

## Legacy Land Conservation Commission Meeting Minutes

DATE: December 5, 2014

TIME: 8:30 a.m. to 1:30 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

Ms. Gail Byrne

Ms. Laura Kaakua

Ms. Alexandra Kelepolo

Ms. Malama Minn

Mr. Michael Opgenorth

Mr. Dan Purcell

Mr. Stephen Rafferty

Ms. Oshi Simsarian

Mr. David Smith

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.

Ms. Schmidt explained the handouts. The table with the projects was to be ignored and the revised one referred to as it included the revised ask amounts.

**ITEM 2. Disclosure by members of the Commission of any potential conflicts of interest involving Fiscal Year 2015 (FY15) projects**

Chair Kaiwi asked if there were any conflicts of interest for Commission Members. There were none apart from those stated the previous day.

**ITEM 3. Discussion of the process and method by which the Commission will form recommendations to the Department and Board of Land and Natural Resources regarding FY15 project funding**

Ms. Schmidt provided an overview of the process and method. After a discussion of projects using the criteria, forms would be used to rank projects on a scale of 1 to 5 (with 1 being the best). If Commission Members had recused themselves, they were to leave the form blank (with names written on each sheet). The scores would be averaged together and projects would be funded as ranked.

Chair Kaiwi asked if partial funding was possible. Ms. Schmidt replied that the amount of funding requested and leveraged match were criteria against which projects were scored and could therefore not be changed afterwards.

Member Menard asked about the procedure in the event of a tie. Ms. Schmidt said that both projects would be reduced proportionately so as to get an equal share.

Member Sinton asked if half points could be used so as to use more of the dynamic range of the scale. Chair Kaiwi replied that pursuant to rankings, more discussion could be entertained but that no halves should be used. He asked if there were any questions from audience; there were none.

**ITEM 4. Discussion by members of the Commission of the FY15 project applications and supplementary materials and recommendations to the Department and Board of Land and Natural Resources regarding funding for FY15 project applicants**

a) Kalua'aha Ranch Conservation Easement (Molokai) and b) Pua'ahala Watershed Acquisition (Molokai)

Member Buchanan stated that the Kalua'aha Ranch Conservation Easement application was good value for money and included over 900 acres for one of the lowest requests. She said Member Shallenberger had good insights from the site visit and questions for the applicant, who did a good job of responding.

Member Shallenberger still had some concerns about valuation and thought the community might have concerns about the limited access to the site. Member Buchanan mentioned that the Molokai Land Trust had similar land further east which had been funded by Legacy Land. This site involved the same type of restrictions in terms of steepness and remoteness. She hadn't heard

that the community had been vocal about not having access but people had been given access for ungulate control given that fencing was not an option.

Member Shallenberger also mentioned that the applicant had been planning to submit a proposal for the adjacent valleys the following year. Member Sinton stated that that couldn't be voted against them, with which Member Shallenberger agreed.

Member Buchanan mentioned that the Pua'ahala acquisition would also be adding to the protection of the forested upper region. Member Sinton commented that Pua'ahala was a high priority for funding as it would be a missing link in the planned fencing of the entire area.

Member Buchanan applauded the Molokai Land Trust for their long-term vision, management of multiple parcels and willingness to work with other projects. Member Sinton confirmed that he had a high regard for the organization based on work they had done at other sites.

Chair Kaiwi's approach was to look at the context of the island first. Molokai had socio-economic challenges. The Molokai Land Trust had been trying to be part of improving the viability of the island. Molokai was good at producing food and sustainable food production focuses and feeding into identity of Molokai. He appreciated that the landowner was at the meeting and seemed to be applying for Legacy Land funding because he loved the aina. In his opinion, the steward made the difference.

Member Abbott stated that in the event that this application wasn't successful he hoped they came back. He wanted more clarification regarding the value of the property and how much related to the easement on conservation lands versus agricultural lands. DOFAW had come up with the costs (which was reasonable) but he required more clarification. Not taking the ecological values into account, he would rather have an outright fee simple purchase than an easement.

