

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

April 23, 2010

Council Chamber, 8th floor

CONVENE: 9:05 a.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member (in 1:41 p.m.)
Councilmember Sol P. Kaho'ohalahala, Member (in 9:11 a.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Danny A. Mateo, Vice-Chair

STAFF: Gayle Revels, Legislative Analyst
Scott Kaneshina, Legislative Analyst
Yvette Bouthillier, Committee Secretary

Leinaala Kihm, Executive Assistant to Councilmember Medeiros

ADMIN.: Frederick Pablo, Budget Director, Office of the Mayor
Kalbert L. Young, Director, Department of Finance
Scott Teruya, County Real Property Tax Administrator, Real Property Tax Division,
Department of Finance
Jeffrey A. Murray, Chief, Department of Fire and Public Safety
Gary Yabuta, Chief, Department of Police
Greg Takahashi, Business Administrator, Department of Police
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation
Counsel

Seated in the gallery:

Clayton Tom, Deputy Chief, Department of Police

OTHERS: **Item 1:** Mike White, General Manager, Kaanapali Beach Hotel
Marc Hodges
Others (3)

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PRESS: Akaku: Maui Community Television, Inc.

**ITEM NO. 1: PROPOSED BUDGET FOR FISCAL YEAR 2011 FOR THE
COUNTY OF MAUI (CC 10-27), CC 10-61, CC 10-68)**

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting for April 23, 2009 [*sic*] is now in session. Members, good morning. At this time the Chair would like to recognize the Members that are here this morning. We do have Member Molina, Member Baisa, Member Medeiros.

COUNCILMEMBER MEDEIROS: Good morning.

CHAIR PONTANILLA: Good morning. Member Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR PONTANILLA: Morning. And Member Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR PONTANILLA: Good morning. Excused at this time are Members Johnson, Kaho'ohalahala and Chairman Mateo. From the Administration we do have the Budget Director, Mr. Pablo.

MR. PABLO: Good morning.

CHAIR PONTANILLA: Good morning. And then from the Finance Department we do have Director Young as well as the Real Property Administrator Scott Teruya and, of course, our First Deputy Corporation Counsel Traci Fujita Villarosa. Supporting the Staff this morning we do have Legislative Analyst Gayle Revels as well as Scott Kaneshina, and our Committee Secretary Yvette Bouthillier. Members, this morning we do have with us, again, the Finance Department but before we . . .(*clears throat*). . . discuss issues with the Finance Department, is there anyone signed up for public testimony? Yeah. Members, we do have someone signed up for public testimony this morning. And before I call on Mr. White, just want to have everyone in here to turn off their cell phones or put it on the silent mode. Thank you. For those that are providing public testimony, if you come up to the podium, provide us with your name, the organization that you represent. The Chair will allow you three minutes to provide your testimony

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and...an additional one minute to conclude. So yesterday we ran like four minutes so, hey, give your four minutes this morning, Mr. White. So the first testifier is Mr. White.

...BEGIN PUBLIC TESTIMONY...

MR. WHITE: Thank you, Mr. Chair. And good morning, Council Members. I'm here again simply because, to be honest with you, I'm disheartened, dismayed, discouraged and a...bit more than just a little concerned with the reaction that I heard while I was here the other day, and even more so by the reaction that I was...that was relayed to me that took place during the afternoon session. And I...I think it's, you know, at least what I was told, was we were called liars. We were deceitful, we were misleading. We had tricked our employees into coming down to testify and so forth. And I think it all really revolves around this one piece of paper. This is a piece of paper that shows all the changes in valuations and changes in tax payments from one year to the next for 30 hotel properties. We all came here assuming that you had this same piece of paper, and you didn't. So I don't really blame you for reacting the way you did. But what's disheartening for me is that a relationship that over the years between the visitor industry and the County and the Council, in particular, has helped build wonderful lives for a lot of people. And I realize you guys have some concerns about what the hotel industry brings to the island. People come and buy houses and so forth. But, you know, I...I'm disheartened, because I don't think there's the level of trust that we need to have to keep moving forward in a way that's good for all of our citizens. And I share with you, just as an example, the...the differential between...you know, I spoke to it...I spoke to you all about it in my testimony the other day. And this is...this is simply a breakdown of the impact of the property tax rate between us and commercial. And, you know, we've...we've never really come before this body even though we've been paying a differential for...I don't know, I think it's been almost the entire time I've been here, 20...at least 20 years. And we've never complained about it, because our rate isn't dissimilar from the other neighbor islands, and it's lower than Oahu's, but Oahu's valuations are 6.2 billion. Ours with timeshare are over 10 billion. And they have twice as many units as we have. But I'd like you to take a look at this because--

MS. REVELS: Three minutes.

MR. WHITE: --what it boils down to is that if you were...if we were paying the...the differential...if we were paying the Commercial rate like it's done on the other islands, we would be paying \$22.8 million less at the new rate structure. We'd be paying \$16 million less at the old rate structure. And so when you look at that,

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that's a huge amount of money that we're doing in addition to the TAT. So when you say that you're gonna...you're gonna take away the...the MVB funding, if you lose the TAT or a portion of it--I don't know, that decision is coming today--but the reality is that from our industry...I mean, you can either look at it as we're paying more or the commercial guys are paying significantly less. And I'm not saying you should increase theirs--

MS. REVELS: Four minutes.

MR. WHITE: --but you need to be taking into consideration the amount that we do for this community and the incredible difficulty that a lot of the hotels are in now. And I have an incredible level of trust between myself and Hanalei Peters, the gentleman that spoke after me. He knows everything about what our hotel operation is about. He knows what amount of money we make. They know what we pay in taxes. And, you know, I'm...I'm here because I don't appreciate the...the degree of acrimony that seems to have developed over the years. And so I have my testimony from--mine and Tom's testimony--from the other day. I'd be happy to go through this point by point, 22 points, and have you tell me which one you think is a lie. So...

MS. REVELS: Five minutes.

MR. WHITE: Thank you.

CHAIR PONTANILLA: Thank you, Mr. White.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: Hang on. Gayle, can you pass out that before I ask Members to ask questions?

COUNCILMEMBER VICTORINO:: Yeah.

MS. REVELS: . . .*(Inaudible)*. . .

CHAIR PONTANILLA: Okay. No, the second handout, the 22 points.

MS. REVELS: It's the same one he passed out.

CHAIR PONTANILLA: Oh, okay, fine. So Members, you...you already got that particular information from Mr. White that was passed out on the 21st of April? Member Victorino, questions for Mr. White.

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COUNCILMEMBER VICTORINO: Thank you. And...and, Michael, thank you for being here. And let...let...let me start by saying that I still feel the utmost confidence in the industry itself and what they do, okay? Let's say that. But we are and you have been in this chair at the State level--

MR. WHITE: Uh-huh.

COUNCILMEMBER VICTORINO: --not in this profound manner but you have been in this chair before. And you, like me, look for the fairest resolve we can find, right? We have a challenge right now, and I said it the other day and I'll say it again. We don't, because all of a sudden, we don't have a big drop in our population. The roads still need to be...main...maintained, right? Lifeguards still have to be out there. All the, what we call core essential, police, fire, everything, right, Michael?

MR. WHITE: Uh-huh.

COUNCILMEMBER VICTORINO: Okay, we gotta pay for that. You, me and everybody in this community have to pay for those things.

MR. WHITE: Correct.

COUNCILMEMBER VICTORINO: Okay. And we're facing a tremendous shortfall, okay? We're looking to reduce...and as I said that, cut vacant positions, do what we can. But there comes a point of diminishment that we can't go any further. You're in business, I'm in business, you know that part, right? You cannot go any further unless you do what? Cut your profits or cut your staff.

MR. WHITE: Yeah.

COUNCILMEMBER VICTORINO: But I can't cut too many more police or firemen and all these other things, right?

MR. WHITE: No, but we've got--

COUNCILMEMBER VICTORINO: I mean just so...

MR. WHITE: --we've got...we've all got--

COUNCILMEMBER VICTORINO: Okay.

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CHAIR PONTANILLA: Mr. White, Mr. White.

MR. WHITE: I'm sorry.

CHAIR PONTANILLA: Can you have--

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: --Mr. Victorino complete.

COUNCILMEMBER VICTORINO: Yeah, let me...let me finish my question. I'm sorry, Michael. I'm not trying to put you on the spot, please.

MR. WHITE: You know, I don't mind it.

COUNCILMEMBER VICTORINO: Yeah. ...*(Laughs)*... Thank you. But what I'm trying to ask you is what we saw...yesterday--I mean the other day, excuse me, the other day. I get so many days I cannot remember where I'm at--is that values this year to next year, next fiscal year, are starting to drop. You agree with that? The values of all properties are starting to drop, overall. Not, not everyone but mostly, right? And so that's all of a sudden at the same level, much less revenue. It's like almost a hotel, right, and you gotta start collecting less revenue per...per room versus having nobody in that room. You gotta make some adjustment to that, right? Where do you go so that you get at least...even when it's zero I rather get a \$100 than zero on that room, right? And that's what we're trying to find. I mean where's the happy medium? As I said, the Mayor's budget was neutral...revenue neutral. I mean she's not trying to raise everybody's rates so that she makes...we make more money. It's just to stay with the service, the core services we can provide.

MR. WHITE: Yeah, but I would submit to you that you can...you can maintain all the core services you provide and still live within the lower levels of...of budget without raising anybody's property taxes. And, you know, just to put it in perspective--

COUNCILMEMBER VICTORINO: Uh-huh.

MR. WHITE: --my owner has owned the property for 22 years.

COUNCILMEMBER VICTORINO: Uh-huh.

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MR. WHITE: He's allowed us to do things for the community. He's allowed us to do things for our employees that are really wonderful. But in that 22 years he has paid approximately \$70 million more in taxes than has appeared on his bottom line. Last year the County of Maui got from us in TAT and...and property tax somewhere between 850 and 900 thousand dollars. He lost 3.7 million. So that's a huge variance between what he made last year and what you guys got. And I realize that's kind of...you know, it's a fuzzy comparison. But the reality is that all the hotels are losing. As a manager I look at the fact that I've had roughly 30 percent drop in revenues.

COUNCILMEMBER VICTORINO: Right.

MR. WHITE: It's actually a little more than that. We've cut expenses. We...we haven't cut labor anywhere near to match that. As I, I shared with Wayne, you know, my...I gave you guys my historical labor cost of...of--that was my direct labor, just the wages not the benefits--was about 30 to 35 percent. Well, it's more like 45 percent normally. It's now 57 percent. So all of our costs are going up, and we're trying to save our core as best we can. And we held off making any significant cuts for over a year. But when the...when you're looking down the road, you've got...I've got a responsibility to at least balance the impacts as you guys have. When I look at the fact that your budget from 2007 is roughly equal to what the proposed budget is this year, I have to say, you gotta be able to find stuff--

COUNCILMEMBER VICTORINO: Okay.

MR. WHITE: --when you guys have increased your job count. Now the numbers that I gave you the other day, they come from the Department of Labor website. Go there and check...check and see. You can pick any year and see what the increase has been.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. WHITE: But the...and the numbers are rounded to the closest 50 percent...or 50 people. So, on the website it says that you guys have added in two years 250 jobs. Well, okay, so on the low side, that could be 225. On the high side it could be 275. I don't know what it is. I hope you guys know. In the last eight or nine years, you've increased 800 jobs. During that same time the population has grown 12 percent. I...I'm sorry, I...I can't...I can't rationalize a 12 percent increase in population turning into a 40 percent increase in job count, and a 79 percent increase in cost. I just can't rationalize that as a manager.

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COUNCILMEMBER VICTORINO: Uh-huh.

MR. WHITE: And so when you...when you all sit here and say, yeah, but we may have to increase property taxes. Well, and...and you felt that we were providing a threat because we were saying it might result in some more layoffs. Well, I'm...I'm sorry, but we're not...we're not threatening. This is a reality. The money is either gonna have to come out of my owner's pocket or it's gonna result in layoffs. I don't know which one. It may be my owner. It may be additional layoffs. I can't go much lower because I have to service guests in a way that brings them back. But we have, you know, so we have these...these hard...kind of hard edges that we can't go beyond, just like you do. But I don't get the sense that you guys are there yet.

CHAIR PONTANILLA: Mr. White, I'm gonna stop you there. Thank you.

COUNCILMEMBER VICTORINO: Yeah, thank you and...

CHAIR PONTANILLA: I think we got--

COUNCILMEMBER VICTORINO: Got your point.

CHAIR PONTANILLA: --the message really, really clear.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Michael, for that clarification. I really do appreciate it. Thank you, Michael.

CHAIR PONTANILLA: Is that it?

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: Members, any more questions for Mr. White? Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. Mike, you know when we talk about the...the fact that we were discussing our revenue...neutral--

MR. WHITE: Uh-huh.

COUNCILMEMBER KAHO'OHALAHALA: --how does that...pan out in, in your operations?

