

Legacy Land Conservation Commission Meeting Minutes

DATE: March 31, 2015

TIME: 9:00 a.m. – 1:00 p.m.

PLACE: Room 132 (Board Room), Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, Hawai`i

COMMISSION MEMBERS PRESENT:

Mr. Thorne Abbott

Ms. Lori Buchanan

Ms. Theresa Menard

Mr. Kaiwi Nui Yoon

Mr. Robert Shallenberger

Mr. John Sinton

STAFF:

Kirsten Gallaher, DLNR, DOFAW

Randall Kennedy, DLNR, DOFAW

Molly Schmidt, DLNR, DOFAW

Emma Yuen, DLNR, DOFAW

Marigold Zoll, DLNR, DOFAW

PUBLIC:

Laura Kaakua

Iolani Kauhane

Dan Purcell

Stephen Rafferty

Elizabeth Reilly

MINUTES:

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

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 December 4, 2014 and December 5, 2014 meetings.

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

Ms. Schmidt explained that there was one revision to the minutes from the December 4, 2014 meeting to clarify the nature of one of the conflicts of interest.

ITEM 9. Overview of Cave Conservancy of Hawaii projects and goals by Iolani Kauhane.

Mr. Kauhane played a 15 minute video from Mr. Asu Aue on the history of the Cave Conservancy of Hawaii, a non-profit organization, and some of the research that had been undertaken.

Mr. Asa Aue introduced himself as the newest board member of the Cave Conservancy of Hawai'i (CCH). The organization was first formed over 10 years ago on July 10, 2002 and has a 501(C)(3) designation. CCH aims to conserve cave resources by acquiring and managing caves for scientific study, as well as to educate individuals interested in speleology about Hawaiian cave resources. Many of the properties owned are very vulnerable sites; as a result CCH have partnered with Kula Kai caverns and Rick Elhard (a board member of CCH) to do a lot of caving outreach in this area, which is a commercial venture and not as sensitive as many of CCH's acquisitions. The organization sought caves with specific features, primarily archaeological, to conserve. This included acquiring properties under which caves are found, even if the property did not contain cave entrances. Specifically, CCH works in Oceanview and the Ka'u district of Hawaii Island. This area had particularly cheap rural land and an increase in development pressure over the past decade. It was therefore important to protect caves from vandalism. Other criteria for protection included a diverse array of biological, paleontological or geological resources. For example, fossils of the Land crab and Moa bird were known only from lava tubes because of the suitable microclimate for preserving fossils. Scenic enjoyment values were also important to increase public outreach and involvement in cave conservation.

Ownership of parcels included those owned by CCH members and the organization itself, both of which were managed to preserve natural resources on the surface and in the cave systems below. CCH had two reserves: Ole's Puka and Kanohina Caves. When Ole's Puka was acquired, it required the extensive removal of trash from the entrance; in the absence of this a diverse native flora, including *Pepperomia* spp., Ohia, Lama and Mamane had returned. A public outreach kiosk had been installed at this site. Kanohina Caves has a large elevational extent, with over 18 miles of continuous mapped lava tubes, making it the third longest lava tube in the world. It contains numerous Hawaiian artifacts and evidence of prehistoric habitation. Geological formations include lava stalactites, lava balls, various minerals and numerous pristine paleontological specimens (documented by the Smithsonian Institute). CCH members also owned sections of Kazumura Cave, the longest lava tube.

In the early 2000's, the Legacy Land Conservation Program (LLCP) helped CCH to acquire a 3 acre property in the Kula Kai subdivision. It consisted of a large, open cave passage with abundant native vegetation on the surface and a diverse cave-adapted fauna. This helped to form a mauka to makai corridor connecting the Kanohina system. The parcel cost a total of \$60,000 of which \$45,000 was donated from LLCP, with the remaining \$15,000 from CCH members.

Mr. Aue studied endemic Hawaiian cave fauna, which were only discovered on Hawaii Island in the 1970s by Frank Howard. Since that time, communities had been discovered on Haleakala, Kalaupapa, various coastal locations in Oahu and the Koloa area of Kauai. On Kauai, there were two endangered species: the No-eyed Big-eyed Wolf spider and the Kauai Cave Amphipod. The Environmental Protection Agency had conservation and general management plans for these species. Hawaii Island had the most lava tubes and highest diversity of cave-adapted organisms, with confirmed biodiversity hotspots (single cave locations with more than 20 cave-adapted organisms). Fewer than 50 sites worldwide had this.

