commission (“Commission”) members, staff, and the public to the meeting. Commission members, staff, and members of the public introduced themselves.

Ms. Schmidt distributed last minute written testimony to the Commission.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from October 17, 2012.

Member Berg made a motion to approve the minutes. Member Canfield seconded the motion. All were in favor.

ITEM 3. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2013 (FY13) projects (please see the list of applicants attached to this agenda).

Chair Kaiwi asked Commission members to disclose any conflicts of interest. Members stated that they did not have conflicts. Member Young stated that she had volunteered at the Naked Cow Dairy, but had called the ethics office to ensure that there was not a conflict present with the Whitmore project. Member Richards stated that he owned property on the Kona coast, but it was not adjacent or near to the proposed property; he did not believe a conflict existed. Member Abbott stated that his employer had contracted with the Agribusiness Development Corporation for a project on a different island; he had checked with the Ethics office to ensure no conflict exists. Chair Kaiwi stated that, as the Office of Hawaiian Affairs (OHA) Land Manager, a potential conflict had existed for the Galbraith project, however, that project had since closed and no conflict existed.

ITEM 4. Discussion of the process and method by which the Commission will form recommendations to the Department and Board of Land and Natural Resources regarding FY13 project funding.

Ms. Schmidt stated that several members of the public had asked her about scheduling for discussion of projects; she had informed them that there was no set schedule and that they should inform her or the Chair of any schedule or travel restrictions they might have for testifying.

Ms. Schmidt stated that the process was as follows: the Commission uses ranking forms to rate the projects, the scores are averaged for a ranking. The ranking takes place on the second day, today, site visits would be discussed. The reason for separate meetings for discussion and

ranking had to do with a permitted interaction for the use of task forces to conduct site visits. The Commission could report the results at one meeting but must decide up these results at a separate meeting. She added that this would be the first year that the Commission had its criteria in rule form; a copy was available in the meeting documents. She added that the previously-used interim evaluation form was available for note-taking purposes only, the proper item to refer to was the rule.

Chair Kaiwi added for the record that the Commission does not weight its scores based on specific resources. He asked if there would be anyone that needed to leave early. Ms. Schmidt added that the most recent estimate of the grant funding available for awards is \$2,800,000, the amount may increase based on the conveyance tax revenues coming in the Land Conservation Fund. If more funds are available, they would be used for awards to the extent recommended.

ITEM 5. Reports by Commission members and Commission member task forces regarding visits to FY13 project sites; discussion of site visits to the FY13 project sites by Commission members (please see the list of applicants attached to this agenda, there will be one site visit report for each applicant).

Chair Kaiwi stated that, if there were no objections, projects would be discussed in the order listed on the agenda table, starting with the Hamakua Springs project.

Ms. Schmidt stated that all of the site visit reports were in the meeting documents.

Member Abbott stated that Hamakua Springs is a working farm, bananas and tomatoes for export in Hawaii. They used the barge out of Hilo, the outlet was primarily Costco, Foodland and Whole Foods. He had sampled the product and the tomatoes are darn good. They're grown hydroponically. The banana crops were at risk for infestation. The farm had innovative practices, tilapia are grown, food safety packaging approval and building specifications met, they had worked with NRCS for a long time and he had the impression that there had been a lot of exchange and trials of ideas. The bottom line was that the project was about more than keeping the ag land in ag, it was about protecting a viable farming lifestyle that demonstrates good business and opportunity for the future. There are 71 employees, mostly living within a mile of the site. They leased land to other farmers growing sweet potatoes, lettuce, etc. Those lessees do hire immigrant labor. No development pressures are on the particular parcel, but it has a great view. Adjacent lots are being subdivided into six 20-acre lots to have gentlemen's estates. The farm was doing this to protect the farm in case of a dip in the economy or a need for funds for the farm. There are three streams on the property, one has a flume that used to go to old mill, since that time, the lower lands have become residential and the plume has been destroyed. There's a traditional sugar plantation style ditch and they've put in pipe, it runs around about half mile of the property and drops about 60 feet, they'd use it for hydropower. They have the permits. It will produce 80 to 100 kilowatt-hours in electricity and reduce their monthly bill from about \$9,000 to \$4,000. He stressed that this project demonstrated ag as a lifestyle, not just a way to turn a profit. He stated that this was a family farm in the family for three generations and he supported the project.

Chair Kaiwi asked Members Shallenberger and Buchanan if they had info to add. Member Shallenberger suggested going through the photos and also stated that there are well over a couple hundred tomato hydroponic facilities on the farm, they should talk about impervious surface issues at the end. Member Shallenberger described the photographs shown on PowerPoint. He stated that they had visited the tomato packing area, pointed out the owner's son-in-law, refrigeration units, banana washing and sorting. Member Abbott added information about the banana washing procedures. Member Shallenberger discussed the settling pond, reservoir, and tilapia pen.

Member Berg asked if the settling pond water is reused. Member Shallenberger stated that some of it was used for cooling. Mr. Richard Ha explained the items in the photographs and added that the settling pond flows through grasses (bioremediation), spring water oxygenates the water for the fish.

Member Abbott added information about the pipe, streams, and flume, indicating how the design worked.

Member Shallenberger pointed out that they were discussing a 600-acre property, but a 250-acre conservation easement. Member Abbott agreed and continued to explain the photographs, pointing out leased areas, fallow fields, and how crops are rotated. He asked for questions. There were none. Member Abbott added a few points about the packing facility, stating that each crop required a separate area. The NRCS easement on the property limits the impervious surface area to 2%, which makes an issue for the owner in terms of building greenhouses.

Mr. Kevin Kinvig stated that NRCS has committed funds. NRCS limits the impervious surfaces as a primarily tool in order to limit subdivisions and conversions to non-ag uses. The range is 2% to 10%, and a definition for impervious surfaces did not include ponds. Impervious surfaces are man-made structures: roofs and roads. Temporary structures may be allowed six months of the year. The current system of greenhouses would require an allowance from the rule, language to address this issue would have to be crafted and accepted by all parties. Chair Kaiwi stated that there was some flexibility. Mr. Kinvig stated that he had put in an inquiry to the national program manager to answer this question.

Member Berg asked whether a pond with an impervious lining would be included. Mr. Kinvig stated that lined reservoirs on farms had not been considered impervious thus far. A baseline study would define existing structures, and then further structures would need concurrence in the conservation plan and conservation easement. He did not think that expanding ponds for farm uses would be a challenge.

Member Berg stated that the problem with "impervious" surfaces was the runoff and potential associated pollutants. The pond water would not be runoff, so it should not fall under the definition.

Mr. Kinvig stated that the intent of the program was not to obstruct farming structures from being built; it was to prevent subdivision and non-ag development. NRCS intentionally writes the easement to allow the flexibility for farming in the future.

Member Berg asked if the landowner could simply not put the structure in the area covered by the conservation easement. Mr. Kinvig stated that that was an option for the landowner. He added that practices were changing and hard to anticipate. Member Shallenberger stated that putting the hydroponic facilities off the conservation easement site would be one option, another option would be to deal more aggressively with a policy that doesn't make sense. Mr. Kinvig stated that the issue had initially come up with a project in the Kunia area and has been in discussion since. They did not want to open up too many opportunities for developers.

Member Abbott added that the farm had 28 acres under roofs in greenhouses, not including houses, packing areas, cleaning facility. If the limit was set at 10 percent, they may have a good chance of fitting within NRCS guidelines.

Member Richards asked whether the farm could remove the roofs for a day, or drain a pond for a day to circumvent the rule. Mr. Kinvig stated that the surface would need to be pervious for six months within a 12-month period.

Chair Kaiwi asked if there was a preference for discussing Items 5 and 6 as one item. Member Buchanan stated that she preferred to keep the items separate, and keep site visits distinct from applicant testimony. Member Shallenberger stated that he was concerned about having an opportunity to ask questions of applicants. Member Buchanan stated that there ought to be time.

