

Minutes of the December 7, 2009, Legacy Land Conservation Commission Meeting

DATE: December 7, 2009

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

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

COMMISSION MEMBERS PRESENT:

Dr. Dale B. Bonar, Chair

Dr. Carl J. Berg

Ms. Lori Buchanan

Dr. Joan E. Canfield

Dr. Charles (“Chip”) Fletcher

Mr. Kaiwi Nui

Mr. Herbert (“Monty”) Richards

Dr. Robert J. Shallenberger

Ms. Karen G.S. Young

STAFF:

Ian Hirokawa, DLNR, Land Division

Randall Kennedy, DLNR, DOFAW

Sheri Mann, DLNR, DOFAW

Nancy McMahan, DLNR, Historic Preservation

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Gary Blaich, Kauia Public Land Trust

Kawika Burgess, Trust for Public Land

Julie-Ann Cachola, Department of Hawaiian Homelands

Fred Cachola

Kip Dunbar

Lea Hong, Trust for Public Land

Wally Inglis, Malu Aina

Iokepa Naeole, Neighborhood Place of Wailuku

Jill R. Olson, Kona Historical Society

Venus Rosete-Hill, Neighborhood Place of Wailuku

Fred Stone, Cave Conservancy of Hawaii

Ken Van Bergen, County of Hawaii

JoAnn Yukimura, Kauai Public Land Trust

MINTUES

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

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

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from October 14, 2009, meeting.

Chair Bonar called for a motion to approve the draft minutes from the October 14, 2009, Commission meeting. Ms. Schmidt stated that there had been some changes since she had sent the finalized minutes – one change from Member Berg regarding Nani Sedora’s position title and Member Shallenberger had another. Member Shallenberger stated that there was a quote attributed to him on the last page that he did not think he had said and asked Ms. Schmidt to remove it.

Member Berg suggested that, for videoconference meetings, each Commission member be listed under the location at which he/she attended the meeting. Ms. Schmidt stated that she could do this.

Member Kaiwi stepped into the meeting and introduced himself.

Chair Bonar called for a motion to approve the minutes as amended. Member Young made the motion and Member Berg seconded the motion. All were in favor.

ITEM 3. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2010 (FY10) projects (a list of applicants is attached to this agenda).

Chair Bonar asked if any Commission members felt they had conflicts of interests with Fiscal Year 2010 projects. The members did not report any conflicts. He asked if Member Kaiwi had stepped out. Member Young stated that the Office of Hawaiian Affairs (OHA) Wao Kele o Puna II project had been withdrawn. Chair Bonar added that the Queen’s Bath and Kukaiiau projects had also been withdrawn. Ms. Schmidt stated that withdrawn projects were not included on the table attached to the agenda, with the exception of OHA’s proposed project, because OHA had withdrawn after the agenda was published.

Chair Bonar stated that he would ask Member Kaiwi about conflicts. Member Berg asked if the members needed to formally state that they had no conflict. Chair Bonar stated that this was not necessary.

Chair Bonar asked whether members of the public had needs for a scheduled order in reviewing projects. He stated that Gary Blaich had informed him of a time constraint. He asked Venus Rosete-Hill what her time constraints were. Kawika Burgess stated that Department of Hawaiian Homelands (DHHL) staff would attend and might have time constraints. Chair Bonar stated that the Commission should be able to fit them in. Ken Van Bergen stated that he had a flight at four. Ms. Schmidt stated that Kip Dunbar had time constraints. Chair Bonar stated Mr. Dunbar would be present after lunch. Fred Stone requested to testify by noon. Jill Olson stated that she would prefer to testify before noon.

Chair Bonar stated that the Commission would hear testimony by project as listed on the agenda table. He asked Ms. Schmidt if anyone would be present for the Hawaii Island Land Trust (HILT) project; Ms. Schmidt did not know. He asked if anyone was present for Malu Aina and there was no response. He asked if DLNR Historic Preservation (HP) would have a representative for the Kauai project. Nancy McMahan stated she would speak for the project. Member Buchanan stated that Sheri Mann would attend for DLNR DOFAW.

Member Richards entered the meeting. Chair Bonar asked whether Member Richards had any conflicts of interest to disclose regarding this year’s projects. Member Richards stated that he did not.

Member Kaiwi re-entered the meeting. Member Kaiwi stated that, because OHA's project was withdrawn, he would not have any conflicts.

Chair Bonar stated that Member Fletcher would be present by 11:00 a.m.

ITEM 4. Discussion of FY10 project recommendation process and methodology.

Chair Bonar stated that the methodology had been evolving since the Commission had first started out a couple of years ago, and that rules would soon be formed to set the process. He stated that this year, the Commission members had made the effort to visit all projects and talk to the project proponents. He asked the public in attendance to present testimony when the Commission brings the project up for discussion. He asked whether the presentations or site visits reports had come first in order last year. Ms. Schmidt stated that she thought site visits had been discussed first. He stated it would be done this way again.

Chair Bonar explained to those attending that applications were ranked based on information included in the application, including urgency of the project, clear title, matching funds, landowner agreement. The Commission's goal is to get as many projects funded as possible, therefore, likelihood of success is also a factor. The Commission would have to have the money committed and contracts in place by June. After this, funds would go to a future year.

Chair Bonar checked with Ms. Schmidt and stated that there was approximately \$3 million available in funding this year. He added that there was a possibility that these funds could be raided during legislative session. He stated that supporters in the environmental communities were working on informing legislators about the program and its benefits, however, the ultimate funding decisions were out of the Commission's hands. He stated that the Commission would also look at projects in terms of the available funds; for example, a project near the funding cut-off may not have enough funding to make the award useful.

He stated that the Commission would rank and vote on project recommendations, the Senate President and Speaker of the House would then have opportunity for comment. The recommendations then go to the Board of Land and Natural Resources (BLNR), which has, in the past, supported Commission recommendations. Recommendations are then subject to review by the Governor. He estimated February for the BLNR meeting, with funding available in July or thereafter.

ITEM 5. Discussion by members of the Commission of the FY10 applications, reports by individuals and task forces regarding visits to FY10 project sites, and discussion of site visits to the FY10 project sites by Commission members.

[See next item.]

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

Chair Bonar stated that discussions would start with the Cave Conservancy of Hawaii (CCH) project. Member Shallenberger stated that he and Member Richards had visited the site. He asked Ms.

Schmidt to show the presentation on the projector and, after giving a copy of the presentation to Ms. Schmidt, showed photos of the site.

Member Shallenberger stated that he and Member Richards had visited the site on November 20, 2009, along with Ric Elhard of CCH. He spoke about the locations of the photos presented on the projector. He stated that there was a 21-acre parcel for acquisition and a 3-acre proposed for donation. The area was dominated by pahoehoe lava, dry ohia forest, a number of other native plants, but heavily ravaged by goats. The proposal focused on the complexity of the cave system and the object of CCH is to pick up the best and most vulnerable parcels. Many pukas open up into cave system. About 28 miles of the system surveyed and 80 acres protected. He showed dump sites and stated that CCH had cleaned some of the areas but that sites were still vulnerable. The caves are valuable for geological features and cultural sites: platforms, gourds, evidence of significant habitation, unique biological fauna as well. He stated that Dr. Stone was present and could speak to the value of invertebrate populations that are found nowhere else. He had asked Ric about conservation easements as opposed to fee, but there were no existing easements. He suggested it could be a future solution and added that the land is zoned "agriculture." He asked if Member Richards would like to add comments. Member Richards stated that it was rough acreage once one is off the road.

Chair Bonar asked if there were any questions from the Commission. Member Canfield stated that she had questions for Dr. Stone regarding the figures on the application. Member Young stated that she was surprised that the mailing address was Illinois.