At the cave preserve sites on Hawaii Island, there were more than 10 species, with many others unidentified or awaiting description. This included the Small-eyed Big-Eyed Wolf spider, centipedes, millipedes, rock and tree crickets, plant hoppers and assassin bugs, with a likely doubling of the number of recognized species in the future. Lava tubes and associated skylight entrances provided enough natural sunlight to act as refuges for endangered plant species from ungulate damage. Lava tubes in Hawaii also had diverse microbiological slime mats which had been used as analogues for astrobiological studies and research for cancer treatments.

Mr. Kauhane presented about the cultural heritage of CCH's sites, within the Ahupua'a of Kahuku, one of the four largest Ahupua'a on the Island of Hawaii. A picture showing the only beach access for the Oceanview area depicted archaeological sites including the second-biggest petroglyph field in the state. Over 100 archaeological features were found in this area within 5 miles from the cave system.

Mr. Kauhane was the newest member of CCH. Four members of the CCH had been contracted by the Army to survey caves at Pohakuloa Training Area over the past ten years, and Mr. Kauhane was able to assist as the cultural technician at Pohakuloa . 12 kilometers of the cave system had been mapped. Kahuku and Pohakuloa had similar landscapes (pahoehoe lava flow) and artifacts. The height of the ohia trees (in a kipuka) provided an indication of the age of the landscape. Pahoehoe pits were formed when Hawaiians would open lava blisters using rocks and over 12,000 of these had been identified at Pohakuloa. The motivation could have been habitat creation for ground-nesting birds such as the Petrel (ua'u) or to collect water from the rocks (lithic mulching).

Mr. Kauhane described marks in front of a cave, made using a grading stone. Caves provided rich and abundant archaeological resources because they were able to be used by Native Hawaiians for many functions, including shelter and water collection. In Mr. Kauhane's opinion, many of the cave entrances were located by people exploring from the inside. 200 meters into the cave, charcoal had been found, suggesting exploration. Caves had mostly been used for temporary habitation. Artifacts included layers of food remains such as marine shells. Because the Hawaii Island substrates were so porous, caves provided an important water collection function. Gourd cradles had been used to collect drips; carrying sticks, spears, bird-catching sticks and cooking stones had also been found suggesting the repeated use of the caves.

The mineral resources were extracted by Native Hawaiians. At three locations, pictographs had been painted. In Kahuku there was a lua cave (Hawaiian martial art) with over 20 pictographs

showing techniques. In Pohakuloa, the Ahupua'a abutted Mauna Kea. Spears were hidden in caves to protect the resources of the Ahupua'a from its neighbors.

Regarding the Kanohina cave system, over 18 miles had been mapped, with a high abundance of undocumented Hawaiian artifacts. The land was owned by CCH members, many of whom came from the mainland to explore these caves. In Kona there was sensitivity about disturbing caves because of incidents like the Hokuli'a resort development (caves with burials had been exposed during construction). The artifacts in this system had therefore not been disturbed until they could be documented. In the early 1900's, there had been violent lava flows/earthquakes from Mauna Loa which caused people to move to cities. Kahuku was in the highest level of lava threat and therefore had no signs of ranching or military artifacts. The most important cave system was known as the kapa cave, where fragments of fine white kapa were found. The moist climate of the cave was suitable for kapa-production because the fibers were able to expand and form layers. Other features, including tools, constructed platforms, stepping stones, water collection and cleared areas were also identified. Stories say that Hina, the goddess of kapa making and the moon was beating kapa in a cave behind Rainbow Falls (scientific information was embedded into mo'olelos). Other significant sites included a refuge cave with a constructed wall. An area of future research was whether Hawaiians manipulated the water system in the caves to increase water drips. The potential research opportunities were exciting. It appeared that cave entrances were organized by function. One cave had no main trail systems or markers which suggested that the caves and resources were protected by the families.

