CONVENE:  9:04 a.m.

PRESENT:  VOTING MEMBERS:
          Councilmember Michael P. Victorino, Chair
          Councilmember Joseph Pontanilla, Vice-Chair
          Councilmember Gladys C. Baisa
          Councilmember Sol P. Kaho‘ohanahana
          Councilmember Danny A. Mateo (Out 11:00 a.m.)
          Councilmember Michael J. Molina

NON-VOTING MEMBERS:
          Councilmember Wayne K. Nishiki

EXCUSED:  Councilmember Bill Kauakea Medeiros

STAFF:  Kimberley Willenbrink, Legislative Analyst
          Tammy M. Frias, Committee Secretary

ADMIN.:  Eric Yamashige, Deputy Director, Department of Water Supply
          Kalbert L. Young, Director, Department of Finance
          Scott Teruya, Administrator, Real Property Tax Division, Department of Finance
          Jeffrey S. Hunt, Director, Department of Planning
          Clark Hashimoto, Agricultural Specialist, Office of Economic Development, Office of the
          Mayor
          Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation
          Counsel

OTHERS:  Warren Watanabe, Executive Director, Maui County Farm Bureau
          Michael Hylton, Haliimaile Community Garden
          Coleen Field, Haliimaile Community Garden
          Rosemary S. Robbins
          David DeLeon
          Additional attendees (4)

PRESS:  Akaku—Maui County Community Television, Inc.

CHAIR VICTORINO: . . .(gavel). . . Good morning. The meeting of the Water Resources Committee
will start. We have a quorum present this morning. The meeting for the Water Resources
VICE-CHAIR PONTANILLA: Good morning.

CHAIR VICTORINO: Good morning. Our Vice-Chair for the Council itself, Mr. Michael J. Molina.

COUNCILMEMBER MOLINA: Good morning, Chairman.

CHAIR VICTORINO: And our Upcountry representative, Ms. Gladys C. Baisa.

COUNCILMEMBER BAISA: Good morning.

CHAIR VICTORINO: Good morning. And then our representative from Lanai, Mr. Sol P. Kahoʻohanohano.

COUNCILMEMBER KAHOʻOHANOHANA: Good morning.

CHAIR VICTORINO: Good morning. And, of course, our Council Chair and from Molokai, Mr. Danny A. Mateo.

COUNCILMEMBER MATEO: Good morning, Chairman.

CHAIR VICTORINO: We have one non-voting, oh wait, excuse me, before I go on, our Member Bill Medeiros is excused today. We have one Non-Voting Member with us today, from South Maui, Mr. Wayne K. Nishiki.

COUNCILMEMBER NISHIKI: Good morning.

CHAIR VICTORINO: Good morning. Thank you all for being here. At this time, I’d also like to introduce our Legislative Analyst, Ms. Kim Willenbrink, and our Committee Secretary, Mrs., Ms. Tammy Frias.

From the Department today, we have various Administrative representatives. We have from the Board of Water Supply, we’ll have Mr. Eric Yamashige and I see him in the room. He’s taking the front seat already. From Real Property Tax, Real Property Tax Administrator, Mr. Scott Teruya, and he will be representing the Department of Finance. I saw Mr. Jeffrey Hunt and there he is. The Planning Director is also available. We have our Agricultural Specialist, Mr. Clark Hashimoto, who is in the audience and will be able to come up if we need to have him address any specific questions. We also have from Corporation Counsel, our Deputy Corporation Counsel, Mr. Edward Kushi.
MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. So, we have quite an array of people available and before I start public testimony let me introduce the item that we'll be discussing today.

Our item is WR-1(1), Water Supply Rules, the Definition of Agricultural Consumer. The Committee is in receipt of correspondence dated October 29, 2009, from the Department of Corporation Counsel, transmitting a proposed bill entitled A BILL FOR AN ORDINANCE AMENDING SECTION 14.01.040, MAUI COUNTY CODE, TO ADD THE DEFINITION FOR AGRICULTURAL CONSUMER. The purpose of the proposed bill is to add a definition for an agricultural consumer to Article 1, Title 14, Maui County Code (County Water Code).

So, before I get into the discussion I would like to now start with public testimony. And public testimony is limited, ladies and gentlemen, to the item on the agenda today. If you haven’t signed up, please sign up at the desk in front of our lobby on the eighth floor. You are limited to three minutes with one minute to conclude. Please state your name and who you may be representing. At this time, I would ask anyone to turn off all noisemakers, such as cell phones, pagers, or anything that would be making noise. Decorum will be adhered to in this Chamber. So, with no objections, ladies and gentlemen, I'd like to call up...start public testimony.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections, thank you. Right now, we have one person signed up to give public testimony and that is Warren Watanabe and he's representing the Maui County Farm Bureau. Mr. Watanabe.

...BEGIN PUBLIC TESTIMONY...

MR. WATANABE: Good morning, Chair Victorino and Members of the Committee. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. MCFB on behalf of our member farm and ranch families and organizations is in general support of the proposed definition of an agricultural consumer, but also provides the following suggestions.

Farm Bureau has struggled over the years to define agriculture. We are not unusual. Even at American Farm Bureau Federation, there is discussion about the harsh reality that most legitimate farm families...family farms depend on external income.

We totally agree that the gentlemen farms need to be weeded out but it, it does get difficult. The ideal solution would be to re-evaluate our zoning laws, expanding the rural category. I recognize the hesitation with fear of it being the door to residential development, but conditions can be stated in law forbidding further subdivision. In rural, farming would be an option and the...residential lifestyles would fall into this category. Those that have significant community services with lighting and other amenities that clearly make it residential should be called so,
with an appropriate tax rate. A new category in residential may need to be created for this purpose. We see rural as a category of property with minimal community services like in a farm area enough to comply with farm...with fire safety and other safety requirements but the nice to have amenities do not exist. As such, property taxes would be less than residential but more than agriculture. Water discounts would not apply unless a property is dedicated to agriculture at which, at which time the same requirements imposed on agriculture would apply. Agriculture would be a choice.

Optimally G-45, currently required by the Water Department, with a minimum gross along, along with an accepted conservation plan would be the requirement to qualify a property as agriculture. Unfortunately, we are not sure that NRCS has the resources for the farm plan and who will enforce it. This leaves G-45 as the practical criteria. A minimum income would ensure that the County is receiving back a benefit for the subsidization of water rates, property taxes, and et cetera. There should also be a force majeure clause to ensure that a legitimate farm with a loss due to factors beyond their control would not be forced to defend their farming practice. . .farming status. With current computer technology, this should be able to be done seamlessly.

Attached is an article about the 2007, seven, Ag Census with data about Hawaii as well an article out of US EPA. The latter, the latter is a bit dated but if anything, the numbers in the lifestyle/residential farms have increased in the 2007 census. Refer to the highlighted area. Even as American Farm Bureau Federation, there is the recognition of the lifestyle farms. Take a look at the definition of the various categories of farms and it gets complicated. If there is a family that has a well paying outside job, say 200,000 that represents the majority of income for the household and the farm income is 50,000, then what do you do? The farm can be a legitimate farm. This is in contrast for the gentlemen estates whose actual farm income could be $200.

Using an agricultural definition with...within the Hawaii Revised Statutes is good as it will provide consistency through the legal system. However, requiring G-45 with a minimum requirement in the, in the $20,000 range will separate the farms from the gardens. Ultimately the decision before you is what is the expectation of the County as it provides reduced water rates? We in commercial agriculture believe it is because we provide a return on your investments in the form of excise taxes and increased self-sufficiency. We provide agricultural benefits to those who do not want to toil in the fields everyday. And we are, we are willing to continue to work with you on this, on this definition. Thank you.

CHAIR VICTORINO: Thank you, Mr. Watanabe, appreciate that. At this time I’ll open up for questions for Mr. Watanabe from Members. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Warren, and I certainly understand and appreciate what you shared with us today. And, you know, we have reached the point here now where economic decisions will be very important because we have to make sure that if we’re
going to give some kind of a break to somebody on cost that we get something back and that the taxpayers get something back.

The concern that I’m feeling though is, you know, I represent the Upcountry area and I not only represent the farmers but I represent the gardeners and I represent the folks who are becoming very concerned about sustainability. And so, this is, this is the part of the decision that gets a little complicated is how can we encourage people to grow their own food, grow food to share when they cannot do it commercially? And so, what is your thought about that? I know, I know you mentioned that we need to separate gardens from, from farming. I, I’m sure you wrestle with this too when you talk about the definition ‘cause you live Upcountry too. What’s your thoughts?

MR. WATANABE: Well I think, you know, there is like..we feel that, you know, there is a place for home gardens and, you know, those kinds of things. But truly, again, you know, even at the State Legislature right now we’re looking at, you know, with that..at the State budget and the cuts at Department of Agriculture and we feel that, you know, those kinds of resources is for the commercial producer. And for the commercial producer, you know, you are in the business to, to generate a profit. It is a business first of all and that’s what we keep saying. It is a business and so in return for the benefits the County, the State, or even the Federal government all should have some kind of payback, you know, nothing’s free. And I don’t know if you’re going to get that with a home garden.

COUNCILMEMBER BAISA: You know, the other fad. ..it’s becoming a fad. You know, we used to have it before but not like we do now and it’s a good one. It’s a really good one. ..is the idea of farmers markets because what people are doing is hopefully back...backyard farmers ‘cause, you know, we are a backyard farmer. My husband farms and, you know, when the zucchini is in you have enough zucchini for the whole neighborhood or the beans or whatever happens to be growing that or coming to, to harvest that time. You have a lot of it and some people like to take it to the farmers market and earn a little additional income but they’re definitely not that big farmers. That’s the other part that, you know, concerns me is we want to encourage that but does it justify a reduced water rate?

MR. WATANABE: Yeah. And again, you know, I don’t have a simple answer but in regards to a related, you know, if I can, a related subject. ..you’re all aware. I’ve brought it up before about the food safety issue.

COUNCILMEMBER BAISA: Right.

MR. WATANABE: Our commercial producers will be man..., you know, become mandatory that they be certified even if you take it to a farmers market. A home gardener, you know, they’re not going to be required and so it becomes and also an issue of public safety at that point. And I think, you know, the County needs to really look at that issue also. The farmers are going through the process. We’re getting more and more farmers certified across the State and like I said Congress will probably mandate it pretty soon.
COUNCILMEMBER BAISA: Can you think of any other way that we might incentivize folks to do gardening and, you know, be sustainable while not being considered agriculture for tax purposes or water rate reductions? That's what I'm racking my brain trying to think of is, you know, how can we incentivize people to continue doing this 'cause it's a good thing for all of us.

MR. WATANABE: Right.

COUNCILMEMBER BAISA: And for people that cannot afford to buy vegetables in the market and they can afford to get it at the farmers market, 'cause we want everybody to be healthy, we got to come up with some kind of carrot for them. And I don't know what that is unless we would have another rate or a certain tax rate for people that garden or I, I don't know how to do that but we don't want to discourage it.

MR. WATANABE: Yeah and, and again, you know, I'm, you know, I'm not an expert or anything like that or claim to be one, but I think again, you know, as the, as the body here you got to...you have to decide 'cause you, you have to have a balanced budget basically.

COUNCILMEMBER BAISA: Right.

MR. WATANABE: And you got to. . .the County needs to generate revenue. So, I think it's, it's, it's a decision that you guys have to weigh out and say, you know, how much are you willing to say if you're going to subsidize a home gardener. How much are you willing to do, do so, and to what extent? And, you know.

