

**2024 Legacy Land Conservation Commission Draft Minutes, Meeting 86
State of Hawai'i Department of Land & Natural Resources
Division of Forestry & Wildlife**

DATE: November 1, 2024
PLACE: Kalanimoku Building
In-person at Kalanimoku Building, Boardroom Room 132
1151 Punchbowl Street
Honolulu, Hawai'i 96813

And remote by interactive conference technology (online via ZOOM and by telephone)

PARTICIPANTS

COMMISSIONERS:

In Person

Ms. Elizabeth "Beth" Robinson
Ms. Christiane "Kau'i" Lucas

Via Zoom

Mr. John Sinton (Chair)
Ms. Beryl Blaich (Vice-Chair)
Ms. Kanoe Wilson
Mr. Jay Penniman
Ms. Alexandra "Alex" Kelepolo
Ms. Kim Falinski

STAFF:

In Person

Van Matsushige Project Development Specialist, Land Division

Via Zoom

David Penn Program Specialist, Legacy Land Conservation Program, Division of Forestry & Wildlife

PUBLIC:

In Person

Julias
Bella Koga
Mario Miscioscia

Via Zoom

Kamuela Ka'apana (Trust for Public Land)
Earl Yamamoto

**ITEM 1: CALL TO ORDER/MEETING PROCEDURES
COMMISSION ROLL CALL/ALOHA NEW COMMISSIONERS
STAFF INTRODUCTIONS/PROGRAM UPDATES**

Chair Sinton called Meeting 86 to order at 12:34 PM on Friday, November 1, 2024 which is being held in person at the Kalanimoku Boardroom and remotely via Zoom. The Chair started the meeting by explaining the in-person and remote meeting procedures and reviewed the procedures should the connectivity go down and scheduling of the next meeting if connectivity cannot be re-established.

Chair Sinton led the roll call with each commissioner who was not at the meeting in person to state their location and identify others who were sharing the same space. Two (2) commissioners were present in person, Commissioners Lucas and Robinson and five (5) participating via Zoom. Chair Sinton confirmed quorum with seven commissioners participating in the meeting.

David Penn, Program Specialist for the Legacy Land Conservation Program under the Division of Forestry and Wildlife introduced the program staff: Van Matsushige, Project Development Specialist, Julias, a legal fellow assisting with legislative work, and Julie China the Deputy Attorney General who will probably not be attending the meeting.

Before giving the program updates, David Penn highlighted that since this is in the preliminary stages, specific information about the applicant, application or lands are not identified. This meeting is to plan for the work of the permitted interaction groups. In this way, it does not affect the arrangements the applicant has with landowners.

Commissioner Kanoë Wilson joined Meeting 86 via Zoom at 12:43 PM bringing the total number of commissioners to 8.

David continued by providing program updates based on the information included in the board packet:

- Legislative: Waiting on the governor to take action on the proposed legislation for the next session as well as the budget request
- Annual Report: The annual report to the legislature has been submitted but not formally accepted which is done through a governor's message. The content of the annual report includes success of the grant awards.
- Grant Award Status: Referred to the chart where nine projects are still active, but at various stages of due diligence. In the fiscal year 2024 grant application cycle, four grant awards were approved and funds encumbered. Staff is working with each applicant to complete the contracting.
- Project Closings: Five projects were successfully closed for the last fiscal year (Halulu Fishpond, Mahukona, Pohakea Watershed Lands – Ma'alaea, Haneo'o, Makolelau 5th parcel).

- Land Conservation Fund: \$5.1M is the annual appropriation that the legislature allows the program from the conveyance tax. Fiscal Year 2025 (FY2025) budget is \$9M and after spending on the grants and administrative costs, that leaves about \$4M in unencumbered cash at the start of FY2026. Another \$5.1M will be added during the fiscal year, so funding will be around the same level as FY2025 which is \$9M. Assuming revenue doesn't increase, the FY2027 funds available would be \$5.4M as that would be all the cash that would be in the account with \$3.1M available for land acquisition grants. This makes the upcoming legislation session which establishes the biennium budget for FY2026 and FY2027 critically important.
- Revenue Sharing: Ala Kahakai Trail Association grant award for the Waikapuna acquisition has a carve out from the conservation easement of 20+ acres for a proposed wastewater treatment facility that is required under a consent order from the Environmental Protection Agency. The County of Hawaii has a couple of hearings on a resolution for the county to go ahead with a condemnation. When Ala Kahakai Trail Association gives up the property to the county, a percentage of the money paid from the county will go to the Land Conservation Fund (LCF). The amount is based on the percentage of funding from LCF at the time deal was completed.