Mr. Kauhane's involvement with CCH would be to assist with determining the cultural significance of the caves. CCH buying 77 acres of land on Hawaii Island containing an entire cave system had enabled research into how Hawaiians adapted to living in an otherwise inhospitable environment using caves. Mr. Kauhane went on to give some examples of related research. Now that the CCH had a strong foundation in conservation and natural resources, the President (Mr. Don Coons) wished to focus more on cultural aspects. Mr. Kauhane was pursuing a Masters degree focusing on comparative utilization of caves in Pohakuloa and other parts of the island; aiming to integrate Hawaiian knowledge with western science and to provide a worksite to help with qualifying local people in Hawai'i. Mr. Kauhane aimed to make the data relevant and connect local people to the project. 2% of the caves were used for burials but were very important in the daily lives of Hawaiians. Mr Kauhane suggested that additional questions could also be directed to the President of CCH.

Chair Kaiwi appreciated the presentation because CCH was one of the only applicants who had done an extensive follow up after the award. Chair Kaiwi asked why little was known about the caves to date. Mr. Kauhane suggested this might be because of the controversies and low representation of Native Hawaiian people in the archaeological field, leading to CCH focusing on natural resources until cultural resources could be adequately addressed. Chair Kaiwi was intrigued by the cave with an entrance situated in the kipuka, which could provide some level of natural protection without requiring fencing. Mr. Kauhane said that in cases where entrances were skylights, they were protected, but that unguates used the walk-in entrances for shelter.

Member Shallenberger suggested the reasons for the backlash by Native Hawaiians after the initial protection of the cave systems were related to the narrow focus of the studies and appreciated the expanded archaeological focus. Consensus on management would be advisable to ensure that no conflicts between the scientific and cultural aspects would exist. Mr. Kauhane had approached people to discuss their feelings on his involvement, and felt that although it was sensitive, people needed to be educated about the caves and their history, as well as how to properly manage burial sites.

Member Menard asked if there were any problems with poisonous gases in the caves; Mr Kauhane stated that there were not. Member Menard asked whether LIDAR or infrared technology might be used for mapping. Mr. Kauhane replied that mapping had been done using tape and compass, with Google Earth used to support outreach because of the expense of LIDAR. Member Sinton added that lava tubes had been mapped using Ground Penetrating Radar in Iceland, for example.

Member Buchanan commended the CCH for their approach and hoped that CCH would have a protocol for engagement with Native Hawaiian organizations.

ITEM 5. Update from staff regarding a proposed project change from Livable Hawaii Kai Hui and The Trust for Public Land for the Fiscal Year 2015 Ka Iwi Mauka Lands application; possible Commission discussion and recommendations.

Ms. Schmidt updated the Commission. On February 27, 2015, the Division of Forestry and Wildlife (DOFAW) presented the FY2015 LLCP projects to the board. The Ka Iwi Coast Mauka Lands project had been deferred. During the grant process, a project application was submitted by Livable Hawaii Kai Hui, DLNR and the Trust for Public Land. DOFAW had stepped in to manage the land as an open space forest reserve but had not taken into account or agreed to the conservation easements proposed to be held by other entities over the property. It was not currently protocol for a non-governmental organization to hold an easement on a State-owned forest reserve. Livable Hawaii Kai Hui and Trust for Public Land did not find that situation acceptable and Livable Hawaii Kai Hui preferred to hold the title, with the City and County of Honolulu still holding the easement on the property. DOFAW, however, is tasked with administering the LLCP, and formerly, any substantial project changes before the Commission were required to be made before the last Commission meeting so that the Commission can judge projects on an equal basis. This would be a change after the Commission meetings. DOFAW, looking at whether it would be fair to go back to the LLCC without giving other projects an equal chance, felt that it would not be fair or practical, given the timing of the process, to call another meeting. The Board of Land and Natural Resources, however, is the final decision-maker in regard to grant awards, so the idea would be to explain the situation to the Board. At the February 27, 2015 meeting, all of the other LLCP projects were approved, while the Ka Iwi Coast Mauka Lands application was deferred. DOFAW would be putting in a submittal at the April 10 board meeting, with the recommendation to not fund the project based on the procedural issues and the maintenance of a fair process with the Commission; however, in the submittal, DOFAW would clarify that the final decision for awarding grants rested with the Board, and language would be provided to allow the Board to award funds to Livable Hawaii Kai Hui with

the changes to the project. It was confusing, but the idea was to maintain the program's fair process, and also explain the project and allow the Board to use its authority to support it. It was a difficult position for DOFAW, because the funding under the DOFAW recommendations would go to two DOFAW projects, fully funding the Pupukea Mauka project and partially funding the Helemano project.