COUNCILMEMBER BAISA: Thank you. I, you know, I don't mean to put you on the spot but, you know, I know you know how complicated this is. You and I have been talking about this for four years now and but we do. . .we're in a new day here, a new day in the sense that, you know, we're talking sustainability. We're wanting to make people sustainable and yet we also need need to make farming possible for the farmers, because we know how you guys are suffering and we don't want to lose any more farmers so this is our decision. But anyway, I want to thank you very much for coming today and for trying to help us. Thank you.

MR. WATANABE: Mr. Chair, can I make one more...?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Oh, excuse me.

COUNCILMEMBER BAISA: I can ask him. Or am I done, Chair? I give it up.

CHAIR VICTORINO: Well he had said, Mr. Chair, may I make another comment and then you said, yes. And I just thought I'd like to say yes to it too, please, if I may.
COUNCILMEMBER BAISA: Yes, sir.

CHAIR VICTORINO: Thank you. Just, just one of those little things.

COUNCILMEMBER BAISA: By all means.

CHAIR VICTORINO: Thank you very much. Go ahead, Mr., Mr. Watanabe.

MR. WATANABE: Thank you, Mr. Chair. I just wanted to say that, yeah, you know, the commercial producers are the ones that are going to be the ones that if the State, the County, and the State becomes more self-sufficient, sustainable it’s the, it’s the commercial producers that are going to do it, are the ones going to be able to do it and to provide to the wholesalers and, you know, to the Whole Foods, you know, Safeways and those kind of outfits. Thank you.

CHAIR VICTORINO: Thank you. Any other questions for the testifier? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, thank you, Chairman. Good morning, Mr. Watanabe. So interestingly that you mentioned about, you know, you... the farmers here on Maui are the ones that provide sustainability in regards to food, food production. I just wanted to make a comment in regards to a question that I asked once at one of those farmers market, you know, that you folks sponsor. And I said what’s the difference between what you guys grow and what the guys grow in their backyard? The answer to me was straightforward. We know what we putting into the product and you don’t know what’s been put, put in, in home gardening that goes to the swap meets. So, I, I thought that was kind of interestingly that he mentioned that. But my question to you is what is G-45?

MR. WATANABE: That’s the general excise tax...

VICE-CHAIR PONTANILLA: Oh.

MR. WATANABE: ...that we, that, you know, that, that everybody submits. It’s, it’s a State form. Yeah, general, G.E.T.

VICE-CHAIR PONTANILLA: And, and you follow that particular rules in regards to the requirements of what constitute agricultural because I read here it says $20,000 in gross income annually?

MR. WATANABE: Yeah, you know, getting back to what our, I mean, if you recall we had with the previous Administration submitted a proposal and the amount was at 2,500. I think, you know, if you’re going to really look at supporting your commercial guys, I mean, you have to establish a high. . . I believe a higher level and that’s why we are suggesting 25. I know, you know, suggestions have been thrown out about 35,000 and things like that. And again, that, that’s why it gets so hard to define who is a farmer, because again you have part-time farmers who may, you know, in certain cases may, should be eligible for some of these benefits. So, it, it’s kind of a... we just throwing it out again like, like a starting point. But, I think, we think it needs to be
high, a little. . .it has to be high enough so that you can distinguish between, you know, a home gardener and a commercial farmer.

VICE-CHAIR PONTANILLA: Thank you, thank you for those comments and, you know, one of the things that bothers me is that, you know, when we do have water restrictions, you know, how does one grow vegetables in the backyard as not to offend the Water Department in regards to their restrictions? So, again, thank you for being here this morning. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. And I would like all of the Members to look on the correspondence dated February 8, 2010 from the Department, and in the second page, that would be the last item in your binder under WR-1(1). There is a definition of the HRS 163D defining agriculture as, as the State does at this time. Okay, so that’s it, so for further reference, ladies and gentlemen, that, that was included and that was from the Department dated February 8, 2010, the response defining agricultural consumer, yeah. Okay.

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: Any other questions for the. . .before I recognize Ms. Baisa, anybody else have any questions for. . .Mr. Molina, go ahead.

COUNCILMEMBER MOLINA: Thank you, Chair. Warren, one quick question that you recommend. . .would you suggest that the gross, I guess, on the minimum income to qualify as a farm be adjusted and what would that rate, I guess, speaking as a Farm Bureau representative? And I know it costs more to farm nowadays too, yeah, so obviously there might be considerations to adjust that minimum gross. You have off the top of your head. . .do you have any number to consider?

MR. WATANABE: Not, not really. I, and I think, you know, just like in the surveys that we have attached a lot of the farmers, I mean, they do have outside jobs. And the problem is again to, you know, digress a little. The problem with agriculture right now in the State of Hawaii is the cost of inputs and that goes even for ranching, and until we can address that issue it’ll make. . .it’ll be very hard for a lot of the farmers, ranchers to be. . .remain viable. We import most of our in...inputs so that drives up the cost of production and until we can control that I personally feel it’ll be very difficult.

COUNCILMEMBER MOLINA: Okay, all right, thank you. And it’s so hard ‘cause we don’t want to discourage farming at the same time, yeah. Thank you, Mr. Watanabe. Thank you, Chairman.

CHAIR VICTORINO: Thank you. Mr. Nishiki, go ahead.

COUNCILMEMBER NISHIKI: Yeah, Warren, in your last paragraph you said that however, requiring G-45 with a minimum requirement in the 20,000 range will separate farms from gardens. My question is you came up with 20,000. What is. . .where do you get that figure from? Has the...
Farm Bureau done any kind of study in regards to your farmers that are doing farming commercially? And is 20,000 pulled out from a study?

MR. WATANABE: No, it isn’t.

COUNCILMEMBER NISHIKI: Okay. Let me ask you this. In people that are commercially farming, and I see in our water rates increase, Mr. Chairman, the agriculture community actually asking to pay for. . .well increasing in, in the Ag water rates. So, my question is, Warren, in a product, in a farm, what percentage is your water cost? Look at fertilizer, you know, the gamut, you know, cardboard boxes, whatever, herbicides. What is. . .what is that water, what portion of it?

MR. WATANABE: Well a lot will depend on what crop you’re growing and where you are.

COUNCILMEMBER NISHIKI: Right.

MR. WATANABE: For instance, you know, I farm in Upper Kula. My water bill was. . .is like one-fourth of say a person farming in the Ag Park. But I would say probably 15, 20 percent.

COUNCILMEMBER NISHIKI: Oh, that’s quite a bit.

MR. WATANABE: Yeah.

COUNCILMEMBER NISHIKI: And, and, and, and, Mr. Chairman, I, I think this is the reality of, you know, are, are we really serious about supporting local farmers? If we are, then maybe we shouldn’t be charging them any money and, and catch those people that are abusing the water and trying to make up that money somewhere else from our water users, if we are serious. Because if you hear this story 15 to 20 percent, that’s quite a bit of money. Anyway, Warren, thank you so much.

MR. WATANABE: Thank you.

CHAIR VICTORINO: Thank you, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. Mr. Watanabe, one last question maybe you can help us with this too. Do you think there should be a consideration of minimum land area in this definition?

MR. WATANABE: Again, that’s a difficult thing to answer because again, you know, especially with new technology there are farms and, you know, this is something that we’ve debated for years also. You know, if you have a high revenue crop, for instance, myself personally, I do what is
called micro greens, it can be done on square footage, not acres, and still be viable. And that’s why, you know, you really have to be careful. For us and, you know, I think, for us we do have a problem with two-acre minimum. Personally I would support a higher minimum but what that number is, I don’t know. On a ten-acre probably, again, depending on the crop you could be viable. So, it really depends on what kind of agriculture you’re talking about.

COUNCILMEMBER BAISA: So what your product is makes a difference?

MR. WATANABE: Yeah, yes.

COUNCILMEMBER BAISA: Thank you very much. That’s a very, very important piece of information, thank you. Thank you, Chair.

CHAIR VICTORINO: You’re welcome.

COUNCILMEMBER KAHO‘OHALAHALA: Chair?

CHAIR VICTORINO: Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Thank you. Warren, you mentioned inputs. Can you describe what, what that entails?

MR. WATANABE: Repeat the question, please.

COUNCILMEMBER KAHO‘OHALAHALA: Inputs you, you commented?

MR. WATANABE: Oh, that’s your, again, your water, your fertilizer, like. . .Councilmember Nishiki mentioned, those kind of issues, your labor, cardboard boxes, if you’re a vegetable producer or even for flowers. Those are your inputs.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, you know, what about ag practices as, as part of a change perhaps in terms of. . .we’re, we’re trying to look at water, right. And I visited a sugar plantation in Louisiana and one of the things that was demonstrated to the farm. . .well there’s small cane growers that sort of hui their fields and then they harvest and produce whatever sugar. But their ag practices had been such that high use of chemical fertilizers. And one person went in, a nun, and talked about restoring their soil and looking at organics and putting back, you know, all of the, the natural mixtures for soil so water retention became a, a better kind of. . .so she demonstrated the, the difference between that. And in fact the yields for sugar had increased tremendously and the amount of water that they normally had used for irrigation had been reduced because the soil had a better ability to retain. So, is, is that part of what we maybe need to give consideration for when we’re looking at the scarcity of water and then now trying to quantify how much one needs to grow in order to qualify, you know, for, for water rates? Do you think ag practices need to be given some considerations?
MR. WATANABE: Well first of all, I want to point out that most of the Upcountry farmers do utilize drip irrigation much like HC&S does. So, they are conserving water and that is one of the issues that they bring up is that they’re already conserving as much as they can.

As far as agricultural practices, I mean, that’s, that’s, that’s, I think, that’s a good suggestion. The problem is a lot of the farmers are small farmers and because they’re on so much pressure to get their maximum production per acre to stay in business. I mean the concept is good but a lot of the farmers don’t have the land availability to put in, say put in a cover crop. And, and even when you putting in the cover crop there are certain expenses too. You still got to irrigate it. You got to get it going. The long-term benefit is there but the initial cost of, of the transition is what the farmers will need help on, because again it’s the long-term benefit is there but the immediate benefits, I mean, they got. . .still got to pay their bills.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, I, I, just think that if you agree that the long-term benefits is --

MR. WATANABE: Yep.

COUNCILMEMBER KAHO‘OHALAHALA: --are there, that somewhere along the line we’re going to have make those kind of paradigm shifts if we intend to have longevity in, in the industry. So, I mean, I . . .you agree that we, we need to give some serious consideration to that?

MR. WATANABE: Yeah.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, thank you.

CHAIR VICTORINO: Any other questions for the testifier? Seeing none, thank you, Mr. Watanabe.

MR. WATANABE: Thank you.

CHAIR VICTORINO: And we have one more testifier, Michael, I’m going to say Hyden, but I may be wrong.

MR. HYLTON (from the audience): Hylton.

CHAIR VICTORINO: Hylton, okay, “y”, okay. Mr. Hylton is speaking on behalf of the Haliimaile Community Gardens.

MR. HYLTON: Good morning.

CHAIR VICTORINO: Go ahead, Mr. Hylton.

MR. HYLTON: Thank you. Good morning, my name is Michael Hylton. I’m on the Steering Committee for the Community Garden. I just found out about this meeting at 8:30 and I think
had we known there, there may be. . .we have 90 plots on two acres in Haliimaile. It’s the. . .the land is owned by Maui Land and Pineapple. So, and it’s, it’s never been farmed. It was a, it was a eucalyptus grove. It’s sort on the back side of the residential area. So, it’s a. . .we have like I said 90 plots, they’re 10 x 20 foot plots, so quite a few families gardening there.

And typically with community gardens they’re not for profit. It’s, it’s for family use only and agricultural water rates allow that garden to be affordable and, you know, there, there are a lot of reasons why people are. . .have gardens there. One of them is for affordable food. There’s a woman who, who, one of the gardeners has three children and lives in Lahaina, and I know that, that’s, you know, for her that’s why she drives over there is because it makes her food bill a lot more affordable.