Chair Bonar asked CCH to present. Fred Stone introduced himself a Big Island resident, caver, and studier of cave biology. He stated that Ric Elhard intended to be present; however, he had fallen and broken his pelvis prior to the meeting. Don and Barbara Coons – Don is the Chairperson of CCH – had written the proposal. He would not have all of the answers but would be able to contact the Coons. The Coons grew corn in Illinois and spend summers on the Big Island. Ms. Schmidt informed Dr. Stone that the Powerpoint presentation he had given her was not compatible with the State computer's version of Powerpoint. Dr. Stone passed around a graphic showing the two parcels. He stated that Kula Kai subdivision had a lot of roads and residences and stated that the Coons were willing to dedicate the 3-acre parcel as match. The lower tract in Keones subdivision is unimproved without roads or residences, parcels have lower assessed values. Twenty-eight miles have been mapped, two miles as the alala flies. It's a very complex system. Many CCH members own parcels in the area that overly the cave system. CCH has agreements with members to withhold from developing over cave. Many are verbal, CCH intends to formalize over time. The 21-acre parcel is the \$80,000 request, and matching 3-acre is the \$72,870. Member Canfield indicated that she understood the \$80,000 to represent the 21-acre parcel. Dr. Stone continued to state that the total came to \$152,870, but the request is for the \$80,000 for the 21-acre parcel.

Dr. Stone offered to speak more about the biology of the area. About 20 years ago, Frank Howarth and Dr. Stone did a survey of cave biology in Manuka Natural Area Reserve, to the North. It also included Lanikai cave to the South in Kula Kai subdivision. Very close and part of the system, which has been dissected by the 1907 'a'a flow. In Lanikai cave, they had found one of the richest cave communities anywhere in the Islands. They had found about 20 cave-adapted species. Since then, he had been in sections of the larger system and found most of the species they had found and probably more that hadn't been collected. He was working on two species of cave crickets; one of them is a species that is probably unique to South Point, Big Island. The cave plant hopper, a blind, flightless,

plant hopper lives in the Ohia roots and is also probably a species unique to the area. German scientists were studying the DNA of this species. Cave moths have been studied by Ph.D. candidate, the moths are not a distinct species but are colorless, smaller, fly in the dark, but, according to the DNA work, had not become a distinct species yet. This information is important in that it shows the beginning of the speciation process, and it is important to science.

The area was used very extensively by Hawaiians, mostly pre-contact. The surface pahoehoe has been broken open in a thousand areas. This could be a place where Hawaiians piled in compost, in other areas, it could be a place for collecting petrels for food. The caves have sites with constant drips, there are still ipu there that show Hawaiians have used the area. Most of the cave area is dry and items are well-preserved. Not much evidence that the caves were used as residences, most for water collection. No burials found in this system.

Geologically, the cave is interesting. Researchers with a grant from NASA had arrived last summer to study lava tube biology, with the theory that life on the moon and Mars may be present in lava tubes. They had collected "cave slime" samples and the DNA had revealed up to a hundred or more distinct microbial species. They're hard to grow because they live on a mineral substrate. They're chemoautotrophic, that is, they get their energy from iron, sulfur, and manganese.

He asked if the Commission had questions. Member Shallenberger asked whether the National Speleological Society (NSS) could function as a back-up in case CCH disappeared and whether CCH had a method of prioritizing lands for acquisition. Dr. Stone stated that CCH was an adjunct organization of the NSS; within NSS there was a mechanism for nonprofits to cooperate. In order for the NSS to take responsibility, the board of governors of the NSS would have to vote in favor. There are currently 2 dozen cave conservancies with similar relationships to NSS, to his knowledge, none had been taken over and run by NSS. NSS also has cave properties that it owns and manages. Dr. Stone stated that he had purchased a cave in 1964 and donated it to NSS, it was the first cave they owned, they had overcome the liability and other land-holding issues. They usually make an arrangement with a local entity. CCH has around 50 members and the group was diverse enough to have longevity. Chair Bonar asked if it was all volunteer run and asked Dr. Stone to expand on the budget. Dr. Stone replied that it was a volunteer membership, and that liability insurance was impossible to get for caves, however, other things protect liability: signage, state laws, etc. He added that he would look into these questions and get back to the Commission. Chair Bonar asked about the budget and nature of the NSS-CCH relationship. Dr. Stone added that the budget was depended on donations and membership, the balance fluctuates but is usually around \$2,500. There is a general priority list for what CCH would like to acquire, however the nature of land acquisition is opportunity-based, so CCH hasn't been able to get in touch with a number of land holders. Some people do not want cavers on their lands at all and are unapproachable. He stated that he would bring up the long-term priorities question at the next board meeting. So far, CCH had been reacting to available properties with the right qualities.

Member Canfield asked whether the owner of the 21-acre parcel had an urgent need to sell. Dr. Stone stated that they wanted to sell, and CCH would try to raise the funds on its own. Member Canfield asked if development was a possibility. Dr. Stone replied that they had not put road access in yet.

Member Kaiwi asked if CCH had any community challenges in the area. Dr. Stone stated that there had been conflict with some land holders that did not like the idea of caves and cavers in the area. Ric Elhard has lived in the area a long time and has done educational tours of his cave. People objected to

this and he had to work out whether this was acceptable under Ag subdivision rules and the decision was that it was. The cavers come out from the mainland for a few months of the year, many are now retiring and moving to the area. At least half a dozen have actually purchased the land and entered into a non-development agreement. Some wanted to build and sought advice on how to do it without impacting the cave. The CCH members are in the subdivision council and the council head has refused to let them vote, cancelling the meetings. He stated that it was unfortunate that a subdivision had been build on top of the caves. Don Coons and other members were making progress in working with these issues.

Member Kaiwi asked whether ownership better enabled CCH to do its research. Dr. Stone stated that the current state cave law required permission from the owner of the land overlying the cave prior to entry. The law hasn't been implemented because DLNR does not have the personnel to write and implement the rules, however, the law is on the books. In reality, it is difficult for an owner to know the location of a cave under the property. Owning the land ensures that the cave will be available for research, visitation, and protection.

Chair Bonar asked if there had been a discussion of conservation easements, since easements can accomplish these goals. Dr. Stone stated that it would go on the agenda for a future meeting.

Member Young asked about a 5/7 interest held by a California corporation and asked if this interest would be a barrier to acquisition. Dr. Stone stated that the corporation appeared to have been formed by the owners of the property. The properties were "condominiumized" when sold, many parcels have multiple owners. In this case, the entire 21 acres is being sold, not a partial interest. Chair Bonar asked if all seven owners were in agreement to sell. Dr. Stone stated that he would call Don Coons for the answer. Member Young asked whether the fact that the corporation was formed in California, not Hawaii, would matter. She suggested asking Mr. Hirokawa. Mr. Hirokawa stated that a non-registered entity might not be insurable for title purposes; however, he did not think it would be a barrier to acquisition. He added that there was an existing set of codes, covenants and restrictions on the 3-acre property that should be considered. Chair Bonar asked whether Legacy Land funds could be used to buy a partial interest in a property. Mr. Hirokawa stated that the question had come up and the notion is that this would not be "fee" as required by the statute. Also, ownership needed to be with a State, county or nonprofit entity.

Member Kaiwi asked whether this was the first CCH acquisition in fee. Dr. Stone stated that there were a number of caves under other ownerships, and CCH owned other parcels in this subdivision. Chair Bonar asked whether these parcels owned by members currently had any restrictions on sale. Dr. Stone did not think so. Chair Bonar asked whether there had been any discussion of conservation easements with these owners. Dr. Stone stated that a few owners had written their wills to have property transfer to CCH.

Member Richards stated that developed properties would have a cesspool issue, with risk to cave resources. Dr. Stone stated that this issue was a concern for owners that were not part of CCH. He was not aware of any issues thus far.

Chair Bonar stated that long-term sustainability was a concern for the Commission.

Dr. Stone stated he would ask about: the split in ownership, the annual budget (he thought it was \$25,000 to \$50,000 per year), conservation easements, liability insurance, and written agreements with owners. The Commission thanked Dr. Stone.

Ms. Schmidt informed Chair Bonar that Sheri Mann stated that the DLNR DOFAW project would present after the lunch break.

Chair Bonar asked if there was further discussion. Member Shallenberger suggested waiting until Dr. Stone returned with answers.

Chair Bonar asked if anyone was present from Malu Aina. Wally Inglis raised a hand. Chair Bonar stated that the Commission members that had been on the site visit should begin.