Chair Kaiwi moved the discussion to Vipassana. Member Buchanan stated that the site visit had exceptional weather. Vipassana Hawaii had started on Oahu and moved to the Big Island in the early 90s. They had initially wanted a smaller parcel and had envisioned a setting similar to ancient monasteries, but the seller did not want to sell a smaller parcel, so they opted to go with the larger parcel. They are working with NRCS to develop the conservation plan. The current version's map is within the meeting documents. It includes a meditation center and dwellings, which would be about 5 acres of the parcel. The plan can be augmented. It included 150 acres for cattle ranching, a sublease to a local rancher, 26 acres of coastline, would host public access, habitat restoration, about 15 acres of diversified tropical hardwoods. The baseline inventory still needs to be done; therefore the current plan is still under development. NRCS is available for technical assistance. The impervious surface limit will apply. She pointed out that the NRCS' use of the term "impervious surface" to limit development was very different than in local planning where it was mainly used to address leeching and recharge of water. The property has well water for crops, the allocation is not currently known. There are three or four springs on the property, including Halawa Gulch, an intermittent stream.. Vipassana was in escrow for eight years and ultimately ended up with a longer stretch of coast than anticipated. Management of public access over sea cliffs poses a hazard, which was not indicated in the application. An honest look at liability needs to be done. There's no public hunting. They've been vetting ideas about safety. A few loi are visible in the gulch near the shore. Some students had done archeological monitoring. She had not witnessed any intact native forest. Appraisal was discussed and needs further discussion. Areas of the property are under special management rules at the county level. The purchase would add to the contiguous protection of the Kohala coastline. She referred to a map that indicated the various protection efforts.

Member Shallenberger stated he would put the photos up for discussion.

Member Young asked whether the property had been listed for sale. Member Buchanan stated that she'd ask the applicant after the site visit report was complete.

Member Shallenberger asked about the location of the planned center. Mr. Jesse Vega indicated the site. Member Shallenberger asked about the background story regarding a tree near the site. Member Buchanan added that there were two stories: invasive and historical. Ms. Michele McDonald stated that the Buddhist bohdi tree was the tree that Buddha had been enlightened under, and this particular tree supposedly descended from a seed of the original tree. Member Buchanan stated that the type of tree had not originally been able to reproduce in Hawaii until about five years ago when the pollinator wasp arrived in Hawaii. Now bohdi trees are popping up like the rest of the ficus trees in the State. Ms. McDonald reassured the Commission that Vipassana Hawaii was completely in alignment with the goal of protecting the State from invasive species, and would remove the tree if needed. Member Abbott added that there was one at the Foster Botanical garden in Honolulu. Member Buchanan stated that they were removing them on Molokai. Member Shallenberger added that the coastline protection aspect was very impressive and he continued to describe the photos on the PowerPoint, stating that the references to the monk seals related to Halawa. He was curious about how the public access would work in an attractive area with safety issues. Member Abbott pointed out that the coast was conservation-zoned, which could allow some development with proper permits and procedures. He indicated the on the neighboring area of an important heiau relating to Kamehameha, a public access route, and a campsite. Ms. McDonald indicated the ownership of the various sites. The proposed property did not touch the heiau, but did concern the access. Member Abbott thanked the applicant for their time in assisting with the site visit.

Chair Kaiwi asked for questions. There were none; he moved the discussion to the Whitmore project.

Member Young apologized for a lack of photos for the visit. She stated that the Whitmore project was acquisition of 456 acres in fee; the request was for \$1,146,000, which was 12% of the project costs, quite a bit less in proportion to other projects. She recapped the visit: there were six parcels and they had gone from the Whitmore Avenue side to the other side. The first parcel was on a down-slope looking toward the Kaukonahua River, the perennial longest river in the State. The water level gets high when it rains. The access to the river was the important part of the parcel. The land is just above Wahiawa town, close to the naval intelligence compound, just down the road. That parcel of about 16 acres is leased by a tropical flower grower. The next stop was the next property over, larger and more level, covered by California grasses. One person there did landscaping. It used to be pineapple plantation and did not require further water; however, there are hopes for additional water from the river to make it easier on the farmers. The next stop was an area with large unused produce packaging and processing structures. The plan was to refurbish and reuse the structures. The next stop was a cypress and Norfolk tree farm. She had asked about GMO crops and was told that the property was not suited for typical GMO crops. Overall, she had been impressed with the Whitmore plan and vision of diversified local farming. They had recognized the struggle to farm locally and had taken measures to assist, starting with low-rent, long-term leases. Member Canfield stated that the Navy was

interested in having better purview of the area and wanted the area maintained better. Member Young stated that the project was part of the larger Galbraith acquisition and that the two projects would work together. Chair Kaiwi asked for questions. There were none; Chair Kaiwi moved the discussion to Ulupō Heiau project

Member Young stated that the Ulupō acquisition was for 3.44 acres at \$1,000,000, or 50% of the purchase price. Martha Yent, Dan Quinn, Bill Stone, Kerri Van Duyne, Kaimi Scudder, and Sandy Adamson had been present and were leading the effort to protect the area. She stated that the access to the heiau was through a residential area, over a YMCA property to the back of the property. The heiau is massive and visible, the largest platform-type heiau on Oahu. The edge of the heiau is where the State Park ownership ends and YMCA begins, so there is currently no buffer on the northeast side. The YMCA is a willing seller; the plan is to build a parking lot so that visitors to the State site would not need to go through a residential area and neighboring property. During the site visit, visitors were constant, and that was not even the highest-use day. Pressure was coming from uncontrolled access from various ways, and also pressure from increasing YMCA membership needing its parking area. The property contained amazing views from the heiau of the rest of the countryside. Cultural practitioners were present. She had felt that the property provided a lot of public benefit in the form of openness, education, and experience. She had come away with a lot of support for the project.

Member Canfield stated that the handouts had included various brochures and a cultural landscape management plan and had been helpful.

Member Young added that the Commission's limited budget would require them to score and rank proposals.

Member Abbott stated that he had felt this proposal had the greatest public involvement of any of the proposals. It was a small, heavily-used site with a lot of urbanization pressures. Visitors, locals, cultural practitioners had all been present. He added that there was a conflict with using the neighborhood road on the weekends – children on bicycles using the roads along with tour buses.

Member Canfield added that at the edge of the heiau is a culvert that is taking water from Kailua Road and diverting to the marsh. It is in disrepair, which is a threat to the heiau itself. Currently, nobody has stepped up to repair. If the State gets the land it can take care of the problem. Member Young stated that currently the YMCA was liable. Member Abbott stated that the drainage had been built long ago for residential subdivision and would have a direct impact on the heiau. He added that there was a lot of signage at the heiau.

Member Canfield stated that the applicant had been modest in citing the preservation purposes. The property was keeping open space open adjacent to a wildlife refuge and cultural education was taking place as well.

Chair Kaiwi thanked Mr. Burrows and Ms. Yent for their efforts to preserve and care for this heiau. He added that the heiau was there first, the urbanization and accompanying problems came after; they were not caused by the heiau.

Chair Kaiwi called a 10-minute break before moving to the next agenda 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 10 minutes to allow for questions from the Commission. (Public testimony on projects is encouraged under this item. The Commission requests that individual testimonies be limited to 3 minutes). Please see the attached list of applicants.

Chair Kaiwi invited the applicants for Hamakua Springs to present any additional information. Mr. Scott Fisher, the Director of Conservation for the Hawaiian Islands Land Trust (HILT), stated that he would cover HILT's interests in the project. The goal for the Hamakua project had been to promote sustainable agriculture; HILT's obligation would be to uphold the conservation restrictions in the easement. He stated that Mr. Ha would discuss the farm. Mr. Ha stated that the project was about the philosophy of what the farm was trying to do. The physical resources included 264 acres, tremendous amount of rainfall, 10-foot deep soil, three rivers, and three springs. They had as much water flowing through this property as $\frac{1}{4}$ of the entire Ewa plains. When they had been trying to decide where to go with the farm, they had chosen this location with water over a location next to markets. Farm life was not easy – the bottom line is that a farmer can farm if he can make money. Too many farmers have white hair, if the youth can't make money farming, they can't farm. As a farmer, he had started off small with no money to lose, and had gained value and experience over time. He now saw the need for long-term planning and staying relevant to the future to survive. It was not about him, it was about the next generation and about feeding Hawaii. He had gone to Vietnam in a survival situation and the same principle applied: we all come back or nobody comes back. Six or seven years ago, costs rose due to oil and he had started to go to conferences. The world had been using twice as much oil as it has been finding in the last 20 years, which is not a good thing. That was in 2007. In 2008 gas went sky-high and workers starting asking to borrow money to get to work. It became clear they needed to adapt. The 100 workers came in from Puna. They downsized and became a community-minded operation. It had been a tomato farm, and people could not live on only tomatoes. They started to lease to create a "family of farms", allowing farmers to live on or near the land and diversifying crops to feed the community. Peak oil has not changed. The mainland is a competitor. Only 2% of mainland electricity comes from oil, in Hawaii 76% comes from oil. The consequence is that food manufacturers needing electricity for operations lose ground whenever the oil price goes up. Food security is threatened by oil. Another issue is that refrigeration costs affect the chain from the farmer to the wholesaler to the retailer to refrigerator. There is less discretionary income to support local farms and people have to decide between taking care of their families or supporting local farms. That's another way energy is tied to ag. He was trying to keep the farm intact because it shows the farmer can make money. He had three properties: one has the packing house, one had the flume and hydropower.