Chair Kaiwi asked if DOFAW was against Livable Hawaii Kai holding fee. Ms Schmidt stated that DOFAW supported the project and Livable Hawaii Kai ownership; however, it was tasked with administering the program and did not want to create a situation where applicants were regularly changing major aspects of projects after Commission review.

Chair Kaiwi suggested that DOFAW could state its support of Livable Hawaii Kai Hui holding the fee, which the Commission could also support. Ms. Schmidt stated that this item was on the agenda to allow the Commission to act in any way it chose; however, she wanted an opportunity provide her input first on why the Commission should not reconsider the project. Member Sinton added that he didn't fully understand DOFAW's issue with the holder of the easement, given that the City and County of Honolulu (government organization) would have been a co-holder of the easement. Chair Kaiwi clarified that the new scenario would remove DOFAW from the project and have Livable Hawaii Kai Hui hold fee. Ms. Schmidt explained the need for DOFAW to follow due process due to the practical implications of scheduling additional Commission meetings on short notice, fairness implications for other applicants that were held to a different standard, and legality associated with the Commission's criteria laid out in the administrative rules, some of which applied directly to the aspects of this project's change.

Chair Kaiwi raised that DOFAW had originally agreed to be the land manager, and as such, professional leniency and courtesy could be perhaps afforded to the process. In his opinion, the issue was related to the decision made by DOFAW after the fact and might not change the Commission's support for the project. Member Shallenberger asked why DOFAW had revised their position. Ms. Schmidt replied that the project came in with general, broad DLNR support and after consulting with other divisions, DOFAW was the sole division willing to look at holding the property. The decision for DOFAW to hold the property had only been made the week before the meeting, and not perhaps in the level of detail that should have been discussed between partners. Once the application had been discussed more thoroughly, the conflict had been discovered.

Chair Kaiwi invited Ms. Kaakua to give testimony. She mentioned that the timeframes for the process were incredibly short, and had required a quick turnaround. Ms. Elizabeth Reilly had been speaking to the DLNR Chairperson for years and had obtained general high-level support. Because of these constraints, including the need for input from the Attorney General, it wasn't possible to complete this within the timeframe. The process involved input from State Parks, the Land Division and DOFAW, and the applicants were grateful that DOFAW was initially willing to take it on. They understand their position and were trying to move forward and asking the DLNR board, and not the Commission, to approve the project funding for Livable Hawaii Kai Hui to take the fee. This was a community-driven project; the proposed new structure would still involve collaboration with DOFAW.

Ms. Reilly stated that the Ka Iwi Coast project had involved decades of partnerships between the community, state and county. The process had started with the movement to protect Sandy Beach, with the same partnerships to continue into the future. Livable Hawaii Kai Hui recognized that this mauka portion was the final step in protecting the entire coast but that the integrity of the partnership must be maintained. The partnership with DOFAW would continue, including a cultural plan within the next two to five years and a reforestation program, a fifteen year commitment. The community was able to fundraise and implement such actions and was asking for the amendment not to be a 'red line through the word community', but a partnership which would allow a change in ownership.

Member Sinton suggested that the state would put up a fraction of the cost through LLCPC, and its involvement would then cease. Ms. Kaakua clarified that while there was a deed restriction, future collaboration would likely be possible, for example with the Oahu biologists or through reforestation projects which might extend to surrounding state land.

Member Shallenberger added that collaboration with Na Ala Hele would also be necessary to increase public access. Ms. Reilly added that public hikes had been planned for a minimum of 4 times per year but that the first priority was the cultural plan, which is in the bidding stage. Chair Kaiwi asked if there was any documentation to support DOFAW's original position. Ms. Kaakua stated that the application was signed by then Chairperson William Aila, herself and Ms. Reilly. Ms. Reilly had discussed the elected officials in the area and obtained the full support of all of them on the change of ownership, and Ms. Kaakua stated that the original plan before had been for Liveable Hawaii Kai Hui to hold the fee. Member Shallenberger stated his support for this. Ms. Kaakua stated that the City and County of Honolulu funding had already been recommended and should be included in the budget in June, following which the conservation easement would be drafted.