There's also a telecommunications facility within the Waikapuna property that's licensed to telecommunication companies which yields revenue from those licenses that Ala Kahakai uses to manage the property. These were in place prior to the acquisition closing. However, if the conditions for the license renewals change substantially, then it may require board approval. The terms of the renewal that includes revenue sharing are being considered.

- Turtle Bay Resort: The recent acquisition of Turtle Bay Resort by a hotel management company followed with the construction of residential buildings near the conservation easement area. DLNR's involvement with the property comes in the form of the conservation easement where annual bond payments for the easement comes from the LCF. Separately, the State acquired land on the Turtle Bay property is leased back to the resort. Annual monitoring is done by Tanya Rubenstein of DOFAW and Van Matsushige from Land Division. With this recent activity, additional inspections may be required beyond the annual monitoring.

David asked if there were any questions. Chair Sinton asked for more clarification regarding the funds available for this grant award cycle. David provided a breakdown of the obligations to the Turtle Bay Resort annual bond payment, Operation, Maintenance and Management Grant, and administrative costs which brings the balance of \$6.8M available for this grant award cycle. Chair Sinton asked if there were any comments or questions from the commissioners on Item 1. Commissioner Wilson asked that should revenue go down, and no further appropriations come from the legislature, is this what we could be looking at in the next 2 years? David responded that if revenue doesn't change from the current \$5.1 million, if the legislative lifts the cap on the revenue or from other sources, then these numbers would go up. Accordingly on the revenue side. But this is kind of the worst-case scenario. Commissioner Penniman asked about the other sources of funding. David responded that encumbered funds for a project that become unencumbered or if the full amount is not spent on a contract to complete the deal, then those funds become unencumbered and adds to the cash balance which provides more funds to spend within limits. This doesn't change the appropriation or spending authority. Chair Sinton asked if the public had any questions for testimony. Seeing none, the Chair moved on to Item 2.

ITEM 2: FISCAL YEAR 2025 APPLICATIONS FOR GRANTS FROM THE LAND CONSERVATION FUND (LAND ACQUISITION)

Item 2.1

Chair Sinton explained the purpose of the Permitted Interaction Group which included investigating the FY2025 grant applications, attending field visits, communicating with applicants about strengthening their applications and reporting back to the full commission at its next public meeting. The table in the board packet shows the location for each of the nine applications received. Up to four commissioners and one leader is assigned to each group. Alternates are also assigned.

Van Matsushige, provided the partially completed table that included commissioners tentative assignment based on their preferences. Van explained how the schedule was created and requested for input from the commissioners to complete the field visit teams. Every commissioner is a leader at least once and participating in 3-4 field visits.

David Penn added that in addition to the field visit, the expectation is for the commissioners to use their expertise to take a deeper dive into each application and work with the applicant to improve the application and answer questions, so we don't have to do it during the decision-making meeting. As a member of the permitted interaction group, the commissioner is entitled, but not required to attend field visits but can still contribute to the investigation of the application. This process is only to assign the permitted interaction group. Scheduling and reporting will follow.

There was discussion amongst the commissioners regarding the schedule as the team for each field visit were being filled. Commissioner Penniman inquired as to the type of assistance a new commissioner would have being a group leader. Chair Sinton assured him and other new commissioners that there's a lot of support from fellow commissioners and from the program staff. Also, it's important to share the workload, so each commissioner is expected to lead at least one field visit. Chair Sinton continued that the reason for multiple assignments including alternates is because by the time the schedule with the applicant and landowner is confirmed, the commissioner(s) in that group may no longer be available.