Member Shallenberger stated that he and Member Richards had gone this year and that Member Buchanan had also been on the site last year. Mr. Albertini was anxious for the visit since there had been developments since last year. Malu Aina currently had 20 acres under production, and was looking to acquire an adjacent 11 acres used for dracaena and weeds. Member Shallenberger mentioned that he and Rev. Chongho Kim and Church of Christ Rev. Sujatin from Micronesia had discussed the growing Micronesian interest in farmland access stating that many volunteers were interested in the property. He had asked about the fundraising status and it was similar to last year, \$10,000 available and Mr. Albertini stated that there may be an additional \$15,000. He stated that this was not reflected in the application documents. Member Shallenberger stated that he had asked Mr. Albertini if Malu Aina was ready for the land and additional responsibility, and he stated that Malu Aina needed a "konohiki-type" to manage it. Member Shallenberger stated that there were reasons to protect the land from development; however, he wasn't sure that the management of the property had been thought out. He added that the project had change from last year to include a conservation easement to HILT, although he wasn't sure why. Chair Bonar stated that it had probably been done to address the Commission's sustainability concerns from last year. Member Shallenberger added that sustainability was a concern where an organization was heavily dependent on one person. He then went through photos of the property and explained the subjects and locations of each photo. He stated that he had noticed expansion of crops since last year. He asked Member Richards if he had anything to add. Member Richards stated that some of the land was on the rocky side, he wasn't sure whether the 11 acres was tillable. Member Shallenberger stated that it was tillable. He added that, last year, Malu Aina had stated a preference for leaving the decisions up to the community. While Malu Aina did not have a detailed plan in place, he has the plan in mind for how to get there. Member Shallenberger stated that there were people, climate change refugees, moving into the area with a willingness to get involved.

Member Buchanan added that the University had been in support last year. Member Canfield added that Bill Steiner had submitted testimony.

Member Shallenberger mentioned cooperative farm laws that had come into use and a few Commission members commented on this.

Member Berg asked whether the conservation easement would be for the new acreage or all Malu Aina acreage. Chair Bonar stated that it was the new acreage. Member Berg suggested putting the conservation easement over the entire farm. Chair Bonar stated that the 20 acres was owned by Malu Aina.

Chair Bonar invited the Malu Aina representative to testify. Wally Inglis introduced himself as the secretary and treasurer of the Center for Non-Violent Education and Action. He stated that he regretted that Mr. Albertini was not able to attend; however, Mr. Inglis spends a month each year on the farm. He would try to answer any questions that had been raised this far and could contact Mr. Albertini as well. He stated that the conservation easement came up during Malu Aina's consultation with HILT. HILT was advocating for the easement and willing to help in that regard. Malu Aina held monthly meetings where people spent time working on the land and looking to the future of the farm. He asked if there was any questions.

Chair Bonar asked for an update on matching funds. Mr. Inglis stated that Ron Fujioshi's \$10,000 was firm and that Mr. Albertini was counting on \$10,000 to \$15,000 more than last year that had come in since the application.

Chair Bonar asked who the new konohiki would be. Mr. Inglis stated that he had not seen any names yet. Chair Bonar asked if Malu Aina had paid staff. Mr. Inglis stated that it was all volunteer activity. Chair Bonar asked about the insurance and annual budget. Mr. Inglis stated they had DNO and liability insurance, and the budget was under \$25,000 and had been for the last 30 years. According to Mr. Albertini, the budget will be in between \$25,000 and \$30,000 this year.

Member Young stated that the Commission had unanimously supported this project last year and it was the only agricultural project in the current group. The project had been cleaner last year and did not include maintenance and farm supplies. The application is also complicated by the HILT conservation easement costs.

Chair Bonar stated that his concern was with Mr. Albertini's wish to step out. Without another organizer in place, this would be a liability. Putting a conservation easement on would incur costs, and he wondered if HILT had considered setting up a stewardship fund. As part of a nonprofit, he was concerned about the effort needed for ongoing fundraising.

Member Shallenberger asked what the \$10,000 for administrative services was. Chair Bonar attributed it to HILT. Mr. Inglis stated that there was a \$30,000 item for interest on a short-term loan that had also been included upon suggestion from HILT.

Member Fletcher arrived. Chair Bonar asked if Member Fletcher felt he had a conflict of interest on any of the projects. Member Fletcher replied that he did not.

Chair Bonar asked the Commission members that had visited the Kauai Public Land Trust (KPLT) site to present.

Member Berg stated that he had met with Jennifer Luck, Bill Chase, Barbara Robeson, of KPLT and Nani Sedora from Kauai County. He showed photos of the property and stated that KPLT had placed a sign on the property along with the announcement that KPLT was seeking to acquire the property for the public. He stated that, since last year, the owner of the property had excavated the building site in order to maintain his building permit. The property is contiguous with the Hanalei Bay and right at the base of the pier. He added that 60 foot waves were predicted for today on the site. Previously, in heavy rains, the flood plain had gone through the property. The house therefore had to be build up higher on the property to allow the river to flow its course. Mr. Hodge, the owner, was

doing his best to remain viable in terms of selling to KPLT while still maintaining his ability to sell it for other purposes. The only substantial change from last year has been the excavation.

Member Fletcher asked if a conservation easement had been considered. Member Berg suggested asking KPLT.

Member Young asked how much water had passed through in terms of hazards. Member Berg stated that there had been a three-foot flow through the Sheehan property and down to the base of the pier. This occurrence was at a time when the river was 12 feet above standard flow. He added that 10,000 years ago the river had likely flowed over the property, and Member Fletcher had written a paper on this subject. Member Berg stated that 60 foot waves would likely cause a lot of beach erosion. Chair Bonar asked if there had been sheet water over the land. Member Berg stated that this is what he was told. Chair Bonar asked what the elevation above sea level was. Member Berg guessed that it was about five or six feet at the fence and lower in the depression areas. Member Fletcher stated he had some comments on this and asked if he ought to save them for later. Chair Bonar stated that he would invite testimony and save the discussion for afterward.

JoAnn Yukimura introduced herself as a member of the KPLT board and introduced Gary Blaich, another board member and former chair. The executive director was on maternity leave. She thanked the Commission for its dedication of funding in the previous year, especially for the willingness of the Commission to be flexible in applying it to another parcel. This is the key property, the owner has the permit and is able to build, however, with the permit preserved he is able to give KPLT more time. KPLT was deeply disappointed by the Governor's choice to withhold the Legacy award from last year, but KPLT would not give up on the project and was asking the Commission to take a stand on it. She referred to photos of the property and demonstrated where the existing park was in relation to the parcel, and where the water came onto the property. KPLT's plan is to acquire this parcel in addition to the Sheehan and Princeville parcels. Princeville had committed. This would more-than-double the acreage of the park. This is a highly-used park, perhaps the most-used park on the island. Even parking space is limited. She answered a few questions on the photographs. She stated that KPLT hoped that, after the acquisitions go through, the County would go through a master planning process for the park. She stated that the owner had been very cooperative. The County had, with the encouragement of funds devoted from the Commission, had appropriated \$1.85 million from the County's open space fund. The appraised value was \$3.87 million and Mr. Hodge was providing a reduction of \$520,000 and with the Legacy funds, KPLT will have \$3.17 million, leaving another \$700,000. KPLT had applied for NOAA funds but had received word that the project would not likely be funded. The plan was to go back to the landowner to request a slightly higher reduction in price and then go back to the County for the rest of the funds in the open space fund. The County had not used these funds since the charter amendment was approved for the funding in 2003. This project would be a perfect opportunity to use these funds. On Kauai, land is highly priced, making it difficult for these projects to succeed.

Member Shallenberger asked how much funding remained in the County's fund. Ms. Yukimura replied that her estimate was \$300,000, plus another \$200,000 to \$300,000 at the end of June.

Member Kaiwi asked whether Mr. Hodge would be willing to provide a deeper discount. Ms. Yukimura responded that he might be open to it, since he had been open to it when the appraised amount appeared higher, and he had been very cooperative so far. She added that she was aware that

KPLT would have to convince the Governor to release the funds; however, to not have these Legacy funds would hurt the project greatly.