If they can consolidate and help make money for area farmers, ship together, farmers can thrive. This particular site and set of circumstances, where they can produce energy, is rare, it does not happen everywhere. He asked if there were questions.

Member Berg stated that a famous waterfall in Hilo had recently dried up. In Kauai, streams were drying up. Agriculture, lo‘i especially, were having problems. If the farm is set up based on abundant water and resulting electricity, what happens with climate change and the trend of drying? How far into the future would the farm be able to keep up its level of operations?

Mr. Ha stated that one-fourth of the water goes straight to the ocean; they were not currently using it all, but if the streams did dry up, they would have to leave.

Member Berg commended Mr. Ha for his fantastic operation and long-term thinking. He clarified that he was thinking about long term climate change, where trade winds and rain would be affected. He added that he thought water would be a problem before peak oil would be.

Mr. Ha stated that they had to keep the farm, the next option was subdivision.

Member Abbott thanked Mr. Ha for the information and innovation efforts and mentioned that the tomatoes were tasty. He asked Mr. Ha what the ballpark estimate was for how much food his farm could produce in terms of feeding people for two weeks. Mr. Ha stated that he didn't have this figure available. Member Abbott asked how many pounds of tomatoes or potatoes were produced in a year. Mr. Ha stated that bananas were at about one million pounds per year, tomatoes at about one to one and a half million pounds. He was unsure of sweet potatoes, as this was run by a lessee. Member Abbott asked about pests and infestation of bananas – if the blight affected bananas – what options would the farm have under the perpetual conservation easement?

Mr. Ha stated that the hoop houses were an alternative. The further the crops are dispersed the better off. Mr. Abbott asked how the conservation easement would affect the farm if the particular crop failed. Mr. Ha stated that with plenty of soil and plenty of water, other crops would grow well. As oil prices rise and transportation costs rise, pumping water and oxygenation rise. If they can convert waste to fish food and use gravity instead of electricity to oxygenate, they wait for prices to rise and convert. The impervious surface limitations were a challenge. Member Shallenberger asked whether the additional surfaces could be accommodated on lands outside the conservation easement. Mr. Ha stated that it would be better to spread it out further.

Member Shallenberger asked about the reference to the stewardship fund in the application. Mr. Fisher stated that the fund was required by HILT to administer the easement. Member Shallenberger asked how the educational value of the farm would be shared with the public. Mr. Ha stated that he thought that higher-end tourists would eventually be interested in the innovative farm practices and the money would go to running the farm. Very high-end tours would be acceptable, specifically on the topic of how traditional farming practices had evolved. Member Canfield asked whether the description of the land as “mostly fallow” in the 2006 conservation plan was accurate. Mr. Ha stated that the farm has since moved in more to become more efficient. He stated that there are pockets that could be used better to do more.

Member Abbott asked why Mr. Ha had chosen the specific land for the conservation easement. Mr. Ha stated that he hadn't tried to put a conservation easement on the land that was subdivided because it couldn't be divided any further. Member Berg clarified that the question was why that

land had been chosen for development. Mr. Ha stated that it was a survival decision. When they had started out the land was cheap, but they had taken farm loans to get started. Subdivision allowed them to keep part of the land and sell off other parts to survive. Member Berg asked if all of the land was of equal ag importance. Mr. Ha stated that they had kept the flatter land for farming.

Member Young asked about HILT's monitoring. Mr. Fisher stated that the minimum obligation was an annual inspection. This rate of inspection had been sufficient in the past, but HILT could do more visits if it needed.

Member Yong asked whether access to the Napule Heiau was through the farm. Mr. Fisher replied that it was not, HILT had included the heiau in the application as part of the adjacent setting. Member Young asked about HILT's bylaw allowing directors to be non-State residents. Mr. Fisher stated that they did not currently have any out of state directors; the idea behind the bylaw had been to allow HILT to take advantage of any extremely knowledgeable experts that were tied to Hawaii but not living in-State. Member Young added that all directors could be out of state under that provision. Mr. Fisher stated that there was another provision requiring a representative from each island, so that would not happen.

Member Abbott asked NRCS to explain its monitoring and implementation. Mr. Kinvig stated that NRCS required the easement holder to inspect the property once every three years, either remotely or on-site. NRCS required an active conservation plan with the local field office and any changes affecting the landscape had to be updated in the plan when there was an easement on the property.

Member Shallenberger stated that an issue he had with appraisals would be held to a later item for discussion.

Chair Kaiwi stated that he was intrigued by the statement that allowing workers to live on-site reduced energy costs. He asked if there were farm dwellings on site. Mr. Ha stated there were not farm dwellings, but they do live adjacent. Mr. Ha stated that the farm would not grow bigger than the number of workers supported locally.

Chair Kaiwi stated that he disagreed with the application's statement that there were no cultural resources. He thought that the practices that the farm was using were cultural, and rooted in traditional Hawaiian practice. Culture does not have to mean "pre-contact."

Mr. Ha stated that, regarding tourism, they'd like to promote the pre-contact value of energy versus the modern value of return on energy, using a concept called "energy return on investment", i.e., what is the energy used to produce resulting energy? Professor Charles Hall taught on that concept and was going to speak at UH Hilo.

Member Berg asked about costs related to pesticides, fertilizer and herbicides. He stated that organic farming allowed farmers to bypass the increasing transportation costs for these products. He asked whether Mr. Ha had any plans relating to organic farming. Mr. Ha stated that

geothermal would allow one to take nitrogen from the air to make fertilizer. Somebody in the future would have to figure this out.

Member Berg added that fertilizer, pesticide and herbicide costs would be impacting ag.

Member Young asked about habitat protection. Mr. Fisher stated that there would be a reduction of sedimentation into the streams which would benefit riparian habitat.

Chair Kaiwi moved the discussion to the Vipassana project. Mr. Fisher pointed out that this project was another NRCS FRPP project. The request was for \$1,000,000. He offered to outline the method of estimating property value later in the discussion. He stated that the five main conservation values were: public access, cultural and historic preservation, agricultural land protection, ecological protection (monk seal haul out area), and coastline protection. HILT's strategy was four-fold. If the land is protected through a conservation easement, HILT and NRCS would assess the resources and determine realistic actions and goals, implement on-ground activities, and then mobilize the community to affect the activities.

Ms. McDonald indicated where the mediation center would be. The vision was to create a semi-monastic place in the old style; the rest of the land would be grazing, ag land, crops, native hardwoods. They did have an approved conservation land from NRCS that included protecting endangered and threatened species, open space. The land had taken 10 years to pass to Vipassana, they had gotten permits many years prior to receiving ownership of the land in 2007. During the recession and 10-year wait, funders had been lost. Currently, the organization was land rich. The potential for growing was very good for North Kohala. She added that that neighboring lands had been switched from Ag-20 zoning to 7-acre parcels with much more ease than she had thought possible. From Kawaihae to Pomalu, there is rapid development. Vipassana Hawaii does not have the funds to manage and protect the land, and they will have to sell. They do not want to, but the financial resources required to manage are large. With the Commission's help, they can leverage the community efforts and current plans to protect the land.

Ms. Sophie Schweitzer, the managing director for Vipassana Hawaii, stated that she had worked for many years with the residents and large landowners in Halawa Valley, including the watershed partnership. The development along the coast is rapid. Next door the parcels went for \$450,000. The real estate expert had given the value based on other properties. The natural capital value of the land is the critical issue, use for carbon storage, grazing lands, groundwater potential, and healthy food systems. As a concerned citizen, she felt Hawaii as a whole can't afford to lose more natural capital.

Chair Kaiwi asked the ag subzone. Mr. Fisher replied that it was Ag-20. He did not know the conservation subzone. Ms. McDonald stated that the next door neighbor had been able to get around what she had previously thought was restrictive zoning.

Mr. Wally Inglis stated that he was in favor of farmland preservation and offered his support for Vipassana Hawaii as a dedicated organization that is committed to doing the right thing with the land. He added that he also supported the Commission. He had just retired for a second time

after working for legislature for 10 years and appreciated the struggle that the program had gone through, given the number of people in legislature eager to support development over conservation. Despite the very small pocket of money dedicated to this program, any number of bills had been introduced constantly to re-devote the funding for other purposes. He appreciated the Commission's effort.