In terms of sustainability it’s, you know, for, for me it’s, it’s a very healthy source of food. It’s also culturally very diverse. . .Micronesian, Tongan, Samoan. There’s a lot of. . .it’s a, it’s a good way for people to build community.

And in terms of island-wide there’s a lot of interest—South Maui sustainability, Upcountry sustainability. There’s quite a few groups that are interested in, you know, if they. . .they’re looking for land acquisition is the big challenge. But once the land is acquired with like Maui Land and Pineapple allowing us access to this land and at this point they’re encouraging Haliimaile Community Garden to become more autonomous and form a nonprofit or umbrella under a nonprofit group. But the Ag water rates is our big, that’s our big cost and, you know, the water is the big cost. . .(end of tape, start 1B). . . And if it was to switch to municipal rates it would put the garden, it would not be viable. And I think that would be true island-wide for community gardens. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hylton. Questions for the testifier?

MR. HYLTON: Yes, sir.

CHAIR VICTORINO: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Mr. Hylton, I, I, I presume that you’ve done your homework when you make those statements. So, if. . .what is your usage for water right now? And if you...

MR. HYLTON: I know we break even. We charge $50 a year. It costs $50 a year per member. Our year runs from January 1st to December 31st and we don’t have any prudent reserve charging $50 per person per year for a 10 x 20 foot plot.

COUNCILMEMBER NISHIKI: Yeah, that would include their water.

MR. HYLTON: That’s all, all we pay for is water.
COUNCILMEMBER NISHIKI: Right. And, and, and so my question is maybe you need to go home and do the work, homework, but if you were to be charged commercial rates, what would you be, what would you be paying? And now that you’re getting Ag rates what are you paying?

MR. HYLTON: Well, I think, it’s $4 versus $1, is that right, per acre foot? So, four times, so it would be $200 a year, I would guess, versus $50 a year. I know that would put, you know, I had, there was one woman who just paid, she came up with $25 last week, you know, she has not been able to pay her dues for the year. So, there are people that would not be able to afford to garden there.

COUNCILMEMBER NISHIKI: Okay, thank you.

CHAIR VICTORINO: Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Thank you, Mr. Hylton, for being here this morning. What is the average cost per member for a 10 x 20 plot with that $50 per year to cover their incidentals, including water?

MR. HYLTON: Well, I, I pay for seeds, some soil amendments, and irrigation supplies. Irrigation supplies are more of a long-term investment whereas the seeds and soil amendments at least twice a year. Maybe another... at least another $50, I think, some people probably $300 would not be unreasonable, I think. The irrigation’s around $100 to get it set up.

VICE-CHAIR PONTANILLA: Okay, and, and a family, a family, are they confined to just one plot or they can have more?

MR. HYLTON: The garden was started in 2006 so it’s still, it’s still starting out and in the beginning people were encouraged to just, you know, pioneer and farm as much as they could. At this... and then it got to where we were pretty much at capacity, and then with Maui Land and Pineapple there was some, there was some instability and concerns. So, at this point we’re back, we’re... we feel confident that the Maui Land and Pineapple wants to give us a long-term lease at like $1 a year or something like that. So, so, we’re recruiting new gardeners. I forgot what the question was.

VICE-CHAIR PONTANILLA: Yeah, so, you still have vacancies then?

MR. HYLTON: We do right now.

VICE-CHAIR PONTANILLA: Okay.

MR. HYLTON: I think we have 60 members, 60 gardeners, and we have 90 plots.

VICE-CHAIR PONTANILLA: Okay, thank you.

CHAIR VICTORINO: Mr. Kaho‘ohalahala and then Ms. Baisa.
COUNCILMEMBER KAHOʻOHALAHALA: Yeah, right now how much water do you consume there?

MR. HYLTON: I don’t remember. I don’t remember.

COUNCILMEMBER KAHOʻOHALAHALA: Okay, ‘cause I’m just reminded that the, the water rates go down depending on the amount of water you, you consume. So, I’m imagining for the small garden plots and this wouldn’t be necessarily what you would be trying to achieve is high water use so that you can have a lower water rate then.

MR. HYLTON: Yeah, we encourage. . .I, I have a drip irrigation system and so a lot of. . .it really varies. I mean some people water by hand because that’s the cheapest way, you get a hose and you can start gardening.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. But you’re not using more than 30,000 gallons?

MR. HYLTON: No, no.

COUNCILMEMBER KAHOʻOHALAHALA: I imagine not. Okay. So, that would mean that you are going to be paying the, I guess, the higher rate for water because of your small use of water. You know, that’s the other way that this formula works. The more water you use then we give you a lower rate.

MR. HYLTON: A bigger break, yeah.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. And then do you have only one area currently?

MR. HYLTON: Yes.

COUNCILMEMBER KAHOʻOHALAHALA: And you said 60 out of. . .so 60 out of the 90 plots are utilized right now?

MR. HYLTON: Yes.

COUNCILMEMBER KAHOʻOHALAHALA: And you’re saying that the demand go up?

MR. HYLTON: Well just in the last maybe two weeks or so we’ve been putting in ads in the papers and so forth. We, we’ve been trying to keep a low profile just because of the. . .our relationship with Maui Land and Pineapple not wanting to cause problems while they were in so much turmoil.

COUNCILMEMBER KAHOʻOHALAHALA: And then you commented about land being the more difficult part of looking at this kind of...
MR. HYLTON: I know Kihei, South Maui Sustainability, they’re struggling to find a place. . .there’s, they’re, they have a list of gardeners, people who want to garden, but they don’t have an affordable site.

COUNCILMEMBER KAHO‘OHALAHALA: Site. Okay, if, if land were available, then do you think that this would be something that more and more people would be interested in participating in?

MR. HYLTON: Yeah, and I know, I know there is a. . .there are some of the schools have them and there’s Maui Land and Pineapple. . .I think Kapalua Farms in Lahaina has one and it’s actively being used even though that farm has been sold off. There still are Maui Land and Pine employees or ex-employees that continue to use that community garden in Lahaina. So, if there was a public one, yeah, I think so. Definitely, there is, there is a lot of interest, yeah.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, thank you for your comments. Thank you, Chair.

CHAIR VICTORINO: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair, and thank you, sir, for being here. Just wanted to clarify, I think I heard you talk about it a little bit when you began. But what happens to the produce that is raised? Is it just for home use? Does any make its way to a farmer’s market? Do the members share or how does it work?

MR. HYLTON: I think at this point it does make its way to, to farmers market, some of the, some of the gardeners do take their stuff. It’s. . .and that’s just the, that’s my take, that’s, that would not be the politically correct thing to say. But I think that’s. . .and, and I know that from my experience on the mainland that that is not acceptable. That generally and the way that we’re moving is toward only family use. And, and, again, the one family per plot and that sort of thing. Like I said in the beginning there was just a, you know, go for it, grow what you can grow, get the place kind of going, let’s create community, and demonstrate growing. . .gardening here. But at this point the, the culture is jelled and there are. . .there’s enough, there’s enough people that it’s. . .the culture is changing to where it’s, it’s, you know, the ideal is that it’s only family used. It’s not sold in the farmers markets.

COUNCILMEMBER BAISA: I, I, you know, I don’t mean to put you on the spot but, you know, having some experience with gardening. I know that, you know, once in a while you have a bumper crop of corn or tomatoes or whatever and you know you need an outlet for it and I have no issue. I, I don’t know what your rules are, but if you didn’t have any, what would be the problem with taking it to a farmers market, you know, so that the members could earn a little bit of money to offset their expenses?

MR. HYLTON: Yeah, well that’s a, that’s a good point, yeah.

COUNCILMEMBER BAISA: Yeah, so anyway, well thank you very much for sharing. It’s definitely a very good project and we want to encourage people to do that kind of thing. Thank you.
MR. HYLTON: Thank you.

CHAIR VICTORINO: Yes, Mr. Hylton, I do have one specific question for you. How many meters do you guys have on this property?

MR. HYLTON: One.

CHAIR VICTORINO: Or is it one meter?

MR. HYLTON: One meter, yeah.

CHAIR VICTORINO: So, to answer Mr. Kaho’ohalahala’s question, then I would guarantee we use over 30,000 gallons a month when you talking all sum total of everybody that gardens in there. Even at 60 plots I would imagine you’re well over 30,000 per, per month. Who pays the bill?

MR. HYLTON: Well it’s been and still, I think, it still goes to Maui Land and Pineapple and then we pay them.

CHAIR VICTORINO: Do you guys get an accounting from them? Do you get like, here this is your break down on how much water you used for the month?

MR. HYLTON: Well the way it’s been set up and it may be still that way that our. . .the, the plot manager gets the, the annual dues and then sends it directly to Maui Land and Pineapple and they do the accounting and they pay the bill. I know that they’re encouraging us. . .the, the community garden to assume that responsibility.

CHAIR VICTORINO: Okay, so, at this time, there is no accounting. I mean you pay your $50, so it’s 60 of you, so that’s what 30,000. . .I mean $3,000, excuse me.

MR. HYLTON: Three thousand dollars.

CHAIR VICTORINO: Three thousand dollars. You send that to Maui Land and Pine. They pay the water and taxes and whatever else and that’s it, right?

MR. HYLTON: Yep.

CHAIR VICTORINO: So, you guys have no accounting. They don’t say oh, we paid this much for water, we paid this much for tax, we paid whatever other expenses may have been incurred.

MR. HYLTON: Yeah, well, I think, I think, a fax was sent in from Tova Callender who was. . .she’s a, a gardener on the Garden Committee, the Steering Committee, and she was the Diversified Agriculture Supervisor or something at Kapalua Farms and was laid off. So, she still has a foot in the door and is in, you know, steady communication with the. . .whoever’s taken over her
position. But she was the one who initiated the garden in the beginning. And, and, so we...yeah, so, I, I and the other members often defer to her and she is just...it’s easy because she kind of has been in it from the beginning and has all the numbers down and has made it her job until recently.

CHAIR VICTORINO: Okay, I just trying to get, you know, to get some points clarified as far as what’s happening, you know, as far as so right now any expense owed...well the $50 for those plots is it. Right now nothing else, nothing else has been asked of you folks as far as expenses to participate in that Community Garden?

MR. HYLTON: Yes, that’s right.

CHAIR VICTORINO: And how many plots do you have, Mr. Hylton?

MR. HYLTON: One.

CHAIR VICTORINO: One? And as you said earlier you’re not sure how many everybody has. You, you feel most of the people just have one plot?

MR. HYLTON: There...no, well there are families who are...have extended families, you know, it’s a cultural --

CHAIR VICTORINO: Right.

MR. HYLTON: --difference that I, you know, whatever. There may be five in a family.

CHAIR VICTORINO: Okay, and so in other words five plots for one family and the family may have father, mother, two brothers, sisters, what...whatever way you want to extend the family. But it’s, it’s a family that controls “x” amount of plots?

MR. HYLTON: Yes.

CHAIR VICTORINO: Okay, and, and I just want that clarified so that the public understands what specifically this Community Garden and I’m not sure on how the other ones run but at least this one, how this one is being operated under.

MR. HYLTON: Right.

CHAIR VICTORINO: Okay.

MR. HYLTON: Well and so and that’s...there’s another point in terms of expense, you know, growing dry land taro and sweet potatoes and bananas. There is no additional cost. They’re not paying for seeds. They’re, you know, the tools pretty much they are bringing in their own tools. We have a tool shed with shovels and so forth and, and they get broken and lost and stolen and so
forth. So, there are ongoing expenses there. But every...I would say every gardener has different expenses, you know.