Chair Kaiwi asked if the state had offered an idea of deed restrictions to be put in place; Ms. Reilly replied that she was very comfortable with DOFAW interpreting the project in the same way as Livable Hawaii Kai Hui. Chair Kaiwi asked if the new proposed land ownership would change the Commission's decision to fund the project. Ms. Schmidt encouraged the Commission to consider the problems with reconsidering the project. Chair Kaiwi suggested that a misperception on DOFAW's part meant that this was different to other projects; Member Shallenberger suggested that the state's involvement in administering the LLCPC meant that it would be less of a problem.

Chair Kaiwi also asked about the fairness of DOFAW changing the amount requested for Pua'ahala late in the process; Ms. Schmidt replied that it had been submitted in writing before the Commission's decision had been made and was therefore done according to due process. Ms. Schmidt added that in her personal opinion, last-minute changes to applications should not be allowed at all for practical reasons relating to the opportunity to properly review them, but unless this was a change to the administrative rules proposed by the board, it would not be implemented.

Chair Kaiwi did not want the question of fairness to cloud the original support of the Commission for the project. Member Menard supported the change in ownership and preferred it to the original ownership. Member Buchanan agreed with Ms. Schmidt about the need to follow due process, and supported the Commission not providing input and allowing the DLNR board to make a decision although she wanted to see the land protected. Member Sinton was not opposed to letting the DLNR board make the decision, but sending a letter to the Board that the Commission wasn't opposed to the change in ownership. Member Shallenberger mentioned the need to try to improve the system each year, but conveying to the Board that Commission supported the change.

Chair Kaiwi asked what level of advocacy should be pursued. Ms. Schmidt stated that legislation had once been proposed to provide grants to state and county agencies as opposed to non-profits; however, she felt that one of the strengths of the program was its ability to support non-profit applicants as partners in managing land for public benefit. Member Shallenberger mentioned that the capacity of non-profits had been under discussion in the past. Ms. Schmidt confirmed that DOFAW was not presently interested in entering into fee ownership when a conservation easement held by a non-governmental entity was in place. Randall Kennedy added that this had never been done by the state before but that the state had signed management agreements (another option).

Member Shallenberger suggested adding that this was an unusual circumstance in terms of timing and where the state had changed its position and not necessarily a precedent.

Ms. Schmidt would convey the Commission's official position or decision not to act to the DLNR board. Member Buchanan asked about the decision relating to the recommendation for excess money to be assigned to the next projects, which had been followed for two years. Member Buchanan suggested she was uncomfortable assigning the money to the next project without a more thorough assessment as this would be a significant change. Member Sinton suggested a passive recommendation, such as the fact that the Commission was not opposed to the changes or that they didn't invalidate the Commission's support for the project.

The Commission members drafted a response: 'The Commission has been briefed about the issues and affirms its support for the preservation and protection of the Ka Iwi Coast. The Commission both acknowledges and supports the process of awarding grants through the Legacy Land Conservation Commission and supports the intent and hopeful stewardship of the Ka Iwi Coast by Liveable Hawaii Kai Hui, the City and County of Honolulu and the Division of Forestry and Wildlife.'

Member Menard asked about the state adding their restriction on the deed. Ms. Schmidt clarified that the state would add its restrictions to the deed if they were to be funding the property. According to the LLCP statute, if the property was ever sold, the DLNR board would have to be approached for permission first. The property would also have to be managed consistently for the purpose of the awarded funds. If the awardee ever wanted to sell the property for value, the proportion of the funding would go back to the land conservation fund. Member Buchanan noted that this was a safety net for all state projects.

Ms. Schmidt confirmed the statement by the Commission, but added that the State was not technically a steward of the property. Chair Kaiwi suggested that the word ‘protection’ be used in place of ‘stewardship’, such that the last sentence read: ‘The Commission both acknowledges and supports the process of awarding grants through the Legacy Land Conservation Commission and supports the intent of protection of the Ka Iwi Coast by Liveable Hawaii Kai Hui, the County and the State.’

Ms. Schmidt noted that it sounded like the Commission was still in support of the project. Member Sinton suggested that an alternative would be to not submit a written recommendation but for Chair Kaiwi to attend the meeting. Mr. Kennedy suggested that the DLNR board members would appreciate a short letter as well as a representative present at the meeting to elaborate on it. Ms. Schmidt stated that the project proponents would be at the board meeting to advocate for their project to change.

