

Legacy Land Conservation Commission Meeting Minutes

DATE: December 4, 2014

TIME: 9:00 a.m. to 4:30 p.m.

PLACE: Room 322A, Kalanimoku Bldg., 1151 Punchbowl St., Honolulu, HI

COMMISSION MEMBERS PRESENT:

Mr. Thorne Abbott

Ms. Lori Buchanan

Ms. Theresa Menard

Mr. Kaiwi Nui

Mr. Robert Shallenberger

Mr. John Sinton

STAFF:

Kirsten Gallaher, DLNR, DOFAW

Molly Schmidt, DLNR, DOFAW

PUBLIC:

Ms. Barbara Bell

Mr. Sonny Dunnam

Mr. Phil Estermann

Mr. Butch Haase

Ms. Laura Kaakua

Mr. Glenn Metzler

Ms. Malama Minn

Mr. Ed Misaki

Mr. Michael Opgenorth

Mr. Dan Purcell

Mr. Stephen Rafferty

Mr. Bob Retherford

Ms. Ursula Retherford

Ms. Elizabeth Riley

Sen. Russell Ruderman

Ms. Oshi Simsarian

Mr. David Sproat

Ms. Kipua Sproat

Ms. Stacey Sproat Beck

Mr. Hamana Ventura

Ms. Wendy Wiltse

Ms. Emma Yuen

Ms. Marigold Zoll

MINUTES:

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

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

Ms. Schmidt explained that testimony received up to 4.30 p.m. the previous day was uploaded to Dropbox, with the rest provided to Commission members in hard copy.

Requests were received for Waipa, Wai’opae and Pua’ahala to go first, with Kalua’aha later. No objections were raised.

Chair Kaiwi confirmed that there was no other pressing testimony.

ITEM 2. Approval of Legacy Land Conservation Commission meeting minutes from October 13, 2014.

Member Sinton motioned for approval, Member Abbott seconded. All were in favor.

ITEM 3. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2015 (FY15) projects

Member Buchanan mentioned for the record that she was from Molokai and had been part of the Maui Invasive Species Committee and coordinator of the project for the University of Hawaii. She did not, however, see any potential conflicts of interest.

Member Menard raised a conflict of interest with the two Molokai projects. Her husband (Trae Menard) is the supervisor of the supervisor (Mark White) for the coordinator (Ed Misaki) for the East Molokai Watershed Partnership, which is run by The Nature Conservancy, her employer. She recused herself from these projects.

ITEM 4. Discussion of the process and method by which the Commission would form recommendations to the Department and Board of Land and Natural Resources regarding FY15 project funding

Ms. Schmidt gave an overview of the process. Applications were received in September, with site visits usually arranged in October. Each group provided a site visit report, following which public testimony was heard. The Commission Members were to rank applicants at the following day’s meeting on a scale of one to five, with five being the best. Conflicts of interest were to be listed on voting forms. Funding would be allocated as ranked to the extent that funds were

available. Thereafter the recommendations were reviewed by the Senate President and House Speaker, with the Board of Land and Natural Resources (BLNR) making the final decision at one of their regularly scheduled meetings in February / March. The final decision would be subject to the Governor's approval.

Ms. Schmidt mentioned that the estimated budget was \$4.5 million. There was a fixed program ceiling, but less funding available due to a larger central services reduction based on DLNR revenue. Revenue was high in FY 2014, therefore there would be a reduction in available grant money.

Chair Kaiwi stated that since its inception in 2007, the Legacy Land Conservation Program had granted roughly \$60 million and leveraged over \$20 million for the preservation and protection of natural lands. He looked forward to hearing testimonies for the applications.

ITEM 5. Reports by Commission members and Commission member task forces regarding visits to FY15 project sites; discussion of site visits to the FY15 project sites by Commission members

Site reports were presented by a lead Commission member for each visit.

a) Kalua'aha Ranch Conservation Easement (Molokai)

Member Buchanan presented the site report. The visit was conducted on November 14, 2014. The site was approximately 969 acres, 667 of which was zoned Conservation and 302 of which was Agriculture. The application was for the purchase of an easement containing both Conservation and Agricultural land. The amount requested from Legacy Land was \$500,000 with a total estimated cost of \$1,580,000. The site visit was carried out in the transition zone and not in the intact forest due to difficulty of access by road. A trail traversed the forest. The lower forest was heavily impacted by ungulates (pigs and probably deer) and invasive plants were present, including *Clidemia hirta*. Concerns were raised about sedimentation impacting the wetland below, although the wetland habitat was marginal and it was unclear how it could be enhanced to support waterfowl.

Member Shallenberger mentioned that restrictions within the easement area were unclear, other than giving up the right to develop housing or other structural changes. Kamehameha schools managed the adjacent land. The applicant had a good track record but it was also unclear how the easement value had been determined. Clarification of the level of public involvement in the project was also required, for example the number of site visits per year or whether hunting would be allowed. Chair Kaiwi also raised concerns about the use of ESA Section 6 and other matching funds for the project in terms of the implications for public access.

b) Pua'ahala Watershed Acquisition (Molokai)

Member Buchanan presented the site report. The site was approximately 800 acres including Conservation and Agricultural Zoning and consisted of an entire ahupua'a, mauka to makai parcel for fee simple purchase. The Division of Forestry and Wildlife was the applicant, requesting \$2,422,500 with a total estimated cost of \$3,422,500.

It was noted that the landowner had not provided access for surveys prior to application. It was also unclear what habitat work had been taking place. It was noted that the site was a priority for development threat (including both makai and mauka portions). Local people were traversing the property to reach the ocean (even though it was private land). An ancient fishpond was present but had been purposely filled in by dredging for development in the 1970s that never occurred. The site was bordered by two other ancient fishponds which were not being actively managed, and the shoreline was not very sandy.