With regards to the Pua'ahala application, Chair Kaiwi stated that it was unclear what the landowner wanted to do with the underwater lease. He had been disappointed that the reef had not been presented as part of the ecosystem, whereas in Kalua'aha, the reef had been included.

Ms. Malama Minn requested more information about the lease for the State, to determine if it could be remedied. Ms. Emma Yuen replied that it was a 50-60 year State land lease which had commenced in the 1970s. The State already owned it so didn't have an interest in buying it back. At Pua'ahala it was recognized that the reef and terrestrial ecosystems were interlinked. Ms. Minn stated that when the lease expired it might be put to auction again, as the State was mandated to re-lease it to generate revenue and if it was not reserved it would be put up to auction. Chair Kaiwi noted that Ms. Yuen had mentioned the State was in the midst of a master planning effort.

Member Shallenberger suggested that for both Molokai applications, the lower part of the property was essentially wasted money and suggested the level of management interventions

applied would be similar for both properties. In his opinion, the State had underestimated the cost of restoring the wetland at Pua'ahala and that the wetland itself was of questionable value. He had helped to establish wetland habitat nearby which was not being used due to water supply issues. The commitment was admirable but not necessarily enough to ensure delivery.

Mr. Stephen Rafferty commented on easement versus fee purchases with regards to Kalua'aha Ranch on Molokai. There had been discussions of using Legacy Land funding to further fund actual project work. With respect to the easement, the State would not have the responsibility to maintain it, unlike a fee purchase. Easement had the commitment of the East Molokai Watershed Partnership supported by The Nature Conservancy which should allay some concerns. The applicant had a major nursery and had undertaken large restoration projects on Molokai. Because of the US Fish and Wildlife Service appraisal, they had also looked at contiguous parcels (including TMK's along the road of a higher value because they could be more easily utilized, which could increase the value of the conservation easement).

One of the more sacred sites on Molokai was located just outside the easement. The county plan included the east Molokai addendum, stating that this area should be protected from tourists. The cultural significance of the site was deep and profound due to the presence of heiau and other cultural sites.

Member Sinton wished to counter Member Shallenberger's observations on the Pua'ahala application. He agreed that he was unsure of how soon the freshwater pond would get restored. Nevertheless, the entire mauka to makai aspect was very important and didn't exist at other sites. There was good access to the property from the road and it would be advantageous for the State to acquire the lower part, whether or not it was restored as bird habitat in the short-term. He believed the State had intentions to do so which shouldn't be discounted and had estimated the potential costs. He didn't consider the lower sections of the Molokai properties 'wasted money', particularly in the case of Pua'ahala.

Member Buchanan also noted that she was in favor of the Pua'ahala purchase, and recognized the threat to the land if it was not acquired. She also mentioned that the State didn't have many makai parcels. However, the community did need to be involved and it shouldn't be an afterthought, especially on Molokai which was very community-oriented. She also stated her strong support for the Kalua'aha Ranch project. She trusted the landowner not to sell off parcels; however, she also recognized that the land had been gifted to the landowner, who couldn't necessarily afford to manage it. She appreciated the opportunities to take ownership of entire ahupua'a, especially on Molokai which had not seen previous applicants.

Member Menard recognized that the criteria required that Commission Members favored lands in imminent danger of development, which might count against applications from 'good landowners'. She agreed that in the past there had been many Big Island and Oahu projects and few Kauai, Molokai, and Maui projects.

Member Shallenberger wondered which project had the best chance of success in following through, and recognized that the Kalua'aha landowner was offering additional management

outside of the terms of the easement. Landowners could be asked but not compelled to manage. Ms. Yuen replied that ownership didn't necessarily require management, but for kuleana public lands the State was responsible for wildfire management and infrastructure etcetera. The East Molokai Watershed Partnership had an equal interest in managing each of the two Molokai projects. Member Abbott stated that he was grateful to such organizations for all the good work they had been doing on Molokai, where the donor pool was generally smaller. Chair Kaiwi asked if Maui DOFAW would assist with the management of Kalua'aha Ranch; Ms. Yuen required more clarification on what that might require before providing an answer.