Ms. Catherine Chang stated that she was a retired attorney that had been with State government for over 10 years. She had known Ms. McDonald for over 20 years and came to support the organization. While sitting in on the meeting, she had been impressed with the projects. She was from Oahu and had recently learned her ancestors may be from Big Island. She had grown to become passionate about Hawaii and the land, and as a graduate of William S. Richardson School of Law, she had come to appreciate the bigger perspective. She read a Hawaiian proverb: *e kanu i ka huli 'oi ha'ule ka ua*; meaning "plant the taro stalks while there is rain; do the work when the opportunity affords." She stated that Vipassana had always taken the opportunity to do the work. She stated that they had successfully started projects with few resources: a school in Burma, for example. She encouraged the Commission's support.

Ms. McDonald offered to have Mr. Vega or Ms. Schweitzer assist with answering questions.

Chair Kaiwi stated that the Commission had assisted in protecting other areas of the North Kohala coastline and asked what the relationship of Vipassana was with these organizations. Ms. McDonald stated that the organizations supported the project and the protection of the coastline by Vipassana. Chair Kaiwi asked if it was Vipassana's intention to protect the cultural resources. Ms. McDonald agreed.

Member Shallenberger stated that he was happy that the conservation plan had been done, but was also curious about the ecological attributes of the area. Mr. Fisher stated that HILT and the other parties would have to do an initial assessment; however, it would include coastal restoration of flora and fauna. In addition to monk seal habitat, there was potential for seabird habitat restoration. They needed to look into the existence of colony, or of building a colony. The goals would be long term, protection first, restoration second.

Member Shallenberger stated his interest in the pros and cons of working with the community. As each project is added, there is a sense of accomplishment; however, there are no easy answers to management issues: dealing with invasive species, public access maintenance and liability, etc. It becomes overwhelming to mobilize an army of volunteers with each new parcel that is added, and this will be another one.

Mr. Fisher asked for clarity on the question. Member Shallenberger stated that the challenge would be that there was a new parcel and not a whole new nonprofit with a group of volunteers; this was a group that has been there. Mr. Fisher stated that the dedicated community would be willing to assist the process as it unfolds. Ms. McDonald stated that NRCS had offered potential funding for some management costs, like fencing. Currently, the coastal access was working. When people come to do retreats, there is a work period, and they also do work retreats. One person had cleaned all of the trash from the Haleula gulch in two weeks. When people get quiet, they have a lot of energy. We can depend on that workforce, as well as the North Kohala

community. There's a lot of overlap. She was less worried about the workforce and more worried about expenses for items like fencing. The harder things to do are worthwhile. It would not be easy. Like invasive species, the issue can't be solved overnight, it's an ongoing war. She appreciated Mr. Ha's remarks about next generation. Many young people are involved with Vipassana, this generation and the next ones were why this was being done.

Member Shallenberger asked if the open space commission had viewed an application. Mr. Fisher stated that the County of Hawaii's open space commission had listed the project as a priority. Ms. McDonald stated that the county stated it could get to the project in a seven-year time frame, which was more time than Vipassana had.

Member Canfield asked whether FRPP money was in-hand or pending. Mr. Kinvig stated that the funds were obligated and could be used after local match was available.

Member Young stated that she had seen Beth Robinson's estimated property value; however, she wanted to know where the appraisal was at. Ms. McDonald stated that the selected appraiser had a backlog and they were waiting. Member Shallenberger stated that the handout had contained some information. Mr. Fisher stated that the standard estimate for a conservation easement value was a 50% diminution of the full appraised value, until the appraisal is in-hand. The estimate tends to be accurate.

Member Shallenberger said that he had read of an agreement with the County to provide public access to Halawa Gulch. Ms. McDonald indicated the mauka-makai access on a map, and pointed out a county road. She stated that the legal access for the land was the result of a sugar company agreement formed in the 1970s. Most people take a dangerous path, so they were planning on improving the access, possibly in accordance with community plans.

Member Shallenberger asked if there might be restrictions on the mauka property. Ms. McDonald stated that the shoreline access would most likely be adequate without requiring intrusion on the other parts of the property.

Member Canfield asked about the certainty of funding from the Weasel Foundation. Ms. McDonald stated that the attorney had wanted to make sure the appraisal was satisfactory; however, the actual donor was very supportive.

Ms. Canfield stated that it had been difficult to assess the application because it was unclear which resources were on the proposed property versus adjacent properties. Ms. McDonald offered to point any items in question out on the map she had brought.

Member Richards asked whether, if Vipassana had to sell a parcel, it would consider selling the coastal parcel. Ms. McDonald stated that this parcel was the highest-valued, at least \$3.4 million. They had it on the market until they got involved with NRCS. Member Richards asked whether the amount of coastal property would be sufficient for development after setbacks are considered. Ms. McDonald stated that it was sufficient to build houses.

Member Young asked whether all but one parcel were free from mortgages. Ms. McDonald confirmed. Ms. McDonald stated that Vipassana's cash flow was small at the moment. They had no debt aside from that lot, but they did need to build for teaching in order to generate cash flow. Ms. McDonald indicated the mortgaged property on the map and explained how it had become mortgaged.

Mr. Abbott asked Ms. McDonald to point out Kauhola Point. She did. He asked about the seal haul-out location. Ms. McDonald pointed out the area and stated that there were one to three seals at the spot at given times. Ms. Schweitzer stated that they were tagged, were mostly males, and a small watch group was monitoring them. Member Berg asked if dead seals had been found in the area. Ms. Schweitzer said no.

Member Berg asked where the bats were and what they preferred for habitat. Ms. McDonald stated that they actually liked the ficus trees in the gulch. Dr. Ling On had a grant from the Navy and would be studying barbed wire and hoary bats, looking for a solution to bats getting killed by the wire. Hopefully they would be able to implement the solution.

Member Berg asked about coastal forest and restoration. Ms. McDonald stated that it was presently hala forest that they wanted to reforest. In the old days, cattle had stepped on the keiki that were there. This restoration was a top priority.

Chair Kaiwi asked about human bones found at the heiau. He stated that the Department's Historic Preservation Division had not produced any comment on this fact.

Ms. McDonald asked to comment, and stated that Vipassana had several archeologists on the property. Several local historians and archeologists had done substantial research and there was no record of burials on that heiau. Michael Graves and Mike McCoy had come out from the Univ. of New Mexico had done work in the Halawa Gulch, and they did not have knowledge of any burial.

Chair Kaiwi stated that his comment had been directed to the Department, and he had thought that it ought to have caught this as part of the consultation required under Act 284, Session Laws of Hawaii, 2012. Ms. McDonald stated that Vipassana was very open to guidance and input on this topic.

Member Young asked about the land value donation indicated on the estimated matching funds worksheet. Ms. McDonald stated that this amount was the amount donated by the landowner from the fair market value of the property.

Chair Kaiwi thanked Ms. McDonald and called a 45-minute break.

Chair Kaiwi moved the discussion to the Whitmore project. Ms. Lea Hong stated that she would briefly skim through the information offered on the PowerPoint. The partners to this project were the Trust for Public Land (TPL) and the State Agribusiness Development Corporation (ADC). She introduced Jimmy Nakatani, the Executive Director of ADC. Director Nakatani stated that ADC is an attached agency to the State Dept. of Agriculture that mostly

does projects and development. It was created to assist the transition from plantation agriculture to other forms of agriculture. It is non-regulatory. It had some existing projects under way, including Galbraith. Ms. Hong stated that this project was part of a larger project under way with the Office of Hawaiian Affairs to acquire 1,700 acres that was scheduled to close December 10, 2012. ADC will own 1,200 acres and OHA would end up with 500 acres. Phase 2 is acquisition of another 24 acre parcel owned by Castle & Cooke. This parcel had processing facilities that can support agriculture at Galbraith, Kunia, and the North Shore; and \$3.6 million was appropriated during the 2012 legislative session. Mr. Nakatani stated that there was a lot of interest in this, however, due to workload, it had been put on hold while Galbraith went through. It's adjacent to the 257 acre parcel... they had cut it in half to have an industrial section on one half, another industrial section on the other side, and then it is surrounded by agricultural lands.

Ms. Hong stated that Phase III of the larger project was the one before the Commission. It included 456 acres of additional farmland, administrative office space, parking, packaging and processing facilities, and access to the north fork of Kaukonahua Stream for irrigation. The legislature appropriated \$750,000 in 2012 for preparation and planning and infrastructure. Mr. Nakatani stated that it would be a surface-water system connected to Lake Wilson; ADC's vision is to provide inexpensive irrigation water for all of the farmland. Ms. Hong showed location maps of the property. She listed the sources of funding for related projects and showed different maps of the property, and discussed residential development in nearby areas. Development studies had been done previously that involved the proposed property. Less than 10 acres of the Whitmore lands would be used for office areas, trucking, loading. ADC wants the land for long-term leases for existing and new farms, current lessees include a flower farm, tree farm, and landscaper. The land includes the north fork of the stream. She showed photos of the property.