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MR. WHITE: We are at the...at the original rate, 820. Our drop in valuation was probably one of the, I think, was the...if not the...no, wasn't the largest but was one of the larger drops. Our taxes would drop by 104, \$105,000. With the increase, we would pay about \$42,000 more. So we would save...with the new rate, we would still save 62,000. But my property...my land value doubled in 2007 which affected our 2008 tax payments. So as I said in my testimony, in the past two years, we've paid 480, \$490,000 more than we paid in the previous two years. So when I say, you know, when I look at where we are, I'm still...even if you leave the rates at 8.20, I'm still paying roughly \$140,000 more than I was three years ago. And that's about 28 percent more than I was paying three years ago. So, you know, when...when we're talking about...I mean I just have a real problem with the basic revenue neutrality when you're achieving that by coming and adding to our losses. Not taking from our profits, adding to our losses. And you're going...the proposal is to increase homeowners' property taxes. I...I'm sorry, I just have a hard time with that when people throughout this community are hurting a whole lot more than the County is. And I think you're gonna see a...a tough backlash if you increase property...the Homeowner's rates. You know, my employees understand the...when, you know, when I started the hotel before the TAT was coming out of our pockets that we were contributing \$3,900 per year per employee to the County and State. That number this year, or this 2009, is 15,100. It's in my testimony. It's not a...it's not a...you know, a fluffy number. But when my employees look at that and...and see that you guys are getting increases, you guys are adding staff, and they're not getting increases? That's really hard for them to understand. Hanalei, who's our...he's the Unit Chair for Kaanapali Beach...after a presentation I made when I left the Legislature--basically the same thing. This is how much we paid before, this is how much we're paying now. I think back then it was 70...7,500 or \$8,500 per employee back then. He came up to me 10 or 11 years ago after that presentation and said, you know, I'm really concerned, because it looks to me like we are...that the State of...or that we are creating two classes of people in this State. The people that work for the State and County and all the rest of us. And, you know, when I look at--you guys have some really tough cost issues. Your retirement system is underfunded. Health care is promised, but it's not, you know, there's no fund out there to provide the health care. And when I was in the Legislature, I was told 2012 is when we're gonna get a huge increase in the people...in the number of retirees. I don't know how we're gonna pay for it. But we're...we're running out of money. When I look at...at our situation in the last 21 years, the County has made more money from my hotel than my owner has more than half the time. The State has made more than my owner...all but three or four years. There's something wrong with that. I'm...we shouldn't be in the business of supporting government to a greater degree than we're able to support our own employees. I...I'm sorry, you know. You guys have some challenges,

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but all I can tell you is you gotta back and choose one of the earlier years. I don't...you guys can't micromanage all these decisions. You may have to just come to a point where you say, we're not--I mean what I would like to hear you guys say...I'm not...I'm not asking to go down to the Commercial rate. I'm not asking you to reduce our rate although I feel really justified in doing so, because I know you guys have challenges. But, damn it, if I'm gonna sit back and say, fine, leave my taxes a \$140,000 more than three years ago, then you gotta do your homework, too. I mean--

CHAIR PONTANILLA: Okay, Mr. White.

MR. WHITE: --be responsible.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Mike.

MR. WHITE: Sorry about that but I'm, you know...

COUNCILMEMBER KAHO'OHALAHALA: No, we understand.

UNIDENTIFIED SPEAKER: ...*(Chuckles)*...

CHAIR PONTANILLA: Thank you. Members, any more questions for Mr. White? Member Nishiki.

COUNCILMEMBER NISHIKI: Yeah. Thank you, Mike. I...I...I was going back on your testimony. And I think that you are ...*(inaudible)*...

CHAIR PONTANILLA: Member Nishiki.

COUNCILMEMBER VICTORINO: Speak in your mic.

CHAIR PONTANILLA: Can you talk in the mic?

COUNCILMEMBER NISHIKI: Oh, wow.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: ...*(Laughter)*...

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COUNCILMEMBER NISHIKI: I...I...I think that you may be taking this language that we used the other day personally. But I...I wanna tell you this, Mike. I looked at some of the challenges that...to the property tax--

MR. WHITE: Uh-huh.

COUNCILMEMBER NISHIKI: --that came about, and in the Timeshare and the Hotel, when I looked at what percentage was the highest, the Hotel and Timeshare was the highest. Now, maybe not your hotel and so I don't know that.

MR. WHITE: Yeah, but we...

COUNCILMEMBER NISHIKI: I've gotten...I've gotten...can I finish, Mike?

MR. WHITE: I'm sorry.

COUNCILMEMBER NISHIKI: And then you can respond. So when I saw that, I looked at it and I went wow, 90 percent of \$19 million this year. Wow, that's like 17, close to \$18 million that the industry is now challenging and...and therefore this money is being held in abeyance. That's a...that's quite a bit. Now, I'm not saying whether it's right or wrong. But my question to you is, this is not only this year, it's last year also. When I looked at the valuation, Mike, and...and...and again, not specifically your hotel, but in the area of what occurred. The valuations went down so...so therefore I'm not saying whether it went down more or...or than what was necessary but it did go down. So I had to take that into consideration, because property taxes when you look at the bottom line is based on valuation and rate. What justification the Administration gave us was that they were trying to keep these levels the same. And yet when I looked at what the collections were for this year compared to last year based on the industry, it was less that we're going to get. Now, I understand when you say to...to...to us, okay, look at your own house, because despite of what figures that we have in front of us, we can't pay any more. And this is your plight. I'm saying, because you know, Mike, how we get monies to operate County government, that--and I don't know the percentage--but the highest percentage is through property taxes. Now if valuations are going down constantly and you're saying, well, then you've gotta look at your own house and...and reduce that count. If that is true, then my question to you is, you are still feeling that you guys are paying too much taxes knowing how we operate and how government operates? Is that what you're saying?

MR. WHITE: Well, to respond to your first question.

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COUNCILMEMBER NISHIKI: Yeah.

MR. WHITE: I...I didn't take...I may have come across as taking your comments the other day personally. I don't.

COUNCILMEMBER NISHIKI: Good.

MR. WHITE: My concern is more that the level of respect and trust and honesty between the County and our industry is not what it used to be. That's...that's really why I came down here today. As far as how much taxes we're paying, the...if you just look at...if you look at the Hotel/Resort category, the...the vast majority of the drop in revenues is not the hotels, it's the condos. And if you look at the Hotel category, this...this sheet that I...I think you guys have, you got the other day...showing the...showing the list of I think about 30 hotels. The drop in revenue is 2.7 percent after...and then there's 13 hotels that are paying less. There are 15 hotels that are paying more. I'm...but I would still submit that, you know, again, we're paying higher than the Commercial guys by a...you know, in my case if I were paying Commercial rate, I would be paying \$206,000 less in one year. In the last ten years I went back and...and I'm paying...I've paid, because I'm considered different than another business, I'm paying...I have paid in 10 years, \$1.2 million dollars more to the County than I would have if I was Costco. They're making more money than I am. I'm paying more taxes...I...you know. I...there's a disparity there that I accept only because I'm really loving and generous, but also because the same rate on the Big Island is nine bucks. The same rate on the island of Kauai is 6...or no, 7.90 for building and 6.90 for land or something. I'm not sure if that's the correct, but...so you know, we've always been players. We've always...you know, I've never come here and testified against a tax increase in the 24 years I've been here. I'm here because we're bleeding and we're bleeding badly. If you ask me what do I think my hotel is worth now based on my cash flow over the last two years, it's probably not worth crap. But if you want my hotel to turn into a timeshare, then give my...give the impression to my owner that you guys don't...give a rip. If you want my hotel to turn into a condo, that can happen. We're the most, probably the most developable property on Maui. But if you go to timeshare, you lose half the jobs. If you go to condo, you're gonna lose five-sixths of the jobs. And you go to timeshare, you guys make more money, but the State loses a ton of money, because they don't pay TAT at the...and the way we do. They don't pay excise tax. They pay it on their maintenance fee, not their purchase price. So they're buying a future vacation and they're not paying you. No, I'm sorry. They're not paying the State. So...

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COUNCILMEMBER NISHIKI: Yeah. And...and...and I understand it. Just like when you said you pay \$900,000 in TAT. It's just a...a pass...on that you collect from the visitor and--

MR. WHITE: No, no.

COUNCILMEMBER NISHIKI: --give it to the...to the State. Okay, let me...let me...let me...let me get back to TAT, okay.

MR. WHITE: Uh-huh.

COUNCILMEMBER NISHIKI: So tell me this. Because you sat in this position in the...in the State House, now you know the plight of TAT, okay. So now you say don't raise my taxes in the...in the hotel industry. And...and then you're saying also don't raise my...don't raise my personal taxes in my homeowners, you know. You guys are gonna get the backlash, okay. But I'm just saying that this is specifically where we can get revenues. And then you're saying, well, County government has grown so much. Should the TAT...Mike, should the TAT drop, are you saying to me that then I can either justify raising your...your taxes, because that's geared towards visitor industry? Or you're...you're...you're saying that perhaps then you should reconsider how much you give to visitor promotion or is that not a consideration at all?

MR. WHITE: No, I think if the TAT...see, if you look at us versus Kauai and the Big Island, the people who are not participating in the tax equation are the Commercial guys, Commercial and Industrial. You're lowering their rates, you're raising ours. And I'm not, you know...

COUNCILMEMBER NISHIKI: And I'm not buying that...either.

MR. WHITE: Okay, but I'm not here to say you gotta raise people's rate. But we participate in the promotion in partnership with you guys through MVB. And as I mentioned in my statements the other day, the guys who...you know, Costco...all the retail companies throughout the State, all the restaurants throughout the State spend less money than MVB spends in less than 10 days. So, you know, if...if you want to make up--because I just...I just...I feel very, very concerned about any reduction in marketing dollars for MVB. I'm spending more marketing dollars even though I'm cutting everything else. I have no choice. I've got to go out there and get every single piece of business I can. I'm doing deals that I would never have considered two years ago. But it's just a really, really difficult market. We compete against Mexico. You know what the average...my revenue per available room is double that of Mexico. They are cutting deals with

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wholesalers that make us just turn white, because...and you can go to...you can go to Mexico and spend way less than half what you need to spend here on a room. And it's easier to get to, less airfare, so we're in a really competitive market. Vegas, I...I saw an article where their...last year you could get...there are only a couple of hotels offering rates under \$20. And now there are over 20 hotels offering rates less than \$20. So, you know, we're...we're not playing tiddlywinks. We're in a...we're in a tough, tough struggle, and I just want you guys to be aware that the struggle is throughout this community. But if you...back to your question about the TAT.

COUNCILMEMBER NISHIKI: ...*(Chuckles)*... Right.

MR. WHITE: The TAT comes from us and your feeling is that it's a pass-through.

COUNCILMEMBER NISHIKI: Uh-huh.

MR. WHITE: And you're not alone. I think most people in the community, most people in government, State government in particular, think that that's a pass-through. But when you're traveling, you have a budget. You don't budget, oh, this is how much I'm gonna spend on the room. This is how much I'm gonna spend in taxes. You got a budget let's say it's \$2,500, okay. I book my room. I don't see what the taxes are. If I go through Expedia, I get a...there's my rate. This is my total. Airfare and everything is combined, and so I'm willing to spend my \$2,500. The level of taxation simply determines what portion of that \$2,500 goes to government and what portion of that...expenditure goes to the private sector. When the TAT was increased from seven and a quarter, now in July it'll be nine and a quarter, that comes out of our revenues, because the perception is I'm spending X amount of my vacation. So if I'm having to pay...if more of that goes to taxes, then less of that is gonna go to the restaurants, the retail outlets and to us.

COUNCILMEMBER NISHIKI: Okay.

MR. WHITE: So I...I accept that you--

COUNCILMEMBER NISHIKI: ...*(Chuckles)*... Okay.

MR. WHITE: --you know, that maybe it's a pass-through.

COUNCILMEMBER NISHIKI: Yeah. But...but...but, yeah, if it's in...I...I...I...I see where you're coming from and...and I...I...I...that's not what I wanna debate. I...I just think that whatever is charged is what it is and it goes to the State.

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MR. WHITE: Well, and, you know, property taxes...I mean it would be...I'd love to think that we can just simply add it on. I've...I'm discounting...I have a sale going on, on Tuesday of next week offering 45 percent discounts to build up my Fall traffic. You know, I...and...and you...

COUNCILMEMBER NISHIKI: So, Mike, if the TAT goes down, what...what...what...what...what...what is your recommendation to Wayne Nishiki?

MR. WHITE: Well, you know, honestly, the guys that aren't playing ball, are the Commercial guys. They've...we've never asked them to help pay for...for the...for marketing, but they benefit from our bringing the people here.

CHAIR PONTANILLA: Okay, Mr. White, thank you.

COUNCILMEMBER NISHIKI: Okay.

CHAIR PONTANILLA: I think you answered--

COUNCILMEMBER NISHIKI: Michael, thank you.

CHAIR PONTANILLA: --Mr. Nishiki's...

COUNCILMEMBER NISHIKI: I'll look at that.

CHAIR PONTANILLA: And...and...

MR. WHITE: I'm not proposing raising anybody's taxes.

COUNCILMEMBER NISHIKI: ...*(Laughter)*...

CHAIR PONTANILLA: Members, any more questions for Mr. White?

MR. WHITE: Let's not raise taxes and don't cut the...the marketing fund.