Chair Kaiwi asked if the grant awards process would have to start again if the funding instead went to Pupukea Mauka and Helemano projects. Ms. Schmidt replied that these applicants had not changed their projects, and as the funding had not yet been awarded, there would be no associated changes in matching funds.

Ms. Schmidt added that the Commission would like to stay consistent with its current process. Member Abbott added ‘and acknowledges that a process is in place; however due to unforeseen circumstances, the Commission continues to support this project in its present form.’ Member Sinton added that he didn’t think the Commission could support this change without re-ranking all the projects. Chair Kaiwi suggested that the original statement be used, because the fine nuances were unlikely to be captured and should be addressed by attending the board meeting.

Ms. Schmidt read the revised sentence: ‘The Commission both acknowledges and supports the process of awarding grants through the Legacy Land Conservation Commission and supports the intent of protection of the Ka Iwi Coast.’ Chair Kaiwi entertained a motion to include the statement as an addendum to the April 10, 2015 DLNR board agenda and that the Chairperson would attend the meeting to answer any questions. Member Abbott seconded the motion; all Members were in favor.

Member Abbott noted that he had had a conflicting meeting but wanted to be at the end of the Commission meeting to ensure quorum in case of any action items.

ITEM 3. Update from staff, discussion, and possible action regarding the Fiscal Year 2016 Legacy Land Conservation Program grant cycle, including the establishment of a tentative timeline and review of forms and procedures to be implemented.

- a. Review of grant cycle timing.**
- b. Review of regular items such as forms.**

Ms. Schmidt proposed no revisions to the forms except for improvements to format or current

fiscal year. The same online portal service would be used. It was proposed to move the grant cycle forward so as to avoid the end of the year, but this could conflict with Commission members ending their terms. Ms. Schmidt hadn't seen any nominations as yet, so was unsure if interim appointments would be done after the legislative session. Chair Kaiwi suggested the process be kept as stable and simple as possible until new Commission members were appointed.

Ms. Schmidt suggested the following timeline based on the previous year's schedule:

June 1st: Consultation forms available.

July 1st: Consultation forms due to state agencies.

August 14th: Consultation forms due from state to applicants.

September 15th: Applications due.

Applications available to Commission members one to two weeks later, depending on whether hard copies were requested.

Week of October 13th: Meeting.

October 20th – November 30th: Site visits.

December 4th and 5th: Commission meetings.

The schedule for the program would be announced early in May. A calendar of events was available on the website in the grant guidelines.

Chair Kaiwi entertained a motion to accept the revisions to the 2016 grant cycle proposed by staff. Member Shallenberger seconded. All Members were in favor.

ITEM 4. Description of proposed change to a Fiscal Year 2014 grant to the Agribusiness Development Corporation and The Trust for Public Land for the acquisitions of lands at Whitmore, Wahiawa, Island of Oahu by Steven Rafferty, Project Manager, The Trust for Public Land; possible Commission discussion and recommendation regarding the requested change.

Mr. Rafferty stated that there had been talk of a Dole land swap. Appraisals would be undertaken from 2016 but the process was likely to take some time. In the meantime, good agricultural land was being sold for non-agricultural uses. The Agribusiness Development Corporation (ADC) had been working in the Whitmore Area to acquire some of the agricultural lands of value. With respect to this transaction, when it was first brought to the Commission in 2012, it had been hoped that the transaction could close sooner because the prices were high and the appraisals wouldn't match. ADC had to move quickly on the south parcels as they were the processing area, likely to be bought up and the hub of the plan for the Whitmore area. With the northern parcels, the appraisals were consistent with Dole's asking price, so a purchase and sale agreement was pending. The price seemed agreed upon; the timeline was being confirmed but the Trust for Public Land (TPL) was optimistic that the sale would close.

Because ADC had to purchase the southern parcels, TPL was at a position where the acreage was less than the original grant proposal. The total cost was \$10.213 million (\$3.62 million for the current parcels, while ADC paid 5.6 million for the southern parcels using CIP funds). It was

requested that the Commission approve the current acreage. The state hoped that this transaction could be completed so as to start producing food as soon as possible.

Chair Kaiwi asked what would happen to the balance of the LLCP funds. Mr. Rafferty replied that the applicant would like to keep the \$1,146,000 awarded originally, but put this towards the northern parcels, as ADC had provided almost all of the matching funds to acquire the southern parcel. Ms. Schmidt stated that the initial request from the TPL was to reduce the acreage for the property. An administrative rule stated that the LLCP funded a percentage of the total cost.