Member Young asked Ms. Hong about the county's funding. Ms. Hong stated that the county Commission had recommended one to two million, however, the City Council and Mayor may grant the full amount requested at four million. Member Berg asked the status of the funds. Ms. Hong stated that it had only been through the Commission recommendation, and still needed to go to the council and the mayor. The council and mayor had previously awarded funding over the commission's recommended amount. Mr. Nakatani added that he thought the council and mayor were supportive.

Member Shallenberger asked about Army Buffer funding. Ms. Hong stated that this funding was still pending. The project had succeeded in one funding process but not another, however, they'd know closer to August 2013.

Chair Kaiwi asked if the Army Buffer values had caused any conflict with project goals. Ms. Hong stated that the Army may have previously restricted properties that had residential dwellings, but new construction would be the issue with Galbraith.

Member Abbott asked whether NRCS would be involved in discussions or collaboration on the project. Ms. Hong stated that Mr. Kinvig was aware of the project; however, generally, land owned by state agencies was not available for funding through the NRCS programs.

Member Shallenberger asked what the possibility of using water from Kaukonahua Stream was. Mr. Nakatani stated that ADC was looking at Lake Wilson, and trying to get the R1 water, however, they wanted to avoid water high in nitrogen or phosphorus. They had a ways to go, but were trying to use the best natural resource as opposed to pumping water. ADC had discussions with neighbors regarding potable water use and collaboration to reduce costs. Ms. Hong stated that Lake Wilson was a windy body of water that held two or three billion gallons of water. ADC has a well on the land; however, it might be cheaper and easier to tap the north fork of the stream because the wastewater plant discharges into Lake Wilson. If they tap at a higher elevation, there'd be fewer issues related to wastewater use. They needed to do feasibility studies.

Director Nakatani stated he was trying to convince the Board of Water Supply to assist, and help ADC avoid using groundwater.

Member Young stated that the stream was recommended for protection due to recreation value. If the stream is tapped, what is the effect on recreation? Mr. Nakatani stated that they would most likely not tap the stream. At one time there was an irrigation system that went into the lake; the preference is to use the lake water. Ms. Hong stated that the withdrawal would most likely be limited because DLNR had an interest in maintaining lake levels for recreation.

Member Berg stated he had concerns with, both environmental and cultural, with messing with the stream. The problem with Lake Wilson water was the nitrate and phosphate content; taking the stream water that currently helps dilute the pollutants would cause harm. How valuable is the property if the water is not there? If the waters source turns out to be well water, how sustainable was that when the projections for groundwater recharge are down? Decreases in trade winds and rainfall, together with a population use increase, were affecting the recharge. He stated that he was concerned with the long-term availability of ag water, as well as maintaining the environmental and recreational values.

Member Young asked if there would be efforts to protect groundwater supply from potential ag pollutants.

Ms. Hong stated that ADC, as a state agency, would have to consult the State Water Commission prior to any use. The Water Commission would weigh these issues. Member Berg stated that the point was discerning whether the success of the proposal depended on water use that was not yet permitted. Mr. Nakatani stated that the likelihood of tapping the stream was very low, so they were mostly looking at Lake Wilson, and possibly use of the R-1 water. He thought that the Water Commission would not allow these issues to go unsettled.

Member Canfield stated that irrigation had not previously been used for uplands.

Ms. Hong stated that it received about 47 inches of rain per year. Member Berg asked about the rate of decline over recent years. Ms. Hong did not know the statistics but stated it might be different in 50 years.

Member Abbott stated that the property had been fallow for about eight years. If there was sufficient rain water, why has the property not been used to date? Has there been any assessment of contaminants in the soils from past use to grow pineapple?

Ms. Hong stated that the current lack of farmers on the land may have to do with the reluctance of Dole to provide long-term leases. Farmers have reluctance to invest in lands on which they can be evicted with 30 days notice. Furthermore, Dole had listed the properties for sale, farmers are aware that they could be evicted. Regarding chemical contaminants, they had done extensive studies on the neighboring Galbraith lands and had found no residual contamination. The PH is altered from years of irrigation, and this needed to be restored like other lands in Kuna have been. Most of the currently-allowed pesticides and herbicides should not affect the aquifer. Member Berg asked if there was current groundwater contamination from past farming. Ms. Hong stated that there was not; it was the Pearl Harbor aquifer that had these issues.

Member Richards stated that the old pesticide had been arsenic, which does not break down over time. After all of the use of arsenic, not much harm had been caused. Certainly there would be even less of a problem with the current pesticides that were required to break down over time.

Member Abbott asked how long the restoration was estimated to take. Director Nakatani stated nine months to a year, depending on the desired PH and the date of acquisition. ADC would have to wait for a dry season.

Members Shallenberger asked about the statements that had been made on the site visit regarding GMO. Director Nakatani stated that the elevation and rainfall were not suited for most GMO crops. Ms. Hong stated that the Galbraith appraiser had spoken with the seed companies in determining comparable prices of land; these companies had told the appraiser that they were not interested in the lands for seed corn. Mr. Nakatani stated that hotter, drier lands are preferred. He added that soybeans actually required more sun than corn.

Ms. Monique Vander Stroom stated that owned a small farm in Waianae called Naked Cow Dairy. She was present to support the Whitmore acquisition by ADC, it was a great opportunity to secure farmland on Oahu for the future. When she had come here 20 years ago, there were over 2,000 cows on Oahu that produced 20% of the milk sold locally. Due to the rising cost of imported feed, most of these farms have shut down. On her own she had started a small dairy farm. There's no rain or pasture available in Waianae, so she was dependent on growing feed in Wahiawa or importing from the mainland. The latter was no longer an option due to cost. Her struggle had been to grow and produce feed locally – this was her largest cost. This land could be a source of local feed. Currently, there's a bit of feed grown, but not enough to support even one dairy farm. Increase in local feed could also assist cattle ranches, other dairies, and goat farms. It would cost \$20,000 for purchase of 22 tons of grass hay, \$6,500 of which was shipping costs, plus trucking from pier to farm. Growing locally would substantially reduce costs. In the proposed property, irrigation would not be required to grow feed; the amount of available feed would fluctuate according to rainfall. Without herbicides, pesticides, or irrigation, the estimate would be about 10 cuttings a year of high-protein grasses adequate for feed. It is essential for future generations to support self-sustaining farms.

Mr. Bill Weiss stated that he also supported ADC in acquiring this property. Oahu needs farmers on the island. Mr. Ha had stated that young farmers would not farm if they did not see any money in it. And living on the land was also a very important attractor. He had known that he did not have the money to purchase land, so he had been excited to learn of the vision shared by ADC and Senator Dela Cruz for Wahiawa, to take a formerly productive agricultural area and reinvigorate it. ADC would be the mechanism to accomplish this process. His family grew tropical flowers; however, he supported the local food growers. The return on this purchase can be immense, especially in the long term over several generations. We are starting to have good agricultural training programs in schools, but when these kids graduate, they will need a place to work. If a child growing up in Hawaii can have the thought that they can start their own farm, that motivation would benefit all of Hawaii. Regarding the Kaukonahua Stream – it's the longest river in the state, it is an important body of water. His farm was organic, no pesticides or herbicides, and had only used eight bags of fertilizer in 12 years. We use manure to make an herbal tea and then spray it on leaves and soil. The biofilm protects the plants and helps them stay healthy enough to fend against invasive species or diseases. We try to make sure nothing negative enters the river, o'opu, opai live in there, and there's the recreational uses, too.

Member Canfield asked how the 16-acre farm's operations would change if given a 20-year lease. Mr. Weiss stated that expanding would be great; however, they have their hands full with flowers. Two things they'd try include sprouts (sunflower sprouts and corn sprouts), and maybe two to four varieties of mushroom.

Member Buchanan asked Ms. Vander Stroom what feed she'd grow. Ms. Vander Stroom stated she'd grow high-protein grasses to substitute for mainland-grown alfalfa; there's an orchard grass that they're looking at. Director Nakatani added that a farmer close by in Mililani Tech Park was working on feed grasses for a few years; it had been working thus far.

Member Buchanan asked if operations would move from Waianae. Ms. Vander Stroom stated that the feed would be brought to Waianae to the cows and the creamery. Member Buchanan stated that there was no map delineating the specific parcels and their uses; she asked them to indicate the parcels.