CHAIR VICTORINO: Right.

MR. HYLTON: And they can be very minimal --

CHAIR VICTORINO: Uh-huh.

MR. HYLTON: --depending on what you’re growing.

CHAIR VICTORINO: Okay, thank you, Mr. Hylton. I appreciate your comments and, and your, your ability to share what’s going on up there. Thank you.

MR. HYLTON: Thank you.

CHAIR VICTORINO: I have one more testifier, a Coleen Field and she’s testifying, I guess, on behalf of Haliimaile Gardens, also, Community Garden--’cause you just put Haliimaile, then you didn’t say anything more. Okay, Miss, no that’s okay, Ms. Field. Yeah, no problem, please.

MS. FIELD (from the audience): ... (inaudible) ... about this 20 minutes ago.

CHAIR VICTORINO: No problem, there you go.

MS. FIELD: Hello.

CHAIR VICTORINO: Good morning.

MS. FIELD: Good morning.

CHAIR VICTORINO: Okay, you can begin.

MS. FIELD: Well, I think, Michael, I, I actually walked in when Michael was speaking. So, I think, Michael probably shared a lot of how that’s my feeling also. I am now the Plot Manager just so that’s my...I’m on the city...the Garden Council. So, I have been with Haliimaile Community Garden for a year, a little over a year. And just it’s a great opportunity for the local community and I think raising the rates would really be very...it wouldn’t be a very good thing for us, so. And I’m one of those gardeners that I garden with...I don’t spend a lot of money. I just use the resources and it’s been available to me. And I’m hoping that it will continue on. So, that’s kind of...

CHAIR VICTORINO: So, could you share some light to the Members here and, and you heard me asking Michael specific questions on how this is broken down, water, taxes, and being now you’ve taken over I assume that responsibility. Is there are break down from Maui Land and
Pine to give to each of the individual plot users? Or, or is there any kind of break down so that you have an understanding of what expenditures, that $50 covers? Now, I know what you cover and your --

MS. FIELD: Okay, okay.

CHAIR VICTORINO: --everyone varies, but that $50 that per year that each plot member is asked to now pay.

MS. FIELD: Okay, well, I'll, I'll start from the beginning. I started last year. We didn't have any fees in the beginning and then the water bill kind of. . .we had. . .we have about 90 plots, they're 10x20. We had about 80 active gardeners last year. I collected them and so I started in October and as of January 1st, we started collecting, not this January, but the January before. We have started collecting money 'cause Maui Land and Pine didn't want to pay for the water bill, which was about $4,000 last year. So, it ranged from $350 for a two month, I think, it's two months?

CHAIR VICTORINO: Yeah, it's bi-monthly.

MS. FIELD: Or it's quarterly, yeah.

CHAIR VICTORINO: No, it's bi-monthly.

MS. FIELD: Yeah, so it's like $350 for one bi-monthly payment and then one month. . .one, one time it got really big so we had a lot of leaks. So, we fixed all the leaks and then we realized we had to collect money for the, for the, for the garden, so we could pay the bill because it was kind of sporadic. And so, we started doing the dues as of last year and the dues were specifically for, for the water, to pay for the water. And that is exactly the same thing this year. We don't. . .the tools were provided through Maui Land and Pine because everything was free. I think it was something. . .I, I came in last year so they started it I think, in '96 or '97. So, anyway, I'm sorry.

MR. HYLTON (from the audience): Two thousand six.

MS. FIELD: Two thousand six, excuse me, wrong decade. Anyway, so, it's $50 and the money is specifically goes to the water. We have now people who donate tools, lawn mowers, and every now and then we have a little bit of petty cash, like $100, left over from last year that I use for gasoline so, you know, to do the weed whackers and things like that. Am I answering your question?

CHAIR VICTORINO: Well, yeah, I mean, and I think that's what I'm trying and I think the Members wanted to know, what specifically the $50 covered and...

MS. FIELD: The water.

CHAIR VICTORINO: Water, you, you, you've answered that.
MS. FIELD: And we had a meeting, an actual Community Garden meeting, in January because we were having problems with the water and we had lots of leaks and we needed to figure out if we were going to raise the dues because of the water issue. But we found all these leaks and we’re hoping and we’re waiting for this next bill to come to see if we’ve actually, you know, fixed all the leaks for the, the water, so.

CHAIR VICTORINO: Okay.

MS. FIELD: But it’s a great organization and we do have...it’s very multi-cultural so we have, you know, all the different kinds of farmers. And, you know, I personally don’t buy my vegetables anymore outside, you know, at the markets. So, I eat off my vegetables or whatever. It’s expensive.

CHAIR VICTORINO: Yes, I know, and I thank you Mrs. Fields [sic]. I mean this is those kinds of things that we, we must move as a community more and more towards and I’m happy Maui Land and Pine has given that acreage for you folks to do this. It sounds like a win-win situation all around and I’m very thankful for that. It’s something that we need to consider as we move this policy forward what, you know, the Community Gardens will have to play in, in this role also. I think that’s something we can, can define if we were to move this on in, in the policy itself. So, I’ll open the floor to questions for Ms. Fields [sic]. I’m sorry, I wanted to get some. Mr. Mateo?

COUNCILMEMBER MATEO: Mr. Chairman, thank you. Ms. Fields [sic], good morning.

MS. FIELD: Good morning.

COUNCILMEMBER MATEO: In terms of demographics, can you tell me out of the 60 plots that’s being utilized today, is the usage primarily from the people in the general area? Are these primarily Haliimaile people that are participating in the program?

MS. FIELD: No, not now. It used to be, it used to be. It was presented to the Haliimaile community in the beginning when Maui Land, Land and Pine was more active. And, you know, gradually as Maui Land and Pine decreased their work force and the people moved away. So, we have Haliimaile community people. I live in Makawao. Michael lives in Kula. We have Haiku residents. It’s, it’s, you know, and we do have a Lahaina resident too. She comes once a week to go to Costco and then she does her garden.

COUNCILMEMBER MATEO: Okay, thank you. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you. Further questions for the testifier? Seeing none, thank you, Ms. Fields [sic], for being here and --

MS. FIELD: Thank you for listening to me.
CHAIR VICTORINO: --we appreciate you coming. Thank you very much. Okay, Ms. Fields [sic] was the last signed up testifier. Yes, Rosemary, come on up. I was waiting. Well you need to sign up early. I don’t like you waiting till the end. I want you up early, Ms. Rosemary. She’s one of our dear and friendly, always at my Water Resource Committee meeting. Thank you, Ms. Robbins.

MS. ROBBINS: Thank you. I learn a lot here.

CHAIR VICTORINO: Okay.

MS. ROBBINS: I’m glad for the opportunity to testify and the reason that I wait is…

CHAIR VICTORINO: Will you introduce yourself because you didn’t.

MS. ROBBINS: I’m sorry.

CHAIR VICTORINO: I cannot introduce you. You didn’t give me a paper to introduce you.

MS. ROBBINS: I’m Rosemary Robbins. I don’t need a water meter. I don’t grow anything. I seem to produce rocks on the little piece of land that I own Upcountry. But if I hear somebody say what I really think needs to be said, in addition, to what everybody has said then I don’t come up. But I really try and come and learn. And I’ve been listening this morning and I’m hearing an emphasis on the size of lots and the location and the distribution of what is grown on those lots. And I think that we need to really make sure that we don’t get our eye off the ball of the mission statement of both the County Council and particularly its Water Resources Committee.

When we start using words like pesticide and herbicide and not too far from suicide and homicide, cida, the Latin word, which means kill. So, we have a history of stuff that has been put into our water and put into our soil that has indeed caused the death of some of the things that impair what we’re growing, but also it has been contributing to cancer and other killer conditions in humans. And we’ve worked really hard, some of us in the community, taking just that particular niche to make sure that the lead and other contaminants that is in our water and then gets into the soil doesn’t constitute a level that is killer. So, just asking everybody to make sure that when they’re doing their work--and I’m a vegetable eater, and a fruit eater. I’m pleased with all of that, but I want to make sure that we don’t forget that cida, that side aspect. Thank you much.

CHAIR VICTORINO: Thank you, Ms. Robbins. Any questions for the testifier? Seeing none, thank you, Rosemary. Okay. Now, Rosemary was the last testifier to approach the podium. I’ll give one more opportunity to anyone in the gallery who would like to come up and say or speak on the item that we are speaking of, WR-1(1). Seeing none, with the approval of the Committee, I will close public testimony with no objections.

COUNCIL MEMBERS: No objections.
CHAIR VICTORINO: Thank you very much.

...END OF PUBLIC TESTIMONY...

ITEM NO. 1(1) WATER SUPPLY RULES (DEFINITION FOR AGRICULTURAL CONSUMER)
(C.C. Nos. 05-46 and 06-228)

CHAIR VICTORINO: Okay, ladies and gentlemen, let us begin. We start with WR-1(1), Water Supply Rules (Definition for Agricultural Consumer). On...just to give you a brief background and, and, and, and jog your memories a little. On July 10, 2009, the Committee transmitted a correspondence to the Director of Water Supply, attaching recommendations dated December 27, 2005 from the Advisory Committee formed to discuss the definition of agriculture. The Department responded on August 31, 2009 by proposing the definition for the Committee to consider. The definition is posted on today’s agenda as the, again, October 29, 2009 correspondence from the Department of Corporation Counsel. You may recall the Committee met with the Department of Water Supply, the Department of Planning, and Real Property Tax Division to see if there were as a single definition that we all agree upon. The Department agreed to get together to discuss this further. I understand Mr. Clark Hashimoto from the Office of Economic Development was also involved in the discussion and I would like to hear from each of you today on their, on the discussion that was carried. So, let’s open up the discussion by first starting with the Department of Water Supply filling, filling us in on this meeting. So, today Mr. Eric Yamashige is representing the Department of Water Supply. Mr. Yamashige, I will allow you to start.

MR. YAMASHIGE: Thank you very much, Mr. Chair. Good morning, Members. As requested by this Committee, we did have actually two meetings with the Department of Planning, the Real Property Tax Division, and the Department of Water Supply. That first meeting that we got together, Mr. Clark Hashimoto did organize that meeting to get the agricultural perspective on, on where we were going with this. And subsequently we did meet to discuss it. When we look at the Planning Department, the Real Property Tax Division, and the Department of Water Supply, you know, we, we see that we have different goals or different responsibilities.

The Department of Planning is more...permissive in their definition. They’re saying what’s allowed in the, in the Agricultural zone. But when you look at the Real Property Tax Division and the Department of Water Supply, the definition will allow, if you’ll allow this loose definition of an entitlement. If you consider a particular use, agriculture, you have a reduced tax rate, and you may have a reduced water rate as you’re all familiar with. So, as we, as we widen the definition of agriculture, especially for real property, and more specifically for water, we create a larger agricultural class. And what that does is it may affect negatively the legitimate or commercial agricultural users. So, we, we need to be careful how we define agricultural consumer especially as it applies to water. You do have a definition before you and I feel that the Department is supportive of it. Thank you, Mr. Chair.
CHAIR VICTORINO: Thank you. Before I call on questions for Mr. Yamashige, I'm going to ask Corporation Counsel if there's anything else that he would like to add on the definition of an agricultural consumer because you've been tasked with coming up with this definition and we've worked on it. So, Mr. Kushi, do you have any comments before I call upon questions from the Committee Members?

MR. KUSHI: Maybe just one comment, Mr. Chair, Mr. Chair, for, for purposes of this Committee, your Committee, and the Water Department. We, we submitted the definition before you and I believe Deputy Director Yamashige confirms Director Eng's feelings that it is a workable definition for the Water Department.