CHAIR PONTANILLA: Thank you, Mr. White. I...I just wanna make a comment in regards to your...comment about Expedia.com. You know, I...I've gone through our Legislative NACo conference in March. And that's the very thing...one of the things that they talk about is trying to ensure that those companies...because you don't get, you know, if they pay Expedia they might not provide you the full income that your hotel is supposed to get from that particular guest. So they're trying to lobby in the Federal side to insure that whenever they take reservations

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that these monies go directly to wherever they're going so that you in turn, you know, can, I...I guess, provide that payment to the State. So...

MR. WHITE: Well, Chair, that's...that is something you guys need to keep track of. What Expedia and the other online booking companies are trying to do is to say that all they need to do is collect the room rate--

CHAIR PONTANILLA: That's right.

MR. WHITE: --and not the taxes.

CHAIR PONTANILLA: That's right.

MR. WHITE: A dirty little secret? What they're doing now? Is they collect the gross room rate and the gross amount of taxes on that, but they only send us the portion of the taxes that relate to our room rate.

CHAIR PONTANILLA: Uh-huh.

MR. WHITE: The...our net room rate.

CHAIR PONTANILLA: Yeah.

MR. WHITE: So they're keeping 30 percent of the taxes they collect.

CHAIR PONTANILLA: So hopefully some legislation--

MR. WHITE: Is that right? No.

CHAIR PONTANILLA: --can be passed in the Federal government.

MR. WHITE: Thank you, Chair.

CHAIR PONTANILLA: Thank you, thank you. Members, the next testifier is Mark Hargett...Hodges. Mark.

MR. HODGES: Good morning, Mr. Chair, Council Members.

CHAIR PONTANILLA: Good morning.

MR. HODGES: Nice to see you. Haven't been back in the Chambers in a while, and I appreciate the opportunity to see you again. I wanna just testify very briefly

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about the budget as it relates to the County's taxes, and to urge us to look at the bigger picture. And Mr. White was speaking about the impact of the broader economy, worldwide and nationwide. We know that we're in a recession. We know that the country is trying to get out of the recession. The bigger picture we have right now, we know coming out of Washington, we're expecting tax increases. They have legislation right now dealing with carbon taxes at the Congressional level. That's going to, in most...the most likely case is that's going to increase the cost of jet fuel, increase the cost air travel. We are also now discussing a value added tax at the Federal level. A huge tax increase on every level of production in the economy. The Health Care Bill is going to increase the effective tax on the middle class and the wealthy. That's our target market for tourism. At the same time at the State level here, we have a discussion of raising the GE tax. So if Maui County is going to be competitive, not just with Mexico, but other counties and other states, we need to have an environment here that supports business, the visitor industry and other businesses here. The County, I realize, doesn't have the same level of authority as the State. We have to work with what authority we have. Taking the steps that we can take to make Maui County the most business-friendly--and by that I mean job-friendly and growth-friendly--County in the State and one of the best destinations in the U.S. in terms of competitiveness. That's going to translate into jobs...people who need their jobs. That's going to translate into people keeping their houses who are losing them now, and that's going to translate into more revenue for the County. I realize that many Council Members have thought this through already. I just wanna emphasize it. As a small business owner myself--and we have a small bed and breakfast operation, it is licensed, we pay our taxes--from that point of view we also have a real estate appraisal business so we're in contact with local homeowners and perspective home buyers. People are having a hard time getting money to buy houses. People are having a hard time keeping their jobs. We all know the story. What're we gonna do to help the citizens of Maui County? And I would suggest to you and submit to you that taking every step we can to make Maui County more efficient. I spent five years as a County employee, five years in the State.

MS. REVELS: Three minutes.

MR. HODGES: I'm familiar with the challenges we have organizationally within County government and State government, and I think we can all admit that there's room for improvement in terms of efficiency. The many, many good employees that we have and people are working hard in this County government. We need to give them the tools to make their jobs easier and more efficient. We can do that without raising taxes. So just to sum up the point, it doesn't look good on the Federal front. They're gonna be raising taxes, and they're targeting the

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very people that we need to come and visit here. So airfares are gonna go up. The wealthy and the middle class are gonna be hit hard with new taxes. Business travel is gonna be going down. We all know this is our lifeblood here. The local people here, the working people been hit by that as well, because they're gonna be losing jobs as a result. And local homeowners, and we're increasing property taxes, are gonna get hit again.

MS. REVELS: Four minutes.

MR. HODGES: And if we raise taxes on visitor industry and business, they're gonna get hit again. So I do have solutions I can help you with if you're interested, but there are ways to do this, to solve the budget problem here in the County without raising the taxes. The tax hike is gonna kill jobs. So that was just...the comments that I wanted to share with you.

CHAIR PONTANILLA: Thank you.

MR. HODGES: I appreciate your time.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier this morning?

COUNCILMEMBER MEDEIROS: I have a question.

CHAIR PONTANILLA: Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Good morning, thank you for being here and sharing your information.

MR. HODGES: Good morning, sir.

COUNCILMEMBER MEDEIROS: I agree that we can improve in making government more efficient. Just let me present one thing to you that may...you may use in your equation of efficiency. You know, I worked for County government for 31 years before being elected. In charge of Public Works Highways Division for Hana and West Maui. We used to use less laborers to maintain the highways, because we were using other things such as herbicides. Federal government came down and said you will reduce the amount of herbicide you use. So it required us to get more machines out there, more laborers to do the same work. So I just want to give you one example how sometimes government does try to be more efficient, but sometimes regulations from Federal and State demands other requirements. I just wanted to share that with you. Would you be thinking of incorporating that in your equation of efficiency?

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MR. HODGES: Yeah, I think that's a great point, Council Member. And in that particular case, we have an environmental concern. The idea is to reduce herbicide use.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. HODGES: But if you calculate the total carbon impact of more machinery, more fuel spent--

COUNCILMEMBER MEDEIROS: Right.

MR. HODGES: --higher labor costs, is it really worth it?

COUNCILMEMBER MEDEIROS: Yeah.

MR. HODGES: And those are kinda bigger concerns. They're gonna be more environmental regulations coming down from Washington, many, many more.

COUNCILMEMBER MEDEIROS: Exactly.

MR. HODGES: And we here at the County level, we're providing the most important, I think, government services--

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. HODGES: --compared to the State. I think the County is more important in terms of day-to-day lives and in terms of Federal government. The rubber meets the road here. We're the ones serving the community. I was a cop here for five years.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. HODGES: So I understand the importance of it. It's frustrating when we have the least amount of authority, the least amount of resources and we have the most expectations. But we have also have the most ability to change things, and the most ability to work closely with our citizenry. That kind of environmental regulation--and as a biologist myself for many years--I am concerned about the environment. That's an example of something that was not well-thought out at the Federal level. Has a bigger environmental impact, has an economic impact. And we can expect more of that kind of misguided regulations. So whatever we can do here to stay flexible and keep costs down to be most competitive, I think

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it's going to be the most effective for our citizens. So I appreciate that comment. In my experience, too, in...in the County, that's...that's--

COUNCILMEMBER MEDEIROS: Well, I...I...

MR. HODGES: --one of the many examples.

COUNCILMEMBER MEDEIROS: Yeah, and I thank you for your analysis of that comment. And it shows your experience with...with that kind of work. I...I'd be interested to either get a copy of your testimony or your ideas of improving the efficiency in County government.

MR. HODGES: I'd be happy to, sir.

COUNCILMEMBER MEDEIROS: Okay.

MR. HODGES: When I worked for the Police Department, I helped them save millions of dollars in overtime costs by streamlining some of the paperwork processing.

COUNCILMEMBER MEDEIROS: Okay.

MR. HODGES: Just one of many examples that can be very effective, and I'd be happy to share that with you at any time.

COUNCILMEMBER MEDEIROS: Thank you, and I think that if you share with us among the...all the Committee Members, we...we can look at it and make it part of our deliberations.

MR. HODGES: My pleasure, sir.

COUNCILMEMBER MEDEIROS: Thank you very much.

MR. HODGES: I appreciate that.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Members, any more questions for the testifier? Seeing none, thank you again for being here this morning.

MR. HODGES: Thank you, Mr. Chairman.

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CHAIR PONTANILLA: Okay, Members, Mr. Hodges was the last person to sign up for public testimony. Is there any one out in the audience that wanna provide public testimony at this time? Seeing none, if there's no objections, the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

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

CHAIR PONTANILLA: Thank you.

...END OF PUBLIC TESTIMONY...

CHAIR PONTANILLA: Okay, this morning, Members, we do have the Finance Director as well as the Real Property Tax Administrator. And again...what we're gonna be discussing this morning is some proposals that is forthcoming in regards to what the Department is looking at regarding some various bills and resolutions. So at this time, the Chair would like to call on Mr. Young.

MR. YOUNG: Thank you, Mr. Chair. Good morning, Members. In the Budget binder, towards the rear of the ordinance binder, there are four proposed pieces of County legislations, three proposed ordinances, one resolution for consideration as part of the budget packet. Mr. Chair, how would you like for me to go through them? Would you like for me to explain each ordinance at a time or go through all?

CHAIR PONTANILLA: Yeah, if you could, each ordinance at a time. And I understand that some handouts were passed out this morning in regards to those ordinance that you're gonna be discussing this morning. And the first one, I understand, is in our booklets. That is a proposed bill entitled, "A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAX, DIRECTOR'S DUTIES AND RESPONSIBILITIES, AND ADJUSTMENTS AND REFUNDS". We'll go to that one first.

MR. YOUNG: Thank you.

COUNCILMEMBER NISHIKI: What page?

COUNCILMEMBER VICTORINO: Chair, what page?

MR. YOUNG: In the...

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CHAIR PONTANILLA: I...I think Staff can help you out on that one there. Staff?

COUNCILMEMBER VICTORINO: Is that one or two?

MS. REVELS: Mr. Chair, the bills are not in a binder--

CHAIR PONTANILLA: By itself.

MS. REVELS: --for us like they are for the Director of Finance. I had all of your Executive Assistants pull those so you should have four bills in front of you from your Executive Assistant that we will be discussing, some of which have been revised. But you should have the current version of the bill in front of you.

CHAIR PONTANILLA: Okay, Members. Staff, if you can check with all the Members. Make sure that we got it. ...*(Pause)*...

MR. YOUNG: Mr. Chair, the ordinance is entitled, "A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAX, DIRECTOR DUTIES AND RESPONSIBILITIES, AND ADJUSTMENTS AND REFUNDS". This proposed ordinance is...has three different areas of purpose. The first is, largely, housekeeping to make it...this section of the ordinance hasn't been cleaned or updated for some time, probably since the County actually adopted it when real property tax was transferred from a State function to the counties. But the last two sections are the ones that I'd like to focus on. The...the housekeeping items are just to make clear there's insertion of language to specify that it's the Director of Finance that's responsible for this section. So Pages 1, 2, 3 of the ordinance, that's all the revisions that you're seeing is to add changing from the word "his" to "Director" or "Director of Finance". So it's largely housekeeping. There is an addition, though, on Page 4 related to stipulations. And this is to add language that would allow for the procedural process that currently is in place. Stipulations are done with all appeals filed to the Board of Review, and we...the County and taxpayers will frequently enter into stipulations. This is a method to resolve the appeal before it actually is needed to go to the Board. So we desire to add this language so that it just makes clear that it is an avenue available under the authority of the Department of Finance to utilize that process.

On Page 6 of the ordinance, there is language to be added, or substituted from the existing ordinance related to refunds. Currently...in the...in the current Code, refunds or overpayments have to be...have to be applied for by the taxpayer. They cannot be applied to future tax liabilities. So what the County would like, or the Department would like to make more efficient is that if there are overpayments, refunds that are owed on a particular property, and the tax

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becomes due on a, you know, after that or if there are delinquent taxes that if there are credits on that account, that they can be applied against the delinquency. That way it would make it easier for the taxpayer, one, that they don't have to apply to receive their...their refund or overpayment. It would also make it easier and more efficient for the County in that we could reduce the rate of delinquency and also we wouldn't have to expend the cost to process overpayments or refund checks.

And similarly related to that, the following section towards the...of Pages 6 and 7 is to ask to...remove the bulk of the language that wouldn't be relevant if you could include the additional language to allow refunds and overpayments to be paid to the existing account. Mr. Teruya and Ms. Villarosa from Corporation Counsel can explain more on the technical aspects of these revisions, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any questions to this particular amendment that is being proposed?

COUNCILMEMBER NISHIKI: No.

CHAIR PONTANILLA: No? Thank you. The next is the...this is a correspondence dated March 16, 2010 from the Department of the Corporation Counsel transmitting a revised proposed bill entitled, A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.450, MAUI COUNTY CODE, PERTAINING TO REAL PROPERTY TAX HOME EXEMPTION. Mr. Young.

MS. REVELS: Mr. Chair, for clarification--

CHAIR PONTANILLA: Yes.

MS. REVELS: --the only revision that is in the revised letter submitted by Corporation Counsel is the effective date. It changes the year to 2011. Otherwise, the bill is exactly the same as the one submitted with the Mayor's proposal.

CHAIR PONTANILLA: Okay, fine. Director.