Member Young added that the area was stunning and ought to be preserved, and thanked KPLT for its efforts. She asked what amount Mr. Hodge would be willing to donate, since the application stated a larger amount than \$520,000. Ms. Yukimura stated that these amounts were from when the appraisal was higher. Member Young suggested holding Mr. Hodge to the previous amount of \$700,000. Ms. Yukimura stated that this previous pledge is the reason KPLT thinks Mr. Hodge would be willing to give more.

Mr. Blaich greeted the Commission and thanked them for the opportunity to apply. He stated that KPLT thought that the expansion of Black Pot Park is sorely needed in light of the population growth. The area is appreciated and shared throughout the entire Kauai community. It is one of the most beautiful sights in the world. KPLT has an agreement from St. Regis that it will donate a half-acre piece that it owns along the river, and this donation can be a driver for future acquisitions. The purchase price and project costs had dropped from the first appraisal commissioned by KPLT to the second contracted for by the county. This left a \$200,000 discrepancy to deal with. The unsuccessful NOAA application had also left another discrepancy. These were the challenges they were dealing with. Given the rising sea level and flood hazards the property is subject to, the County would be the better manager of this land. The County would use best management practices. Additionally, there is a high level of community support for the management of the property, including the members using the park for recreation.

Mr. Blaich stated that KPLT was currently asking for private donations for the purchase of the property and will be doing the follow-up on these requests soon.

Chair Bonar asked KPLT to summarize the current appraised value of the land. Ms. Yukimura stated the value was \$3.87 million.

Mr. Blaich added that Mr. Hodge had been very patient in working with the County and the land trust, and had always kept his word. Ms. Yukimura added that Mr. Hodge would remove the excavation and foundation when the deal with KPLT was finalized.

Member Berg explained the recreational activity in one of the photos, adding that the community had not allowed any surf or canoe lessons and rentals on the county beach.

Member Fletcher asked what the legal status of commercial activity on the property would be. Ms. Yukimura stated that it would be regulated by the county. Ms. Yukimura stated that the only thing left pending would be the master plan for the park, while the county was determining the final boundaries of the park. She added that the regulation of beach activity would be the responsibility of the State and the County.

Mr. Blaich added that a property on Hanalei Bay is prized as the last available parcel, and does have appeal for private buyers despite the issues with flooding.

Member Young stated that that the existing hotel at the east end of the Bay appeared out of place. Ms. Yukimura explained that the 1972 zoning law that placed resorts off of the Bay was the reason that resorts had not built on the Bay, however, the preservation of the natural area was now

challenged with the growth of vacation and boating rentals. It is phenomenal that the Bay itself has been preserved, it could have been much worse.

Member Fletcher stated that the prevalence of natural hazards was a compelling reason to protect the land. It has been exposed to natural processes, if it is purchased for development, developers will do their best to keep natural processes from occurring with sea walls, foundations, etc., which will not only screw up this property, but neighboring properties as well. Even though the land may be eventually be affected by natural processes, it will still be available for the next few future generations. Properties like this one that are rich in sand provide feeder as they erode to neighboring environs that need sand; neighboring beaches will benefit from it.

Member Shallenberger asked KPLT if they would be proposing additional properties in the Black Pot area in future years. Mr. Blaich stated KPLT hoped to protect this area and additional areas, and hoped to access other coastal land acquisition funding sources.

Chair Bonar thanked KPLT for its presentation and asked Kona Historical Society (KHS) to present. Chair Bonar mentioned that Member Shallenberger, Member Richards, and he had visited the site last year and that the information was essentially the same this year.

Jill Olson thanked the Commission for approving funding last year despite the Governor's final decision, it had helped KHS receive additional funding from the Strong Foundation in the amount of \$100,000 for the purchase of the land. Since last year, a KHS member had volunteered to pay for a new appraisal. The value of the property had dropped \$150,000. Now, KHS was back asking for \$301,000. Additionally, KHS had come to an agreement with the landowner (after trying to purchase for 30 years). It wasn't until the Commission recommended funding that the owners were willing to get serious, and involved with consolidating and re-subdividing. The owners had agreed to a price and agreed to be the banker in this transaction. Another member had offered to pay interest on the note until the property is secured. KHS is currently asking for \$301,000, but she hoped that, this week, the price would come down another \$150,000 through the Atherton family. KHS would also meet with the Cook family to seek \$75,000. With any additional funds received, the Legacy Land amount would go down.

Since last year, the economy had fallen and the museums in the State were particularly devastated. KHS had a \$1.7 million budget in 2007 and now the budget was about \$500,000 and KHS now had one-fourth of the staff it once had. KHS was doing furloughs and cut backs, however, the organization was sustainable and would persist. Recently people had shown an increased interest in visiting KHS, doing genealogy research, and using the archives. In the growth of the KHS it is more important than ever to own this land. It is where the records will be stored, and KHS is the only temperature-controlled historical society on the Island of Hawaii.

Member Young asked how large the facility would be. Ms. Olson stated that the facility hadn't been planned yet, KHS was aware of the need for a facility because KHS was currently storing its additional materials in Matson shipping containers. The facility would be a product of what KHS could afford in the future once it acquires the land.

Member Shallenberger asked Ms. Olson whether the homestead ranch or archive would be of higher priority to KHS. Ms. Olson stated that she was not sure. The ranching project could be constructed on volunteer labor, however, the archive would take more planning and time – there are too many

variables to answer that. Once thing is for certain, that KHS needs to acquire the land. They were not subsidized by the State and it is important that they continue to exist.

Member Shallenberger asked if there was a mechanism for adjusting the award later. Chair Bonar stated that the Commission had split the funds between two later-ranked projects last year and had approved certain projects along with alternative projects in case funding should become available.

Ms. Schmidt stated that, in Fiscal Year (FY) 2008, the last two projects that qualified for funds had accepted funding at a reduced level. In FY09, the Commission had recommended that additional funds that may become available should go to projects as ranked.

Member Canfield stated that there had not been any policy on reducing awards after recommendations are made. Chair Bonar asked if a grant could be reduced. Ms. Schmidt stated that an award could be reduced, however, if the reduction happened after Board approval, the funds could not go to another project.

Member Young stated that her calculations had produced \$307,000 as the correct amount of the KHS request, in light of the new appraised value. Chair Bonar stated that the total project costs might explain this.

Member Young asked whether KHS had looked at the fact that the land had good soil for agriculture. Chair Bonar asked Ms. Olson what percent of the land would be available for agriculture. Ms. Olson stated that a quarter of the land might be available.

Member Canfield asked for assurance that the title was sufficiently clear. KHS indicated that it was.

Chair Bonar proposed going to 12:30 p.m. and breaking for lunch. He called a 5-minute break and stated that the Pao'o project would be up next.

Chair Bonar asked for site visit reports on Pao'o. Member Shallenberger stated that he and Member Richards had visited. He showed some photos and described the locations and conditions to the Commission. He had been impressed by the number of archeological and cultural sites there, about 27 sites in 10 acres, with the coastal trail going through the edge of the property. He stated that there were recreational interests in the property: ulua diving, other fishing, and some surfing. The property was similar to the Reisch property. Lots of rock walls, terraces, and agricultural sites. According to the archeological studies, there were 17 habitations. The area has had grazing pressure for 50 years, unlike the Reisch property; we didn't see the kiawe destroying the sites.

The owner had submitted a Conservation District Use Application (CDUA) to build but had withdrawn the proposal because of the contested case. The owner now states that he can build on the Agriculture-zoned portion of the property. He added that it would be interesting to talk more about management in terms of access and restoration, but they had run out of time on the site visit. He asked Member Richards if he wanted to add anything. Member Richards stated that the land was typical of the makai land in the area. Member Shallenberger stated that there was another strip of private land from the coast to the road between the Cohen and Reisch properties.

Chair Bonar asked how people had been accessing the property. Member Richards stated the property was unfenced. Member Buchanan asked about long-term management. Member Shallenberger stated that this should be addressed, given the open access and lack of enforcement.

Member Fletcher asked if the property went all of the way to the road. Member Richards stated that it did not; it was just a small sliver.