Ms. Hong apologized for the map and indicated the various parcels on the PowerPoint map. The Commission members and Ms. Hong reviewed which activities were on what parcels. Mr. Nakatani described the layout on a topographic map.

Member Buchanan asked where the 487-acre Larry Jeffs parcel was in relation to the Whitmore lands. Mr. Nakatani stated that it was nearby on the map although farther away by vehicle, adjacent to Wheeler Army Base. He confirmed that the land was with the Dept. of Agriculture, and that ADC had a slightly different authority and mission. Member Buchanan asked if diversification of agriculture was the purpose, what the estimated lease rents would be. Director Nakatani stated that DOA's highest end was about \$400 per year, so that was the estimate used so far by ADC. Member Buchanan stated that there was old infrastructure and questionable water use. She asked what the historic water usage had been. Director Nakatani stated that the well could provide for 2,000 acres. Ms. Hong stated that it had previously been permitted for two million gallons per day, but the permit had expired, so they'd have to reapply. Director

Nakatani stated that Lake Wilson water would ideally be diverted for cheaper water. The 24 acres had the infrastructure, water, and sewer, and would service the rest of the lands. Member Buchanan stated that the 24 acre parcel had no water without the stream. Mr. Nakatani added that there were other options, however, the higher up the stream they went, the less pumping they'd have to do and the cleaner the water would be. Mr. Green owns part of the spillway, so that's still an option.

Member Buchanan asked whether the \$750,000 that had been appropriated by legislature had been to plan the system. Director Nakatani stated it had been a feasibility study, different from building the system.

Member Buchanan questioned whether the Land Use Commission had re-designated the lands in Ho'opili with the knowledge that legislature was supporting the development of new agricultural leases in another area. Director Nakatani stated that the Galbraith purchase had been going on for about six or seven years. The bottom line was that this was an opportunity for agriculture to flourish.

Member Buchanan stated that she had been looking at cost. The prior year they had an application for lands in Kahuku, which was an agriculture project using similar funds. They had ranked the project low for various reasons, including costs and feasibility – it wasn't clear how the infrastructure and other components of successful agriculture would be put in place. Director Nakatani stated that ADC would work it out; it is slated for small farmers. They would level and align the land, mentor the farmers, the State agency can help the farmers get what they need. The farmers would be screened for solid business plans, and possibly not charged immediately for leases.

Member Buchanan stated that this information was reassuring – the Kahuku project had immigrant farmers that were not literate or able to function as successful businesses.

Director Nakatani stated that farmers used to growing cucumbers did not always understand the cost of production for other crops and could lose money. He stated that there was a need for production and for making value off of the waste products as well. Member Buchanan stated that the State was not up to speed for use of R-1 water. Director Nakatani stated that there had been amazing advancement in use of R-1 at Wheeler. ADC stated that it was interested in this. If the city is producing similar R-1 water, they'd be interested, however, there was a concern regarding pharmaceuticals.

Member Buchanan asked whether Wahiawa dumped its water into Lake Wilson on occasion. Ms. Hong stated that it always dumped its water there, and the problem was that it was occasionally untreated. Member Buchanan added that cucumbers on Molokai had been found to have traces of heptachlor and had to cease farming them in the abandoned pineapple fields. Director Nakatani reassured that ADC would not farm unless the fields were clean.

Member Young added that it had also occurred to her that they were losing some ag lands and gaining others. She asked about the results of the consultations with State agencies, and whether this project had been exempted. Ms. Hong stated that the consultations were all there, some had

come in late. Member Young asked the acreage of the smallest parcel; Ms. Hong replied that it had been assessed as “0” in some documents as part of a practice for lands that are nominal in size.

Member Abbott stated that the Whitmore project had exceptional leverage. He asked if, given the matching funds, there was any flexibility for partial funding of the project by parcel. Ms. Hong stated that they had not discussed it. ADC would probably prefer the southern parcel.

Chair Kaiwi asked if the owner would be willing to sell less. Ms. Hong thought so. Director Nakatani added that this was not an owner that would negotiate much; they would set the price and stand by it. Member Abbott asked whether choosing only the smaller parcels and excluding others would be a problem. Ms. Hong stated that some of the smaller parcels provided drainage for attached properties. Dole would not want to sell these separately. They discussed which parcels would need to be sold as a group. Director Nakatani stressed the importance of acquiring the industrial section.

Member Canfield asked the status of the appraisal. Ms. Hong stated that most appraisers were backlogged until the end of the calendar year., this project was near the bottom of the list.

Member Abbott asked how the appraisal requirements and process for this project would differ from other projects. Ms. Hong stated that there was not much difference, the usual standard was USPAP, some federal purchases followed Yellowbook/UASFLA standards, which are slightly different and sometimes more expensive. Mr. Kinvig stated that NRCS could accept both and did a review. Ms. Hong added that federal conservation easement appraisals were sometimes more expensive because two analyses were done: one for the entire value of the fee land and one for the value of the restricted parcel, the latter was then subtracted from the former to attain a value. Member Abbott thanked Ms. Hong for clarifying.

Chair Kaiwi stated that changes in applications over the last few years had been interesting. Concerns regarding natural resource use and environmental quality had to be met with economic concerns and offshore impacts. With agriculture, the Commission could not consider cultural and natural resources alone, but had to consider economic concerns as well. He moved the discussion to the Ulupō Heiau project.

Ms. Martha Yent stated that she'd present a few PowerPoint images and answer any remaining questions regarding the project. She stated that the road indicated was owned by the YMCA, and they'd had an excellent relationship with them over the years. The heiau had come into state ownership along with statehood in 1959. The Kaneohe Ranch / Castle Fndn. had donated the land to the YMCA in the 1960s. SP has explored the acquisition of the property for the past 25 years, the first appraisal was done in 1993, however legislature had not funded the project at that time. The YMCA had also been reluctant at that time due to expansion plans. Since then, this has changed due to lack of community support for development near the heiau. She indicated three interpretive signs and two entry points to the heiau. The Kailua Road entry point had been an inappropriate access, now the access is through the YMCA parking lot. She indicated a drive that led from the upper property to an old house site on the lower property, and a drainage ditch that received water from a nearby subdivision. She stated that the erosion was occurring behind

the concrete, and in hindsight, she should have indicated this as a hazard on the application. The point of concern was the corner of the heiau. She showed photos to give an idea of the visitation levels. The curators had done a great job, now it was a very attractive site for tourists and locals. The lo‘i kalo is part of the area proposed for acquisition. The old piggery is at the property line. Lo‘i kalo on the slope are traditional, the ones closer to the heiau are unknown.

Mr. Kaimi Scudder stated that Ahahui Mālama I Ka Lōkahi had been on site since at least 2004. Their official curatorship had begun in 2006; they were now co-curators with Hawaiian Civic Club. They worked to restore the site and use it for cultural and environmental education. It is a popular site for tour busses as well as drop-in tourists. The clubs have conducted activities in the loi and had groups of 50 tourists walk through the event. The big busses no longer venture into the subdivision. If the land is purchased by the State, the YMCA can use the funds from the sale of their lands to build a better driveway access to the highway. The clubs can then better manage the back 3.5 acres of land according to the draft cultural resource management plan for the site. Kailua residents are constantly calling the clubs to ask why they allow tourists to enter; however, the clubs do not manage that access. Japan Airlines shows a video to incoming tourists stating that the loi are on State lands; some of the loi on the lower properties are on state lands further down. We are strongly in favor of the State acquiring the parcel.

Ms. Yent shared the *Wahi Pana* brochure with the Commission, it was a decent guide book funded by the Hawaii Tourism Authority (HTA) in 2009. Two trainings had been conducted to assist guides with conducting respectful visitations; they’d like to continue further trainings.

Ms. Yent stated that the Castle Foundation had reservations about funding the full amount of the match because it had actually donated the property to the YMCA in the past. They had, however, committed to \$250,000, which they believed to be a quarter of the appraised value, although the appraised value is \$2 million. They’ve also offered to help us find other funding sources. The YMCA is a willing seller and had established the acreage.

Member Shallenberger asked what would happen if they did not go through with the purchase. Ms. Yent stated that the site was not in immediate danger – on one hand, the YMCA would not build, on the other hand, the State would not be able to resolve some of the management issues affecting the heiau because the state can’t spend money on non-State lands. The YMCA is also under scrutiny from the county regarding its parking accommodations; they need the funding to address this.