The commissioners continued their discussion of deciding the team assignments. Vice-Chair Blauch commented that although less convenient from a travel perspective, commissioners may want to consider participating on field visits not on their island as it comes across better from a public perspective. David Penn added that we should include the vacant commissioner position to an alternate for each field visit as a contingency if the vacancy is filled before the field visit.

Chair Sinton asked if there were further discussion or testimony. Seeing none, Chair Sinton made a motion to accept the establishment of the Permitted Interaction Group for FY2025 for the evaluation of applications including field visits. Commissioner Lucas seconded the motion. Chair Sinton asked if there was an objection, abstention, or recusal for this motion. Hearing none, the motion was carried by unanimous consent.

Commission approved Permitted Interaction Group Decision Matrix attached.

Item 2.2

Chair Sinton moved on to Item 2.2 to discuss tentative dates for Meeting 87 and 88. He noted that Meeting 87 must precede Meeting 88 by 6 days. David Penn emphasized the objective of the program is to have these decisions from the commission on the recommendations to come out as soon as possible so there's sufficient time to complete the required steps such as consultation with the President of the Senate and Speaker of the House, approval from the Board of Land and Natural Resources, recommendations from the Department of Budget and Finance, and the Governor's approval of the grant awards and release of funding. This is required to encumber the funds, ideally before June 1st or earlier. Depending on the field visit schedule, we'll see if we're able to have the decision-making meeting before the legislature opens on January 15, 2025. Another factor to consider is the commissioner's availability. Remote participation is possible, but it's always better when all of the commissioners are participating in person. These meetings have been typically held in Honolulu, except for one on Maui. The most important thing is the IT capability and a location that isn't too inconvenient for the applicants to do their presentations.

Van Matsushige added that a consolidated blackout date for the commissioners of each field visit team will be distributed to the leader, so they can more easily schedule the date with the applicant and landowner.

Chair Sinton commented that these are only tentative dates, so the commission should select dates now and see what happens based on the field visit schedule and commissioner's schedules. David Penn mentioned that with the holidays and commissioner's schedules, it's likely the meeting would be in early February giving 3 full months for the field visits.

Vice-Chair Blaich suggested Friday, January 31, 2025 for Meeting 87 and February 7 for Meeting 88. Chair Sinton noted that the 6 day requirement between meetings so Meeting 88 would be February 10 and 11. Commissioner Robinson said it was better to lock the dates now otherwise commissioner's schedules may change making it difficult to attend the meetings. Commissioner Wilson moved to accept the meeting dates and Commissioner Kelepolo seconded the motion. Chair Sinton asked if there was any public testimony. Seeing none he asked if there was an objection, abstention, or recusal for this motion. Hearing none, the motion was carried by unanimous consent.

Item 2.3

David Penn reviewed the information related to review, ranking and recommendation process and the priorities and criteria that is tied back to the statute and administrative rules. The information is also included in the board packet. There's no weighting for the land acquisition priorities but things to consider during discussion at the decision-making meeting. A scoring sheet is used to rank each application.

David explained that staff will review all of the items in more detail for Item 2.3. with each team leader. Reminders made regarding travel and reimbursement procedures. The process for reviewing, ranking and recommendation will be reviewed after Meeting 88. Templates will be provided for the written report of the Permitted Interaction Group.

Commissioner Falinski added that for the Kaunakakai field visit, there are issues with Mokulele Airlines, so sufficient time should be allowed in case of changes.

David Penn acknowledged Earl Yamamoto from the Department of Agriculture. Earl requested for more information in the application form 5A and 5B as it would be useful as part of the evaluation.

Kamuela Ka'apana inquired how applicants are expected to contact the lead and other commissioners to schedule field visits. Chair Sinton responded that the lead commissioner would communicate with the applicant to schedule the field visit while coordinating with the other commissioners.

With no further comments, Chair Sinton moved on to Item 3.

ITEM 3. ADJOURNMENT

Chair Sinton asked for a motion to adjourn Meeting 86. Commissioner Kelepolo moved to adjourn the meeting. The motion was seconded by Commissioner Wilson. Seeing no further discussion, Chair Sinton adjourned Meeting 86 at 2:34 PM.