Ms. Yuen stated that funding the fence unit had been DOFAW's top priority for Maui Nui for the last two years even though fundraising was still being done. The lower parcels were more marginal because they were no longer native ecosystem, in which case a primary interest would be wildfire management. It was a major goal for DOFAW, which had been aggressively pursuing options to make it happen. Ms. Zoll added that it seemed like Mr. Scott Fretz of DOFAW Maui had been very involved and she expected a lot more involvement and engagement in the future.

Ms. Minn added that community engagement was very important. DOFAW wanted the entire State to be ecologically sound and cared a lot about people. But sometimes there could be a disjoint between DOFAW's mandate and what the community wanted which required compromises, for example, hunting and ungulate management. Communication was especially important.

Ms. Yuen stated that DOFAW would be fencing the area to keep ungulates out but not people. The project was a response to the East Molokai Watershed Partnership's need for a fence, whose vision came from the community to protect the area. If the upper portions of the ahupua'a were protected, this in turn protected the lower portions. The sediment flowed downstream and scientific and cultural knowledge revealed that reefs were impacted by ungulates. DOFAW was excited about protecting this entire ahupua'a because it had components of preventing development in this sensitive area and providing legal access to the shore. The middle areas were degraded but could provide public access for hunting.

Member Menard mentioned the history of DOFAW's aerial shooting interventions. Ms. Yuen replied that this wouldn't be possible without acquiring the site. Member Menard also highlighted the compelling US Geological Survey data about forest recovery after ungulate removal. The areas outside of the fence would also need attention. Ms. Yuen stated that the East Molokai Watershed Partnership would obtain the hunting rights.

Chair Kaiwi asked about the timeframes to restore the sites, and appreciated the comment from Mr. Butch Haase that it would require generations and needed an education focus. He had not noticed this approach in the Pua'ahala application. Ms. Yuen replied that DOFAW had an extensive educational curriculum and trained hundreds of teachers across the State each year, while still wanting to further build their environmental education. They also provided posts for over 100 interns across the State. Member Sinton stated his strong approval of this approach.

Member Buchanan stated that she said supported the Pua'ahala purchase, and encourage an approach whereby the State worked more closely with landowners to find out what they envisaged for the land. She didn't necessarily agree with fencing as the best management option for ungulates and would have liked to see more alternatives such as nets or traps. She voiced her concern about the fact that the lease for the submerged land could be signed by another landowner and would have liked to see it as a single package.

Mr. Rafferty noted that the Kalua'aha Ranch the landowner had already sold one parcel and the TMK's could be taken out one at a time, with a large threat from foreign buyers. The shape of the easement excluded the kuleana parcels on the eastern side. The Molokai Land Trust and landowner wanted to provide community access, and had diminished the size of easement to allow access. The landowner had been very concerned about cultural aspects and it was significant that he owned almost the entire ahupua'a. There were planned improvements to the fishponds, and reforestation would enhance the capacity of the fishponds to be restored. Member Abbott asked if Mr. Rafferty had been engaged in both the Kalua'aha and Pua'ahala projects; he replied that he was not trying to undercut the Pua'ahala project but had not been engaged with it. Member Abbott asked if parts of the two projects were within the Special Management Area (SMA); Mr. Rafferty replied that Kalua'aha was not, while Member Buchanan replied that the makai part of Pua'ahala was within it. The implications of this were that the parcel would have to be subdivided and an SMA permit obtained if developed.