Access to the mauka lands was not available during the site visit, although it was noted that these are critical to Division of Forestry and Wildlife (DOFAW) plans for protection and fencing of Priority 1 watersheds. A question was raised as to whether it was reasonable to characterize the project as part of a missing link in rare bird habitat statewide in that birds might not traverse between habitat over such large scales. The pond complex did not appear to be supporting birds at the time of the visit. There were also questions about management and surveys, as no draft plans or cost estimates were available and there were doubts as to the pond's suitability as habitat. The state's appraisal timeframes and the suitability of section 6 fund usage were also unclear. There was also a remaining 16 year lease of submerged lands which was mentioned by the landowner; it was unclear if this was included in the parcel for purchase. It was noted that there have been concerns by East Molokai community members in the past about access to the shorefront. There were no plans for public hunting and recreational usage was unclear. Ms. Emma Yuen clarified that the Department of Land and Natural Resources (DLNR) was looking at providing access to 40 acres nearby which could be used for hunting. Member Sinton suggested that access to the shoreline might be improved if the site was purchased by the State, given that the public were currently trespassing.

Member Shallenberger suggested that it was typical of a number of proposals seen in the past in that management activities could be proposed by the applicant but there was no commitment other than a statement of intent. Some of the proposals showed intent with capacity and likelihood to do it. For Pua'ahala, creating waterbird habitat was a noble objective, however was unlikely to get much assistance from partner organizations because of lack of capacity. It was suggested it would be difficult to argue that this would be part of a chain of wetlands, but the real driver was protection of the watershed and the project would contribute to this substantially.

Chair Kaiwi mentioned the extensive fenceline planned for this area and the fact that this parcel would make the fenceline more contiguous. Member Buchanan stated that this parcel would be the missing link to join the eastern boundary. Chair Kaiwi mentioned a visit to a nursery in the area, which demonstrated the commitment of Molokai and the community to the protection of native species.

c) Kaluanono at Waipa (Kauai)

Member Menard presented the site report based on a visit conducted on November 3, 2014. The site was approximately 1.8 acres and was zoned Agriculture, with a fee simple purchase requested. \$398,000 was requested, with a total estimated cost of \$531,000.

Member Menard described the parcel as being flat with trees behind it and freshwater flowing through it. Extensive community support for the project was evident, with the organization managing an ahupua'a of 1,600 acres in the surrounding lands. This included a nursery with a community kitchen and meeting room under construction. Nene had been seen nesting in the area previously, and the nearby Waioli stream was also managed by the applicant. A fishpond along the stream was being restored, along with loi on surrounding lands. The applicant also planned to grow kalo on part of the land. No major environmental hazards were identified although the area could be prone to flooding. The site did not appear to be critical habitat for waterbirds but could be good supporting habitat for waterbird recovery. It was not linked to any protected areas. There were good scenic views and numerous opportunities for public access and enjoyment of this parcel and surrounding lands. There was some urgency as the applicant had been given the right of first refusal, but it might be sold off to someone wishing to develop if not purchased. The capacity of the applicant for long term management seemed high. This parcel would be the first land to be bought by the Waipa Foundation. Member Abbott noted that this was important in giving the applicant standing in any future disputes. Member Menard added that a preliminary title report had not been included in the application.

Member Abbott stated that the application did not fully reflect the level of community support and amount of activity currently taking place at the site. The applicant clearly had capacity to manage the land. The present situation meant that land could be bought and developed without any requirement for public hearings, unless the applicant became a landowner in which case they would have standing to appeal. Chair Kaiwi added that the Waipa Foundation had been in existence for over 20 years, and he had witnessed its growth over this time. Structures had been funded by Kamehameha Schools and the community and it was exciting to see what could be achieved with advocacy over a 20 year period.

Member Shallenberger enquired as to whether there were any threats of development from other parties who owned land in the area and mentioned the potential conflict between waterbird conservation and agriculture. Chair Kaiwi mentioned that he was confused about the Department of Agriculture's position on this matter.

d) Ka Iwi Coast Mauka Lands (Oahu)

Chair Kaiwi presented the site report based on a visit conducted on November 17, 2014. The site was approximately 181 acres and was zoned Urban, with a fee simple purchase requested. \$1,000,000 was requested, with a total estimated cost of \$4,027,800.

Chair Kaiwi mentioned that the Ka Iwi area was particularly meaningful to his family and that there were still strong traces of cultural identity present there. Many of the cultural sites had not been evaluated yet, and there were concerns that people might vandalize them. These sites were therefore not described in great detail in the report. A petroglyph of a bird was particularly

unique. There were not many native species present. The site sits within a saddle between mountains so development is considered a real threat although it had diminished somewhat; Kamehameha Schools had wanted to develop in the area in the past. The Livable Hawaii Kai community had already demonstrated that they were able to share sites they manage with the community.

Member Menard added that the petroglyph was the largest she had seen and the pohakulele (floating rocks) were also significant. Although the site had not been touted as having native species preservation potential, it was an active site and beautiful scenic area. Member Abbott stated that portions of the property were clearly visible from road, although some could be hidden and suggested that low impact development such as Girl Scout tents might be less visible.

Member Shallenberger asked for background on the development of the parcels' shape. Ms. Laura Kaakua replied that the parcels had previously been part of larger ones and were the gently sloping valleys between undevelopable ridgelines.

Member Buchanan stated that the site was on Oahu and therefore had prior historical use, for example fill on the ridgelines and likely ranching at one time or another. Regardless of some past degradation, she stated that it was important to retain the area as open space for the public. The applicant had met numerous times with the community and practitioners and given their track record at other sites, she was confident that they would be able to manage it.

e) Wai'opae (Hawai'i)

Member Shallenberger presented the site report. The site was approximately 322 acres and was zoned Urban and Agricultural, with a fee simple purchase requested. \$1,330,000 was requested, with a total estimated cost of \$2,672,902.

Member Shallenberger noted that he had visited the area 40 years ago and the site still looked the same. The property was very close to housing development and bordered the Wai'opae Marine Life Conservation District (MLCD) established in 2003, with a variety of marine habitats and depths. There was little educational information /signage visible during the site visit. Access was obtained via a road through the middle of the southernmost subdivision. It was noted that people were interested in developing it. 60,000 visitors per year were estimated to visit the area, although it was unclear how these figures had been derived. Snorkelers were present during the site visit.