MR. YOUNG: Thank you, Mr. Chair. The proposed bill is of the intent to reduce the Homeowner's Exemption. It's currently \$300,000. It will not change for Fiscal Year '11. However, in...for Fiscal Year '12 considerations, this ordinance would have...this type of ordinance would have to be effectuated. And we are proposing to reduce the Homeowner's Exemption to 3...from 3...from 300,000 to \$200,000. The Homeowner's Exemption was increased from 200,000 to 300,000 back in 2006, I believe, for Fiscal Year 2007. It...and the year prior to that, the Homeowner's Exemption was raised from...was raised to 200,000 from 80,000

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for persons under the age of 55, and 110,000 for persons over the age of 55. So there's been some increase in the Homeowner Exemption amount since 2004. That increase as mentioned to you took effect for 2000 and...Fiscal Year 2005. So now and...and those exemptions were increased at a time when property values were rapidly increasing. They were at the time that... that that sitting Council was of the thought that it would help mitigate rapidly rising property assessment values, and had coupled it with decreases in the Homeowner tax rate. Now, given the current situation in the real estate market, we believe that it is appropriate and prudent that the benefit of the Homeowner's Exemption needs to be mitigated, because those same luxuries that the County could afford back then have been diminished. And so the holiday or increase in the Homeowner's Exemption, we are asking for consideration that it be reduced from 300,000 to 200,000. And that's the proposed ordinance, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any questions in regards to this proposal? Again, it does take effect in Fiscal Year 2012.

COUNCILMEMBER NISHIKI: Oh, there's no savings in this year's budget?

CHAIR PONTANILLA: No, none.

MR. YOUNG: No.

COUNCILMEMBER NISHIKI: It's, what, about \$4 million?

CHAIR PONTANILLA: Mr. Young.

MR. YOUNG: If...if I refer to the handout that we distributed on Wednesday, the last page presented the scenario for the Homeowner Exemption.

COUNCILMEMBER NISHIKI: Yeah.

MR. YOUNG: If you assume that...if this reduction were to take effect for Fiscal Year '11, it can't...it cannot but it...if it did, at the proposed rate of \$2.50 it would have resulted in \$5,782,000 worth of additional revenue.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR PONTANILLA: Okay. Members, any more questions?

COUNCILMEMBER NISHIKI: No.

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CHAIR PONTANILLA: Seeing none, thank you. The next one is the...again, we got a correspondence dated April 14th, 2010 from the Department of Corporation Counsel transmitting a revised proposed resolution entitled, **AUTHORIZING THE DIRECTOR OF FINANCE TO COMPROMISE THE PENALTIES AND INTEREST PORTION OF REAL PROPERTY TAXES ASSESSED AGAINST HAWAIIAN HOME LANDS HOMESTEAD LESSEES IN EXCHANGE FOR THE DEPARTMENT OF HAWAIIAN HOME LANDS MAKING PAYMENT OF REAL PROPERTY TAX OWED BY HAWAIIAN HOME LAND HOMESTEAD LESSEES.** Mr. Young.

MR. YOUNG: Mr. Chair, this resolution has been offered after consultation with the Department of Hawaiian Home Lands. There are a number of Department of Hawaiian Home Land lessees that have outstanding real property taxes and delinquencies. Currently, there are 223 parcels of Department of Hawaiian Home Lands that have outstanding and delinquent real property taxes equaling to \$492,621.39 that includes the original tax, the amount of penalty, the amount of interest, to make that amount. The amount of the actual tax is \$256,860. The amount of penalties is \$25,370 and the amount of interest that has accrued is \$210,390. The Department of Hawaiian Home Lands has offered to pay the outstanding penalty--I'm sorry--the outstanding and delinquent taxes for its lessees up to a certain period in time, historical past period of time, if the County would...forgive or relent on the amount of penalties and interest. So, in other words, the Department of Hawaiian Home Lands is willing to pay their lessees' tax bill but only the amount of the original tax. And that would be \$256,860. In order to effectuate this, a resolution is required to accept such an arrangement by the County Council. Furthermore, the forgiveness or waiving of penalty and interest, according to the Maui County Code, can only be done by the County Council. And therefore, this resolution is necessary should the County desire to accept this offer.

CHAIR PONTANILLA: Thank you. What was the tax again? 256,000?

MR. YOUNG: Two hundred fifty six thousand eight hundred sixty dollars. ...*(Pause)*... I would also say that other counties have accepted such offers in the past. I believe the Big Island has...has done this type of arrangement with Department of Hawaiian Home Lands at least twice within the last decade. I believe the County of Kauai has also done it at least once and same with the City. Maui County has, to my knowledge, has never entered into such an arrangement in the past, but I don't believe one has ever been brought to the Council for consideration also.

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CHAIR PONTANILLA: Yeah, this is the first I've seen in eight years. Let me ask you this question. Going forward, though, how will we handle real property tax from Department of Hawaiian Home Lands?

MR. YOUNG: The expectation is that it will be handled the same way it is handled now. The...in truth, the Department of Hawaiian Home Lands has no real tax obligation. The...their lessees do. It is because their lessees have not been paying their responsible real property taxes, and we have...the...the County has been pursuing through all legal and full authority measures to lien and collect real property taxes by Department of Hawaiian Home Lands lessees. To that extent that has spurred the discussion with the Department of Hawaiian Home Lands to resolve on behalf of their lessees, their tax consequence. However, this is only up to a historical point in time. So this resolution, I do not believe the intent of Department of Hawaiian...Home Lands is to pay their lessees' taxes for 2011. So their lessees will still be responsible to pay for all future taxes, and it is incumbent upon the lessees to do so. And if they don't, the County will continue to pursue for all outstanding and delinquent taxes in that manner.

CHAIR PONTANILLA: Thank you. Members, any questions? Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director, under the Hawaiian Homestead Act, the lessees are responsible for their real property taxes, because they don't own the property?

MR. YOUNG: That...that is correct, but as all lessees, not...not only Hawaiian Home Land...lessees, but anybody who leases real estate, you are responsible for the real property taxes. There's...there is no distinction between the fee simple interest and the less...and the leased fee interest.

COUNCILMEMBER MEDEIROS: Uh-huh. Okay, so that's by law. That's not by agreement between the property owner and the lessee?

MR. YOUNG: Correct. There could be an...there...there could be an agreement--

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: --to break that out, but that is not an...that would be not required or is part of the requirement for the...a...the...the government does not have to be a party to that agreement.

COUNCILMEMBER MEDEIROS: Uh-huh. And that's under State or Federal law?

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MR. YOUNG: State.

COUNCILMEMBER MEDEIROS: State law. Okay, and the historical point in time that you referred to, when is that?

MR. YOUNG: Well, all...the amount that I gave you is the full delinquency regardless of how far back. But for this resolution--

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: --the Department of Hawaiian Home Lands will pay to make it current. And that's...but that...but current means for the current fiscal year.

COUNCILMEMBER MEDEIROS: I see. Okay. So if they're agreeing to pay for the current fiscal year, what about the other delinquent taxes?

MR. YOUNG: The...the intent is for Department of Hawaiian Home Lands to pay...as soon as this resolution is passed, they will...they...they intend to pay, but the resolution only covers for the tax consequence *up* to current, and that's Fiscal Year '10. So when the tax bills for Fiscal Year '11 are ready which is in the next fiscal year in...after July 1--

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: --they won't be paying for those. This resolution does not cover those.

COUNCILMEMBER MEDEIROS: Yeah, that...the...the question I'm asking is if Hawaiian Homes pays up to current, does that mean the lessees now have a zero balance and will pay 2011 bill?

MR. YOUNG: Correct.

COUNCILMEMBER MEDEIROS: Okay. Do we have anything in writing from Department of Hawaiian Home Lands agreeing to this, that the Council Members would be able to have, you know, when we deliberate on this?

MR. TERUYA: Member Medeiros, I had several conversations with Robert Hall over at the Hawaiian Home Lands.

COUNCILMEMBER MEDEIROS: Uh-huh.

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MR. TERUYA: I believe what they've done is they provided testimony that might be available to you in your packet. I'm not sure if it was passed out or not. I advised Mona Kapaku of Department of Hawaiian Home Lands on Maui that today would be the resolution reading for discussion by the Members. And that I believe they have testimony available for you.

COUNCILMEMBER MEDEIROS: Okay. And...and the reason I ask that is if we...deliberate on this on conversations that have been expressed to us as an...a part of the negotiations, we...we don't have anything in writing to back that up to be sure that's true. So is that gonna be available in writing, signed by Department of Hawaiian Home Lands? That they agree to what you're expressing.

MR. YOUNG: Frankly, Mr. Medeiros, they're the ones that offered this.

COUNCILMEMBER MEDEIROS: Right, but still do we have a document in writing? As...as you know, the Department of Hawaiian Home Lands changes leadership throughout times.

MR. YOUNG: Uh-huh.

COUNCILMEMBER MEDEIROS: So it's important to get a document in writing from the current leadership of that Department.

MR. YOUNG: I would have to tell you to rely on their...they did say that they would intend to testify and provide testimony supporting this resolution. So I would ask you to rely on...on that.

COUNCILMEMBER MEDEIROS: Okay. I...I think that's all you can offer me right now. But, Mr. Chairman, I think it's important we get something in writing if we don't already have it that Hawaiian Homes is agreeing to this. And their Executive Director has signed a document to that effect.

CHAIR PONTANILLA: I...I just was handed out, Mr. Medeiros, correspondence from the State of Hawaii Department of Hawaiian Home Lands and this is testimony of Kaulana H. R. Park--

COUNCILMEMBER MEDEIROS: Okay.

CHAIR PONTANILLA: --Chairman, Hawaiian Home Lands Commission.

COUNCILMEMBER MEDEIROS: Okay, right.

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CHAIR PONTANILLA: And...yeah, what Mr. Young has explained, they're agreeing to pay...to make current the taxes that are owed to this County in regards to Department of Hawaiian Home Lands.

COUNCILMEMBER MEDEIROS: And that...that letter is available to us?

CHAIR PONTANILLA: Yeah. Yeah, you'll get a copy of this.

COUNCILMEMBER MEDEIROS: In our documents?

CHAIR PONTANILLA: Yeah. Everybody got a copy on this.

COUNCILMEMBER MEDEIROS: Okay, I'll look for mine if it was already distributed.

CHAIR PONTANILLA: Okay, thank you. Fast question, in regards to repair/maintenance of any infrastructure on Hawaiian Home Lands, who maintains? You guys know?

MR. YOUNG: I'm...I'm sorry, Mr. Chair. I...I...we don't know that answer to that.

CHAIR PONTANILLA: Okay. Can you send something out maybe to Public Works Environmental Management to find out if we maintain any of the infrastructures? Thank you. Members, any more questions? Member Baisa.

COUNCILMEMBER BAISA: Chair, I understand the intent of this proposal but it's something that I think we need to look at very carefully before we make a decision.

CHAIR PONTANILLA: Uh-huh.

COUNCILMEMBER BAISA: You know, it has tax...taxes owed, from just a quick review of this, back into the 80s.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER BAISA: Back into the 80s, and if they make it current this time, will they continue to do this? And if they do this for these folks, are they gonna do it for everybody who lives on Hawaiian Homes? I mean do we get into an issue of why are you doing it for me and not for you? So I think we wanna be really careful and really take a look at this before we do it even though others have done it. We...we ourselves probably need to take a very good look, because of the issue of precedent and fairness.

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CHAIR PONTANILLA: Thank you. And maybe, Mr. Young, you can provide us with some comments. All the names that I see on this particular list are all of the lessees of Department of Hawaiian Home Lands for Maui County?

MR. YOUNG: Yes, Mr. Chair, Ms. Baisa. The list that you have attached to the resolution represents all inclusive for all Department of Hawaiian Home Land properties in the County of Maui that are delinquent. I'll say that again. It's all Department of Hawaiian Home Land leases that are delinquent. I do not...I do not want to convey or give you the impression that *all* Hawaiian Home Land lessees are delinquent. That is not the case, okay? We do have some statistics about that...some, you know...a good portion of Department of Hawaiian Home Lands lessees do pay their taxes. This resolution is only for those who haven't. And the Department of Hawaiian Home Lands is offering to settle their account for the benefit of the County, but they are asking for a County compromise as well. And if you want to hear the statistics, Mr. Teruya does have them available.

COUNCILMEMBER BAISA: Chair, before I relinquish the floor, you know, the...what we would for...forgive, if the amount owed is...is 492,600 and some odd dollars, and we're going to receive \$256,860 that means we're forgiving \$235,000. And, you know, when we're in this situation right now sitting here worrying about where we're gonna find money, this is the kind of decision I think we better look at very carefully.

CHAIR PONTANILLA: ...*(Inaudible)*...

COUNCILMEMBER BAISA: And I...I do understand that, you know, it's a good thing to probably clear up this delinquency, but then, again, is Hawaiian Homes going to be doing this, then what is the incentive for those people who struggle to pay? And as he just said, most of 'em do pay. So, you know, I think it's not an easy decision.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. In your request to Staff to send a letter to Public Works ...*(inaudible)*..., you may check with the other departments because if you remember, a long time ago there was a big issue about water where the people at Hawaiian Homes had to pay water. And, you know, there was a big confrontation about that so you might wanna check with the Water Department also.

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CHAIR PONTANILLA: Yeah, we'll do that. Thank you. Members, any more questions regarding this particular bill? You have a comment, Mr. Young?