Ms. Lea Hong from the Trust for Public Land showed photos of the property. She stated that the neighboring Reich property which had been funded by Legacy Land last year had just been ranked as first in the nation for funding by the Coastal Land and Estuarine Conservation Program. She pointed out the Cohen property and stated that it was surrounded by State lands. She added that there were County plans to acquire some additional parcels in the area, so hopefully a long stretch of preserved coastline would result. She showed photos of recreational spots and archeological sites. She stated that there was a larger cluster of hale that might have been for konohiki. There were some very well-preserved sections. Mr. Cohen, the owner, was potentially able to build on the agricultural portion of the property, thus the threat of development for this property is high. She reviewed the funding: the County of Hawaii and TPL are asking \$945,000 from Legacy Land, the County is committed and has the funding.

Ken Van Bergen, the Property Manager for the County of Hawaii, introduced himself and stated that it was his job to acquire properties that are selected. He stated that this acquisition was part of a bigger picture in keeping the coast and its resources pristine and protected. The County administration is very interested and the timing is right for pursuing certain parcels. The County has \$960,000 set aside; Resolution 616-08 provided the necessary authority for acquisition. South of this property is a property being acquired later this week, about 158 acres. He passed around a map of six parcels desired for acquisition and described the County's plans for acquiring them. He stated that the County would put a management plan together, hopefully for all of the acquired properties in the area that would include road access for recreation and protection of resources. He stated that this project was now first on the County's priority list, since it now appeared that last year's funded project (Kawa), was not going to happen due to appraisal issues. He offered to answer questions.

Chair Bonar asked whether funds allocated by ordinance to another project could be re-allocated. Mr. Van Bergen replied that chances of this happening were very slim.

Member Young asked whether Mr. Cohen and Aloha Properties were the same. Ms. Hong replied that Mr. Cohen is the managing director of the entity. Member Young asked whether the fact that it is a California corporation would matter. Mr. Van Bergen stated that he didn't think this would be a problem in the acquisition. Ms. Hong stated that the registration process was simple and could be completed online.

Mr. Van Bergen stated that the title company wouldn't issue insurance until it was registered, so this matter was sure to be addressed.

Member Berg asked if the owner would accept the appraised value. Ms. Hong replied that he would.

Member Kaiwi asked whether there was a royal patent. Ms. Hong thought it was.

Member Fletcher asked how the County would manage increased public access and archeological preservation together. Mr. Van Bergen replied that road access would be increased to camping sites, not archeological sites, whereas a footpath might be more appropriate for an archeological site. Member Fletcher stated that high public use could destroy certain sites and asked how this destruction would be prevented. Mr. Van Bergen stated that the management plan would address this, and that staff could be required and local help could be implemented.

Member Fletcher asked what the original indigenous vegetation was in this area. Mr. Fred Cachola stated that it had been dryland forest. Member Fletcher asked how difficult it would be to restore. Mr. Cachola replied that it would not be difficult if the kiawe could be removed. He stated that restoration had been successful at Lapakahi; ipu, hau, and other native plants were thriving.

Member Shallenberger stated that he had a problem with the management commitment, especially since he had seen issues in the past. Active community involvement, with schedules, etc., should be part of the plan.

Mr. Van Bergen stated that this may be similar to what they were trying to do at Honuapo. Part of that plan calls for public access with roads and camping areas, however, the archeological sites are off limits, with walking access only. He stated that the County was confident that it would have community help in managing this area.

Mr. Cachola greeted the Commission and thanked the Commission for its support on past Kohala projects. He stated that it was good to hear commitment from the County in assisting Kohala and empowering its community development plan. Kohala was becoming a community outstanding in its preservation and rural character. The Commission's kokua would be a major step in making the project come to life. He was born and raised in Kohala and spoke on behalf of his friends, family, and kama'aina that have enjoyed the beauty and mana of the entire coastline. Stewardship is an issue. Experts have stated that this coastline has perhaps the most intact cultural and archeological landscape in the State. The reason it is intact is that those born, raised, and living there have great respect for its mana. The sites had never been fenced. If Kohala residents did not have the respect, the sites would not be intact. The stewardship committee is taking responsibility in developing a stewardship program based on what the County has already done and is consulting with the National Park Service regarding its training programs on volunteers and stewardship. If stewardship is an issue, he could guarantee that Kohala was taking it very seriously.

This specific area represents one of the community's most long and drawn-out struggles, because the owner had the resources to get his CDUA approved. Fortunately, several groups were qualified for assistance from the Native Hawaiian Legal Corporation, which had helped the community put its deeply-held spiritual feelings into legal channels and processes. It is not enough to feel mana, have to demonstrate it at public hearings. The community was able to present an overwhelming amount of evidence that this place was special and could not sustain Mr. Cohen's massive family compound. We are very glad for the Kauwe ohana. None of the archeologists recognized the enclosed burial mound for the konohiki, which is located at a prominent site. The burial was proved to exist through maps and documents.

He asked the Commission to consider how the fishing villagers had felt when the land they occupied was sold to the State. This is presumed to be the reason that the konohiki worked to buy the land back, and why the iwi is located in the most commanding spot on the parcel, to maintain his kuleana.

Mr. Cohen's building would have been a desecration to this burial. Mr. Cachola described how the situation had evolved into a contested case hearing, and how resources and time had gone into preserving this land.

He mentioned that Member Richards owned land in the area and was trusted by the community to respect the area. Member Richards stated that he had been born in Kohala. Mr. Cachola stated that nobody should be allowed to disrespect the area, no matter how much money they have.

The community was working on the stewardship issues, and did not want a repeat of any past events where groups of people had threatened the resources.

Member Kaiwi asked if the Kauwe ohana supported. Mr. Cachola stated that they did.

Member Berg asked where, on the map, the new house site would be. Mr. Cachola indicated a mauka corner of the property. He then indicated a concentration of burials on the map and stated that the mansion would have been 30 feet away from the burials.

Member Kaiwi asked if the management plan had a process that would encourage the Kohala community groups to take on a greater role in management than the County. Mr. Van Bergen stated that it would be a partnership. The County just needed to acquire the land, volunteer support has been very good.

Member Kaiwi asked if it was foreseeable for the County to transfer these lands back to these people in the form of a nonprofit in the future. Mr. Van Bergen stated that this was out of his kuleana, the County Council could do it with a resolution. He suggested writing a letter to Mr. Hoffman, and he could write the resolution for that. He added that when he had referred to "access" previously, he had not meant 20 roads, he had meant providing access to certain areas for camping, walking trails, less access to delicate areas.

Chair Bonar stated that, in places like Ahihi Kinau, the only thing keeping people from using the heiau as lua is the fact that there are rangers present. He added that he liked Member Kaiwi's suggestion. Mr. Cachola stated that he would send Chair Bonar a rough copy of the stewardship plan. He added that Kohala has a history of being very isolated; it used to be 22 miles off of the highway. The long-time residents have respect for the area. Chair Bonar asked if this respect was shared by the next generation of residents. Mr. Cachola replied that community reunions had been held to connect to and encourage youth leadership.

Chair Bonar called for Commission members to discuss the project. Member Young asked about the Kawa project. Mr. Van Bergen stated that the appraised amount had come in substantially lower than expected, so he guessed that the owner might lose interest. Member Young asked if this project was funded by Legacy Land, Mr. Van Bergen replied that it was funded in the amount of \$1.5 million, which would come back to the program if the project fell through.

Member Kaiwi wanted to know how the Kauwe ohana had lost control of the land to begin with, and asked if there was a chance that this land still belonged to them. Mr. Cachola stated that the community shared the sentiment; however, part of the explanation might be encroaching on their private family affairs.

Chair Bonar added that the Commission would have to deal with the present legal status of the land and added that the owner had clear title.

Chair Bonar asked whether DLNR Historical Preservation was able to present at this time. Nancy McMahan responded that it was. Chair Bonar asked the site visitors to present.

Member Berg stated that he had visited the property and had provided a written report, which had been distributed for this meeting. He referred to the document on the projector screen and described the photos. He stated that the house was set back from the waterfall, and described the ownership of the surrounding properties. He stated that the property was complex and included pastureland, a streambed, a bridge, a cottage, and was next to forest reserve. He described the different areas of the property. The owner could put a housing development of about eight properties in, and it would be gorgeous. The main house is set aside from this area, was done by famous architect Vladimir Ossipoff, was in excellent condition and had excellent views. He was not sure that the application had communicated the complexity of the property: there was the main house on a manicured lawn, a great pasturage that could be subdivided, and on the other side of the stream, the base of the forest reserve. It has multiple values: watershed and riparian values and open space. The value is not all in the house, its in the property. He had encouraged Ms. McMahan to apply based on the values of the property.