Ms. Yent stated that she had struggled to find funding because the usual federal sources had not been available. They may hear by March whether funding is available, however, it would not be more than \$400,000. State Parks had used NOAA CELCP funds in the past, but these funds hadn’t been available in the past cycle. She asked Mr. Ian Hirokawa to explain why they hadn’t gone for county funds. Mr. Hirokawa stated that the county was now requiring a conservation easement over properties acquired with their funding; the State, being the superior sovereign, was not comfortable with county-held conservation easements over state properties.

Member Canfield asked whether Legacy Land had already collaborated on projects with the county. Mr. Hirokawa and Ms. Hong stated that the State had elected to not use the county funds

for the Honouliuli project to which they'd been awarded because of the small amount of funding relative to the total project costs and the high value of a conservation easement. Ms. Schmidt added that the Kalauao project had received 75% of its funding from the city and county, however, she wasn't sure whether this project had run into issues or not. Member Canfield stated that it was disappointing that the issue had come up and effectively made one less pot of money to work with to fund these projects.

Member Shallenberger asked whether a partial purchase would be feasible. Ms. Yent stated that a subdivision would be necessary and the effect would be cutting away a buffer, which was not desirable. Member Shallenberger asked whether any of the management issues could be fixed. Ms. Yent stated that the traffic issue would not be fixed right away because the roadway up to Kailua Road would not meet DOT standards, planning and construction would need to be done. It's in the deed to YMCA that they're required to provide public access to the heiau; they do have a working partnership.

Member Young asked about the possibility of a fence between the YMCA and the heiau. Ms. Yent stated that there would be a period of time where these things are sorted out.

Member Canfield asked about sources of management funding. Ms. Yent stated that Parks does not even have a paid curator for the site; it is all volunteer-run. Management funding would be a concern. If Parks can control the commercial permits, they could use the fees. The fees would go into a special fund and may not be dedicated for the specific site. The only monies dedicated to a specific park were for Diamond Head through specific legislation. Member Berg cited the example of Hā'ena, Ms. Yent clarified that legislative action would be needed.

Member Young asked if the proposal would be better off in the following year. Ms. Yent stated that they had been hoping that Castle would provide the full match, on the other hand, there is the concern that they would not hold the money that they have dedicated. Member Young thanked Ahahui Mālama I Ka Lōkahi for all of the work they'd done. Mr. Scudder stated that the schools had not contributed any funding for their use of the site.

Chair Kaiwi called a five-minute break before moving to Item 7.

ITEM 7. Discussion by members of the Commission of the FY13 project applications and supplementary materials (please see the list of applicants attached to this agenda).

Chair Kaiwi stated that his main issue had been with the appraisals; however, he was comfortable with leaving the entire discussion until the following day if allowable. Ms. Schmidt confirmed that the discussion of proposals was also on the December 6, 2012, meeting agenda.

Member Berg stated he was also concerned by the lack of appraisals and secured funding for the projects. This time around, some proposals do not have these. The Commission would have to look to the criteria closely in making recommendations.

Member Abbott added that he also regretted the absence of appraisals but understood the significance of the cost for smaller organizations. Two of the proposals had already been reviewed by NRCS, which was encouraging. NRCS has the staff to review appraisals and also stringent standards for the acquisition.

Member Shallenberger stated that the Commission did not have a good idea of what would be in the easement. People can promise, but the Commission did not pin this down well, there were no assurances. It might be nice if it became part of the application process – including the restrictive provisions without the surrounding boilerplate.

Member Canfield stated that she had been a little disappointed by the lack of utilization of the farmlands for crops and food security. The lessee growing flowers had indicated mushrooms and sprouts as potential new crops; the current lessee included a landscaper, she was concerned dedication to small farms and the best use of the land. Director Nakatani had addressed assistance to small farmers in a little bit of detail today, but there was still a concern.

Member Young added that she had asked Director Nakatani for an example of a low, long lease, and he said \$400 per acre a year for 20 years. This was not practical, more acreage was required and most farmers she knew in Waianae could not afford that. Perhaps this was just an upper limit, though.

Member Richards said that the immigrant farmers in Waianae worked the land very hard. He questioned whether existing farmers really wanted to farm and had the passion to succeed. He could envision a system where young farmers coming out of school were given a trial period of years to demonstrate themselves and then received the long-term leases after, but without the proper drive and passion, it wouldn't succeed anyway.

Member Young asked whether there was a way to attract locals as well as immigrants – in terms of how to assist young people. Member Richards suggested places like MA'O as way-stations before moving on.

Mr. Ha agreed with Member Richards. He stated that there were young people eager to try farming; they ought to get the chance to try the lifestyle without getting tied down. One of his farm interns had been so enthused that they'd sent him around to different areas to learn. His parents had told him to earn the respect of workers. Giving them the land did not ensure that they'd make money.

Ms. McDonald stated that their neighbor that wanted to farm their land had started a school for Pacific agriculture and had worked with the college evergreen to get the students to do the work. It's the only way they can afford farming. If there is some way to get Hawaiian colleges and students involved, this model is working.

Ms. Hong stated that Director Nakatani would probably follow DOA rates which run from \$100 per acre per year up to \$400 per acre per year. She clarified that it was a range; \$400 per year was the top that ADC could charge.

Member Canfield asked Ms. Hong to speak to ADC's record of providing land to small farmers. Ms. Hong stated that ADC had tried to leverage its assets, usually land, to work with larger lessees and give them a break on their lease rent to get them to prepare and grade the land for smaller farmers. He wants to give new farmers a change and provide them with mentoring and business plan analysis.

Member Abbott asked how long projects had to come up with match. Ms. Schmidt stated that the projects usually had about two years from the date an agreement is signed. Member Abbott stated that it would sweeten the pot if the parcel that had access to the stream would include official public access – could the Commission recommend this? Member Canfield said that her sense had been that this sort of public access caused problems for ag. Member Berg said that it was not their role to negotiate conservation easement terms and other project specifics; it was their role to take the proposed projects as-is and rank them. Member Shallenberger stated that there was a difference between a recommendation and an easement provision.

Ms. Schmidt stated that, as a procedural issue, the Commission received proposals and judged them on a competitive basis according to set criteria; to change the project after that point seems out of line with that process.

Member Berg stated that there had been an emphasis on the necessity of promoting agricultural projects in order to protect the island's food sources and promote self-sufficiency. He did not see how a Christmas tree farm, flowers for hotels, and landscaping fit into self-sufficiency, although it did secure lands for agriculture. Member Young commented that these were only the current tenants. Member Berg stated that there was nothing in ADC's policy – they can decide to lease to the military for a buffer, or put it into a wildlife refuge – once they own the land they can do whatever they want with it.

Member Young asked whether the stream access parcel because of its access to water. Ms. Hong responded that she thought ADC wanted to see active ag on all of the parcels. She thought ADC considered Mr. Weiss and the tree farm to be good tenants – and the tree farm helped prevent invasive species from imported trees. The landscaper had been found to be dumping illegal materials on the property, and ADC does not have much investment in this tenant. They'd like to see ag on the fallow lands, their main purpose was to promote active ag.

Member Abbott asked about public access to the stream. Ms. Hong stated that there were security and vandalism concerns for farmers. There's already plenty unmanaged access to the stream. People's houses touch that property line, and most have a path to the stream. Director Nakatani had not seemed interested in preventing or encouraging access. Perhaps once he has ownership he might turn to another State agency to help manage access.

Member Abbott stated that, as someone without Wahiawa connections, he thought about the attractiveness of public access in terms of adding value to the proposal. Member Berg stated that many of the Commission's mandated conservation values are inherently conflicting in their uses. For instance, would you downgrade an agricultural project because it does not allow public hunting?

Member Young asked if streams were private property. Mr. Hirokawa stated that streams can be state owned or privately owned. Ms. Hong stated that many streams were sold to the mid-point of the stream, it can be private. Member Berg stated that the water use was not the same.

Member Young stated that she liked Vipassana's openness to public access.

Member Abbott stated that it had been clear to him at Ulupō that conflict existed and was getting worse, and the community involvement had been tremendous. Although the proposal gave the least in terms of financial leverage, the urgency there was greater and the partners were willing to participate now, which may change in the future.

Member Berg asked Ms. Schmidt to review whether match is required for State projects. Ms. Schmidt stated that, unlike county and nonprofit projects, the statute did not require State acquisitions to bring a minimum of 25% matching funds to an acquisition. The Commission's criteria, however, did include match as a consideration for ranking.