There had been longstanding interest and support from Malama O Puna, focused mostly on the removal of the invasive mangrove. It was unclear to Member Shallenberger why the area was threatened by development given all the challenges of living in the area. It was noted that there were contaminant issues, and that land values had decreased by 60% in last year due to the lava activity. The scenic vistas and value of the site due to the unique pools were, however, indisputable in the opinion of Member Shallenberger.

Member Buchanan noted that DLNR did have some comments on the project and required clarification on the portion of the land already submerged and therefore already owned by the state. There was also a question of acreage and actual useable conservation lands.

Member Abbott noted that there were issues with illegal fishing and collecting. In 2007, there was a proposal for subdivision which didn't go through. A significant fish kill occurred, and Member Shallenberger wished to know when the native species would recover. It was stated that this site could be at risk of speculative development from out of state. Ms. Schmidt relayed information given to her from Mr. John Kahiapo of DLNR DAR: The fish kill on November 14, 2015, was the second since March 2014. The team from the Department of Aquatic Resources was not able to get there until November 17, by which time water samples didn't reveal anything. From February 2015, community members would be trained as first responders.

Member Buchanan liked the County of Hawaii's use of open space funds, specifically the very restrictive covenants supporting protection in perpetuity. The county was flexible about moving access points so as to make it more accessible to the public without requiring subdivision. The long term goals for burial sites were unclear; it seemed burials were mitigated as opposed to natural. Member Abbott confirmed that the burials were within a sealed lava tube. Member Buchanan stated that an archaeological preserve was delineated in 2007. Member Menard mentioned that the ohana were unknown.

Member Abbott stated that the funds were from a new open space fund, signifying great commitment from the county for protecting this site.

Chair Kaiwi noted that inactive management could be just as threatening as lack of management, for example threats posed by invasive species and overharvesting. He hoped the county had a strong management plan.

Member Menard stated that there was already a conservation easement on a portion of the shoreline, but did not see this mentioned in the application.

Meeting adjourned for break 10.25am

Meeting resumed 10.40am

ITEM 6. Optional presentations by applicants of new information or clarification of information concerning their proposals (including public testimony)

c) Kaluanono at Waipa (Kauai)

Mr. David Sproat provided the history of the Waipa foundation and lands. Waipa was one of two major parcels owned by Kamehameha Schools. A group was assembled from each of the major families from North Shore Kauai with a shared vision that the lands could be outreach for the community. The area was an ahupua'a, with mauka to makai components and a 2 mile stretch of

beach. The rest of the area was under private ownership. In 1986 a board of 11 people was formed and a lease signed for 35 years, with the Hawaiian Farmers of Hanalei transitioning into the Waipa Foundation. Their goals were community outreach, and land conservation and restoration (the land was ranched for many years following taro and rice production).

Ms. Stacey Sproat Beck added that the Waipa Foundation had been a multi-generational project. In 2005, a lease to 2050 was signed. Since then learning sites had been developed and loi restored. Reforestation was occurring in the uplands along with stream monitoring. The Waipa Foundation was in the process of creating and building assets and new learning spaces for the community. Over 2,000 people visited per year including children on field trips and families (from Hawaii and out of state). Poi was made every week and there were farmers markets and festivals every year hosting thousands. Over 100 children from community were actively served, building leadership and cultural knowledge. Significant long term planning had occurred including a 20 year agricultural master plan which detailed loi kalo, and dryland gardens. Another outdoor learning space was desired to ensure people were better connected to the aina and could practice malama aina.

Ms. Sproat Beck added that the Waipa Foundation was partnered with Kamehameha Schools, with funding from the Office of Hawaiian Affairs and others. In terms of development threat, it would be a significant benefit for the Waipa Foundation to own property as this would give them influence on activities and permitting throughout the area. The Waipa Foundation was committed to taking care of the place.

Ms. Laura Kaakua added that the previous testimonies had been humble and that it really was a place that people visited. It had achieved its original vision of saving space for local culture and families on Kauai's north shore. If the Foundation were able to buy the parcel it would be a relief to have a stake in their land and not just exist on the good graces of another entity. Thousands of people from surrounding community and visiting school groups needed Waipa Foundation. Ms. Kaakua reiterated that it was having an immense impact even though it was the smallest site.

Member Shallenberger commented on the issue of integrating wildlife and agriculture. The agriculture map was well planned, and it would be good to integrate wildlife with the larger area. Ms. Kaakua replied that one of the properties had nesting Koloa Maoli and Nene. An artist who painted native birds leased one of the properties and acted as a steward. The Foundation wanted to ensure that these species were not disturbed. Ms. Sproat Beck added that they coexisted with the birds in loi and looked forward to continuing to do so.

Member Abbott commented that he appreciated the clear management plan for this project. Member Menard noted that as the property was being leased from Kamehameha Schools, they would be required to remove the infrastructure should the lease expire. Chair Kaiwi stated that development in Hanalei was a threat to the area; without Waipa, the area might lose its meaning. He applauded community organizations focused on giving back and being areas of respite for Hawaiian and non-Hawaiian communities.

Member Menard noted that the preliminary title report was missing from the application. Ms. Kaakua replied that it wasn't available yet but that they were hoping to obtain it before rankings the following day.

Ms. Kapua Sproat introduced herself as an Associate Professor at UH Manoa and the director of the environmental law clinic practical skills course. Students had worked on permitting and land use planning at Waipa, illustrating the important educational potential even at a postgraduate level. Students had described the class as 'transformative'. Given her background in public interest litigation, Ms. Sproat could confirm the importance of the Foundation having legal standing so as to ensure that their legacy could continue past 2050.

e) Wai'opae (Hawai'i)

Sen. Russell Ruderman stated that he would be testifying as an individual. Puna's geology was unique as it was a very young area. It was mostly cliffs and not gradual shoreline, therefore there were very few ocean resources and areas for keiki to learn to swim. This area had challenges but there were virtually no other reef resources in Puna, and it was the only reef without development uphill from it. The parcel of lowland forest and wetland were also extremely rare.