To put it in context, in Wailua, the County was trying to put a bike path through a beach burial ground. The Wailua area is one of the major archeological, cultural, spiritual centers in Hawaii. The property is at the headwaters, however, the whole stream and the valley is part of the Wailua complex, which is mentioned in the application. This application has a value for the house, but it also has value for the watershed and in part of the valley.

Ms. McMahan, deputy administrator for the State Historic Preservation Division (HP), stated that Wailua is one of the most important areas to Hawaiians, culturally and spiritually, is where the ali'i lived. Per Member Kaiwi's advice, she had the owner do a cultural, archeological, and architectural impact assessment to get a better understanding of the property. She referred to photos and described the property and surrounding lands. Above heiau, adze quarry nearby, grinding stones found nearby, hau on property. House build in 1939, fruit bearing trees were planted. Owner is in process of subdivision, would like to put in homes, in sections of two, three, and eight on various portions of the property. She assumed that any cultural deposits might have been removed in the planting of tree orchards; however, if the land was used by ali'i, there might not have been commoners in the area. She added that there was taro and a remnant of auwai, and the adze quarry was probably above this property. It currently is under threat of development, houses the Kauai HP office. Ideas for the property included: planting medicinal plants, using the house as a cultural center, training center with Alu Like, management plan for nearby parcels. The owner was open to negotiating, but also pursuing all avenues. She added that there was a lot to be done with this land as open space.

Member Fletcher asked about the source of matching funds. Ms. McMahan replied that the land had not been appraised recently and she was urging an appraisal. She stated that private land owners could be the source, plus applying for other grants. She described which parts of the property were for sale and the various prices.

Member Canfield asked whether HP had found an acquiring entity. Ms. McMahan replied that she had spoken with National Tropical Botanical Garden (NTBG) and DLNR. Forestry had been

supportive, but State Parks had been leery due to potential funding cuts. She had talked to Don Cataluna, who was thinking it over. She added that the preference was for a State agency to hold and nonprofits or OHA to manage.

Member Berg added that KPLT had not put the property on their list.

Member Young stated that this project was good to pursue, however, there was no appraisal and no holding entity. Ms. McMahan stated that the Chairperson had been concerned that management money for the parcel would not be available. If management funds became available, this might change. She stated that she had been successful in getting management funds for past properties. This location was key to building Hawaiian community due to its location and potential for stewardship. She listed entities that had given support.

Member Kaiwi asked what the chances were of subdivision approval. Ms. McMahan stated that it would be easy, public hearings were not well advertised.

Member Berg added that the owners had been land speculators, but hadn't been able to sell since the market flipped.

Chair Bonar asked if there was not an appraisal, Ms. McMahan confirmed. He asked whether the owner was willing to commit, Ms. Mahon stated that the owner was willing to negotiate. He asked about U.S. Fish and Wildlife (FWS) funds, Ms. McMahan replied that this would not be managed by State Parks.

Member Canfield added that Legacy Land was not an appropriate source for seed money.

Member Young asked whether Ms. McMahan would be willing to work on gaining portions over a period of years. Ms. McMahan stated that they could do this; perhaps making partial progress would help the overall goal.

Chair Bonar asked if the Chairperson was in support. Ms. McMahan replied that the Chairperson was not in support at this time, perhaps because State Parks was already having a tough time managing Pupukeya.

Member Berg stated that the lack of management plan was part of the problem. The property would require a lot of management.

Ms. McMahan stated that she had implemented prison work programs, nonprofits like Alu Like could help with historic preservation, and volunteers would help. She stated that there wouldn't be a huge maintenance cost except the lawn, which she could take care of.

Chair Bonar thanked Ms. McMahan and called a lunch recess. He stated that DLNR – Kainalu project would be up when the meeting reconvened. Mr. Stone of CCH asked if he could briefly update the Commission before the break. Chair Bonar said yes.

Mr. Stone stood to answer the previous questions from the Commission. He stated that the previously-referred to agreements between landholders and CCH were written, binding agreements to comply with CCH management plans. The partial ownerships of the Keone parcel were all held by

the same family and the entire interest was being sold. In regards to the budget, CCH kept \$3,000 in a reserve fund and has had about \$30,000 a year in its budget, and had taken in \$1,500 in dues and the remainder through donations. All purchases were discussed and approved at Board of Director meetings. In regard to liability issues, only qualified people (e.g., scientists, experts) were allowed CCH cave access. General public access could be gained to Ric Elhard's cave with signature of a risk and release form. Liability insurance had been too expensive. With regard to land purchase strategy, CCH looked for cave resources and entrances, availability, and price. No long term strategy at this point. He did not know whether there was a formal agreement with NSS yet, but would deliver this information.

Chair Bonar thanked Mr. Stone and called a recess.

The meeting reconvened and Chair Bonar asked DLNR – Kainalu to present.

Member Buchanan stated that she had visited the site. She showed photos of the property and commented that this was the largest land purchase requested this year. She talked about the last aerial survey that had been done, the elevation of the property, and the cabin present on the property. She described the view points of various photos of the property. She added that the landowner was working on a NRCS grant for restoration of the coastline, and that there were a lot of good projects in the area. She mentioned parts of the acreage were used for grazing. Mr. Dunbar added that 150 to 200 acres were in cattle pasture. She described the cabin and some of the forest. Mr. Dunbar stated that there was koa and explained the varieties of trees planted. Member Buchanan tried to play a film of the property via Powerpoint but was not able to access the file. She continued to show photos of the property and describe the plant species and stated that watershed protection and restoration was a main purpose. She added that Sheri Mann had done a wonderful job in getting the matching funds lined up for the project.

Ms. Mann showed some photos of the property, including a map of which areas were under what ownership. She added that fishpond restoration and upland forest restoration and a lot of endangered species work had been accomplished in this area, and the future goal was to enter into Safe Harbor agreements and do some rodent and feral animal control using Landowner Incentive Program money. She added that surveys of the gulches had revealed the presence of Newell's Shearwaters, perhaps using the valley because of the lack of artificial lighting. She added that there was a sandalwood patch nearby being worked on, and Mr. Dunbar added that *Pritchardia monroi* was present. Ms. Mann indicated that about 150 acres were in Agricultural zoned land. Mr. Dunbar clarified the location of this acreage.

Mr. Dunbar described the locations of other protected parcels in the area, owned by him and others. The Maui Coastal Land Trust and Moloka'i Land Trust were protecting portions. Other areas were State or privately owned. He said that about 30,000 acres of watershed could be protected, enough to protect Molokai's water supply forever. There are four water systems on Moloka'i and three of these were in trouble: salinity spikes or over drawn down limits. This water supply needs to be preserved. He had been talking with another landowner about putting land into a conservation easement. All of these parcels, when linked and protected, would be great habitat and great watershed. The Newell's Shearwater had been thought to be extinct on Moloka'i; however, mating pairs had been discovered far up the gulch. He indicated the location of other endangered plant species. He stated that his family had a history of studying and protecting the rare plant species and he wanted to preserve this

heritage. He did not want to develop, an easement would allow him a corpus, and to allow him to continue conservation activities.

Member Shallenberger asked about the proposed management of the land. Mr. Dunbar stated that the corpus would be used for access and watershed maintenance, fence building and repair, and invasive plant removal and control.

Ms. Mann added that FWS Recovery Land Acquisition (RLS) funds would be used for this, and RLA mandated conservation efforts for threatened and endangered species. Mr. Dunbar added that entire areas shown in the photos were lama reforested.

Member Canfield asked if the Forest Legacy (FL) money had been secured. Ms. Mann stated that it was. Member Canfield asked about Acres for America funds. Ms. Mann replied that the application period had been moved back and that the program had passed its deadline without reporting any results to applicants.

Member Fletcher asked about the location of a neighboring valley. Chair Bonar asked for confirmation that a neighboring valley was Kawaikapu. He added that he thought it was closing today.