MR. YOUNG: Mr. Chair, if I could make a comment related back to what Ms. Baisa was saying. The reason why we are bringing forth this resolution is that Hawaiian Home Land properties present a challenge and difficulty in terms of collecting delinquent taxes, because all other properties, the County has the ultimate authority up to foreclosure, to tax foreclosure, to seize the property if you have delinquent real property taxes. And we do pursue to that degree. However, for Hawaiian Home Land properties, because of the Hawaiian Homes Commission Act and the relationship with the...where that relationship exists with the State as a pseudo State agency. That...that ultimate authority, the...authority of tax foreclosure, is very challenging, vague, difficult, may not be able to pursue to that extent. So the full threat, if you will, to collect is...is very daunting. For that reason, it...we're...the Administration is evaluating this offer as some of the delinquencies span decades. We don't know what the likelihood of actually collecting on the penalties and interests are, and this concept of the diminished full authority of tax foreclosure. So for that reason we view it as a partnership arrangement to compromise with the Department of Hawaiian Home Lands to settle on behalf of their lessees. So we do recognize that it's nearly half of the tax liability that we would be collecting. However, you know, when you consider how can we...if we didn't accept this agreement, we will still have to pursue to try and collect the full amount. And how likely or successful we will be there is questionable.

CHAIR PONTANILLA: Member Baisa.

COUNCILMEMBER BAISA: Mr. Young, I totally understand what you're telling me. Sometimes half a loaf is better than none.

...(laughter)...

COUNCILMEMBER BAISA: But what I am concerned about is, you know, once you do this you're set in motion a precedent. And I think that's the part that we wanna be very careful about. You know, everybody needs to pay their taxes. And if the Hawaiian Homes is gonna make a deal with us to pay the taxes, fine. Every year we send them the bill and that's it, no problem. But, you know, are we gonna again pay this and then get into another--I see stuff going back to 1985 and even later than that--of waiting 20 years before we can collect again when we're in this financial mess that we're in right now. And we need everybody to pay. So that's the only thing that, you know, I certainly understand why it's important to try and

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get the money if we can. But I'm worried about the long-term effect of it. Thank you.

MR. YOUNG: Yes, we...we do understand, Ms. Baisa.

CHAIR PONTANILLA: Thank you. Members, any more questions regarding this proposal?

COUNCILMEMBER MEDEIROS: Chair.

CHAIR PONTANILLA: Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Yeah, Mr. Young, I may have missed it in your opening remarks on this particular ordinance. But the letter that the Committee Chair referenced was delivered to our mailboxes this morning, and my Staff had already picked up our mail when it was delivered so I just got it now. So the...where Hawaiian Homes is asking for a change in the verbiage that's incorporated in this present bill that we're looking at...I mean, or...yeah, bill for an ordinance?

MR. YOUNG: I...I'm sorry, Mr. Medeiros, I...I'm not familiar with what Hawaiian Home...Home Lands had submitted. I don't have it. But if they are asking--

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: --for change in verbiage, it...that cannot have been incorporated in this.

COUNCILMEMBER MEDEIROS: Oh, okay.

MR. YOUNG: Because this was submitted as part of the budget packet.

COUNCILMEMBER MEDEIROS: Okay, then, Mr. Chair, could I ask Corporation Counsel that question, because I just got this letter now because it came to my mailbox after my Staff picked up our mail.

CHAIR PONTANILLA: Corporation Counsel.

MS. FUJITA VILLAROSA: ...*(Inaudible)*...

COUNCILMEMBER MEDEIROS: No, it was just delivered to the Members' mailboxes this morning and we had picked up our mail so it was delivered after we picked it up. And this is the April 16, *[sic]* 2011...2010 letter from the State of Hawaii

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Department of Hawaiian Home Lands that the Committee Chair referenced. And in the first paragraph is, we request that you consider the following verbiage as a substitute amendment and have this...and have this resolution read as follows.

MS. FUJITA VILLAROSA: ...*(Inaudible)*...

COUNCILMEMBER MEDEIROS: Corp. Counsel, can you speak into the mic? I don't know if your mic is on.

MS. FUJITA VILLAROSA: Is it on now?

COUNCILMEMBER MEDEIROS: Not any better, no. Okay, I...I can hear a tapping now.

MS. FUJITA VILLAROSA: Mr. Chair, I haven't had a chance to review this letter thoroughly but just glancing through it, the language that I see that they added has to do with their ability to impose a lien on the lease pursuant to--well, the...it's the ability for DHHL to impose a lien on the lease pursuant to Hawaiian Home Commission Act. I don't believe that that language was included in our draft resolution. But the rest of the language looks similar. I don't...I don't see a lot of other changes in here. So they might have just added that one section.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: It's...one, two, three, four, five, six. I think it's the sixth whereas clause. Just from a initial glance over, that looks like the language that was added in. And it looks fine to me.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: And I would...I can...I can make that change.

COUNCILMEMBER MEDEIROS: Okay. So, Mr. Chairman, when we do deliberate on this where we take action, we're gonna see the revised bill *[sic]*?

CHAIR PONTANILLA: Corporation Counsel, you're gonna revised this bill *[sic]* or this is the bill *[sic]* that we're gonna work with?

MS. FUJITA VILLAROSA: Mr. Chair, if DHHL is requesting the change, I can make that change.

CHAIR PONTANILLA: Okay, fine.

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COUNCILMEMBER MEDEIROS: So when we--

CHAIR PONTANILLA: Make the change.

COUNCILMEMBER MEDEIROS: --we take action on it, we'll see a bill with the change on it?

CHAIR PONTANILLA: With the change, yeah.

COUNCILMEMBER MEDEIROS: Okay, thank you, Mr. Chair.

CHAIR PONTANILLA: Okay. Members, any more questions?

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

CHAIR PONTANILLA: Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Maybe just some clarification then. When you say you would make the change, then are you saying that you're going to take their version of the resolution as been presented to this body? Or are you looking at incorporating...parts of their...their language into the current resolution?

MS. FUJITA VILLAROSA: Mr. Chair, if the Committee agrees with DHHL's proposed language, I'll...incorporate all of their language that's different from the draft...the bill that I already...I mean the resolution that I already drafted.

COUNCILMEMBER KAHO'OHALAHALA: Okay.

MS. FUJITA VILLAROSA: I'd have to do a more thorough comparison--

COUNCILMEMBER KAHO'OHALAHALA: Yeah, right.

MS. FUJITA VILLAROSA: --to see exactly what was changed. But for right now--

COUNCILMEMBER KAHO'OHALAHALA: Okay.

MS. FUJITA VILLAROSA: --I...I do see that one section that was added.

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COUNCILMEMBER KAHO‘OHALAHALA: Okay, then, Chair, if...if that is going to be the process, then perhaps it would be...good for us to have a copy of that prior to the...the meeting so that we can make sure that we understand--

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER KAHO‘OHALAHALA: --the differences between both.

CHAIR PONTANILLA: Okay. Any more questions? Member Nishiki.

COUNCILMEMBER NISHIKI: Corporation Counsel, does this resolution basically say that the County now has a deal with the Office of Hawaiian Affairs in that they will pay the taxes from hereon in?

MS. FUJITA VILLAROSA: No. Not going forward.

COUNCILMEMBER NISHIKI: Shouldn't that be something that we should get?

CHAIR PONTANILLA: You...you mean to say...what...what are trying to get at?

COUNCILMEMBER NISHIKI: Um...

CHAIR PONTANILLA: Once we approve this...

COUNCILMEMBER NISHIKI: This is...this is basically a resolution just to collect, I think, the back taxes.

CHAIR PONTANILLA: Yeah, right.

COUNCILMEMBER NISHIKI: My question to Corporation Counsel is shouldn't we have a document signed to the County with Department of Hawaiian Homes that says that they acknowledge and are now the entity that will pay the taxes for the leases.

CHAIR PONTANILLA: Meaning the Department of Hawaiian Home Lands will be the ones that pay the taxes?

COUNCILMEMBER NISHIKI: Right, right.

CHAIR PONTANILLA: I...I don't think the Director had said that. Mr. Young, please clarify.

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MR. YOUNG: Mr. Chair, I'll clarify. This resolution is only for the Department of Hawaiian Home Lands to step in and pay on behalf of the lessees. They...the Department of Hawaiian Home Lands does not have a tax liability. They are doing it on behalf of their lessees. But only on the taxes up until...looks like March 31st of this year. So it's only to get their lessees, who are delinquent, current up until this year. It is not...and the Department of Hawaiian Home Lands, I don't think will agree, that they will assume the tax liability going forward for their lessees, because they do not have that liability currently.

COUNCILMEMBER NISHIKI: Well, you know why. It...it's just gonna create a problem constantly with us collecting their taxes. And I don't know what this Admissions Act says in regards to taxes on Hawaiian Homes Land. I...I...I just see, without any understanding of the Hawaiian Homes Commission Act, a problem with the County collecting money from the Department of Hawaiian Homes. How...I mean, in other words, is...we're collecting on behalf of the people that have leases with Hawaiian Homes, right? The taxes.

MR. YOUNG: The lessees, the people who--

COUNCILMEMBER NISHIKI: Yeah, the lessees.

MR. YOUNG: --have the leases with Hawaiian...Department of Hawaiian Home Lands, they are the legal responsible party to pay property taxes, not the Department of Hawaiian Home Lands.

COUNCILMEMBER NISHIKI: Oh, wow.

MR. YOUNG: The Department, in this particular case, the Department of Hawaiian Home Lands, is willing to make good for their lessees. However, they do not want to pay the penalty and interest that has accrued because their lessees have...have not paid their taxes and become delinquent. So they are only...they only wanna be...they only want to settle for the actual tax amount...the tax, not the penalty and the interest.

COUNCILMEMBER NISHIKI: Mr. Chairman, you see the problem in the future?

CHAIR PONTANILLA: Yeah, I see the problem in the future.

COUNCILMEMBER NISHIKI: Is...is...is...is then they're gonna clear this up. Then the...the question for the following year is we're gonna send it to the lessees. If the lessees doesn't pay it, then how does the County intend to collect that money? Because it's Hawaiian Homes Land, right? We can't legally go take that land.

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MR. YOUNG: Well, we will pursue the same way we have been pursuing all these decades. We do...we do file notices of collection for Department of Hawaiian Home Land lessees. We do pursue to collect. We do even file liens on improvements on Department of Hawaiian Home Land lessees. So there are liens in place. What is in question is the veracity that is available to foreclose on the property meaning seize the land and the improvement from the lessee. And if we seize the land, therefore seizing it from Department of Hawaiian Home Lands, that is in question whether or not we could actually do that. So without that threat...frankly, without that threat, what do you...what does the government really have to compel people to pay their property taxes? In the lien situation, if we place...when we do place a lien on Department of Hawaiian Home Land lessees, their improvements, that...there is ramifications for that because it creates problems for securing a mortgage, for securing monies and credit. So there is that ramification, but the ultimate threat which is seizing the property itself, that is where it...it could be nonexistent.

COUNCILMEMBER NISHIKI: Okay. I...I...I...I...I guess I was just concerned with why the Department of Hawaiian Home Lands decided to pay it on behalf of the lessees. I mean that's kinda nice. But if they're not gonna do it time and time again, why did they even offer that kind gesture?

MR. TERUYA: Member Nishiki, back in about three years ago when I took over the Division, looking back into the files, I found the...there was a original MOA that was entered that--not signed--that was ready and prepared by Corporation Counsel between Wesley Lo, the Director of Finance at the time, and Raynard Soon. Not sure what happened since that point but I have in my files a drafted agreement but it was never signed or took into the Council. Since then I've entered...I've called...at the time it was...

COUNCILMEMBER KAHO'OHALAHALA: Kane.

MR. TERUYA: Micah Kane and I guess it was just at the time when he was leaving so I met with Robert Hall and had the discussion and brought out the documents that were almost executed, or at least drafted. And there's communication from Raynard Soon that the County of Maui would follow suit after the Big Island had settled their case. The Big Island settled it maybe in '99 to 2001. And after that was to be taken...was completed that Maui County would be next. However, that never took place. And therefore, I brought the...the question back up whether or not they would still consider doing this as a one time for the County of Maui since all the other counties had been settled prior to 2001. It's just...I can't speak for what my predecessors did, but I just was trying to bring back that communication.

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COUNCILMEMBER NISHIKI: Okay, so...so you would not know even what the other Counties are and how they deal with Hawaiian Homes Land now.

MR. TERUYA: No.

COUNCILMEMBER NISHIKI: In regards to collection of taxes.

MR. TERUYA: No. The...the only thing that they have...we've...we've discussed is just getting a better rapport between the...the both the County and DHHL. What we discussed is whether or not at the end of every fiscal year that the County would send the Department of Hawaiian Home a...a list of delinquent accounts. After this, if this was to be settled, to make sure that they reach out to their members or whoever the lessee is that they must make payment. I mean that's the only thing that they can do. The other thing is they...they found that lot of times we didn't have correct mailing addresses. And that's something that we're trying to work between them is sending them our file that what we have, and having them attest that that is the correct mailing address.

COUNCILMEMBER NISHIKI: Okay.