The challenges of the area included potential isolation with 10,000 people on the other side of the lava flow. Protecting this land was still more important than ever before. The community had been very committed to stewardship and would help enforce illegal fishing because of a lack of capacity.

After an extensive vetting process, this was one of the parcels that became a top priority for acquisition. The public needed legal access to this rare ocean resource. Currently, people walked through private subdivisions and trespassed. Protection of the resource was required even if not from development. He also noted that the fish kill didn't seem to have happened in this area.

Member Buchanan noted that the site was the only real place that extended out as a reef on this portion of the island, while Chair Kaiwi commented that it was an example of a finite resource in an untenable position due to natural forces, although legislative help was still crucial for such projects. Member Abbott stated that cesspools didn't work well in areas with pristine coral reefs offshore and encouraged a commitment to alternatives to upgrade / treat water in such systems, for example artificial wetland construction and regular monitoring. The reef was an asset and needed to be protected as such.

Sen. Ruderman acknowledged the concern and mentioned that the Department of Health was in the process of developing rules to compel homeowners to better treat sewage systems. That made protecting this parcel all the more important. People had been avoiding swimming in certain ponds depending on whether people were using vacation homes in those areas.

Ms. Wendy Wiltse stated that she worked for the Environmental Protection Agency. Land in the area was generally unsuitable for development as the makai lands had been subsiding. She had

reviewed permit applications for seawalls and shoreline reinforcement and reported that several homes had infrastructure underwater. Most of the homes had been elevated but still needed wastewater systems as they either had cesspools (no treatment) or septic systems. These were in the water table, allowing human waste to get into the tide pools, which were not regularly flushed by seawater. Regarding the fish kill, it was her opinion that a toxic algal bloom caused by a flush of nutrients was responsible. Chair Kaiwi asked if people could be cited for infractions. Ms. Wiltse replied that there were no specific rules governing this although the Department of Health had been trying to pass a controversial rule banning new cesspools and requiring the upgrade of current ones. It was awaiting signature by the new Governor. She believed that the marine resources would recover in a relatively short time; preventing development on adjacent lands would assist with this goal. Member Shallenberger suggested using Special Management Area status, and Ms. Wiltse agreed that this could be a requirement of Special Management Area (SMA) permits.

ITEM 5. (continued)

f) Helemano (Oahu)

Member Sinton presented the site report. The site was approximately 1,420 acres and was zoned Agricultural and Conservation, with a fee simple purchase requested. \$1,777,500 was requested, with a total estimated cost of \$13,127,500.

Member Sinton noted that the site was off Kamehameha Highway. It provided access to Ewa Forest Reserve and the Poamoho hiking trail. The uses proposed for the parcel included hiking and camping. A memorandum of understanding with Dole guaranteed road access but the land was for sale. The main parcel had been degraded by previous agriculture and had many non-native species, although sandalwood, Iliahi and Ohia were present at the edge of the parcel. In Member Sinton's opinion, the driving force was access but development could be a threat. The Helemano Military Reservation bordered the site; a potential discrepancy between parcel boundaries and current use was identified in the form of a parking lot within the boundary.

Member Shallenberger commented that Poamoho was the best trail for birding in the Ko'olau Mountains and mentioned a potential opportunity for a conservation easement across the whole property. Ms. Marigold Zoll stated that DOFAW was currently seeking funding and getting an appraisal for an easement. A Forest Legacy application had been submitted the previous year but didn't get funded.

Member Shallenberger asked if access was regulated by permits. Ms. Zoll confirmed that this was a requirement from Dole, with Army being the current land owner. The trail was officially open to the public on weekends and holidays. Chair Kaiwi asked if negotiations with Army had begun. Ms. Zoll replied that the process had been initiated but had not progressed very far. Member Abbott asked if public access was a requirement of the Natural Area Reserves System. Member Sinton replied that it generally was unless there was a reason for limiting access, for example geological hazards. The Poamoho trail was part of Na Ala Hele. Member Shallenberger

commented that the value of the parcel was linked to the public access to the trail, and suggested a conflict if it was somehow threatened.

Member Sinton mentioned that hunting was another identified potential use, due to the need for this in central Oahu. The \$11 million in matching funds would also be good value.

g) Pupukea Mauka (Oahu)

Member Sinton presented the site report. The site was approximately 3,710 acres and was zoned Conservation, with a fee simple purchase requested. \$1,000,000 was requested, with a total estimated cost of \$4,712,500.

Member Sinton noted that this proposal had a watershed focus. There were state forests in adjacent areas, and the site was a good link as it was a central parcel extending almost from mauka to makai. The site contained Priority 1 watershed forests and at least 25 species of listed threatened or endangered plants. The forest was dominated by Ohia, Uluhe and Koa, although many invasive plant species were also present. The area also had an interesting rugged topography. The site was thought to be prime habitat for the native bat, based on the number of kills recorded at a windfarm nearby.

The site was likely to have a low threat of development. It was part of the Army Kawaiiloa training area.

DOFAW would like to ensure public access and was considering installing a campsite, improving trails and allowing hunting but a complete management plan had not been conceptualized. The site was listed as a Capitol Improvement Project and Member Sinton wondered if it was already in the budget. Ms. Zoll mentioned that the Army lease of Dole land had expired but had not been renewed to date. There was potentially a better chance of securing buffer money because the site was not an active training ground.

ITEM 6. Discussion by members of the Commission of the FY15 project applications and supplementary materials

b) Pua'ahala Watershed Acquisition (Molokai)

Ms. Emma Yuen provided testimony. The reason for the interest in the site was because of its high priority for protection as one of the most intact remaining unprotected native forests on Molokai. The site consisted of almost an entire ahupua'a from 4,000 feet to sea level. It contained different habitats and also had aesthetic value and architectural / cultural sites. It was also habitat for endangered species. The parcel contained a coastal area that was being accessed illegally by the public. Fee simple ownership would ensure public access to this resource. Hunting was being considered as a possibility on 425 acres of nearby land. The parcel sat in the middle of a planned 1,300 acre fenced unit and was critical for DOFAW's goals for ungulate control for the entire area. This was important for protecting the reefs below from sedimentation.