Chair Kaiwi said that the issue of conservation easement provisions could perhaps be resolved by requiring the basic provisions, however, following up to ensure compliance would be within DLNR/DOFAW purview. He stated that the appraisal issue could also be resolved by Member Abbotts suggestions of holding funds. Ms. Schmidt confirmed that the DLNR was following this practice. Chair Kaiwi stated that regarding the issue of ADC and the length and affordability of leases – the judgment may be premature at this point since the plan has many moving parts. Ms. Hong stated that she wanted to clarify that the \$400 amount had been the top of the range, Chair Kaiwi agreed. He added that many of the issues that had come up in the discussion were a result of the Commission's commitment to ensuring the right thing for the aina, however, they may be slightly outside of purview and not resolvable at this time.

Member Canfield asked if Ms. Schmidt would speak to what was done with conservation easements after funds are awarded. Ms. Schmidt stated that conservation easements funded through the program were generally drafted by the applicants and submitted to the Department for review. They needed to be in keeping with what was promised in the grant application, and the standard deed restrictions must be present. The AG reviewed deeds and deeds of conservation easement. She added that federal Farm and Ranchland Program easements seem to be fairly uniform. Mr. Kinvig added that they were, however, on the mainland the easements varied with historical trails and other circumstances. Ms. Schmidt stated that she did not go into much detail when reviewing – if it was clearly and specifically stated in the application, then it ought to be present in the conservation easement. What Member Shallenberger stated earlier regarding specific provisions would be a great way to give staff something to check for. There needs to be something to review against. Member Shallenberger added that the reviewer at times will need expertise in different areas. Mr. Kinvig added that NRCS gave an agreement to a grantee like HILT and the grantee responsible, perhaps the State could try that. Ms. Schmidt asked Mr. Kinvig for clarification on what he had said. Member Berg added that the Department was not in the business of managing conservation easements. Member Young asked whether the DLNR was one of the entities that could require an easement under the new consultation process. Ms. Schmidt replied that it was true that DLNR could request a conservation easement under the

act, however, many times in the past, applicants had come in to discuss the cost and commitment concerned with taking a conservation easement – it was not just a one-time action but a long-term commitment, monitoring year after year and enforcement. All of these processes need to be build into a program of some sort for managing conservation easements; it was not just the first step of acquiring that was involved. Member Young asked if Ms. Schmidt was stating that DLNR was not prepared to be a conservation easement holder. Ms. Schmidt clarified that she was not saying that, rather, she was saying that for every case, an agency needs to make a well-thought-out judgment on whether or not it will take a conservation easement rather than having it imposed as an automatic part of a grant approval process.

Mr. Hirokawa added that DLNR did not necessarily have the expertise to hold agricultural easements. Ms. Schmidt reiterated that she was not saying DLNR couldn't take conservation easements, she was saying that specific divisions needed to look at the resources on the properties and assess whether dedicating staff and financial resources and committing long-term to a specific conservation easement was worth the protection for the resource that it would achieve. This is why the consultation process was being run as a preliminary step to reviewing proposals, so that agencies had a chance to review and decide the value of the project in terms of their respective goals and missions, and if a conservation easement would be taken, to give applicants time to incorporate it into their proposals.

Member Shallenberger stated that the Commission sought to pin down applicants nearly every year. The terms were mostly restrictive.

Member Berg asked why the Commission cared whether match was dedicated or not. If the Commission dedicates State funds, the applicants must come up with the match or the project would not go, and the money would come back for use in future years. He asked Ms. Schmidt for clarification on the process. She stated that Member Berg was correct. If a project could not close within the two year period, it could request an extension. Extensions up to a year had been grant. Otherwise, if the project would go, then the Department went through a process to unencumbered the funds, which would go back to the Land Conservation Fund to be expended in a future year, provided that the funds remain within the Land Conservation Fund and are not taken by legislature for other programs. Member Berg pointed out that funds were tied up and every penny was allocated. Member Canfield stated that it was a bit different this year, but in the past, they number of requests had far exceeded the funds available, so the Commission had not wanted to tie up funding that could be used to make time-sensitive projects happen. Ms. Schmidt added that every year the request had exceeded the funds available. In 2005 and 2006, two acts passed to create the program, first the fund was created, then the Commission. There was an administrative lag time in interpreting the acts, appointing the Commission and setting up the Program, therefore, funds had accumulated over the first year and were spent evenly over the following years to allow a steady and high amount of funding for awards. There were other factors affecting the amount available, however, this year, the amount in the fund is less than what the program is authorized to spend, so that would be the limiting factor.

Member Abbott asked what happened in a case where an appraisal comes in at less than the requested value. Ms. Schmidt stated that no acquisition could be done for an amount over the fair market value as determined by a Department-reviewed appraisal, and as a result of the new

administrative rules, a decrease in the property value or the total project costs would cause a proportionate reduction in the Legacy Land award. They'll be held to the proportion of matching funds they pledged.

Member Abbott added that, conversely, the appraised value could be higher than anticipated. Ms. Schmidt stated that the amount of the award served as a cap and would not be increased. Member Berg stated this could result in a project's failure, or they could find additional funding.

Mr. Kinvig stated that NRCS was authorized up to a certain amount for funding. He asked whether a proposal was being approved, or an amount was being approved. Ms. Schmidt responded that it was a proposal. Mr. Kinvig stated that this policy allowed extra funds to go back to the LCF. NRCS has a similar challenge, but more flexibility to distribute funds across regions.

Chair Kaiwi added that the Commission's sole kuleana was to recommend projects based on the proposals. The Commission could struggle with these issues to some extent; however, budgetary issues were decided at the Department. Ms. Schmidt agreed and reiterated how the funding would be limited and stated that the Commission was approving a proposal, along with its requested amount of funding as a ceiling and its proportion of match as an additional limitation.

Member Abbott gave an example: a request for a million comes in and it is a 25% State contribution of the total project. If the appraisal comes in at \$800,000, would we give 25% of the overall amount?

Ms. Schmidt stated that generally a large decrease in the fair market value would cause the match and the award to go down proportionately.

Mr. Hirokawa stated that proportion had been used to stay in keeping with the criteria. If the proportion changes from 25% to 60% it could have affected how the Commission would have ranked the project.

Chair Kaiwi asked if the Commission would then reevaluate. Ms. Schmidt stated that a substantive change would go back to the Commission for review.

Member Young stated that as a shopper looking for the best deal on taxpayer funds, she would always want the match in-hand. Member Buchanan echoed the point – this was taxpayer money and they needed return on the investment.

ITEM 8. Announcements.

Member Buchanan asked Ms. Schmidt to investigate and answer what role the new Access and Acquisitions Coordinator for DLNR plays with this Commission and Program. Ms. Schmidt asked for clarification and Member Buchanan stated that there is a new program and the staff was tracking the land acquisitions for this program. She wanted to know how this fit into the program.

Ms. Schmidt stated that she thought Forestry & Wildlife had hired a new Access & Acquisitions Coordinator under the Wildlife section and the position had originally been more of an access coordinator. Member Buchanan asked if it was now a program.

Ms. Schmidt said that she could not speak to that question; she wasn't privy to that information. Member Buchanan stated that the staff claimed to be managing Legacy Land grants. Ms. Schmidt stated that she thought the staff had been hired to manage federal funds passed through the Division by the Recovery Land Acquisition (RLA) Program and programs related to Habitat Conservation Plans. In instances where RLA grants are co-funding projects with Legacy Land, and he says he is managing the acquisition, he probably means the RLA funding for the acquisition. Land Division actually assists more with the actual State acquisitions more so than any other staff member in DOFAW. Member Shallenberger asked who the staff member reports to. Ms. Schmidt stated that she thought he reported to the Forestry Section and Wildlife Section within DOFAW, whereas she was within the Natural Areas Section.

Member Buchanan stated that the mission and mandates were similar and they had specifically named Legacy Land involvement, however, they had never met the coordinator, nor did they know the program activities. They had said they wanted to develop an advisory committee, however, she had thought that the Legacy Land Conservation Commission served this purpose.

Ms. Schmidt offered to convey Member Buchanan's concerns to staff. She agreed.

Chair Kaiwi asked for further questions or comments before adjournment.

Member Young asked Ms. Yent whether applying next year for Ulupō was a possibility. Ms. Yent said that her reservation was that the YMCA would proceed with subdivision if it knew it had a commitment, and there were other options that they could pursue within a two year period. Member Abbott asked if she was certain they could get the funding within two years. She asked whether the State could get the appraisal rolling, Mr. Hirokawa responded that it could be done if State Parks had the money for it, the State had to contract for it. Chair Kaiwi asked why YMCA would not be a part of the appraisal; Ms. Yent replied that they would be funding the subdivision. Member Abbott asked if the YMCA was more likely to start working on it if the funding was committed, Ms. Yent confirmed.

Chair Kaiwi suggested adjournment. Member Richards moved, Member Canfield seconded, all were in favor.

ITEM 9. Adjournment.