Now, what we're dealing with are water rate, water rates, agricultural water rates. This, as you know, there's three classifications—general consumer rates, Ag water rates, and non-potable Ag rates. This definition will then sets a threshold of 5,000 minimum annual gross income from the activities described.

Again, as was mentioned Real Property Tax, Finance, and Planning have their own definitions. And again, for different, different purposes. As I understand it Real Property Tax definition has no income threshold. If they see their Ag activity is within satisfies their purposes, they classify the property as Ag and then they tax accordingly assessments.

As I understand the Planning Department, on Ag properties, before they can build a house they need a farm plan. And again, I'm not sure, Mr. Hunt is here, you can, you can talk to him if there is an income threshold. But again, it's different purposes.

And again, Mr. Chair, you passed out the budget Ag rates. What we're talking about here is for Ag rates is anything over 30,000 gallons every two months, okay, compared to general, general consumers. So, again, you know, if they're not doing really Ag, I mean Ag activities, and they don't exceed 30,000, they get no break. So, but, you know, the true, true Ag farmers, you know, a farm farmers using water, then that's the purpose of the, the rate structure.

So, you know, again, and again, from the perspective of Land Use this definition, and you previously revised the definition, includes rural lands. And it may in some instances, check with Mr. Hunt, but it could include residential properties with some special uses. I know there's some truck and garden nurseries that, that could happen in residential properties. But again, they need to qualify under this income threshold. That's about it, Mr. Chair.

CHAIR VICTORINO: Thank you. Would the Committee Members like the other departments to be up there to incorporate any questions in regards to that and let them have at least their say on it. Is that the feeling of the Committee?

COUNCIL MEMBERS: Yes.
CHAIR VICTORINO: Okay, so, at this time I'd probably like to call up Mr. Teruya. And you know what, I'll call all three of you—Mr. Hashimoto, Mr. Hunt, and Mr. Teruya. If I'm going to have the gamut, I need the gamut. I wish I had better prepared this. I apologize. I guess we're going to have to share the mic. Next time I should have put a little table and have them separate. Yeah. Like a panel. And I apologize. 

Okay. And thank you very much, gentlemen, for being here. Again, just for the public...general public in case somebody came in late for the meeting or tuned in late for the meeting. First person will be Mr. Jeffrey Hunt from Planning. Next would be Mr. Scott Teruya from the Department of...Finance, our Real Property Tax Division. He's an Administrator for that. Next would be Mr. Clark Hashimoto who is with the Office of Economic Opportunity and he's an Agricultural Specialist for the County of Maui.

MR. HASHIMOTO: Economic Development.

CHAIR VICTORINO: Economic Development, excuse me, sorry. Give you one more title, sorry, I apologize. Okay, let us start with Mr. Hunt and then we'll work right down, Mr. Teruya, and then Mr. Hashimoto.

MR. HUNT: Thank you, Mr. Chairman. The Planning Department can support the proposal by the Department of Water Supply. We believe that it is important to make a distinction between gardening and farming. And so, the income test that they're proposing, whether that's the right dollar figure or not, we can understand their suggesting that. There...the definition for agricultural consumer we suggest that you might look at, at broadening that somewhat. It, it's fairly limited in that it speaks to commercial food production only. And so that in...it could be interpreted that someone who does a flower garden, someone, some company that does biofuels would not be subject to the Ag rates. So, we suggest that you at least look at that. But, again, it is important from the Planning Department's perspective to provide incentives for our farmers but not open the flood gates for, for gardening.

There is a trend in community planning from national literature, et cetera that, that shows that there's a slight trend towards more community gardens even in our urban areas. People are replacing lawns and putting their gardens out in, in the front lawn area. There's green roofs on buildings that are being constructed. So, the idea that, that those types of uses would get agricultural rates...I'm not sure that's necessarily the policy that the, the Department would support. There's a number of provisions and requirements that we do have in our existing Agricultural District and I could talk about those if you want, but I'm not going to bother you anymore unless you have questions of me.

CHAIR VICTORINO: Thank you. Mr. Teruya?

MR. TERUYA: Thank you, Chair. Real Property Tax Division is in support of both the definition in the HRS as it relates to agricultural definition. We are also supportive of the agricultural consumer definition. It's good in that it identifies a gross income threshold. I think that's something that's absent from the Real Property Tax's Code. I think the only comment I would make is it would
be nice to address maybe a minimum acreage as far a minimum requirement that would probably help the Real Property Tax Division in our initial review.

CHAIR VICTORINO: Thank you, and last, Mr. Hashimoto.

MR. HASHIMOTO: Thank you, Mr. Chair. In the meeting that...actually I organized it was upon the request of Mr. Warren Watanabe from the Farm Bureau. He was on the committee that met for about a year-and-a-half to model the idea of what is the, the definition of agriculture. And, you know, they came up with a definition but, but then we still support, you know, whatever Water Department came up with in the HR 163D [sic].

But to get more acquainted, I think Diedre Tegarden passed out a pamphlet or a booklet, Maui Agricultural Development Plan by the Maui County Farm Bureau with the association of the Economic Development. And so, if you read that, you know, there's a lot of issues on water and, and the like.

But I'd just like to say that I have a little statement that agriculture has many definitions so, you know, where do we draw the line on what is commercial agriculture to receive County tax exemptions and reduced water rates. It is intended...the intent of the defining agriculture as it pertains to operations that grow and raise commercial quantities of crops and livestock to provide for the general public.

While we recognize the significant role of homes gardens play in providing for self-sufficiency within our communities, it is the intent of defining agriculture to address the needs of commercial scale operations whose proprietors largely depend on growing crops and livestock for their livelihood. These entities are expected to provide positively to the County tax base while providing stewardship to the natural resources on Maui. So the, realistically you have to consider the production of crops for sale, crops intended for widespread distribution to wholesalers, retailer outlets like supermarkets, and they also include nonfood crops, such as flowers and nursery products. Also commercial agriculture also includes livestock production and livestock grazing.

Commercial agriculture does not include crops grown for household consumption like, you know, like we said backyard gardening. But the agricultural, I guess, we have to remember that agriculture preserves land in open space and creates a green environment. So, we need to preserve commercial agriculture as locally grown foods can be delivered to markets faster and fresher than mainland commodity producers. Maui growers can supply a diverse array of vegetables, tropical fruits, flowers, taro, beef, and numerous other agricultural products to consumers, although a variety of markets channels. So, we must continue to address the issues of protecting our best agricultural land and assuring that adequate irrigation water is available for our farmers. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hashimoto. As you’re well aware, Committee Members, we’ve gotten variable definitions from the various departments. They all agree that what we’re trying
to do is a good thing, but have different takes on it, so. And I appreciate those comments because again we need to remember we’re focusing basically on agricultural and water rates and how that relates. And that’s all I, I want the Committee Members to remember. I wasn’t and I, I don’t think I can come up with an agricultural definition that fits all and that’s not where we are coming from. I think that discussion will have to come more in COW or some other committee where everybody could be a participant, yeah, Planning, I’m not sure. But, again, just to focus on water and the issue of water rates is what this was all about.

So, at this point, I wanted to make sure everything was on the table, that all of us were well aware of how the definitions blend in for the various departments ‘cause there is real distinct differences as far as the departments and why their definitions are the way they have been set up, yeah. So, at this point I’ll open the floor up to questions for any of the departments. Again, let’s try to focus on water rates and how it relates to agricultural consumer, okay. Mr., I’ll start with Mr. Molina and then Ms. Baisa and go right down the, right down the table. How’s that sound? Mr. Molina?

COUNCILMEMBER MOLINA: Thank you very much, Mr. Chairman. First of all, I want to thank all the representatives from the Administration on this. I appreciate Mr. Hunt mentioning about the green roofs, that a lot of the conferences that we attend, especially in the more urban areas, the bigger cities that’s a real big thing that’s going on and I guess the...I guess they call them urban forest now. I guess putting trees in the cities provides more oxygen and whatnot and I’m glad you made that comment with regards to how does...would this apply towards that. I don’t know if we have any green roofs on Maui right now.

And, Mr. Teruya, thank you for emphasizing to us the possibility of including a minimum acreage in the definition as well. And to Mr. Hashimoto, thank you for your comments about the fresher produce that, I guess, the farmers here on Maui can provide for our stores. Maybe Mr. Hashimoto could...if you could looking at if we were to include a definition like this now, would that have any impact on prices in terms of like...if I could use as one example, Pukalani Superette. Vegetables and produce there—generally much cheaper than the prices you find at the bigger markets who tend to, I guess, get groceries, oh, excuse me, not groceries but vegetables and fruits from outside of the State. Can, can you comment on that? Do you see this definition having an, an impact on that--

MR. HASHIMOTO: No, I don’t think...

COUNCILMEMBER MOLINA: --price-wise?

CHAIR VICTORINO: Go ahead, Mr. Hashimoto.

MR. HASHIMOTO: Sorry. Oh, I don’t think it will impact the, the pricing at any way because the commercial...most of the...in fact all the commercial growers already have agricultural tax rate and agricultural water rates. So, this shouldn’t impact. I think it’s more for the viability to have the water available, you know, when they need it. But I don’t think it will affect the production
or the, you know, it might affect price not, not only on this but, you know, as, as everything rises, the fuel cost and everything else, you know. But I’d like to say that the farmers don’t get the benefit of setting the price. So, you know, the farmers get the lowest price out of everybody else. So, that’s their disadvantage.

COUNCILMEMBER MOLINA: Okay, thank you. And, Mr. Chair, one, just one question for Mr. Teruya. With regards to the minimum acreage, is there any size that you would suggest to implement into this definition in terms of acreage?

MR. TERUYA: We wouldn’t have any recommendation. I think one of the problems that we’re having is trying to identify what is legitimate crops. You know many times people plant along driveways and setbacks, et cetera and is 5,000 square feet enough? Is 100 square feet enough of papaya? I mean those are the issues that we deal with on a daily basis that therefore having a...minimum threshold would at least establish a standard for us rather than taking it on a case by case basis. I think that’s an area where an appraiser is not, not a farmer. So, by having these, these clear cut area as far as usage would, would definitely benefit the Division, yeah.

COUNCILMEMBER MOLINA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Molina. Ms. Baisa?

COUNCILMEMBER BAISA: Yes, Chair, thank you. I have a couple questions that go together. Scott, Mr. Teruya, how many parcels do we have that are Ag?

CHAIR VICTORINO: Mr. Teruya?

COUNCILMEMBER BAISA: I know he knows ‘cause he’s a literal walking encyclopedia.

MR. TERUYA: We, we have approximately, I believe, it was like 5,600. I can give you maybe a better estimate. I have it down on my phone actually...5,804.

COUNCILMEMBER BAISA: Wow.

MR. TERUYA: Yeah, and I don’t have that broken up by agriculture use or definition. That is the total amount of parcels receiving agricultural benefits. When I talk about benefits I’m talking about Ag assessment, yeah.

COUNCILMEMBER BAISA: Right.

MR. TERUYA: Rates are the same. Whether or not you have agriculture or not, you’re classified as Ag, you have the same rate. It’s the valuation of the portion that’s in use that’s different, yes.

COUNCILMEMBER BAISA: Thank you very much for that piece of information. And then for Eric from the Water Department, please. Question is how many consumers get Ag rates?
CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Oh, I should have known you were going to ask that. I do have that number. I don’t have it as readily available as Scott.

CHAIR VICTORINO: Can you go closer to the microphone, please, Mr. Yamashige? I’m sorry.

MR. YAMASHIGE: Thank you. I don’t have that number readily available. I will look for it.

CHAIR VICTORINO: Mr. Yamashige, would you do me a favor?

MR. YAMASHIGE: Sure.

CHAIR VICTORINO: While we talk with others, would you call downstairs and see if they can get that up to us?