The benefits of ungulate removal were already visible in adjacent parcels where only native regrowth had occurred. A resultant ten-fold decrease in erosion in only 5 years in nearby areas suggested protecting this parcel would have significant results.

The forest was high quality Ohia forest and listed critical habitat for 40 endangered species as well as eight species recorded nearby. The very rare *Pritchardia munroi* and *Flueggea neowawraea* had been found nearby. New rare species had been found when surveying in the area, so there would be the potential for other undiscovered species presences. If acquired, the parcel would have the only freshwater pond in Molokai under State ownership. This was an extremely rare wetland type and important habitat for endangered waterbird species. There were plans to remove sedimentation and mangrove, with a budget of approximately \$48,000.

The mauka to makai orientation of the parcel made it defensible in terms of climate change, as it would include habitat gradients. Sea level rise would likely increase the area of wetland habitat and estuary. The site connected to the Molokai forest reserve which was the only public hunting accessible from the highway on the east side of the island. Cultural sites were not surveyed but records of heiau existed. There is a high concentration of fishponds in area, with an old fishpond wall within the parcel. Nearby efforts to restore and manage fishponds had been hampered by sedimentation. There was interest from the community to restore important cultural practices, seeking to protect the upper areas and to reduce erosion threats from ungulate damage.

The proposed fence unit had involved years of planning and community outreach and involvement from many entities. There was therefore momentum to begin protecting resources. Concerns about a loss of momentum could be allayed by starting to implement projects and show successes. \$2.3 million had been requested to allow matching by the Coastal Wetland Grant (limit of \$1 million). Forest Legacy and RLA grants with smaller matching had also been requested. A minimum amount of \$855,625 was requested from the Legacy Land Program.

Chair Kaiwi asked if the request would decrease if other grants were obtained. Ms. Yuen replied that they were federal programs and were waiting to see if state funding would be provided. In order to be awarded matching funds from the Coastal Wetland Grant, the full \$2.3 million would be required. Ms. Schmidt noted that the amount requested from Legacy Land couldn't be revised after projects were ranked.

Member Shallenberger asked about the funding source for the pond restoration project. Ms. Yuen replied that it would be funded by DOFAW and that some of the work could be done by staff given that the equipment was available. The major proposed management intervention was fencing in the Mauka area.

Member Abbott asked which of DOFAW's three sites applying for Legacy Land funding was the priority. Ms. Marigold Zoll replied that there had been a standalone ranking of Dole lands on Oahu but not a statewide effort in ranking projects. Member Abbott also asked about the dredged area of the shoreline. Ms. Yuen replied that it had been dredged in the 1970s and that the State had no interest in buying the offshore area given that the lease from DLNR would expire in 20 years and it was unlikely to be used. Member Abbott noted that there might be a risk of

contamination of fresh water by sea level rise; Ms. Yuen replied that it was believed to be an area of spring recharge and that protection of the area would ensure fresh water remained.

Mr. Ed Misaki (coordinator of East Molokai Watershed Partnership) commented that this was the first time he had seen people in Maui district so excited about purchasing land. In his opinion the property was highly developable. In the early 1960s, it was planned as one of the largest development projects. It was owned by foreign entities, and the threat of development was speculative at this time. But this was a key acquisition for preservation.

Mr. Phil Estermann provided testimony. He had lived on Molokai in the early 1970s and had been a community organizer involved in fighting development. The parcel was spectacular, and its acquisition would consolidate interests in terms of the community.

Meeting adjourned for break 12:10pm.

Meeting resumed 12:55pm.

a) Kalua'aha Ranch Conservation Easement (Molokai)

Mr. Butch Haase stated that the original application had been for 907 acres, which had since been revised to 967 acres. This was because the Natural Resources Conservation Service (NRCS) grassland reserve program easement had fallen through and the land added back into the application. The site was in a remote location, with access during the site visit restricted to the upper portion of pastureland. The intact habitat in upper areas contained dozens of threatened and endangered species. The East Molokai Watershed Partnership was active nearby and the acquisition of this parcel would connect areas of pristine native forest. The easement would be set up so as not to affect access or result in encroachment on the kuleana lands in the valley area. The cabin site was intended to be restored as a shelter for partners in the program (for example when building fencing). Watershed protection was a priority, along with protecting native habitat and historic agricultural uses. Downstream of the site was the second longest fringing reef in the country and fishponds. Infilling from erosion was evident. Over 600 acres of conservation land were to be included in the easement.

The East Molokai Watershed Partnership was expanding and contained some of the best remaining unprotected intact native watersheds. Management activities included ungulate control, the fence unit in the upper portion and management of the lower portion in accordance with an agricultural plan.

The area hadn't been thoroughly surveyed because of its inaccessibility but could contain Plant Extinction Prevention Program species. The stewardship record of the Molokai Land Trust showed that restoration was part of their mandate. They owned and managed other preserves and were contracted by The Nature Conservancy to restore another. They also had a nursery to support these efforts.

Benefits to the public included the provision of water. Regular visits would not be possible, but a single annual tour was proposed to reduce impacts. Access would be supplemented by service projects in other reserves, and could be integrated on the landowner's property. The conservation easement showed commitment from the landowner for a strong approach to protection. Two-thirds of the property would be under a conservation easement, and one-third agriculture.

Ms. Schmidt asked if the application would be revised with the new acreage. Mr. Stephen Rafferty replied that they were awaiting a map and would turn it in as soon as possible.

Member Shallenberger asked if there would be an access easement in the lower portion of the site. The landowner, Mr. Sonny Dunnam, replied that there would be no issues with this.

Chair Kaiwi asked why the landowner was interested in preserving the land. Mr. Dunnam replied that he was born in Oahu in the 1950s and saw what happened to the lands. He wished to keep the land as it was for future generations. He had been afforded this opportunity by the previous owner, who wanted to see the land preserved. He said that he loved the land and wanted to keep it like that.