Member Abbott suggested this spoke to the true threat of development. In Molokai, even things that were categorically exempt from SMA still had to be passed through the Molokai Planning Commission for exemption, which involved public hearings. Ms. Yuen confirmed how time consuming and involved these processes usually were. Member Abbott suggested that Pua'ahala was not in imminent danger of development but was in danger of being sold to another developer. The upper TMK extended down to the highway. Kalua'aha is mauka of the highway and would therefore require a building permit but not a SMA permit. Member Menard asked if Member Abbott was suggesting the development threat at Kalua'aha was greater; Member Abbott agreed. Member Sinton added that the reduced ask for Pua'ahala made it more appealing and provided strong leverage for other federal funds (RLA and Forest Legacy).

#### c) Kaluanono at Waipa (Kauai)

With regards to the Waipa project, Member Menard liked the waterbird aspect. The US Fish and Wildlife Service had identified core and supporting wetlands for waterbirds in adjacent valleys. She suggested that the site could easily become a supporting wetland. This application had the smallest ask and she had been moved by the level of community involvement, spirit and level of planning. Member Shallenberger stated that the applicant had a record of good management, but was disappointed not to hear from Kamehameha Schools at the meeting although they had provided a letter of support. Member Sinton added that if the Waipa Foundation owned the land outright it would give them real leverage as opposed to their somewhat tenuous position.

Member Shallenberger asked if there were any other parcels like this within the lease from Kamehameha Schools. Member Menard replied that there were other inholdings; Member

Shallenberger was concerned about what would happen when the next property was put up for sale. Member Abbott noted that there were seven or eight kuleana parcels, most of which were still within the families. But due to the potential of this parcel being sold to other landowners, he supported its acquisition. Waipa was the only area in the surrounds with a more natural character, and although the parcel didn't have intact habitat, he was very supportive mostly for cultural reasons. Member Menard added that the parcel was walking distance to one on which the Waipa Foundation had infrastructure, and therefore had an advantageous location.

Ms. Laura Kaakua added that when the landowner contacted the Waipa Foundation, they immediately asked Kamehameha Schools if it could be acquired quickly, but didn't think the board would approve that amount of money for one piece of land given the prioritization of education so they approached Legacy Land. A second, more expensive kuleana holding was on sale near the fishpond, but the Foundation was not confident about the chances of getting the trustees to approve the purchase. The other parcels were still owned by families and they hadn't heard of any plans for development. Kamehameha Schools was very supportive of the Waipa Foundation trying to save a place for Hawaiian values.

Chair Kaiwi stated his preference for applications with high management quality. The community was the catalyst and there had been a long history of community involvement. He was impressed that the site could be used for education even at postgraduate level. He hoped the Commission Members could feel that the people really did care about these areas and were dedicated to their legacy. Whether or not land available, he felt that the Waipa Foundation would continue their work because they believed in it.

Member Menard commented on the land being zoned agricultural and producing food (for example poi). She saw it as a good compromise between providing food and waterbird habitat.

Member Buchanan stated that this site was her top priority for acquisition. She had talked to people in area and found that the beachfront area was well maintained and open and able to be used by the community. Member Menard agreed on this site being the top priority. Member Abbott commented that knowing that the site would be managed immediately (if approved) was very reassuring.

Mr. Mike Opgenorth from the Department of Agriculture (DOA) elaborated on their previous concerns that over-encouraging birds would result in crop damage for surrounding farmers. Ms. Stacey Sproat hadn't seemed concerned and wanted to continue to allow their presence; she had helped to mitigate the DOA's concerns. Chair Kaiwi noted that this hadn't been raised as an issue until recently. Member Shallenberger recommended that waterbirds and agriculture were managed in the broader context, from a management standpoint.

Meeting adjourned for break 10:05 a.m.

Meeting resumed 10:19 a.m.

b) Pua'ahala Watershed Acquisition (Molokai)

Member Abbott stated for the record that Ms. Yuen had checked the SMA boundaries and the upper part of the Pua'ahala parcel was not within the SMA. It was therefore was at risk of development without local oversight.

d) Ka Iwi Coast Mauka Lands (Oahu)

Chair Kaiwi recognized the strong advocacy displayed by the community since the late 1970s as well as the demonstrated management abilities of Livable Hawaii Kai in recent years. The cultural resources in the area were also outstanding. Member Menard also stated her support for the project, and that she had been blown away by its cultural significance, which was also evident in the number of letters of support it had received.