MR. YOUNG: Mr. Nishiki, I...if I could add also, the...the authority that...and the full threat that I spoke of earlier about foreclosure and seizing property. Although it's in question for government agencies, it is not in question for Department of Hawaiian Home Lands to their lessees. The Department of Hawaiian Home Lands leases, one provision does allow for the Department of Hawaiian Home Lands to evict or cancel lessees' grants for delinquent, unpaid taxes. So this relationship that Mr. Teruya is talking about in order to foster a more...an established communication dialogue between the County governments and Department of Home Lands [*sic*]. We can establish that hopefully and then the Department of Hawaiian Home Lands can pursue the level of force, if you will, on their own lessees. If we can establish with them some mechanism to inform them which lessees are delinquent, the rate of delinquency, the amount, et cetera. So we're hoping that that is the actual avenue, the...improvement in the enforcement, if you will, is that we can have some kind of working relationship with the Department of Hawaiian Home Lands.

COUNCILMEMBER NISHIKI: Okay, so...so...so some lessees are paying their property taxes. It's just *some* are not.

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MR. YOUNG: Yes. I do not wanna...I do...I don't want you to think that all Department of Hawaiian Home Land lessees do not pay property taxes. That is not the case.

COUNCILMEMBER NISHIKI: Yeah. I...I didn't know, that's why I asked the question.

MR. TERUYA: Yeah, just...just for clarification, there's 639 current accounts out of the 6...862 parcels. So in majority, they're in...in...current, yeah.

COUNCILMEMBER NISHIKI: Okay, thank you.

COUNCILMEMBER VICTORINO: Chair.

CHAIR PONTANILLA: Thank you. Member Victorino.

COUNCILMEMBER VICTORINO: Yeah, thank you. And I...I...I guess the question I have for you Mr. Director and maybe Mr. Teruya, is this something that ordinary people will be able to come up and say, okay, I owe four years taxes, penalties and all that and okay, I'll pay all my back taxes. Would you waive the penalties and...and fines, you know, interest, I should say. Penalties and interest. Does that happen to the everyday person? Because there's a lot of everyday people that I know behind in their taxes. And I wanna know if we set precedent helping one group, do we help others, Mr. Chair? And are we able to help others? Because fairness is fairness. And that's where I've come from, every day I...I speak on this Council. So my taxes behind, me, my individual, I owe \$2,000. I owe \$500 in interest and \$200 in penalties. If I say I can pay you the 2,000, would you waive? Does that happen to the everyday person out there?

MR. YOUNG: I would say people ask.

COUNCILMEMBER VICTORINO: Yes.

MR. YOUNG: But it is not afforded to...administratively--

COUNCILMEMBER VICTORINO: Uh-huh.

MR. YOUNG: --the Department and the Real Property Tax Division does not have the authority to accept that type of deal. The County Council does have the authority by resolution to forgive penalty and interest, and that is what your...that's what you are...you would be considering with this resolution. You, the County Council does have that authority. The Administration does not.

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COUNCILMEMBER VICTORINO: Okay.

MR. YOUNG: And we do not and we have not brought any similar type resolutions to the Council as long as I've been Finance Director. I can't recall if there's ever been any...in any other circumstances. So the short answer is, no.

COUNCILMEMBER VICTORINO: No, because I think the public who's watching, Mr. Chair, would like to know that, because there may be some people in that position. Maybe even some apartments and others that may be in that position, Mr. Chair. And this may afford them an opportunity to rectify the problem. And also bring in revenue instead of being stuck getting nothing. So I just wanted to know, so it always would have to come back to us as a Council whoever this negotiation would be from? You guys...you guys cannot arbitrarily just say, okay, I going help Mike. I not going help--you can...you only do it if we okay? If we, the Council, okay it, Mr. Chair? I mean, Mr. Young.

MR. YOUNG: Correct. And...and I would also point out that you cannot...the current Code doesn't allow you to establish a procedure to, you know, to just say Director Young, anybody coming forward now, you go ahead and forgive their penalty and interest. That's not what the Code allows. Must bring forth the list.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. YOUNG: So everyone who is going to be doing must be...Council considers each individual parcel and the...and the amount of forgiveness. And the...I think it's Chapter 3.48.010(L), which is compromises in the Maui County Code. And it does specify that only the County Council can approve for those types of forgiveness.

COUNCILMEMBER VICTORINO: Okay, Mr. Chair, thank you. I mean I think this important for the public to understand. And maybe at a future date we can look at the ordinance and...and see what revisions--because, again, if we can do this for Hawaiian Homes and we have an entity that can pay for it, if there's others that can help do that, I mean, you know, I think that would only be fair to those people. If there's some way of--maybe they cannot pay the fines and...and interest but they could pay what they owe in back taxes. And we stuck in this, in...in a Catch-22.

MR. YOUNG: Exception--

COUNCILMEMBER VICTORINO: ...*(Inaudible)*...

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MR. YOUNG: --what is different, Mr. Victorino--

COUNCILMEMBER VICTORINO: Yes.

MR. YOUNG: --I'll point again, is for all other properties in the County of Maui, the County has the full threat and force of foreclosure and seizure.

COUNCILMEMBER VICTORINO: Understood.

MR. YOUNG: For Hawaiian Home Lands, we don't. So that is...that is a big weighing factor, and that's the reason why I...we are bringing forth this. We recognize it has never been...a similar type of concept has never been brought forward to the Council before. We are very cautious that we do not entertain or support a, you know, waiving or forgiving interest for tax liabilities. Everyone should pay their fair share.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. YOUNG: However, in this particular case because we are talking about Hawaiian Home Lands and we do have someone stepping forward and offering to pay on behalf of the delinquents, that is why we are bringing forward. But we do recognize it is unique. It is precedent-setting. And it is sensitive so...but the big difference is this full threat and authority of foreclosure.

COUNCILMEMBER VICTORINO: And I...and I thank you for that. And I want the public to understand that also, you know. But, again, you did say the word "precedent" and, you know, attorneys love that word "precedent". No matter what the circumstances, they'll use it in the future so just so that we're clear on it. And I thank you for that information and the clarity. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala--

COUNCILMEMBER KAHO'OHALAHALA: Yeah, thank you, Chair.

CHAIR PONTANILLA: --followed by Member Baisa.

COUNCILMEMBER KAHO'OHALAHALA: And I...I'm glad that the Finance Director is trying to impress upon us some of the distinctions. And I...I really do see this as overlapping authorities, and the Home Lands has its own set of...of laws created by the Congress. We have intertwined in that the Admissions Act that brings us into Statehood which makes reference specifically to this particular

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Homestead Act law. And then we have to deal with the fact that our Constitution affords some guaranties to this particular group of people. And...and in the way that the resolution has--and I have to say that, you know, when it came to my attention, it was only after the fact that our amendments are being made to the resolution that it kinda popped out. I didn't know otherwise it was tucked in our budget bills until it came to the surface. But nonetheless, I think that it would be worth our time to really begin those kinds of discussions with the Department of Hawaiian Home Lands. And probably more important is for this body, because often we are confronted with issues that relate to native Hawaiians and some of their rights that are afforded them through other kinds of laws that this County somehow seems to think that that doesn't involve us. And so even in our general planning process we were confronted with the fact that issues of Hawaiian rights arise, and whether or not they should be considered in our general policy plans or even looking forward on how we plan for the future of these islands within our County. And we somehow want to separate that as...well, that's not really us. Here's a perfect example why this County needs to be very informed about what those authorities and jurisdictions and laws are that are applicable to the same citizens of our County yet have to deal with other sets of laws.

So I would say that it would be prudent for this Council to not shirk this kind of responsibility, but to address them, take a look at them so that we fully understand what they are. And then work out, like you say, work out some of those kinds of areas that we can be supportive of one another in order to make good upon responsibilities that I think are the responsibilities of the homesteaders. So I have a lot of questions about the attached document itself, and how to understand what is being assessed here, what the time frames are and how they're determined so that it makes sense to me. But basically, you know, aside from the language of the reso, I don't know how to make sense of what you know in terms of the accounting part of it. I don't know all the different categories that are placed in here and the amounts that are also attached to those. And those are questions that, you know, I would like to have the Finance Department, we do have this--anyway, I...I think the point is made that we're gonna get to a decision, you know, making step on this fairly soon. But yet I think there's still a lot of questions.

I did get a call last night from Mr. Hall and he had indicated--and...and I'm glad that Member Medeiros has brought up the fact they were trying to look at the change in the...some of the language of the reso so that's being provided. And I...I'm glad that that it came out, but I think the Department is willing to work. But remember the Department also has its own structure, its own governing body. It has commissioners. So it's not necessarily the...the call of the Chairman of the Department of Hawaiian Home Lands but it comes with the decision of the

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commission. So the question about whether or not we can attach a resolution that is gonna commit the Department without the...the actual review from the commission itself, that would be a problem, you know. So I don't know if you have had that discussion, but when you say that we have on file a...a letter that had never been signed by the Chairman of the Department and that was many administrations ago. And then that is what we're trying to pull forward to...to today that I think that we have some gaps here in terms of how are we going to proceed. But hopefully we can come to some conclusion of that within the next couple days so that it doesn't become a...an issue, you know. So...

MR. YOUNG: Mr. Kaho'ohalahala, just to be clear, the resolution...the way that...this is worked between the Department and...Department of Hawaiian Home Lands and the Department of Finance and Real Property Tax Division is that the intent is that this resolution doesn't obligate the...the Department. Because we do understand that they would have to get...their own Board approval. But what we wanted to do was get it on the County side through so that the Department of Hawaiian Home Lands administration can at least take it to their Board and show this is available to them should they want to exercise it. And if they don't exercise it, that's fine, too. But the taxes that are owed will still be the amount that is the original tax plus penalties and interest to the lessee.

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

MR. YOUNG: Yeah, so we...we're not hamstringing or obligating the Department of Home Lands. And we don't want you to think that this was purely one-sided. This was brought--

COUNCILMEMBER KAHO'OHALAHALA: No, I...I understand.

MR. YOUNG: --in conjunction with...

COUNCILMEMBER KAHO'OHALAHALA: And I've had an opportunity to discuss this with the...Mr. Teruya--

MR. YOUNG: Yeah.

COUNCILMEMBER KAHO'OHALAHALA: --together. And I...I think that is...it is important, though, that we understand that while there was discussion about this in the past by several administrations ago, we still have to get to a current step which is today with the current commission, with the current chair to try and get some clarity on what their responsibility and what their participation and what they wanna commit to. And I don't know that we have that right now. So...so

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that's...I'll leave it at that. But, anyway, I would be willing to help to work towards those kinds of solutions, yeah.

CHAIR PONTANILLA: Thank you. Member--before I call on Member Baisa, and then Member Medeiros, Chair is gonna take a short recess, maybe...before everybody goes. Before I call the recess, Corporation Counsel.

MS. FUJITA VILLAROSA: Mr. Chair, I just wanted to point out to the Committee that the testimony that the Committee received this morning is from the current Chair of the Hawaiian Homes Commission. So they're proposing new language for the resolution and like I said, it...it looks...it looks okay. I do need to review it more carefully. But just from...from a glance over, it looks like we can...if the...if the Committee wants it, we can adopt this reso.

CHAIR PONTANILLA: Thank you. At this time, the Chair is gonna call for a 10 minute recess. Please come back by 5 to 11:00. This meeting is in recess. ...*(gavel)*...

RECESS: 10:45 a.m.
RECONVENE: 10:59 a.m.

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting is now reconvened. Members, we left off in regards to a proposal collecting back taxes from the Hawaiian Home Lands Homestead. Members, any more questions regarding that? Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Yeah, I had a question for Corp. Counsel, but she's not back yet so let me see if I have a question for the...Departments. No, it's mostly--oh, and I may ask you this but this is also for Corp. Counsel. When I asked if there was a signed document agreeing to this stipulations, and you brought up the letter, and you said, you know, signed by Kaulana Park but it isn't. This entire letter has not even initials on it. It just states his name. So are we gonna have a signed document agreeing to the resolution from Hawaiian Home Lands?

CHAIR PONTANILLA: Department?

MR. YOUNG: Mr. Chair, all I can offer is that the...the Hawaiian Home Lands administration have offered up this proposed resolution. We are...the Administration is supportive. Most of the communication have been via dialogue so I...all I can offer is that there have been tacit agreement with the Administration. We do recognize, though, that everything here is not binding on

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the Department of Hawaiian Home Lands. But it is being offered so that the Department of Hawaiian Home Lands administration can offer it up to their Board. Anything signed that is offered to the County at this point would not be any commitment on the part...on the part of the Department, short of just their administrative support for the concept.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: Okay, so I don't have anything in writing. I don't have anything signed that I can offer to the Members. I would ask that you rely on their testimony and their correspondence provided to this legislative body and weigh it...however...you know, however valuable or however much weight you would consider whatever they provide you. But I cannot offer you anything, because I don't have anything of that nature from the Department myself.

COUNCILMEMBER MEDEIROS: Okay, thank you for that information. Mr. Chair, that...that concerns me because ...*(sighs)*... in...in anything that we deliberate on especially in this body, in this Chambers, we always want somebody signing for it. You know, you don't see very many documents come to us without somebody's signature on it. So I'll...I'll ask Corp. Counsel when she does come back. But, Mr. Teruya, you...you did say that the other counties have taken this step that we're looking to take for Maui County. Is that correct?