Mr. Ed Misaki thanked the landowners for their commitment. They were one of the first signatories of the East Molokai Watershed Partnership project. This project was in the system for the Rain Follows the Forest CIP funding monies and it was hoped that it would be funded in 2015 or 2016. The Molokai Land Trust was very committed to conservation and was also a signed member of the East Molokai Watershed Partnership. The Nature Conservancy had a similar conservation easement for the Kamakou Preserve and it has been a great tool for protecting lands. The easement owner would also help provide management. Because of this commitment, the East Molokai Watershed Partnership would control animals within the fenceline.

Chair Kaiwi commented that the landowners of the two Molokai projects were fundamentally different. Mr. Misaki noted that the Pua'ahala landowner was foreign and that it had been a while since the state had acquired an opportunity like that on Molokai. The presence of the longest continuous fringing reef in the U.S. was an important resource. Protecting the aina meant protecting the reef.

Member Abbott asked how many members the Molokai Land Trust had. Mr. Haase replied that it was not a public organization, but it had volunteers and supporters numbering in the hundreds. Member Abbott also asked whether the resource subzone allowed animal husbandry and similar activities. Mr. Haase replied that it did but that this wouldn't be allowed in the Conservation zone. Figures were estimated by Irene Sprecker of the Division of Forestry and Wildlife using the value of adjacent land transactions. Cattle operations would only be allowed on the lowest portions. Member Abbott asked about the number of cattle. Mr. Dunnam replied that it had started at 120 head, but had been cut down to 20 over the last 20 years.

Member Abbott commented on the limits to structures of 25,000 square feet in the conservation easement, and wondered about the envisioned use. Mr. Haase replied that they were in case the landowner required utility buildings to support the agricultural operations and reflected the total area and not a single facility. Chair Kaiwi asked if this included impervious surfaces such as roads. Mr. Haase was unsure of this. Mr. Rafferty noted that NRCS easements included up to 10% impermeable surfaces. Negotiations were still continuing and the attorney involved had worked on many easements. It was, however, based on a one-way principle, therefore the area listed in the application would not increase, but could decrease. Member Abbott mentioned that the NRCS counted ponds (irrigation) as impervious surface areas. Member Shallenberger asked what the water system looked like and whether it included reservoirs. Mr. Dunnam replied that there were none, and that the ground reservoir was filled in with grass. There were wells in the agricultural section but they needed to be repaired. There were old pipelines that ran from the big valley and had been used for water troughs and tanks in the past. He would like to restore these for cattle operations. Old loi were present all the way up but were overgrown as the stream had dried up.

Member Menard asked about some provisions in the application regarding invasive species removal. Mr. Haase replied that this was standard invasive species language and they wanted to ensure the conservation easement would strictly encourage invasive species removal. They would ensure that the final language reflected this. They expected the presence of Newell's Shearwater and had multiple records of Hawaiian Hoary Bat.

e) Wai'opae (Hawai'i)

Ms. Barbara Bell, director of the County of Hawaii Environmental Management Division and vice-president of the community association, stated that she lived in the Kapoho beach lot subdivision and also owned property in the Vacationland area. She had spent a lot of time working with the Department of Health and the community on wastewater issues. The state had done a sewer feasibility study, but it would cost \$10 million to implement. Vacationland had voluntarily made the same law, that if people sell, they were required to upgrade their sewer systems. The community was supportive of the project and people in the private subdivision voluntarily opened the area to between 50,000 and 70,000 people each year.

Approximately 60% of the systems were cesspools, 25-30% septic tanks and 10-15% aerobic treatment (required for new buildings, apart from vacation lots with at least 15 feet elevation which are allowed to build septic tanks). Member Abbott asked about an estimated cost of upgrading the sewage systems and about the likelihood of the property in front being subdivided and developed. Ms. Bell replied that it would likely cost \$17,500 and take 4 months. In her opinion, development was likely. One landowner had wanted to develop 12 high-end oceanfront properties.

Member Shallenberger commented that the county website showed two active permit actions in middle of the property. Ms. Bell was unsure of what those were for.

Ms. Bell mentioned that many residents and non-profits were interested in protecting this part of the coast as these warm ponds were unique in Hawai'i and were a Marine Life Conservation District. An ad hoc committee had been working on this project for some years already and had attained good momentum. They aimed to protect the ponds, lowland forest and burial sites.

Member Shallenberger suggested that the access point should be periodically changed, while Member Sinton said that the applicants had mentioned they were considering fencing it off. Ms. Bell said that part of the 0.5% property taxes went into a maintenance fund. Access was problematic and needed to be through a private subdivision or would be considered trespassing. Access options needed to be discussed with the committee. Chair Kaiwi asked if there had been any master-planning. Ms. Bell said that there hadn't been. Ms. Oshi Simsarian commented that if the property was acquired, Malama O Puna would be involved over the long term as they had been working there for years. Mangroves had almost been eliminated and native species were being planted. They wanted to apply for an infrastructure grant but needed to own property to do so.

Chair Kaiwi noted that this was the only case in which a county was listed as an organization in the application. Ms. Simsarian replied that Malama O Puna wasn't an official organization. They had applied for a designation as an open space purchase but the county suggested the next step would be a Legacy Land application and they had moved forward together. This area was a rare, unique resource in Puna. It was a low socio-economic income area where the ocean was important for renewal and recreation and also had the best snorkeling on the east side of the island. It was the only legal safe access for families to the ocean. If lost to development, it would be lost forever. Additional protection was also required apart from stopping development; this was evident from the fish kills. The area had reached a tipping point with invasive species and it contained one of the few remaining pockets of lowland wet forest habitat. Endangered species such as the hoary bat, monk seal and native birds were also present.

Ms. Alexandra Kelepolo of the County of Hawaii gave the next testimony. She stated that Ms. Bell and Ms. Simsarian were the driving force of the project even though the county was the funding source. The local people used the area to gather food as well as the forest trail. The archaeological preserve was the only section that had been documented. If the property was acquired they would do an inventory of the entire site. The MLCDD became law in 2003 and had been monitored frequently by the Division of Aquatic Resources. Educational programs were being run in the area using funding from the National Oceanic and Atmospheric Administration. Students from the Hawaii Academy of Arts and Science had been doing a 'coral safari' experiment, from which statistics had been derived. A number of schools had utilized the area for a 'marine safari' experiment exploring the tide pools and anchialine ponds. The site was 11 miles from the lava flow, which had been projected to flow in another direction.