Mr. Dunbar explained the locations Wailau Valley and Pelekunu.

Ms. Mann stated that the project may not need the money from Acres for American, depending on the outcome of the appraisal. Chair Bonar asked who was performing the appraisal, Ms. Mann replied that Paul Cool was.

Member Young asked the origin of the Acres for America program, Ms. Mann replied that it was run by Walmart.

Member Young asked how public access would occur. Mr. Dunbar stated that he invited ahupua'a residents to take out the feral animals and allowed research activities on the property. He would not allow people to roam the ranch without a purpose. He planned to invite some of the keiki classes to do educational planting and star-gazing activities.

Member Fletcher asked which feral animals were present. Mr. Dunbar replied that there used to be goats, but these had been shot; now there were axis deer and pigs. Member Berg asked how big the deer population was. Mr. Dunbar indicated that it was a large population, but he couldn't give a count. He had been trying to keep them out of certain areas and route them to other areas. He stated that deer were difficult to stop, and pigs do more damage. It was a constant battle. His fences were mostly suited for cattle and deer.

Member Buchanan thanked Mr. Dunbar for his efforts in planning and thinking ahead for the future of his family and the conservation of the property. Mr. Dunbar pointed out the fishponds in the area.

Chair Bonar added that there was a good conservation ethic in East Molokai. He thanked Mr. Dunbar and Ms. Mann and asked DHHL and the site visitors to present on the Paukukalo project.

Member Canfield stated that this is a great community project, almost 64 acres in Wailuku surrounded by a Hawaiian Homestead community. The property was an oasis of undeveloped land with coastal and wetland values, and a great cultural history of being an important area on the island. The cultural impact statement, including histories of families that had used the area and still do, was impressive. Eight acres are being leased by the Neighborhood Place of Wailuku for cultural and family at-risk youth programs with demonstration garden project. There's a spring on the property where taro is grown. The ownership had been the challenging aspect of the project, the bank was foreclosing on the owner, but the project would work with the bank to attempt a purchase prior to auction. There's potential funding from the Coastal and Estuarine Land Conservation Program (CELCP) and Maui County's open space fund. The representatives of DHHL and OHA on the site visit had been great and very interested in partnering to a greater extent than stated in the application.

Kawika Burgess with the Trust for Public Land (TPL) introduced himself and stated that TPL had been asked by Venus Rosete-Hill and Neighborhood Place of Wailuku to assist with this project about a year ago. He showed a photo of the property and stated that it was bordered by the Iao and Waiehu Streams. He showed where the homestead was, and stated the project was close to Na Wai Eha, where disputes over water had occurred. He stated that, if water was restored to Na Wai Eha, this property would benefit. It would be sad to have the waters restored and the land be lost to those that had been farming and fishing for generations. He read excerpts from some reports: Dr. Kawika Tengan from the Na Wai Eha case, which discussed the importance of the four ahupuaa and their streams, as single largest wetland cultivation in the Islands, and the political, cultural, spiritual center of Maui. Other reports and publications had referenced this area as the political and cultural center of power in Maui. Duke Sevilla had written springs of Paukukalo were sources of spiritual practices, kupuna would come to his family's land to collect water from the spring Wai Ola ("life-giving waters") and the kupuna would drink or immerse themselves in the water for purification, or converse with the kiha, the spiritual beings that were said to live in the pool. A botanical report from Anna Palamino stated that there were relatively few natural wetlands on the Island of Maui, this wetland has significant value in terms of wildlife habitat, cultural resources, open space, sediment filtration, and the many other benefits from wetlands. The Pacific Coast Joint Venture's wetland plan listed this property as a priority for acquisition for long-term protection.

Mr. Burgess talked about the current threat of development. He stated that the current owners had purchased to develop it. Their luxury development plans were stated in an advertisement that was available online via YouTube, and included 18 oceanfront homes, 36 ocean view condos, 32 market value homes, and 55 lot line affordable homes. The property is in the State Urban zone and the County has zoned the area residential, agricultural, and interim; there is a serious threat of development to the property. Some of the kalo and fishing and diving access had been restored, thanks to Neighborhood Place of Wailuku, which leased eight of the 64 acres. DHHL had been asked to participate given the proximity and past involvement of the Paukukalo Hawaiian Homestead residents. The eight acres that had been cleared, restored, and cared for shows the potential for the rest of the property. Much of the rest of the property was overgrown, but the water and potential for restoration was there. Its current use to preserve and perpetuate the Hawaiian culture was the most important aspect of this project. He introduced Iokepa Naeole and Venus Rosete-Hill.

Ms. Hill greeted the Commission and stated that about four years ago, her organization had heard that there was a threat to the area. She and Duke Sevilla, a local resident, had been working with at-risk youth programs for over 20 years, and when they had heard of the threat to the area, they strategized: they would seek grant funds for cultural programs for local youth, teaching them about land

stewardship, and demonstrate the value that this could have to the community. They got the grant and the owner had given them a lease at 3 years for no charge. For the last three years, they had done these programs and they were now expanding to ropes courses to encourage confidence and bond-building.

When they found out that the owner was pulling out to sell the land, she had contacted TPL. If this land is lost, the programs will end. In the last four years, over four hundred families (not just individuals) had been coming onto the land. It had been a site for community service to be linked to land stewardship. The land is meaningful for the community at large, not just the nonprofit participants, she had been raised in the area and remembered this place as stomping grounds for her childhood. Hawaiian Homes is right across, the goal is to give them access and teach sustainability.

Sand had been dumped in one area of the wetlands and this area was now useless in terms of restoration. Aside from this small area, the goal was to leave the wetlands undeveloped and restore it.

Member Berg asked about the location of the proposed building sites. Ms. Rosete-Hill indicated the areas on the map. Member Berg asked if the wetland area would remain untouched as a protected Special Management Area (SMA). Ms. Rosete-Hill agreed. Member Berg asked if the issue was retaining an area for the organization rather than protecting a wetland. Mr. Burgess stated that the proposed development was for the more marginal areas, however, limitations due to the SMA would not be sufficient to maintain the area for the community and kalo. Ms. Rosete-Hill added that remnants of a wall had been found in a certain area.

Chair Bonar stated that the area was zoned Urban.

Member Fletcher asked where the developer was located. Mr. Burgess stated that the managing director was in Seattle. Member Fletcher stated that there was a similar project planned for Kuhuku that this developer had just backed away from. Ms. Rosete-Hill stated that the developer had actually thought it could fill in the wetlands.

Member Young asked about the foreclosure. Mr. Burgess stated that the bank had filed for foreclosure and the developer had asked for an extension. TPL was trying to contact the bank to discuss possibilities for taking the property off of the market until funding could be secured.

They had not been able to reach a purchase agreement because of the situation, but they were very open to talking and working with TPL and the community. Member Young asked about the sale price.

Mr. Burgess stated that \$3 million was the discussed price.

Member Berg asked what the mortgage was; Mr. Burgess replied that it was about \$1.6 million. Member Berg stated that a short sale would allow someone to buy for \$1.6.

Member Kaiwi asked whether, of the 400 families, a majority were served by DHHL. Ms. Rosete-Hill stated that she didn't keep demographics but felt fairly certain that over 80% were DHHL families.

Iokepa Naeole introduced himself and stated that these had also been his keiki stomping grounds. He wanted to give some historical context. This was North Shore, Maui... the top of the ahupua'a is 'Iao Valley, a sacred place, housing the bones of ali'i. In between 'Iao and Kaehu, there is: Pihana, Kahekili Housing, Waiehu Terrace, Waiehu Heights, and Hawaiian Homes. These are mostly Hawaiian families in middle-income to lower-income housing. The pressure is on for these families to find things for their kids to do. This is the last open space between Kahului Harbor and Waihe'e. This is the playground for all of these kids. There are at least five different surf spots, two significant heiau, and the pre-Kamehameha historical seat of power in Maui, and warrior training grounds. The beach served as a defense site with viewpoints and as a location for kiha, taro lo'i, and fishponds. There were more people living in this area, pre-contact, than there are on the entire Island of Maui now. There was enough water to grow taro to export to outer islands. That's what we'd like to see again. They can grow taro, they can gather, they can fish, they can be with their aina. The problem right now is that the road serves as more of a barrier than an access. We'd like to manage it as open to the community.