MR. YAMASHIGE: Okay.

CHAIR VICTORINO: Oh, excuse me.

MR. YAMASHIGE: Actually, Mr. Chair, I, I have that number.

CHAIR VICTORINO: Oh, you have it right now? Okay, thank you.

MR. YAMASHIGE: It is...in our 2008 June Fiscal Year there was 787.

COUNCILMEMBER BAISA: Would you repeat that please?

MR. YAMASHIGE: Seven hundred eighty-seven.

COUNCILMEMBER BAISA: Thank you very much. And my last question along those lines, do you require a G.E.T. license in order for a person to get that...a consumer to get that rate?

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Yes, we do.

COUNCILMEMBER BAISA: Thank you very much. Thank you, Chair.

CHAIR VICTORINO: Thank you. Mr. Kaho’ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: I guess, you know, I was going to go back to the line of questioning that Member Baisa had for Mr. Teruya. You did your recent assessments by sending
out forms, as I recall, to try and clarify how much area of land a person has that is used for agriculture. And then, you also with that tried to get some assessed value of what, what they were actually producing or selling, yeah. Is that information available to us?

MR. TERUYA: The deadline to submit your agricultural claim form was December 31st. The appraisers have just finished the valuation portion as far as assessment for their land area benchmarks, et cetera, and are currently still doing property inspections. We had about... I want to say about 5,000 inquiries.

COUNCILMEMBER KAHOʻOHALAHALA: Okay.

MR. TERUYA: So, we have a lot of paperwork to do internally, okay. What we did was first separate those that claimed that they no longer use their properties for agriculture. And I want to say it’s about three to 500 that already claimed that they do not use their properties any longer. So, those numbers will bring added revenues to the County. We are still in the process of going through that, that physical inspection and it is a daunting task, believe me.

COUNCILMEMBER KAHOʻOHALAHALA: Okay.

MR. TERUYA: It’s a lot of work.

COUNCILMEMBER KAHOʻOHALAHALA: Your physical inspections is just to verify the, the applicant...application?

MR. TERUYA: Yes, what we’re trying to do first of all is match it, match it according to the existing records. And there are many instances where the records match the attested use. It’s those properties that, that they’re claiming now, and it doesn’t jive with the existing records. Therefore, they need to go out there. And the appraisers have been going out for the last two months.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. And thus then your request for us looking at some minimum lot size would be helpful. Is that what you’re...

MR. TERUYA: That would definitely be, be helpful. I think the hardest part that we had...moving forward from the State days is claims when taxation was with the State prior to 1983. They didn’t really, really require much detail. So, when we’re trying to verify what is being used on the property with no records, first of all, we don’t even know where to look and what crop is being claimed. Therefore, now, we are requiring that they at least attest what areas and what’s being used so it’s simple for the appraiser who goes out there to identify location and crop, whether it’s still being used for said purposes. So, those are things that they’re going out and physically inspecting and verifying at this time. Like I mentioned there’s about 5,800 of them. Primarily of them are in Ag use and the subsidy is about $23 million, so there’s a lot out there.
COUNCILMEMBER KAHO‘OHALAHALA: Okay, I guess, my follow-up question to this would be by doing some kind of minimum acreage or lot size to help your purposes, is that going to be reducing your amount of work because the Department on the other hand is saying that, you know, they’re concerned with, you know, creating more, more work? So, what is your comment to that?

MR. TERUYA: By creating a minimum size. . .the greater that size is obviously the less work it will be for us. I think one of the things that when we, when we inspect properties--obviously we’re not farmers, yeah, we’re appraisers--it’s hard to identify what is, is enough for papayas, enough for bananas, et cetera. So like what. . .even like the other counties they’re always trying to fight with having a minimum threshold because it makes it a lot easier for the Division to, to, to deal with. I believe the Committee, the Agriculture Committee, that Warren was on, we also recognized maybe the need for an Agricultural Board for discrepancies or disputes. Whenever you maybe don’t meet the minimum requirements and you have a special case, that you go before that board to state your, your cause. Let’s say you meet a threshold of one acre but you only have a half acre in use, you would go before the board to make that claim because you didn’t meet that special criteria but maybe have a, a legitimate bona fide operation. Therefore, if you created that board to hear that and have it weighed in that process, I think, that was one of the Committee’s recommendations.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And then, I guess, one more question, Chair, and that’s how, how do you assess for people, I mean, who are growing trees versus, you know, edible produce or...

MR. TERUYA: This goes back to the State days. They had initially a research from the University of Hawaii Agricultural Program and the assessment is based on what is the productivity rent. What would it be to rent per acre and that is how they are being assessed. Yeah. So, if, if a tree farm was to rent whatever per acre that’s. . .they’re assuming that’s how much rent that they would pay. So, that’s the current assessment.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, just to rent. Okay, I’ll pass for now, Mr. Chair. Thank you.

CHAIR VICTORINO: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. You know very interestingly, Scott, that you mentioned about an Ag Board to settle disputes. Do you know if any. . .of any other jurisdiction that have Ag Boards?

MR. TERUYA: No, not at this time, no.

VICE-CHAIR PONTANILLA: None. I don’t know if this next question is for you or maybe Corporation Counsel. What was the intent in creating rural designations as well as two lot acre parcels by the County?
CHAIR VICTORINO: Who would like to try take that on? Mr. Teruya? Mr. Hunt?

MR. HUNT: Could you repeat the question?

VICE-CHAIR PONTANILLA: Yeah, what was the intent when they created rural designation, rural lots, and then also two acre subdivision lots?

MR. HUNT: The, the Rural zoning allows agriculture but it’s primarily a Residential zone. When you get in the Agricultural District it’s flipped. Technically, it’s an Agricultural zone and then to support that we allow farm dwellings. To be frank, I don’t believe the County’s been very good at protecting our Ag land and allow and because we allow two acre parcels. There’s a long history on, on parcels in our Ag zone and we can’t go backwards, but I would argue that continuing to allow two acre subdivisions is not in the interest of preserving our agricultural land.

VICE-CHAIR PONTANILLA: Good, thank you, thank you for that information. And the other question that I had and kind of interestingly when you passed out this water rates, you know, basically my question to the Water Department, you know, the cost to produce or to and transport this water to the farmers Upcountry or the farmers in general.

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Yes, thank you very much. Interestingly you ask that. Back in late 2009 when we were pretty deep in these discussions, we took a look at how much subsidy or support the agricultural consumers are getting. The average agriculture consumer uses about 249,000 gallons per billing period. When you compare that 249,000 gallons based on the subsidized amount against the average amount, that comes out to about $700 the agriculture consumer is paying less every two months. When you look at the total number of consumers, you know, it’s about $3 million, just about a little over 3 million that other consumers have to --

VICE-CHAIR PONTANILLA: Subsidize.

MR. YAMASHIGE: --pay to subsidize the agricultural rate.

VICE-CHAIR PONTANILLA: Okay, so that would include the infrastructure, electricity to move the water from district to district.

MR. YAMASHIGE: Yes, the Department doesn’t separate or charge different districts different rates. It’s, it’s across the board.

VICE-CHAIR PONTANILLA: So, universal?

MR. YAMASHIGE: Yeah, it’s a universal rate.
VICE-CHARGE PONTANILLA: Okay, kind of interesting being that, you now, we always, always talk about the General Fund subsidizing various departments in regards to doing their work. And, you know, now knowing that, you know, the general rate payers also subsidize farmers in trying to get produce at a cost that is, I, I guess, which they can live with. Yeah, thank you. Thank you, Chairman.

CHAIR VICTORINO: You’re welcome, Mr. Pontanilla. Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you, and maybe Corp. Counsel can tell us how we came up with the $5,000 as the minimum gross income for these parcels?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yes, Chairman Mateo. I, I, I don’t recall from where it came from. I was just directed to put that in.

COUNCILMEMBER MATEO: Okay, so, if we heard Mr. Watanabe who referenced from his own communication to us recognize $20,000 as a potential minimum, would this be something that we would look at?

MR. KUSHI: My, my, my take is that it’s up to this body to pick whatever number you feel is adequate. How that affects the Department, I don’t know. Right now there’s no minimum. Right now the applicant just comes in, files an application form, submits the proper tax forms. And if he makes a dime, I guess, he’s entitled to it.

COUNCILMEMBER MATEO: Okay, and, and in the same token then if he doesn’t, if he doesn’t meet, meet a minimum, then where in this bill would, would we look at either an appeal or a reconsideration for meeting that particular income level?

MR. KUSHI: Well as the bill reads right now it’s, it’s a threshold, you know, so you either make 5,000 or you don’t. I, I would think an applicant. . .you know, there may be discrepancies as to how to reach that 5,000, you know, valuation wise. I would, I would imagine an applicant not. . .could appeal a Director’s decision to the Board of Water Supply saying that I am an agricultural consumer, although I reported 400, $4,900 in G.E.T. income. I actually made “x”. Okay. And let the board decide.

COUNCILMEMBER MATEO: Okay and...

MR. KUSHI: I mean it’s like appealing your taxes in, in essence.

COUNCILMEMBER MATEO: Yeah, but usually appeals normally, I guess, at the County level appeals have normally lost. So, is there--
MR. KUSHI: The Department usually loses.

COUNCILMEMBER MATEO: Yeah, yeah, that’s what I mean. So, you know, what, what good is putting a dollar value when appeals normally go contrary?

MR. KUSHI: Oh, I, I take that back. The trend is being reversed.

COUNCILMEMBER MATEO: Well what good is putting it if it is either way?

MR. KUSHI: Well I guess...

COUNCILMEMBER MATEO: We’re putting a dollar value on it and one way or another appeals will be filed and if normally contrary, why put, why put a dollar value?

MR. KUSHI: Again, it’s, it’s up to this body to say, you know, do we even need a...dollar value. But, again, the way it’s going right now. . .the way it is right now, Chairman Mateo, is that the Department can deny anybody if it feels in its discretion that they’re not farming or they’re not doing it, they’re not an Ag consumer. This sets a more definite standard. So in that being I, I would think it helps the, the Department determine. Right now if, if the Department feels oh, this is really a gentlemen farm operation and there’s no income level, it could deny an applicant. And then the applicant can always appeal. And, and, and I must say this too. I’m not sure if the Department even checks with Real Property Tax on this issue. They may have to clarify it but I’m not familiar with that. So, the Real Property Tax appraisers are not consulted when Water Department is deciding on whether to grant water rates, Ag rates.

COUNCILMEMBER MATEO: Okay. Well, Mr. Chairman, the, the intent of bringing the departments together to try to come up with some acceptable definition was, was really, was really a good attempt but in listening to them we can really see the different criteria in the departments’ determination. So, for somebody like Planning I am, you know, was really interesting to, to hear Mr. Hunt’s comments regarding the two acre parcels. So, I’m really hoping to see that something comes from the Department to the body where we can address that particular issue because it will also help the Real Property Tax’s dilemma that they’re dealing with. So, I, I hope soon we’ll be entertaining something from the Department. Thank you, Chairman. Thank you.

CHAIR VICTORINO: Thank you, Mr. Mateo, for that segue because that’s exactly what we’re trying to do here is really to go through the issue of water, water consumption, and, and agricultural consumer. I brought all the Departments as I, I stated earlier for the mere fact that I wanted to get clarification from them what the purpose of how they are determining and the rationale of their determination, whether it’s Real Property, Planning. But water is really separate in this respect because it’s a tangible, measurable usage every two months. Okay, and so, that was what this was all about to really do that and acreage and, and all the other ones could be consideration, community gardens, all these other things could be considerations.
But the 5,000 that I, and I'll be honest, I'm the one that came up with that figure, was really what Mr. Watanabe had said earlier. They had said, I think, 2,500 when they had done their study. So, I doubled that and said, hey this is a good starting point. Again, starting point, whether we go 20,000, 5,000, I'm always looking for a starting point for discussion purposes, okay. So, just so that we go back to what we're trying to do more than anything else is to determine agricultural consumer for the sake of water and water consumption. That's the whole plan behind of this. All the other ones just kind of gives us more ammunition to discuss the matter.