Member Shallenberger asked if dye tests had been used to identify pollution sources. Ms. Bell replied that they had shown a quick release (within minutes). Chair Kaiwi asked about the frequency of the fish kills; Ms. Simsarian stated that there had only been two. She had been snorkeling the day after an incident and had seen octopus, turtles, rays, and parrotfish. The

incidents were in an isolated area where the water got very warm, and most of the area was pristine.

Member Abbott asked where the agricultural areas were. Ms. Bell replied that they were several miles inland due to poor soils. Member Menard asked if there were planned expansions of the existing conservation easement. Ms. Simsarian said that one of the related challenges was determining the shoreline. Ms. Malama Minn (Land Division) stated that she had worked on shoreline certifications and that the new shoreline would only be determined when an application was received (which usually only occurred when land was sold). But it would likely be very different from previously. In the unlikely event the land was sold to someone else, that shoreline would need to be certified again.

Member Abbott asked about the acreage. Ms. Kelepolo replied that the site had been 322 acres initially, but that there were 250 acres of useable conservation land. An appraisal report, based on the net usable area, had been done in July. Member Abbott also asked if there was an opportunity for the price to be reduced based on the influence of the lava flow and whether the seller was amenable to a price adjustment. Hamana Ventura replied that in Pahoehoe, there had been declining land values, surplus inventory and rising demand. Ms. Kelepolo stated that \$2.6 million would be the highest priced but that it might decrease. Ms. Simsarian added that the property had been put on the market at \$5 million before and had received an offer of \$4 million. Ms. Kelepolo stated that approximately \$ 4.3 million a year was available in the public access open space natural resources preservation fund, and that there was a separate management fund. Grants for 501C3 were available and Malama O Puna would be eligible if the property were to be acquired. Member Buchanan commented that the County of Maui had a similar fund but didn't have maintenance funding, which was an advantage for this project.

Meeting adjourned for break 2:12pm.

Meeting resumed 2:20pm.

Ms. Schmidt noted that the requested amount for Pua'ahala had been officially reduced to \$855,625 with \$2,566,875 matching funds.

d) Ka Iwi Coast Mauka Lands (Oahu)

Mr. Phil Estermann (Ka Iwi Coalition) provided an overview of community involvement in this area. The community across Oahu used this accessible open space as a valuable resource. Queen's beach was designated for resort development in the 1960s. Opposition to development in the 1970s caused the city council to downzone it out of resort designation in 1982. In 1984, the Kaiser Hawaii Kai Development Company came back with a reduced proposal, including the extension of the golf course. After a public meeting, the proposal was withdrawn. In 1987 two parcels across from Sandy beach were approved for development by council vote but a community petition (gathering 40,000 signatures in 10 weeks) meant that it was put on the ballot at the general election of 1988. It won 66% of vote across all districts and the Supreme Court

ruled the initiative invalid. The parcels were downzoned for preservation and a long term planning process for entire coastline was initiated. This application represented the last two parcels to cement the scenic values of the entire coastline. It was a resource that people across the island value, demonstrated through the public referendum and another outcry from public about cabins proposed in 2010.

Ms. Elizabeth Riley stated that the Livable Hawaii Kai Hui was a 501C3 nonprofit serving all of east Honolulu since 2004. It had partnered with the NRCS and the city on a wetland project previously and had a record of community engagement and involvement. All of the organizations were united under the Ka Iwi Coalition with Livable Hawaii Kai Hui as resource. They were able to stop the cabins going ahead in 2010. Since then laws had been changed such that the community is required to be notified of such changes in land use. In 2007 and 2008 they had petitioned the Office of Planning to solidify the Makai lands being zoned conservation. The organizations were committed to collaborating over the long-term to protect this area in perpetuity.

Ms. Marigold Zoll mentioned that Ms. Laura Kaakua had approached Chair Aila with the project and that he had been supportive of it although it hadn't been finalized which division the acquisition would go under. DOFAW had been considering it as an open space forest reserve and it could be a nexus for the coastal conservation in the area. She described the site as a unique and special place and was surprised at how much it moved her to be up there. Ms. Kaakua added that Chair Aila had been very supportive on closing the development chapter for the Ka Iwi coast.

Member Abbott asked how the site would be acquired. Ms. Zoll replied that it would require fee simple purchase and a change in designation from urban to conservation. Chair Kaiwi asked why Liveable Hawaii Kai Hui wouldn't take the title. Ms. Riley replied that the organization wanted a working relationship with the DLNR, because it owned most of the land. The organization looked forward to the opportunity of working with DOFAW as the co-easement holder with city. It wished to allow public access, with the level of public access to be determined after surveying cultural areas of interest.

Member Shallenberger asked if there was any evidence of birds; Ms. Zoll stated that there was no evidence of native birds but that it was conceivable given their presence in surrounding areas.

Ms. Malama Minn asked if a slope stability study had been done; Ms. Kaakua replied that it hadn't.

Ms. Minn stated that it would probably be required because of the geology and rockfalls in surrounding area and the associated liability implications. It would require information in the management plan about who would manage it and how, so as to shield DOFAW from liability in future.

Member Sinton asked if these parcels were the last two that weren't owned by Kamehameha schools; Ms. Kaakua replied that these were the last two parcels with development potential not owned by Kamehameha Schools. Member Shallenberger asked about the longer term plan for the area. Ms. Riley explained that a Ka Iwi Coalition sponsored initiative to have the Ka Iwi Coast

moved into a scenic byway was planned. Maunalua.net had been working to identify areas of interest, education, scenic beauty. Ms. Kaakua added that the properties were visible from the oceanfront area which was a favorite place for families to visit. The site contained pohakulele, with a massive boulder that didn't touch the ground in any place and smaller pohaku underneath. The site also had ancient walls, with a more modern structure built into them. An archaeologist would be visiting the site shortly. Sites that may have been relatively untouched were valuable to learn the bigger history of the entire island.