Chair Kaiwi noted that the petroglyph of the bird was significant as and was linked to the heiau in the area. He appreciated the opportunity for the community to interpret for themselves what the sites might mean.

Member Abbott asked about the status of private donations. Ms. Kaakua replied that \$2.5 million had been received from the City and County of Honolulu to date. They were supportive because it was seen as a State and city partnership for the whole coast. They were committed to raising at least \$10,000 for stewardship to begin with, as well as a rainy day fund and that these were necessary steps in completing the purchase. She had spoken with a few individuals with a high capacity to provide funding and received positive feedback. It was important to enough people that it was a realistic fundraising goal.

e) Wai'opae (Hawai'i)

Member Shallenberger commented that he was very supportive of the project. In his opinion, the decreasing price of land in Puna increased the threat of development. He had been impressed with the match and the equal split between county open space money and Legacy Land, and importantly, the partnership in management between these two entities. This would also be facilitated by Malama O Puna and the community who wanted to see it protected. The pollution was more difficult to solve but it was a fascinating place to snorkel. Member Buchanan also expressed her support of the project, and emphasized the importance of access to the shoreline. While on the site visit she had seen a cultural practitioner accessing the beach from the parcel and liked that the project had been spearheaded by the county. The presence of the Marine Life Conservation District also made acquiring the land more important. She believed the County was flexible enough and the community supportive enough to make the project succeed in the long run. Chair Kaiwi also expressed his full support for the project.

Member Menard liked the fact that the burials on the site would be protected and investigated further if the site was acquired. Member Sinton stated that the area was completely incompatible with wastewater injections and wanted to ensure that the mistake was not repeated on this

property. He applauded the county's commitment to managing the site and expected it to be a success. Chair Kaiwi suggested that Malama O Puna might want to connect with organizations such as Liveable Hawaii Kai to get ideas of how to respond to the wastewater issues at this site.

Member Abbott asked if constructed wetlands had ever been considered for the site. Ms. Barbara Bell stated that a county study had recommended low pressure collection lines and treatment but that these were still very expensive. Member Abbott suggested that there might be a lot of litigation if anyone tried to develop this site, but that protecting the parcel without addressing wastewater issues would be problematic. Simple wastewater treatment systems such as a gravel parking lot with a liner and reed-based treatment had been used successfully for 30-40 years in Britain. Overall, Member Abbott was very supportive of this project, and stated that snorkeling here had been a life-changing experience. It was a priority to protect places like this, especially given the lack of beaches.

Ms. Minn stated that the Land Division had been concerned about the price of the land given that part of the property could be affected by lava. She was in favor of the project but wondered if a better price could be attained so as to be frugal with public funds. Member Abbott stated that the County Finance Department was negotiating and trusted they would obtain the best price. Ms. Alexandra Kelepolo confirmed that the county did not intend to pay the asked price. Member Menard asked if award money could be returned if the price dropped below what was requested. Ms. Schmidt confirmed that Legacy Land had started managing the issue of reduced values by using a percentage of matching funds (rather than a fixed amount) so that the proportion of grant funding to match would stay consistent if the price dropped.

Member Sinton confirmed that this was a geologically unique place and one of the few places where pahoehoe extended to the coast. As one of the only reefs in Puna and the whole east side of the Island, this site was important to acquire.

Ms. Kaakua asked about the procedure if a project was highly ranked for funding and then sold for a lower price. Ms. Schmidt replied that if the applicant notified Legacy Land before the board meeting, after first consulting with the House Speaker and Senate President, there might be time to reduce the ask. This would be subject to confirmation from the Attorney General.