Mr. Rafferty stated that the southern parcel was 258 acres, while the northern parcel was 194 acres. The estimated cost at the time of application was \$10,213,500, with the amount requested being \$1,146,000. Ms. Schmidt added that the initial request was for 456 acres; it had been hoped that the previously acquired parcels could be included as match. The request had initially been for a reduction in acreage, which would require approaching the Commission to allow the Commission to consider whether the original intent and resources are still being protected. The second question related to whether the acreage that had already been acquired could be included. When the applicant was a state agency, they could either complete the usual process for County or Non-Profit Organizations, or via the Land Division of DLNR. Because the parcels had been purchased using the CIP funding and not LLCP funding, it hadn't met the LLCP requirements and the grant agreement has not been executed.

It was still unclear if the past parcels could be included as part of the larger acquisition. Mr. Rafferty suggested the administrative rule might not apply. Ms. Schmidt had been liaising with the Office of the Attorney General in this regard; the Commission could agree on their intent to protect the land but the decisions on the procedure would be made based on the findings of the Attorney General.

Mr. Rafferty requested that the project be looked at in totality; the entire project was being put forward, but at a slightly reduced amount (assuming the original percentage be applied to the entire project). If not, he suggested it would effectively be punishing ADC for coming up with more matching funds on its own to save the project. This enabled Dole to reduce the price on the northern parcels.

Chair Kaiwi suggested that this would effectively be asking the Commission to support 12% of the total (54 acres) regardless of where these acres were located. Ms. Schmidt suggested the more complex issue was classifying already-acquired land as LLCP properties as it had proceeded without DLNR review. It was the responsibility of the LLCP to ensure that all procedural requirements had been met throughout the process.

Member Shallenberger asked what the consequence would be of reducing the funding and putting it into something else. Mr. Rafferty replied that the project might not go ahead, due to the Army no longer funding the buffer. Navy funding was unclear at that stage due to the requirement for antennae not being obstructed; the project would therefore be highly dependent on LLCP funding to acquire this land (for the state). Only 18,000 acres remained although a lot

of that consisted of gulches; the Trust for Public land was trying to obtain the flat portions. The project was changing from a removal of 456 acres to 453 acres.

Member Shallenberger added that the previous funders who were part of the package were unlikely to be involved; Mr. Rafferty replied that ADC had provided funding instead, which would enable the project to go ahead when coupled with funding from the county.

Ms. Schmidt asked if the county had initially contemplated the overall acquisition or a portion of it. Mr. Rafferty stated that they had approved \$2 million and in initial discussions had been happy with obtaining the whole area; however, the administration would make a decision at the end of the process.

Member Sinton asked whether the dollar or percentage amounts awarded would remain the same. Ms. Schmidt replied that the dollar amount acted as a ceiling, but that in case of a decrease in price, the award would decrease proportionally. Member Sinton commented that CIP funding had basically been substituted for Army funding. Member Abbott added that he was in favor of assessing the project as a whole. While it might not necessarily follow the process, it was his opinion that it represented a transactional amendment.

Member Menard noted that because she had not previously been involved in the process, it was unclear what the project entailed. Chair Kaiwi suggested that an attachment detailing the project could be added to the statement.

Member Buchanan asked if there were different criteria in place since ADC had purchased the 258 acres. Given that it was being used as a match and the payback provision was stipulated, she had asked if it still had the safety net of LLC now that it was being used as a match. Ms. Schmidt replied that it had not yet been included in the deed, and that DOFAW would not let the project proceed without adequate protections. Mr. Rafferty suggested a possible outcome was that the Attorney General required that ADC enter into LLC restrictions. Ms. Schmidt replied that the decision rested with the Attorney General but raised the issue of setting a precedent given that these kinds of changes were complex.

Ms. Schmidt explained that the reason for this process was related to the need to maintain a good record and good practices. Chair Kaiwi suggested the Commission should await the findings of the Attorney General.

The Commission drafted a statement, as follows: 'The Commission supports the intent of the original proposal. The Commission recommends that the Department and / or the board amend the project at a reduced acreage as described, or if feasible, the Commission recommends that the other formerly acquired acreage be included as match.'