Ms. Ursula Retherford conveyed her enthusiasm and hope for the purchase of this site. It had been more than 50 years since she had first seen the Ka Iwi coast. Development had marred many of the other scenic sites on Oahu. This stretch of shoreline was about the only place on the coastline where one could take visitors and feel proud that the destruction of scenic beauty had not been allowed. Building on mauka lands would have marred the view plane and nullified the efforts by so many to protect it. The area had been a refuge from urban life in which to replenish our spirits and the spirits of generations to come. Tourism and nature needed to be balanced or fewer return visitors would be received; protecting this area would also be an investment into economic wellbeing.

Ms. Ann Marie Kirk (Livable Hawaii Kai Hui) spoke about cultural sites. These parcels had an astounding amount of undocumented cultural features. Kohelepelepe had a deeper meaning as a battle between two clans. All of the chiefs on the islands could trace their genealogy back to these two clans. Pohaku on ridges had been aligned with Kohelepelepe and the placement seemed significant. There was a story about a balancing stone in the area and a picture in the state archives. This was said to be a place where spirits jumped to the next world, as documented in the oral history of the kipuna. The spirits were said to move to jumping stones, which were placed in relation to the sun and moon rise. Another picture from the archives was captioned 'the tomb of the chiefs' and there were heiau there. Spirits were said to come to the beach in canoes, something she had never heard of before. This project involved a movement to finish what had been started 30 years ago and she hoped that the long term use of the land would involve it being free and wild.

Chair Kaiwi thanked the people who had provided testimony for the context and history. He had a family connection to that land and emphasized the importance of cultural sites because they served as vestiges that connected us to places.

Meeting adjourned for break 3:18pm.

Meeting resumed 3:26pm.

f) Helemano (Oahu) and g) Pupukea Mauka (Oahu)

Ms. Marigold Zoll stated that the Pupukea Mauka site was envisaged to be used for agroforestry, more opportunities for recreation, more camping sites, mountain biking, and offroad tracks

(although this may not be the best idea). The site did not have a lot of intact native forest, but may have bats.

Member Abbott commented on the site being listed as a high priority for Dole properties for sale because of access, although the road also passed through lower priority areas. Ms. Zoll stated that the state would be in a better position to negotiate with the new landowner if it owned some higher priority sites. The sale of this property had fallen through so it was a new opportunity. The only real hunting area on the whole north shore was next to Helemano, so there was therefore political will to establish a memorandum of understanding to provide access. The site would also contribute to regional management goals. The Poamoho NARS fence had almost been completed, and would make a contiguous protected area in the northern Ko'olau region. Protecting Pupukea Mauka would protect an entire watershed feeding into the marine life preserve. It was expected to be full of rare and endangered plants and animals. Pupukea Mauka had a lot of intact native forest but also weeds. It had been envisaged as a border to control weeds before they got into the more intact leeward areas.

The site also bordered an inactive Army training ground. Member Abbott asked what the military buffer money allowed; Ms. Zoll replied that it had been used by DOFAW to purchase other sites such as Moanalua valley previously. The Navy was also interested in protecting the Helemano area from development because of radar equipment. The Pupukea Mauka area had quite a lot of upper management activity going on. If DOFAW lost access, it would seriously impede management activities. It was very much a preferred route for both the State and the public.

Member Shallenberger asked if the property was acquired and trails secured, if the state would plan to manage it under permit or open it up to the public. Ms. Zoll replied that if the state owned land around it and changed the lease for the forest reserve so that the public could access during week, the public would appreciate it. Having places for the public to go and to provide hunting opportunities which didn't have endangered species conflicts was really important for DOFAW. Helemano was agricultural land and relatively flat. Apparently there were also plenty of pigs to hunt in the area.

Member Abbott asked about the prioritization of the two sites on Oahu for which DOFAW had applied. Ms. Zoll replied that Pupukea Mauka had received an RLA grant of \$1.8 million. The asking amount from Legacy Land would match the RLA and get half of what was required for purchase. This would be significant in applying and successfully getting Department of Defense funding for that stand. In earlier conversations it had ranked highly. Mr. Rafferty added that both sites were eligible and would be applying for funding from the sentinel landscape program.

Ms. Zoll noted that Helemano had a large asking price of \$23 million which suggested a disconnect. DOFAW had been pursuing an easement purchase across the two Dole parcels. Chair Kaiwi asked if there were conditions as part of the military funding. Ms. Zoll replied that they would be required to allow the Army Natural Resource Program to access land for endangered species conservation but that this would be consistent with DOFAW's mandate.

Member Menard commented that the access for hunters was good. However, the available land looked like a portion of the Tax Map Key (TMK) that eliminated the road which would be a problem. Ms. Zoll couldn't comment on that but said the map wasn't accurate and that it represented a moving target, and was up for negotiation. Member Menard suggested it might be possible to obtain access through the northern part of the circle, although it looked like it was in a gulch. Ms. Zoll was unsure of the chances of getting access and had been in consultation with the head of Dole, who would entertain an offer to buy an easement. David Penn would fund an appraisal of the current access route to explore as an option too.

Member Menard also mentioned that a title report had not been included in the Helemano application and identified what appeared to be an encroachment issue where the military had built a parking lot over the boundary. She also wondered if there was a way to circumvent the parcel and build an access road on state land.

Member Abbott asked which site had the highest utility value for the general public; Ms. Zoll and Member Sinton agreed on the Helemano parcel. Member Buchanan commented that the public actively wanted recreation but that lack of access was a problem. 800,000 people living on Oahu needed the open space and would probably start applying a lot more pressure for such access in the future. This was especially important for Makai access but this was an example of a different type of access. DLNR really needed to make a concerted effort. She had been a conservationist for 15 years but the state was using public funds in order to make these purchases and the public should therefore be able to derive direct benefits.

ITEM 8. Announcements

There were no announcements.

ITEM 9. Adjournment

Meeting adjourned at 4.02pm.