Mr. Naeole stated that the area was home to many 'aumakua of families in the area. He listed some 'aumakua and indicated their areas on the map: po (the tiger shark), pueo, and namo'o.

Ms. Rosete-Hill added that they had already aligned themselves with over 20 partners to assist with stewardship of the area, including Maui Community College, University of Hawaii, and many of the Native Hawaiian programs.

Member Kaiwi asked where the management funding would come from. Ms. Rosete-Hill stated that there were plans for alternative forms of energy and that some income would be generated from the ropes course. Nonprofits and volunteers would give their time. Mr. Naeole added that, with construction of windmills and photovoltaics, students could come out and do their work on the property. Mr. Burgess stated that the nonprofit could expand its activities, even without the generation of additional management funds. DHHL was currently updating its plans, and would potentially have funding for projects on these lands. He added that last year's projects had ranked well in the preliminary CELCP rankings; Lapakahi had been first in the nation. TPL felt this bode well for this project's funding for its wetland habitat.

Mr. Naeole stated that the reef was rich in life but had been depleted in his lifetime. The streams had been diverted for a long time. Hannah Bernard had said that once the streams were restored, the algae would start, the fish would follow. This could be a case study of effects on marine life after stream restoration. The learning potential is huge.

Ms. Rosete-Hill stated that honu had stopped coming to the area; except recently, there had been three, and a monk seal.

Julie Cachola introduced herself as a planner at Hawaiian Homelands, and in charge of 20 regional plans statewide. She thanked Mr. Naeole and Ms. Rosete-Hill and stated that it was obvious that this resource needed to be open for the community. Being there allowed a person to realize the connection. Hawaiian Homelands used to build homes, now it worked to build perpetual Hawaiian communities. They needed to start planning these communities together with resources that will be managed into perpetuity. This was how Hawaiian Homelands and its planning had changed. These resource preservation projects were just as important as building homes, having access to land and

resources. This is the first time we've worked with TPL and looked at private lands. This could open the door to other lands and cooperation.

Member Kaiwi asked if it was foreseeable for the community to take ownership in the future. Ms. Cachola said it was possible, more a question of "when" than "if." In the near-term, DHHL is allowing these planning regions to identify desired areas to set aside for cultural resource management. Ms. Cachola asked if County of Maui was still in.

Mr. Burgess stated that they had met with Tamara Horcajo, Dept. of Parks, and she was very supportive. Originally, TPL had thought the County could hold the land; however, DHHL's support was overwhelming.

Ms. Cachola stated that she was from Waianae, where the resources were across the road. Still, the road in Waianae did not separate the community from access to the resource like the one at Paukukalo, and this needed to be overcome.

Ms. Rosete-Hill added that the nonprofit had been more interested in stewardship than ownership, so community ownership might be very appropriate.

Member Berg asked when the portion of the wetland had been filled. Ms. Rosete-Hill said it was in the early 80's. Chair Bonar stated that there was probably iwi in the fill. Member Berg asked if removal and sale of the fill could provide income to the nonprofit for its activities – unless there are iwi in it. He asked if the bones ought to be treated differently. He also asked if, historically, the streams had gone into the wetland.

Mr. Naeole said that the Wailuku stream had moved very little, the Waiehu stream a bit more. There were also springs that flood the area.

Member Berg stated that an ecological restoration could include de-channelization of the streams. Chair Bonar did not think that was likely. There was some discussion of where the stream was channelized and the likelihood and effects of de-channelization.

Ms. Schmidt asked if the County of Maui still planned on taking conservation easements over properties that it granted acquisition funding toward. Chair Bonar stated that it did.

Member Young stated that, given the amount of the request, the level of community involvement, and the location of the property, she thought that this ought to be funded.

Mr. Burgess stated that the request amount had been strategic.

Member Shallenberger stated that they had a good chance at receiving CELCP funding and County of Maui funding. He did not know, though, where the balance would be between all the different uses and activities on the land. Mr. Burgess replied that they could not invest too much into the management planning until they could be reasonably sure of acquisition.

Ms. Rosete-Hill stated that they did have a concrete idea of what the activities could be. Ms. Cachola added that community involvement would be included in the planning.

Member Berg stated that the management plan could determine what kind of funding would be gained from certain groups. If acquisition funding was received for wildlife habitat, this funding would affect the activities on the land.

Mr. Burgess agreed that specific funding sources would have specific strings attached and would affect the ultimate outcome. Member Berg stated that the community would decide what would be done with the land.

Ms. Rosete-Hill stated that there was a preliminary plan that they would like to pitch to the various stakeholders, and that the organization had been stewarding it thus far.

Member Shallenberger said that, as a person that had previously worked to grant these types of funding, restoring stream flow would convince him that this is a viable project, not just dealing with remnants.

There was some discussion of the Na Wai Eha case. Chair Bonar stated that the wetland had been degraded, and that funds could come from wetland mitigation projects. He added that one challenge with this funding is that lo'i are not sometimes recognized as habitat. He stated that a number of people had discussed potential development projects for this property in the past, and all of them had eventually come away saying that the area was not suited for high-end housing. He added that the real challenge would be working with the bank.

He asked if DHHL could fund this purchase in the interim. Ms. Cachola stated that she had tried very hard to get support, however, DHHL was having issues meeting payroll right now, so it was not likely.

She asked if the group had tried another source. Ms. Rosete-Hill stated that they had presented to OHA, and OHA was talking with staff regarding the due diligence for this project.

Member Young asked if the project was feasible for completion within two years. Mr. Burgess said yes. Member Young asked if the buyer would be responsible for delinquent taxes. Ms. Hong stated that this would need to be worked out.

Mr. Burgess added that, last year, the Governor released funds for projects that had partnered with State agencies.

Chair Bonar asked for further questions on the project, then asked those that had been involved with the Fong Plantation project to present.

Member Young stated that a written report had been submitted to Commission members and she would only summarize it. Member Young and Member Canfield did the site visit. Others on the visit were: Hiram Fong, Jr., (Fong Plantation), Kawika Burgess (TPL) and Cynthia Rezendes, Oahu Land Trust (OLT). Hiram Fong Jr., and his sister are the trustees of the land. The owners will be the 7 grandchildren of Hiram Fong, Sr. The proposal is for a Conservation Easement of 107.7 acres. The request is for \$500,000 (25%) from Legacy Lands.

Member Young attested to the stewardship of the Fong Family. There are acres of beautiful mature fruit bearing trees, groves of ti leaves, ferns and vines. There are also acres of forest. They are open

to growing more native plants. They allow school children and other visitors to the site, and hula halau to gather greenery. View planes from the property are stunning with unobstructed mauka and makai views. The property also is the mauka backdrop for anyone traveling on the main road through Kahalu'u. If a Conservation Easement is obtained, the Fong trustees will also consider pursuing the same for two other mauka parcels, preserving the stunning views permanently. OLT would hold and monitor the easement. TPL would pursue an endowment fund for the maintenance costs. Alternatively, if not successful in obtaining the easement, they are considering developing housing for the disabled.

Member Canfield added that that there was urgency to the project; the current trustees were in favor but the next ones would not be. If the landscape were lost to development, the viewshed from the highway would be entirely different. Preservation of the additional properties would take protection all of the way to the summit and preserve some important cultural areas.

Member Kaiwi asked if they had seen any heiau in the area. Member Young stated that according to Mr. Fong, there is a heiau nearby on the adjoining property. Member Canfield stated that Mr. Fong had been very aware of the cultural artifacts and stories of the area.

Member Shallenberger asked for more information on the values.

Mr. Burgess stated that he would give a visualization of what Members Young and Canfield had stated. He showed photos of the area and explained the neighboring areas and the context for preservation of the parcel and how it would benefit the surrounding area.

The Commission members discussed the project briefly.

ITEM 7. Announcements.

Chair Bonar stated that the Commission would meet again the next day at 10:30 a.m. in the Board Room to vote and rank the projects that had been described today.

ITEM 8. Adjournment.

Chair Bonar adjourned the meeting.