#### f) Helemano (Oahu)

With regards to the Helemano application, Member Sinton had identified problems with the application in the sense that it was unclear which parts of the access road were in the parcel and which lands Dole had been offering for sale. In spite of that, he viewed it as an important parcel. It had real potential for the establishment of a camping ground, hunting, hiking, mountain biking, as well as a real, urgent threat of development as it was prime accessible land in central Oahu. Access to Poamoho and the Ewa forest reserve were also important. In his opinion, purchase might not solve all of the problems and an easement might be required. He would eventually like to see it under control of the State but it was the most expensive of all the applications.

Member Shallenberger added that the threat level had increased with the marketing of Dole properties but there had been a compelling need for access to the Poamoho trail which should be priority. There was a good match between funding sources, but all of the other sources were pending, presenting an issue.

Ms. Zoll agreed that it was a difficult project because of the degree of uncertainty. An easement option was a high priority for DOFAW too, and she wished there was more information available. Member Shallenberger recognized that the parcel was important for the management of the Natural Area Reserve, but also that there were risks involved and that the project might not be ready yet. He wished to know if there were indications it might be sold. Ms. Zoll added that she hadn't heard of other offers from Dole but that it might be sold as a bulk sale so DOFAW was working with other partners to negotiate this.

Member Abbott had concerns about price. If Helemano was compared to Pupukea, it was large and would provide key recreation benefits although it was not intact habitat. But between the two, Pupukea seemed like the better value because of its mauka to makai orientation.

Member Buchanan said that she had hoped Helemano could be funded, especially because of access concerns for forest management and public access. She felt that all of Dole's land was in danger of being bought but was unhappy about the Department of Defense being in the middle. She gave an example of DOFAW looking into purchasing another property for 20 years, then that property being purchased above asking price without warning and she didn't want this site to become a missed opportunity. It was hoped that the State could acquire Helemano by some means in the future.

Member Menard would have liked to see State control of the land at Helemano for access to Poamoho, but she was not convinced that Dole was offering the portion with the access road, which was very important to determine in light of the investment. It would have been nice to see some community or hunting support for the project. The adjacent parcel might still be on the market if it was purchased.

g) Pupukea Mauka (Oahu)

Member Sinton stated that in some ways this site was a bargain. It was the largest parcel by far and contained a large portion of the watershed. It was difficult to imagine the property being using for anything other than watershed protection. A windfarm might be a threat but this would be difficult because of the topography. It was already zoned conservation so it had a certain level of protection, but would be nice to acquire at some point. Member Menard agreed but suggested that more community members could have supported the application. Member Sinton also noted that he had seen many people accessing the area even though it was closed during the week.

Member Abbott asked about the subzone of the conservation district, and if it would allow rustic campsites to be developed. Ms. Zoll replied that she was unsure of the zoning but could check. DOFAW hadn't had the opportunity to explore those options but it might be feasible on the

mauka side of the road or along the Pupukea summit trail. In Member Abbott's opinion, the site was good value and more useful than Helemano but wasn't highly threatened (depending on the resource subzone). Ms. Minn added that the Pupukea site would not receive enough wind to make it viable for windfarm development.

Member Abbott asked if other parties had expressed interest in the site. Ms. Zoll stated that the adjacent landowner had been interested. The Sikes Act required that the military provided access to the public but this was difficult.

Member Shallenberger agreed that improving access to Poamoho would open up opportunities for research and recreation, particularly at such a reasonable price. In Ms. Zoll's opinion, Pupukea Mauka seemed more ready to be funded than Helemano as it was less of a moving target and was offered for sale on its own and not in bulk.

Member Menard appreciated the connectivity of this site to other protected parcels. Member Buchanan stated that the recorded use of Poamoho was 8,000 people annually (on weekends only) which highlighted the vast need for recreation. Ms. Zoll commented that Helemano was currently at its maximum use and that Sunset Ranch had approached DOFAW about moving the gate back so as to provide better parking for the public. This might increase access but might not necessarily make the site more viable. Member Buchanan added that there was a very small road in the area, and that the residents probably wouldn't appreciate additional public access.