Chair Kaiwi entertained a motion to accept the statement. Member Shallenberger seconded the motion; All were in favor except Member Menard.

ITEM 7. Update on “A Greenprint for Hawaii – Oahu” from The Trust for Public Land staff Laura Kaakua, Native Lands Project Manager.

This item was deferred to the following meeting.

ITEM 8. Update on The Trust for Public Land projects that have received Legacy Land Conservation Program funding from The Trust for Public Land staff Laura Kaakua, Native Lands Project Manager.

Ms. Kaakua provided a written project update to the Commission members as well as a summary of the pending projects to be funded in part by LLCP, with two targeted for completion. The first was Turtle Bay mauka agricultural lands, which DLNR staff had been working on. It was hoped that the 468 acres of farmland would be protected by May. The second project was the Kuamo’o battlefield in Kona. The \$3 million in funding from LLCP had inspired many more gifts, including family foundations and the Office of Hawaiian Affairs. Out of the goal of \$4.25 million, only \$500,000 was still required, with a target completion date of August. Ms. Schmidt asked if the Office of Hawaiian Affairs would be taking ownership of the conservation easement. Ms. Kaakua replied that she would follow up. An extended site blessing was planned including local schools. Chair Kaiwi asked that the Commission members be included. Ms. Kaakua added that two projects had been renamed, including the Pupukea mauka project (which is actually in Waimea).

ITEM 6. Announcements.

Briefing by program staff on:

- a. Status of the Fiscal Year 2015 grant cycle; and
- b. Status of projects recommended in previous fiscal years.

Ms. Schmidt stated that:

- a. Board approval was still being sought for the FY2015 projects.
- b. 43 projects had been awarded grants: 5 of which had lapsed, two of which were pending with cancellation likely and 14 of which were still open.

Member Sinton asked if information on the status of the projects could be added to the website.

Ms. Schmidt replied that this was in the process of being addressed, with the map illustrating this information to be updated. The Commission members approved. Ms. Schmidt also referred to the videos for Maunawila and Hawea.

Member Shallenberger applauded Ms. Schmidt’s custodianship of the program and acknowledged how much of the success of the program had been due to her efforts.

ITEM 10. Announcements.

Member Abbott suggested that for the website and advertising for the legislature, the possibility of attracting additional money should be highlighted, perhaps through a letter from the Trust for Public Land. Ms. Schmidt suggested a video.

Ms. Schmidt stated that the Governor was attending to boards and commissions as time became available; reduced numbers on these bodies was a concern. There were also three pre-existing vacancies on the Commission. As of June 2015, Chair Kaiwi and Member Shallenberger would have exceeded their statutory year limit, but there could be scope for them to stay on in an interim capacity. Ms. Schmidt would confirm this, and the length of time that interim appointees (Members Abbott and Menard) could stay on with the Attorney General.

In February, a number of applications had been received for the environmental and science positions; however, no applications had been received for the agricultural and cultural positions, or for a Big Island representative. Another press release was subsequently released.

Chair Kaiwi had been pursuing applicants for the cultural position but the need to disclose financial status had been raised as a challenge. Member Shallenberger added that he had been speaking to people from the Big Island. Ms. Schmidt would send out the press release to the Commission members.

Nominations were due on April 15th but the Governor's office had not made any decisions. The applications were sent to the office of boards and commissions.

For the cultural position, Member Abbott suggested Fran Palama, who was from the Big Island and had family there, although she no longer resided there.

In response to being asked how Commission members were sought, Ms. Schmidt's preferred approach for finding Commission members was a press release and wide distribution so as to encourage a variety of applicants but also mentioned it to individuals she encountered. She suggested the Commission members were also well-placed to convey the message.

Chair Kaiwi added that he hoped the high level of qualifications and expertise that the current Commission possessed would be continued. He had met with Dan Dennison, the Public Relations director for DLNR to attempt to be more aggressive in conveying the message. Ms. Schmidt added that letters of support could be submitted.

Member Menard confirmed that she had submitted her formal application. Member Abbott noted that his first term expired on June 30th, although he was eligible for a second term.

Chair Kaiwi acknowledged Member Shallenberger's contribution as one of the original Legacy Land Commission Members.

ITEM 11. Adjournment.

Chair Kaiwi adjourned the meeting.