So, Mr. Nishiki, you're the only one I haven't given a chance so I will give you this opportunity.

COUNCILMEMBER NISHIKI: Yeah, thank you. To the Water Department, you mentioned 787 was the number for people that are receiving Ag water rates. Is that true?


COUNCILMEMBER NISHIKI: Okay, and, out of the 787, do you have records to show how much water most of these people use?

MR. YAMASHIGE: Yes, the, according to our 2008 Annual Report, in...oh, the use was--and we go by thousand gallons--1.2 million--what would that be?--trillion gallons, billion. ...(end of tape, start 2B)...  

COUNCILMEMBER NISHIKI: Does this...?

COUNCILMEMBER KAHO‘OHALAHALA: Mr. Chair? We cannot hear his response.

CHAIR VICTORINO: Yeah, can you go closer to the microphone, please. Mr. Yamashige --

MR. YAMASHIGE: Geez.

CHAIR VICTORINO: --could you repeat that answer?

MR. YAMASHIGE: Okay, it would be 1.2 billion gallons used in 2008.

COUNCILMEMBER NISHIKI: Okay, and, and for Property Tax, you mentioned that, I don't know what you sent out to garner three to 500 people that are now changing their properties and not claiming an Ag rate. Is that what you said?

MR. TERUYA: Yeah, to clarify what I mentioned was we received at least three to 500 responses from people stating that they no longer use their properties for agricultural purposes. So, they would be moving from an agricultural assessment to the highest and best use value, yeah.

COUNCILMEMBER NISHIKI: Right, right, right. Okay, so, what did you send out to get this response?
MR. TERUYA: We sent out, we sent out approximately 8,000 letters to all people who had agricultural lands assessments re-certifying what are they doing with their lands.

COUNCILMEMBER NISHIKI: Eight thousand? I thought you said there were 5,800?

MR. TERUYA: Initially, there may be 5,800 parcels but maybe multiple owners, so it's about 8,000 letters.

COUNCILMEMBER NISHIKI: Okay, and so just in that reply you got that amount of people, and so what was the net change in dollars that the County would receive approximately?

MR. TERUYA: I, I don't have that figure off, off my. . .at, at this point. I'm sorry. I never did look at that run as to what is the net effect of those particular units. I can report back to you though.

COUNCILMEMBER NISHIKI: No guesstimate?

MR. TERUYA: No, not at this time.

COUNCILMEMBER NISHIKI: Okay, Mr. Chairman, I, I, I, I think, you know, what they're doing is one thing. What the Water Department is doing, and this part I listened very clearly, Junior said, Danny asked Junior, how did you get 5,000? And he said, oh, I don't know, somebody just gave me instructions, okay. I asked Warren, Warren Watanabe today, how did you get 20,000 that he used? Oh, I don't know. Okay, so, and yet everyone here said this would be a good way. Or, no, they said we don't have any objections, not that this, this would be a good year. . .good way to deal with it.

My, my question is, is. . .whoever wants to answer. Why is 5,000 or any number a reason why you have no objections? As a decision-maker I want to know where the justification, justification comes from, Mr. Chairman, because to me everyone's just not addressing it and, and someone must have pulled it out from the sky. And so, where is the justification? I think Danny asked that question.

CHAIR VICTORINO: Mr. Nishiki --

COUNCILMEMBER NISHIKI: Why, why, why?

CHAIR VICTORINO: --before anybody answers the question, if you had heard me earlier it came from me. I came up with the $5,000 to answer your question and it was the derivative of Mr. Watanabe's group study, which had recommended $2,500 when they had done their group study a number of years ago. And I used 5,000, as I stated earlier, Mr. Nishiki, as a starting point for discussion. Okay. So, to answer your question pointedly and exactly how you're asking the, the buck falls right here, it was my decision to put the $5,000 in there. And it was a derivative, again, from the Watanabe group study that, that study they did a few years ago, which they said
2,500. And I took it. I doubled it just for the sake of conversational purposes. So, that’s the answer to your question, Mr. Nishiki. It came from this gentleman right here and it was for discussion purposes, as I stated a number of times earlier, okay.

COUNCILMEMBER NISHIKI: Okay because I...if, if Members turn to the June 2, 2004 proposal and this was the Committee that was organized and they had over 30-plus meetings. And I don’t know, Clark, if you were a part of this. I know that you’ve been involved with the Agricultural Committee for a long time. But in it...you know, they, they give all these recommendations but nowhere in it do I see that a number, Mr. Chairman, of, you know, 5,000 or be it whatever is something that they recommended. And, and so that’s...I, I guess, you know, I’d like to get more clarification from Warren--

CHAIR VICTORINO: The clarification is very simple.

COUNCILMEMBER NISHIKI: --and, and these people about why he used 20,000 today and not 5,000 as being recommended?

CHAIR VICTORINO: Well if you look on the very last page of the letter that you are referring to, sir, you know, the recommendations, you go way back at the very last page, it has the $2,500 line as not popular and that with any number...any one member of the committee. Again, it is in here at the very back of the discussion, there was a $2,500 but nothing committed to, okay. And, again, as I stated earlier to you, sir, I took that 2,500, made it 5,000 for discussion purposes, okay. Again, we are in a discussion matter about this issue at this time. Again, there is...these did not come from the Departments. It was instructions I gave to Mr. Kushi so the fall...the blame, if there’s blame, lies on me. But again.

COUNCILMEMBER NISHIKI: No, no, no, there’s no blame. I’m just trying to get answers.

CHAIR VICTORINO: I’m starting discussion purposes, that’s all, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR VICTORINO: That was all I tried to do is get something from what this Committee recommended and put something forward so we could all discuss the matter.

COUNCILMEMBER NISHIKI: Okay, you made your point. Thank you.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER NISHIKI: Yeah, and finally, Water Department, my last question. In your February 8th, the last page, your February 8th communication to this Committee...I guess, this is Jeffrey saying. I’ll read the last paragraph, so the first sentence of third paragraph. Subsequently, the Planning Department, Real Property Tax Administration, and the Department met to consider a proposed definition. We discussed the Planning Department’s definition of Ag
was more permissive, which would be allowed on a property zoned Ag, while Real Property Tax Administration, and the Department’s definition of Ag entitled a landowner or consumer to lower rates or assessments. Conservatively, the County loses millions with the current permissive definitions. And I don’t know what that representation is, but is it in water rates or are we talking about a multiple property tax, water rate, the gamut? And, and Jeff’s not here so I don’t know what.

CHAIR VICTORINO: Yeah, Mr. Yamashige, since you’re the representative from the Department of Water, would you like to answer that question, please?

MR. YAMASHIGE: Yes, thank you, Mr. Chair. No, it isn’t only water, water revenue loss.

COUNCILMEMBER NISHIKI: Okay.

MR. YAMASHIGE: It is the County.

COUNCILMEMBER NISHIKI: Okay. I’ll, I’ll allow other questions. I’ve got more but, thank you.

CHAIR VICTORINO: Thank you, Mr. Nishiki. Mr. Pontanilla followed by, by Ms. Baisa.

VICE-CHAIR PONTANILLA: Thank you, Chairman. You know, thank you for setting that $5,000 as a point that we discuss. We still need to come up with a more definite number. One of the handouts that Mr. Watanabe provided us this morning and, and I was looking at this thing here, demographics. What is a farm? For the purpose of the United States Census, a farm is an establishment, which produced and sold or normally would have produced and sold $1,000 or more of agricultural...products during the year. But this $1,000 also includes government subsidies in the sales. So, I find it interestingly that, you know, they came up with $2,500, which you have increased to $5,000 as a starting point that we look at. And, you know, with, with the census being done I don’t know what year it was done, you know, we looking at $1,000 as the average at, at this time. So, I just wanted to point out that item.

And the other thing that, you know, to really help the Real Property Tax Division, once we set a number it gives them, you know, there’s no guess work. There’s definitely a definition for them to act as far as identifying agriculture in their books. So, it’s going to help the Real Property Tax Division to accurately assess real property tax to, you know, people doing farming. You know, as he mentioned, you know, we have 5,804 Ag parcels and only 787 aren’t, you know, utilizing the Ag rate. So, it’s, it’s a good beginning in a sense that in trying to identify all of those farmers that are really doing farming and the ones that don’t. So, thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Ms. Baisa?

COUNCILMEMBER BAISA: Yes, thank you, Chair. I want to try to focus on some numbers here. We’ve heard that there are 787 folks who are regarded as agricultural consumers and who get special water rates. I also was told in answer to a question that they are required to have a G.E.T.
license, which means they must be filing annual returns. Based on that kind of information, will that be helpful in trying to come up with a number? You know, if these 787 people file a G.E.T. tax returns, what are they showing on those tax returns?

CHAIR VICTORINO: Well let me, let me clarify that. If I’m correct, the Department of Water, you do not require G.E.T.? Am I correct?

MR. YAMASHIGE: We do.

CHAIR VICTORINO: You do? Real Property doesn’t?

MR. TERUYA: No, we do not.

CHAIR VICTORINO: Okay, so, just so I get that clear.

COUNCILMEMBER BAISA: No, I asked him earlier in the meeting and he said, yes, they required it. So, if they require it, you have to file it, file an annual return. So, we should have access to that information if they want to continue to have a special water rate, then I’m sure we can get that information. We can get an idea of what kind of income people are making.

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Yes, thank you, Mr. Chair. The Department requires that you have a G.E.T. license. We do not review the annual filing of anybody and that’s what Warren was discussing the G-45 return.

COUNCILMEMBER BAISA: Chair, I think that that is something that we might want to take a look at because if we want to be able to stand behind a number that we’re going to agree to, you know, and I know we have a large spread of people that are big, big Ag consumers that get water rates and other people that have, you know, smaller farms. But we could at least have better data to look at that might help us in trying to establish a number. Thank you.

CHAIR VICTORINO: Mr. Yamashige, would...if I requested that, would I have to go straight to the Department of Taxation? Or, would you, as a Department, be able to ascertain that information for us?

MR. YAMASHIGE: Oh, Mr. Chair, I’m not certain that we can get tax records from people. I don’t know what would be required.

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: I’ll, I will send a letter to the Department of Taxation to try to ascertain that then.
COUNCILMEMBER BAISA: Chair, I wasn’t thinking of going to the Department of Taxation ‘cause I know we’ve had a very difficult time in listening to Mr. Teruya in trying to work with the State Department of Taxation to share information. But we could get it from the people who have the rate. It could be a requirement that if you want to continue this every year, you tell us how much you made, and we could collect it ourselves. Which brings me to my last question and then I’m done is, how many people in the Water Department do we have who actually help us certify these 787 people that get this benefit? And is it done annually?

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Yes, thank you, Mr. Chair. I’ve been corrected that the actual agricultural consumers is somewhere around 820 consumers.

COUNCILMEMBER BAISA: Okay, we’ll go with 820. It’s not a big deal. We’re just trying to get a ballpark but thank you.

MR. YAMASHIGE: I’m sorry. I was using the 2008 numbers.

COUNCILMEMBER BAISA: It’s, it’s okay.

MR. YAMASHIGE: Agricultural rates are awarded annually. When, when the first, when the applicant is first, when the application is first made for agricultural rates, physical inspection is made. After that, you know, we do not have the staff to go out and check every one of those. So, we randomly go out and check it.