Chair Kaiwi voiced his concern about the two projects having the same management section in their applications. Helemano had good recreational opportunities, while Pupukea Mauka was very different, which would require different stewardship and management interventions. The applications hadn't provided a very clear picture of how DOFAW wanted to manage the sites.

Chair Kaiwi reminded the Commission members that the ranking forms were public record, following which the projects were ranked.

Meeting adjourned for break 11:20 a.m.

Meeting resumed 11:47 a.m.

Ms. Schmidt provided the rankings, which were as follows:

1. Kaluanono at Waipa (Kauai): 6/6, average score 1.00
2. Ka Iwi Coast Mauka Lands (Oahu): 10/6, average score 1.67
3. Wai'opae (Hawai'i): 11/6, average score 1.83
4. Kalua'aha Ranch Conservation Easement (Molokai): 12/5, average score 2.40
4. Pua'ahala Watershed Acquisition (Molokai): 12/5, average score 2.40
5. Pupukea Mauka (Oahu): 18/6, average score 3
6. Helemano (Oahu): 22/6, average score 3.67

Ms. Kaakua asked by when the awardees should inform Legacy Land of any decrease in price so as to submit before the Board meeting. Ms. Schmidt replied that this was usually due 13 days before the board meeting but that she would inform the awardees of the deadlines. Letters to the Speaker were to be sent out the following week, and a reply was usually received by mid-January. She confirmed that the funding was estimated at \$4.5 million. The top 5 projects had been fully funded, with Pupukeya Mauka being awarded approximately \$416,125 of its ask.

Chair Kaiwi entertained a motion, Member Buchanan moved that the rankings be accepted as proposed. Member Shallenberger seconded the motion, while all were in favor.

**ITEM 5. Discussion and possible action regarding a November 23, 2014, written request from Ala Kahakai Trail Association to modify a project approved for Fiscal Year 2012 funding from the Legacy Land Conservation Program by incorporating a conservation easement to the Hawaiian Islands Land Trust**

Ms. Gail Byrne thanked the Commission Members for helping to get the project off the ground. They had received \$1.4 million from Legacy Land as well as all of the matching funding. She described it as a wonderful project which had had grassroots support since the beginning. It had been a great partnership between the community Ala Kahakai Trail Association (501C3) and National Parks Trails. She had returned to ask for approval for putting additional protections on the land to protect resources. This was important to do before the project closed given the statutory potential for a payback. The landowner had been really gracious. It had been a seven year process with six parcels, this being the final one. The holder of the easement for the last parcel was discussed.

Chair Kaiwi asked if there was anything the Commission members should be aware of about the easement. Ms. Schmidt replied that she hadn't reviewed the easement because whenever substitutive change were made to a project, it was required to go back to the Commission, as well as being consulted with the Senate and House Speakers. The DLNR Chairperson had authority to make changes to a grant. Payback revision was within the Legacy Land statutes after land was acquired if the applicant wanted to do so. A proportion of funding must be returned to the Legacy Land program.

Chair Kaiwi asked if the Commission would have time to review the draft easement. Ms. Schmidt replied that staff would typically review the easement. At that point it was just the idea of the easement that was requiring approval.

Ms. Byrne thanked the Commission members for their belief in the initial project and stated that a number of projects including restoration had since been launched.

Chair Kaiwi entertained a motion, Member Sinton moved that the request from the Ala Kahakai Trail Association be approved. Member Menard seconded the motion, while all were in favor.

## **ITEM 6. Announcements**

Ms. Schmidt mentioned that the Cave Conservancy of Hawaii had offered to provide a presentation to the Commission on the system of protected areas. Ms. Kaakua added that she would like to provide a presentation on Oahu Greenprint project, although there were no time constraints for this. Member Shallenberger noted his interest in both of the presentations. Chair Kaiwi also requested status updates of the Trust for Public Land projects the Commission had funded.