MR. TERUYA: Yeah, that is correct.

COUNCILMEMBER MEDEIROS: Okay. So actually it wouldn't be a precedent like we're the first ones to do it. It may be the first for us to do it in Maui County, but it's not the first in the State of Hawaii from the other counties. Is that correct?

MR. TERUYA: We are the only County that didn't enter into this . . .*(inaudible)*. . .

COUNCILMEMBER MEDEIROS: Didn't enter. Okay, so this...I...I don't think there's a precedent involved in this. So, Mr....the other questions I would, you know, probably pursue in asking Hawaiian Home Lands is, are there any of these lands that are kuleana lands? And we exempted kuleana lands. So we need to pursue that also.

CHAIR PONTANILLA: Maybe the Department can...answer that question because I...I...I think we identified the number of kuleana lands and based on the numbers, they were exempt. Mr. Teruya or Mr. Young.

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MR. TERUYA: Regarding the kuleana lands, it wasn't the Department of Hawaiian Home Lands that were bringing them forward. It was Office of Hawaiian Affairs. We were telling most of the people that we're unsure or we're thinking that they had descendant or, you know, would check with OHA, and that OHA has been providing the Real Property Tax Division...with a letter to the applicant stating that they are or are not, you know, and whether or not their lands were kuleana lands. So the Office of Hawaiian Affairs would be...be that...that body that has been coming forward with letting us know about the kuleana exemptions.

COUNCILMEMBER MEDEIROS: And I...I think Hawaiian Home Lands should know also whether the lands that they manage are kuleana or not. Maybe they're not...I mean maybe through the Hawaiian Homes Act the lands that they got were determined to be a certain kind of lands. So I'm not sure, but I...I just wanna be sure none of those lands are kuleana lands and we're charging real property tax on it when we exempted it.

MR. YOUNG: Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Director.

MR. YOUNG: To be clear, though. The kuleana exemption ordinance that the County Council approved is only recently within the last year been in effect. So that's only on a going forward basis.

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: You can apply if you are a kuleana landowner or you occupy...kuleana land, you can apply for the kuleana land exemption irrespective of whether or not you are a Department of Hawaiian Home Lands lessee, and irrespective of this resolution. One, I do not believe that, one would negate the other.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: So I...I don't particularly see that there is that much importance in terms of the kuleana exemption. I think this resolution and this concept can stand on its own merit.

COUNCILMEMBER MEDEIROS: And I...I think I agree with you. And I thank you for that information. But my pursuit through DHHL is gonna be do they upfront know if any of the lands that they manage are kuleana lands? And with that, then I can pursue something further. If they say no, then it stops there unless individually people that are lessees just coincidentally are on land that is kuleana

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from their family, then maybe there's a case there. But that's all I have, Mr. Chairman, until Corp. Counsel comes back.

CHAIR PONTANILLA: Okay, thank you. Fast question from the Chairman. In regards to the other counties that had gone forward with this thing here, how are they pursuing real property tax on Hawaiian Home Lands after the settlement?

MR. TERUYA: Chair, when I'm speaking to the other counties the only thing...they can do is the same thing that we would probably do, is try to follow up with the Department. At the end of every fiscal year with a list that identifies properties that are still remaining in delinquency, and update and making sure that the addresses that we have on file are current.

CHAIR PONTANILLA: Would you know if the Department of Hawaiian Home Lands impose lien and foreclosure on those lessees?

MR. TERUYA: I...I would not be able to tell you the answer to that as far as what are they doing on the other counties other than for the County's perspective, we are consistent in the sense that we are filing liens on all delinquent accounts.

CHAIR PONTANILLA: On properties other than Hawaiian Home Lands at this time?

MR. TERUYA: For all properties including Department of Hawaiian Home Lands.

CHAIR PONTANILLA: For all properties. Okay, thank you. Member Baisa.

COUNCILMEMBER BAISA: No, thank you.

CHAIR PONTANILLA: Okay. Member Medeiros for Corporation Counsel.

COUNCILMEMBER MEDEIROS: Yeah. Mahalo, Mr. Chairman. Corporation Counsel, I was following up from after...I mean, from after the recess. Before the recess we were talking about you reviewing what was in this letter we're discussing from Hawaiian Home Lands dated April 26, 2010. And that if they...you see no problems in it, you would incorporate it in the resolution that would be forwarded to us for deliberation and...and consideration. Tell me, on a resolution like that, would Department of Hawaiian Home Lands be a signature on that document?

MS. FUJITA VILLAROSA: Mr. Chair, no.

COUNCILMEMBER MEDEIROS: No.

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MS. FUJITA VILLAROSA: The DHHL would not sign off on the resolution.

COUNCILMEMBER MEDEIROS: Okay. And so Corp. Counsel would not consider receiving a signed document from DHHL agreeing to what this letter says, because this letter has no signatures or not...not even initials next to the person's name.

MS. FUJITA VILLAROSA: There might be...once the resolution...well, the purpose of the resolution is to authorize the Director of Finance to compromise the penalties and interest.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: So once...once that is approved, then...then the Department...there could be some kind of a agreement between the Department and DHHL as far make...making the actual payment. But that we haven't really discussed that part yet.

COUNCILMEMBER MEDEIROS: Okay. And by Department, you're referring to the Department of Finance?

MS. FUJITA VILLAROSA: Right. I'm sorry, yeah--

COUNCILMEMBER MEDEIROS: Yeah.

MS. FUJITA VILLAROSA: --between the Department of Finance and DHHL.

COUNCILMEMBER MEDEIROS: Okay, okay, all right. So I...I just wanted to know for myself if there would be a signed document agreeing to what...what is expressed in this letter which is unsigned.

MS. FUJITA VILLAROSA: You...probably something just very simple.

COUNCILMEMBER MEDEIROS: Right.

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER MEDEIROS: Okay, I think something very simple that is signed would satisfy my, you know, my interest in it. Thank you, Corp. Counsel. Mahalo, Mr. Chairman.

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CHAIR PONTANILLA: Thank you. Members, any more questions regarding this proposal? If not, we go to the next one. This is from a correspondence dated April 19, 2010 from the Department of Corporation Counsel transmitting a revised proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.305, MAUI COUNTY CODE, PERTAINING TO REAL PROPERTY TAX LAND CLASSIFICATION". And I'd just like to point out that, you know, I've been discussing changes in various sections with the Department of Finance for the past several months. And want to propose an amendment related to condominium units, Subsection C, to make us consistent with the other neighbor islands and close a potential loophole. Right now condominium owners self-certify the use of the property and are taxed at that tax rate. This result is inconsistent with application of the tax rate. At this time, I...I'd like to call on either Mr. Young or Mr. Teruya. And just as an example, a house with a Hotel zoning would be taxed at the Hotel rate if it does not qualify for the Homeowner's rate. But a property that...that is condominiumized would be taxed according to the owner's self-certified use. If the owner says that the unit is rented long-term, it would be taxed at the Apartment rate and not the Hotel rate. The owner of the property that is a Hotel zone and not...condominiumized does not have that option. Declaring an apartment use...saves it...saves the condominium owner about \$3.75 per 1,000. The proposed Apartment rate is \$5.00 while the Hotel rate is \$8.75. Mr. Teruya.

MR. TERUYA: Thank you, Chair. The bill that's proposed before you is...is a bill that allows the...Department to no longer...actually makes it a lot easier for the Department, similar to Kauai and Hawaii County, in the sense that they do not use...use condominiums based on the actual use. Those counties use the underlying zoning and the highest and best use of the property to establish the land classification. The problem that we're having right now is that the Department of Finance must...identify what is each condominium unit's actual use. And right now it's a self-certification. I think the Council's well-aware of the condo use surveys that we have been sending out for the last four or five years. And when we looking...looking at it, as...as the Chair pointed out, it's somewhat unfair in the sense that if you have a subdivided land that's zoned Hotel, you do not have that option to declare a lower use. And in that sense, by repealing this bill...I mean this...that section of the Code C, it allows a more fair and...way of classifying land.

CHAIR PONTANILLA: Members, questions?

COUNCILMEMBER VICTORINO: Yeah. Mr. Teruya--if I may, Mr. Chair?

CHAIR PONTANILLA: Mr. Victorino.

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COUNCILMEMBER VICTORINO: Yeah, thank you. So what you're saying, by making this change then it would automatically be considered...you not going by each condo. You're gonna consider the whole complex? That way I understand it?

MR. TERUYA: It...it would...that would be correct in...in general terms. However, each unit, it's gonna be classified based on the highest use that you can do in that unit. And, for example, in...in Maui Realty Suites, I believe there's a mixture of commercial and residential types of condos.

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: So the entire project wouldn't have the exact ability to use the...the unit. So the units that can be used for commercial...if you're using it...for something less than that, you're still gonna be taxed based on that because that's the highest and best legal use, yeah? Similar...like...like the example that I used, if you have Commercial land and you use...you choose to use it for your residence or a home for rental, you're gonna get taxed based on Commercial. So by repealing this section of the Code, it would be consistent to subdivided lands. Right now the...by condominiumizing, you almost going around the ordinance to get something lesser. You can...you have that ability to claim a lesser use and not get taxed like...like subdivided lands.

COUNCILMEMBER VICTORINO: So...so again...I'm glad you used the...the Wailuku property, because that is, because the top two floors--

MR. TERUYA: Yeah, exactly.

COUNCILMEMBER VICTORINO: --are residential. And everything, the next four floors are basically commercial, right?

MR. TERUYA: Uh-huh.

COUNCILMEMBER VICTORINO: So the top two floors of that particular building would be--Maui Realty Building--would be classified as Residential.

MR. TERUYA: Apartment.

COUNCILMEMBER VICTORINO: Apartment? Oh, Apartment, okay.

MR. TERUYA: Yeah.

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COUNCILMEMBER VICTORINO: Excuse me. And the next four floors will all be commercial use.

MR. TERUYA: Correct.

COUNCILMEMBER VICTORINO: Okay. So that...how would that relate to condominiums that some people actually are owner-occupant, some are...actually rent 'em out, long-term. Some may do short-term. You know, because I know there's a number of condominiums in West and South Maui that you have that combination. People actually live there. Retired there and they stay there. And there's others that use it for...segments of the year and other parts of the year. You know, I...I mean there's a whole--

MR. TERUYA: Yeah.

COUNCILMEMBER VICTORINO: --gamut of things. So how do you...

MR. TERUYA: So...so just a simple--

COUNCILMEMBER VICTORINO: Just to make it simple, yeah.

MR. TERUYA: --what's the first condo comes to mind? Kihei Village.

COUNCILMEMBER VICTORINO: Okay, Kihei Village.

MR. TERUYA: You cannot do short-term rental in Kihei Village.

COUNCILMEMBER VICTORINO: Okay.

MR. TERUYA: Therefore, the classification for majority or all of them will be Apartment. The exception, the Code allows the classification to be Homeowner if you file and are approved the home exemption. So in the case that you have a home exemption, your classification would be Homeowner. And if you do not have a home exemption, all others would be classified as Apartment.

COUNCILMEMBER VICTORINO: Okay. So...so that...that...that's what the clarification I wanted. So long as the person files for it, lives there, they get the Homeowner's Exemption. Anything else, whatever that classification will be, like you saying, long-term--

MR. TERUYA: Yeah.

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COUNCILMEMBER VICTORINO: --Improved Residential, that's what they're gonna be charged? And that would be...

MR. TERUYA: Apartment. Yeah, apartment.

COUNCILMEMBER VICTORINO: Apartment rate. Yeah, excuse me. Apartment rate. There will be no deviation from that.

MR. TERUYA: No. Likewise, if you...if you are on Hotel-zoned land, maybe across the street, like Menehune Shores.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TERUYA: The ability to do short-term rental is the owner's prerogative.

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: Therefore, if you use it short of short-term rental, meaning you're gonna do it for long-term you will still be paying on Hotel land class, because you have the ability to do short-term rental.

COUNCILMEMBER VICTORINO: So whatever ability the property has--

MR. TERUYA: Correct.

COUNCILMEMBER VICTORINO: --is what you're gonna be--unless you're a homeowner's and file for the exemption.

MR. TERUYA: Correct.

COUNCILMEMBER VICTORINO: Okay, I think that's perfectly clear now. Thank you. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions in regards to that particular item? If not, thank you. Members, that's all for the Department. And I thank you, Mr. Young, Mr. Teruya for being here.

COUNCILMEMBER NISHIKI: Mr. Chair.

CHAIR PONTANILLA: Mr. Nishiki.

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COUNCILMEMBER NISHIKI: Yeah, when can we ask 'em about other things that we need to...to generate some of the proposals?

CHAIR PONTANILLA: Um...

COUNCILMEMBER NISHIKI: I guess...I guess we're...what I've got is, I know that all of us are looking for revenue streams, Mr. Chairman.

CHAIR PONTANILLA: Uh-huh.

COUNCILMEMBER NISHIKI: And for property tax I think, you know, the unresolved tax appeals, the delinquent tax collection and the agriculture verification and the home exemption enforcement--

CHAIR PONTANILLA: We...