COUNCILMEMBER BAISA: So, how many people are involved with that?

MR. YAMASHIGE: I really don’t have a number. I believe... I’m not even sure who will go. I, I can only assume that some of our, our readers that are out in the community are the ones that would verify.

COUNCILMEMBER BAISA: Thank you, Mr. Yamashige. My last comment, you know, today when we look at this panel we have before us and I’d really like to thank the department Directors for helping us work through this. I think it just points out another time that we have three departments, each one with their own staff, their own needs, their own requirements, and if we could share some information. Like if the Planning Department went out to look at the farm plan and they could share that with the Water Department and say, you know, I went and I didn’t see any trees. Then the Water Department could go take a look if they had to. But, you know, I think we have to kind of coalesce here and bring this together if we’re going to plug the tax holes that we have so that we can have the revenues that we need. Thank you, Chair.

CHAIR VICTORINO: Thank you very much. Yes, Mr. Molina then Mr. Kaho‘ohanalahala.
COUNCILMEMBER MOLINA: Yeah, thank you very much, Mr. Chair. And I think the question brought out by...Member Mateo and Mr. Nishiki with regards to how we establish that threshold figure was really important because as, you know, as law makers we got to defend or at least provide, you know, an analysis to the public. And thank you, Mr. Chairman, for providing us the historical background on that. Because Mr. Hashimoto had brought up the issue of maybe the possibility of establishing an Ag Board and Appeals Board down the road, so if somebody is going to appeal, you know, their tax rate or whatever then at least we, we have the history, the background of why that number was established as a threshold.

So, for Mr. Yamashige, with, with the people receiving these Ag water rates, do you have a range of how much water usage, I mean, from of these 820? Do you have a range that you could provide for us how much water usage from the lowest to the highest of these 800 or so people that get these Ag rates? Do you have that information? If not, you know, I can wait.

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: No, I’m sorry. I don’t have that.

COUNCILMEMBER MOLINA: Okay ‘cause, ‘cause I’m just curious that maybe in the, in the future maybe the possibility of different Ag...another classification of Ag water rates for the small, the so-called small farmer and the larger commercial farmer could be established if one isn’t there already ‘cause at the same time it’s...we don’t want to discourage farming on, on, on, you know, for, for the smaller guy. But at the same time we need to establish something that is fair to the larger commercial farmer too, so.

Anyway, Mr. Chairman, under your signature if at all possible if the Department can provide that information. And this, Mr. Yamashige, this is for the 2009 people receiving the Ag water rates ‘cause I know you had mentioned to Member Baisa about it was 787 but that was based on 2008, yeah. So, so, we’re looking at 820 people receiving Ag water rates.

MR. YAMASHIGE: Okay.

COUNCILMEMBER MOLINA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you. Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Yeah, thank you, Chair. I was going to ask the same question Member Molina asked, but for the Department since there’s a request for that I’m assuming that we have information on the amount of water that each of those Ag users have. You have records of that?

CHAIR VICTORINO: Mr. Yamashige?
MR. YAMASHIGE: Yes, Mr. Chair, we would have to go and look at who qualifies for Ag rates and then review . . . (inaudible) . . .

COUNCILMEMBER KAHO‘OHALAHALA: But you already have 820 you said?

MR. YAMASHIGE: Yes.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, so, you will be looking at the 820 and you would, could you provide like a spreadsheet for us that shows us the 820 and then the amount of water used, you know. Because we know there’s a threshold and we know that there’s 30,000 per what, two months then requirement?

MR. YAMASHIGE: That’s correct.

COUNCILMEMBER KAHO‘OHALAHALA: And then what would be interesting for us to also understand is how much water is actually being used by those people and you know.

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Mr. Chair, I can report that there are agricultural consumers that are not taking advantage of the agricultural rate, meaning that they don’t use over 30,000 gallons during a two-month period. So, you know, your question why would they apply for that rate? They may apply just because they qualify. On the other hand, what would be easier, I think, for the Department to do instead of tabulating 820 consumers is to maybe identify the lowest to the highest because we know that the average is about 250.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, can you, can you clarify it just so I understand why a person would be an Ag user but is not using it?

MR. YAMASHIGE: Yeah, as you mentioned the threshold to receive agriculture rates is 30,000 gallons for the two-month period.

COUNCILMEMBER KAHO‘OHALAHALA: Correct.

MR. YAMASHIGE: It was brought to my attention that at least in one instance this person does not even use 30,000 gallons but has applied for the Ag rate. And they qualify for it but they’re not taking advantage of it.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, that’s confusing but I guess that one would be zero then?

MR. YAMASHIGE: Okay, there, there is consumption but it does not exceed 30,000 gallons.
COUNCILMEMBER KAHO‘OHALAHALA: So, okay, what are the, what are the other criteria then besides the consumption that we’re talking about?

MR. YAMASHIGE: Okay.

CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Mr. Chair, the agricultural rates only kick in after you use 30,000 gallons for the two-month period. Prior to that 30,000 is the number that we use as the baseline for residential use. So, because you are allowed to have a residential structure on your property, as provided for by Planning, we assume that 30,000 would be used for your domestic use and then anything over 30,000 is when you qualify for the agricultural rates. Does that make sense?

COUNCILMEMBER KAHO‘OHALAHALA: Okay, I, I think if you provide that information and break it down for us then that and we can look at it comprehensively, that would be good.

CHAIR VICTORINO: Okay, any other questions? Yes, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Mr. Yamashige, in regards to water, untreated water, do we provide untreated water to the farmers right now?

MR. YAMASHIGE: The only place we are providing nonpotable agricultural water is the Kula Ag Park.

VICE-CHAIR PONTANILLA: Just the Kula Ag Park?

MR. YAMASHIGE: Yeah.

VICE-CHAIR PONTANILLA: So, the rest is all treated water?

MR. YAMASHIGE: That’s correct.

VICE-CHAIR PONTANILLA: Until the, the dual line is completed? By the State of Hawaii or by you folks?

MR. YAMASHIGE: The State is constructing that.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you. Further questions for the Department? Yes, Ms. Baisa?

COUNCILMEMBER BAIISA: Thank you very much, Chair. While we’re collecting information for another meeting on this I would be very interested in knowing how much real property tax, the difference between those who get Ag determinations or classifications, and if between that and say regular improved residential or some, some comparison so we can see. Earlier somebody
through out a $3 million figure of loss and I think it was Mr. Yamashige. What was that about, Mr. Yamashige?

MR. YAMASHIGE: Mr. Chair?

CHAIR VICTORINO: Mr. Yamashige, go ahead.

MR. YAMASHIGE: If you compared what the revenue would be just based on general rates?

COUNCILMEMBER BAISA: Right.

MR. YAMASHIGE: It would be $3 million more than we’ve collected because we’ve granted this agricultural rate.

COUNCILMEMBER BAISA: Thank you very much. So to me that’s a very relevant piece. I’d also like to know the same thing in regards to the real property tax so we can see and that can be gotten later, Chair. Thank you.

CHAIR VICTORINO: Thank you. And I don’t know if that, that would come to this Committee. I mean real property tax. . .no I’m just trying to get where we are and you’re going into areas that would have to go back to Budget and Finance.

COUNCILMEMBER BAISA: The reason I ask the question, Chair, is because I’m trying to see how all of this comes together and there’s a benefit obviously in terms of lower water rates but there’s also a better, a benefit in terms of a tax determination. And I’m trying to figure out what these, what we’re looking for in terms of revenue. And being that we are going into budget, I think the sooner we know that number the better. That’s why I asked.

CHAIR VICTORINO: Thank you. And I will address the letter to the Chair of the Budget Finance for him to ascertain that information.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR VICTORINO: There is protocol and I will follow the protocol depending on the information requested by all.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR VICTORINO: Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, you know, just hearing you, you’re probably going to defer this item.

CHAIR VICTORINO: That is correct.
VICE-CHAIR PONTANILLA: And when we meet again if you could invite the different departments like this morning because, I think, they are very good resource people. Thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. That is the Chair’s intent with, with the availability of the various departments. Other questions for the departments? If you have any other requests for the departments, if you’d forward them to me, I would appreciate it. Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Yeah, I’m just wanting to ask the. . .Mr. Teruya if he is compiling, you said, the applications that you are trying to make assessments for, for Ag. Is that information that can be provided to, to this Committee as well?

CHAIR VICTORINO: Mr. Teruya?

MR. TERUYA: The question was on the amount of people that the additional revenue we’re gaining from the people falling out. Is that what you’re looking for?

COUNCILMEMBER KAHO‘OHALAHALA: Well you’re making--

MR. TERUYA: Or the difference in?

COUNCILMEMBER KAHO‘OHALAHALA: Yeah.

MR. TERUYA: Okay.

COUNCILMEMBER KAHO‘OHALAHALA: I think that when we’re trying to decide on whether a rate would be. . .it would be good for us to know and understand how many people are actually qualifying for that kind of...

MR. TERUYA: Okay, so, you would want qualified Ag applicants and the difference in value versus highest and best use values?

COUNCILMEMBER KAHO‘OHALAHALA: Yes.

CHAIR VICTORINO: And I will forward that information, that request to Budget and Finance because that is the proper way it comes out of…

COUNCILMEMBER KAHO‘OHALAHALA: Okay.

CHAIR VICTORINO: …and I will use that methodology. And so, Mr. Teruya, I will forward that through Mr. Pontanilla to you and to Mr. Young and, and get that information to share with the Committee as well as Budget and Finance.
Any other questions or any other requests from the various departments in regards to this issue? Seeing none, I thank you very much, ladies and gentlemen. It's been a very interesting morning and as you're well aware of that any time we attempt to make changes or we attempt to make any kind of what I call clarification on, on various issues we run into a lot of different questions. And I am, I am happy to say I'm glad the questions are being brought up, but I will also say that whether it's a different department or a different committee for which information should be ascertained, this Chair will make sure it goes through the proper protocol. And that's the way it should be and I will not circumvent that.

I thank the Committee Members for their questions. I thank the public for being here today and their clarifications. I thank all the Departments and each one of you, please go back and, you know, the various questions I will be forwarding to you folks, if you can get it back to us or whatever Committee that does so that we can continue the discussion.

I will defer this matter to our next meeting, which is March, March 2\textsuperscript{nd}, and hopefully we will be able to clarify most of these things by March 2\textsuperscript{nd}. So, with no objections, this Chair would like to defer this matter.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you very much.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: DAM, BKM).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Again, to the community out at large, Kung Hee Fat Choy. It’s Chinese New Years, and I think all of us have had a great Valentine's Day, and now we're into the Chinese New Year. So, with no announcements, anybody have any announcements? I think we have what, what we have this afternoon? Budget and Finance, right?

COUNCILMEMBER MOLINA: One thirty.

CHAIR VICTORINO: So, Mr. Chair, Mr. Pontanilla, your meeting is at 1:30 this afternoon?

VICE-CHAIR PONTANILLA: Yes, sir.

CHAIR VICTORINO: Alrighty, so, I look forward to seeing those who will be with us this afternoon at the Budget and Finance Committee meeting. This meeting is adjourned for the board, the Committee, Water Resource Committee, February 9, 2010. No, February 16\textsuperscript{th}, I’m one week behind. This is getting tiring. I’m sorry, February 16, 2010. This meeting is adjourned. \(\ldots\) (gavel) \(\ldots\)
ADJOURN: 11:07 a.m.

APPROVED:

[Signature]

MICHAEL P. VICTORINO, Chair
Water Resources Committee

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Transcribed by: Delfey Fernandez
CERTIFICATE

I, Delfey Fernandez, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 9th day of March 2010, in Wailuku, Hawaii.

Delfey Fernandez