Ms. Schmidt suggested the next meeting for late March / early April. All were in favor.

Member Abbott mentioned a pertinent legislative issue. If a corporation purchased land, the State did not derive any tax benefits, meaning money would not be infused into the Legacy Land program. He hoped that the exemption could be removed. Ms. Yuen commented that this was a loophole that had been billed in previous legislative sessions but that it had failed every time. With the change of administration, the new Governor had said that he wanted to ensure the Department of Taxes collected those that were owed. It would therefore be important for the Commission and interested parties to support this. She suggested Senator Oakland as a contact. Member Buchanan asked if Ms. Yuen was suggesting that BLNR submitted a letter of support. Representative Calvin Say was aware of this issue.

Chair Kaiwi mentioned that Ms. Schmidt and himself had met with Dan Dennison of DLNR to create synergy around what had been achieved by the Commission since 2007 and to emphasize the importance of conservation to the State of Hawaii. This would involve interfacing more with legislators so that they were aware of this before bills were introduced. Ms. Yuen added that DLNR staff was limited in what they could achieve at the legislature. If requests were rejected, they were unable to return and ask for a ceiling increase, thus increasing their reliance on people outside of the organization. For example, the invasive species funding had support on the ground for \$5 million over \$1 million. Chair Kaiwi mentioned that there was an educational outreach component which had fallen off the table, and he hoped that the legislature was well aware of it and why it should be supported.

Ms. Minn added that the Governor's office should be involved to increase the likelihood of success. If the Governor was expecting a bill then it had to come out at the conference. If the Governor had no knowledge or interest in it then they wouldn't know if it had died at the conference.

Chair Kaiwi asked the Commission Members if there were any objections. Member Abbott strongly encouraged the initiative and was happy to contribute to it. Member Shallenberger mentioned that it couldn't be included in the job description for Commission Members; Chair Kaiwi replied that good intentions were often marred by red tape and policy and whatever was required to attain better conservation laws should be implemented.

Member Buchanan suggested that a legislative briefing could be held if sponsored by other organizations, for example DLNR. Ms. Schmidt asked if this would be solely Legacy Land or if

it would be appropriate for other applicants to join. Member Buchanan suggested this was possible as long as it stayed succinct.

Chair Kaiwi asked if a strategic meeting could be held before April to deal with ideas for implementing legislative changes. Ms. Yuen suggested that for the maximum effect, briefings should be held before the opening of the legislature in January. Ms. Schmidt suggested a meeting between Chair Kaiwi, Ms. Lisa Hadway and herself, to which Chair Kaiwi agreed. Member Abbott suggested the target should be the 2016 session as meetings with legislators were usually scheduled in the fall and presentations done in the spring. Ms. Yuen suggested a briefing, site visits and one-on-one meetings with DLNR.

Chair Kaiwi mentioned that if the tax bill came up again, they should be ready to support it. Ms. Yuen commented that the ceiling increase was more of a procedural thing and not a huge ask.

Chair Kaiwi wanted to leave the strategic meeting open to Commission members; Ms. Schmidt needed to confirm the implications of Sunshine Law for this, but added that two commissioners could meet.

Member Menard asked that Ms. Zoll report back on the title status for Helemano, as she was interested in improving access for the community. Ms. Zoll replied that the Trust for Public Land was the co-applicant and that they would be reporting back on the project update in any case. Ms. Kaakua confirmed that she was happy to support this process. Member Shallenberger recognized the Trust for Public Land's involvement in the Legacy Land process, specifically the efforts of Ms. Kaakua, and had noticed a marked improvement in their applications to Legacy Land over the years.

Ms. Schmidt provided the Commission members with a letter of thanks submitted by Ms. Ursula Retherford.

## **ITEM 7. Adjournment**

Chair Kaiwi motioned to adjourn the meeting, while Member Shallenberger seconded the motion. All were in favor. The meeting was adjourned at 12:25 p.m.