COUNCILMEMBER NISHIKI: --are the areas that I really wanted to pursue.

CHAIR PONTANILLA: Maybe, Mr. Young, if you can provide us with some short comments in regards to Member Nishiki's request. I know we already started from last year in trying to get after those people with back taxes. Mr. Young.

MR. YOUNG: Yes, Mr. Chair, the Real Property Tax Division has been working outside of the normal procedures or stand...or the historical processes to try and resolve appeals. The...the volunteers on the Real Property Tax Appeals Board have been putting forth extra effort to try and resolve the appeals. However, I am...I do have to caution that if you...you have to look at the nature and the...the types of appeals because as we've already pointed out, since the majority of the appeals are in the Hotel and Timeshare classification and there is a backlog, and the backlog...the majority of the appeals in the backlog are Hotel and Timeshare appeals, they're...they're very special and distinct circumstances. So there's only so much you can do to resolve appeals without having to focus or resolve on the Hotel and Timeshare ones. So the Department...is making those efforts. I cannot tell you that...that the Division will be able to resolve all the appeals for '11, in Fiscal Year '11. So I am telling you that there is a likelihood that there will be that revenue shortfall effect in real property tax for '11. The fixtures of the rates, though, will not resolve that issue 'cause you're...the appeals are not on tax bills, not on the tax rate. They're on assessed valuations. So your consideration of the tax rate itself will not resolve appeals for the Department. Okay, so I...I don't want the Members to be worried or to have to think about that concept among all the other things that you think about when you establish the rates. It will not

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resolve real property tax appeals by lowering or increasing the rates, 'cause you're not appealing the tax bill, okay?

But, Mr. Chair, if I may, I wanted to point out before you concluded the discussion on the last ordinance that that...the entire discussion that you had was relative to your proposed amendment--

CHAIR PONTANILLA: Uh-huh.

MR. YOUNG: --to the submitted ordinance. I wanted to have an opportunity to discuss or mention the...the...the intent of the original supported ordinance. And that was to consolidate the classifications for Improved residential and Unimproved residential into resident...into a singular Residential classification, if I may, Mr. Chair.

CHAIR PONTANILLA: Thank you. I was gonna say that but since you started, Mr. Young, go ahead.

MR. YOUNG: The intent of this ordinance is to consolidate those two classifications. And if you look at the different classifications in other counties in the State of Hawaii, they are consolidated. There is no...Maui is the only county that has an Unimproved residential versus Improved residential classification. Everybody else, it's just Residential. And if you look at the types of properties that are included in the Improved residential, it's actually a misnomer because Improved residential does not mean that you have only built...vertically built properties in there. There can be vacant lands in there if they're under an acre. So...and there...and there's very few parcels in the Unimproved residential. So the thought there is to make it consolidated. It would be an easier definition and application for the Division. It would be consistent with other counties. And also...this will not take effect for Fiscal Year '11. They had...this change will have no bearing on Fiscal Year '11 revenues or classifications, but it will be necessary for Fiscal Year '12. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, questions? Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. Mr. Young, so we were consolidating two different categories, Improved residential, Unimproved residential with two different rates. So that would mean, under this new classification and the Council would have to come up with a whole new, I guess, formula for a rate? Or...or a number, I should say.

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MR. YOUNG: Yes. So in Fiscal Year '12, if this ordinance was to be effectuated, Council would not have to deliberate on a rate for Improved residential different from Unimproved residential. It would be one rate, Residential. I would say that historically maybe prior to five years ago, the rates for both of these were actually the same. It was only 'til about five years ago when property values started rapidly increasing in this...in the current real estate cycle that the Administration at the time and the Councils at that time thought to separate the rates, if you were. The Improved residential had a different rate from Unimproved residential. But prior to that they were always the same. And they are the same in...in every other county.

COUNCILMEMBER MOLINA: Uh-huh. Okay, food for thought. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions? Seeing none, thank you very much, Mr. Young.

MR. YOUNG: And, Mr. Chair, the other part of Mr. Nishiki's--

CHAIR PONTANILLA: Oh, go ahead.

MR. YOUNG: --question about providing statistics and support in terms of the Council Members proposals.

CHAIR PONTANILLA: Uh-huh.

MR. YOUNG: Mr. Teruya and I can be available next week if the Committee so chooses to discuss any of the items on the open floor or concepts, and we can be available to provide. However, if you have questions and inquiries on...on research that you would need, I respectfully request if you can provide us enough time and communication so that we can work up the information knowing that today is a Friday. I understand your deliberations will take place on Monday. To be able to work and do the research over the weekend, we will have to make accommodations on our side. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER NISHIKI: Mr. Chair.

CHAIR PONTANILLA: Thank you for that offer, appreciate it. Member Nishiki.

COUNCILMEMBER NISHIKI: Yeah, and I...and I think for...for Members, I think this is going to be where the gold lies for...for this community and...and...and how

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we...how we deal with this. And...and so I think we need to get an idea, and I briefly calculated, Mr. Chairman, for the tax appeals including this year which they said was 19 million and the past years which was from '07 which was approximately 19 million. So right there just in unresolved tax appeals, there's \$38 million, okay? So the second one, these delinquent tax collection, in that area and...and...and this--through your help, Mr. Chairman...through the...all of you...all of you, actually, but Mr. Chairman, I know you led the charge--we collected \$1.8 million in delinquent tax collections. In that area, there's approximately \$15 million. So if you look at just in those two areas, there's approximately \$53 million that we haven't collected. And that's enormous. And then in agriculture verification, they were aggressive and they got approximately a half a million dollars, Mr. Chairman. Thanks, again, to, you know, you pushing for this area. And then in the home exemption enforcement, I think they were able to get another half a million. Where they haven't really put any energy was in the unresolved tax appeals which is \$38 million total. So I think that's food for thought, Committee Members. I...I...I'll check with the Division here, but I don't know...I'd like to know what, if we give you manpower, what you think you can collectively collect in those four areas, Mr. Chairman. I think it's really important, because, you know, if we're looking for revenues, I mean and...and we've been nickel and diming different departments and everything else, this is where it is. This is where the gold mine is. It's like, you know, like I said, \$53 million that we're...we're gonna be holding with people haven't paid and also. So, Mr. Chairman, I know that you...your focus was in here and...and I think the revenue stream could be big in...in helping us to address the deficits that may be coming. But we're gonna need also realistic figures from the Division in...in what they think they could collect. And that's going to be big.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER NISHIKI: So, anyway, that's, Kalbert, what I...I...I would ask you today on the record to look at. What you realistically think you can collect in these unresolved tax appeals. We don't need an answer today.

CHAIR PONTANILLA: Thank you. Thank you--

COUNCILMEMBER NISHIKI: Thank you.

CHAIR PONTANILLA: --Mr. Nishiki.

COUNCILMEMBER BAISA: Chair.

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CHAIR PONTANILLA: Before I call on Member Baisa, just a quick comment. Again, you know, the Department had already provided us...pro...provided this Council with a plan in regards to going after delinquent taxes, and the like so that--and as you say, Mr. Nishiki, this is one revenue stream that can help this County. But the help probably is not going to come 2011 but more likely 2012 in regards to those collections. So, again, we still need to deal with 2011. But the plan that the Department had provided this Council will insure us that come 2012, you know, some of those delinquents as you mentioned, \$50 whatever million, you know, hopefully we can get those resolved. Member Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And I think, you know, although we'd like to get that money in right now, what we've heard is that we're probably looking at an even harder year next year. So maybe it'll be timely. Maybe it'll come when we really, really need it and don't have any other place to find money. We'll find money that's ours and it'll come in and maybe it'll be...help us balance. But, anyway, I received an e-mail so I wanted to correct...make sure we have the correct information before we close this. A statement was made in regards to who gets a Homeowner rate, and the question is, is it that any property in any zoning used as a home gets a Homeowner rate with the exception of the vacation rentals...the B&Bs and the vacation rentals?

CHAIR PONTANILLA: Department?

COUNCILMEMBER BAISA: The impression is that this is true. That any property in any zoning gets a Homeowner rate with the exception of the B&Bs and TVRs.

MR. YOUNG: Correct.

COUNCILMEMBER BAISA: Okay, just wanted to make sure, because I think the listener heard something else. You know, believe it or not, we have people watching this. And it's very nice that they communicate with us, because that way we can clear things up. Thank you very much.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department?

COUNCILMEMBER NISHIKI: Yes.

CHAIR PONTANILLA: Mr. Nishiki.

COUNCILMEMBER NISHIKI: The...the...the...the final one is what Mike White brought out today. And, you know, when I checked for the different other counties, Mr. Chairman, you know the hotel and the business are all about equal

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except for Maui County. And...and so, you know, what he said to me made sense. You know, why did we drop the Commercial? I mean we dropped it, Mr. Chairman.

CHAIR PONTANILLA: Uh-huh.

COUNCILMEMBER NISHIKI: I don't know what the valuation drop is. But to me it really doesn't make sense. What, are they somebody special or--

...(laughter)...

COUNCILMEMBER NISHIKI: --I mean, really, I mean, you know, you know, you talk about parity for all...all...all...people, Mr. Chairman. And yet to me this was given a...a...a special kinda situation and I mean, you know, I...I think Mr. White was a bit taken by it. And he's saying to us, you guys better look at this because I don't think it's fair. So I wanna know. I wanna know this question. And maybe in...in our discussion we need to know now why they decided to drop the Commercial.

CHAIR PONTANILLA: Whoever wanna take that. Mr. Teruya.

MR. TERUYA: Well, I'm not gonna take that question directly, but I just wanna comment that in all other counties the Hotel rate, Commercial and Industrial, are identical. It's not similar, it is identical. In Maui County historically, it is always been that the Commercial/Industrial has been lower than Hotel. So it's not like it's been reduced. It's always been lower. But in comparison to the other counties as I mentioned earlier, they are identical.

COUNCILMEMBER NISHIKI: And...and I guess it's something that we need to look at, Mr. Chairman, you know.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER NISHIKI: But why was it dropped? I think...I think that is something that I would need to bump it up or put it in its equal place. I need some justification, just as they need to give me justification why they dropped it.

CHAIR PONTANILLA: Thank you. I think it was told to us probably weeks ago. In fact, during the Mayor's opening comments in trying to support business, small business, but maybe Mr. Pablo can expound on that. So, again, we have the ultimate decision to...to make changes, so.

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COUNCILMEMBER NISHIKI: Yeah, but I don't wanna be, you know, speaking without any reason.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER NISHIKI: Justification.

CHAIR PONTANILLA: Mr. Pablo, if you could.

MR. PABLO: Yeah, maybe I could make a general comment on that. But I would have...probably have to go to one of the letters which...which was sent to...to Committee, address that.

CHAIR PONTANILLA: Okay.

MR. PABLO: I believe at the time we were going through the rates, the...we looked at the two sectors that...that employ people. And one was the commercial sector and the hotel sector. In trying to arrive at a revenue neutral rate, we also realized that these...these are the ones that had suffered during the...during the economic downturn. So when the rates were...came in at revenue neutral, there was...there was also a slight decline made in both the hotels and...and the commercial. In other words, the hotels, for example, the hotels and resort...resort area, if...if you recall the other day's presentation, they are not really at revenue neutral. They're actually below what they...what it would've been . . .(*inaudible*) . . . Similar with the commercial...understanding that commercial enterprises hire people and...and they did have a...have to go through this economic downturn. Those rates were also lowered a bit.

CHAIR PONTANILLA: Thank you. So, Mr. Nishiki, I...I think what Mr. Pablo had said, he had already submitted some correspondence to us. Take a look at that. Okay, thank you, Mr. Young, Mr. Teruya. At this time, I know we have 25 minutes prior to lunch but we do have the Fire Chief here. And I think Member Victorino had requested that the Chief be here. So Chief Murray.

...(*Pause*)...

CHAIR PONTANILLA: Guys, if you wanna...Mr. Young, Member Kaho'ohalahala, if you guys wanna continue your conversation, if you can go to the lobby. Thank you. Thank you...Chief Murray, for being here this morning. We did have a request from a Member for your presence this morning. So, Mr. Victorino.

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COUNCILMEMBER VICTORINO: Yeah, thank you. And thank you, Chief, for being here. And sorry, we kept you waiting so long.

MR. MURRAY: No problem. You're welcome.

COUNCILMEMBER VICTORINO: Yeah. The simple question is, you know, I've...we've talked about premium pay and your...and the...yours and the Police Department are the largest. And, you know, you brought some great justification and I think I agree with...with the idea that you never know what's gonna happen. In your case, especially emergency services, it's difficult to predict what will happen, yeah? And you gave a good explanation. However, I still felt that the overtime in many departments and inclusive of yours and the Police Department, may be in...in the true sense of the word, excessive, at this time, because we cutting back all around. And then we get all this money sitting there which, if not used, carries over for next year. But, you know, fine. I mean that's...we don't wanna...start worrying about next year when we still gotta work...worry about this year's budget, not next year's budget. I mean, if you know, and literally speaking, yeah?

MR. MURRAY: Right.

COUNCILMEMBER VICTORINO: So one of the proposals that I had, ran by you and...and I've discussed with others was, you know, cutting premium pay in 50 percent. Now, at the same token, we need to--and I've talked with Staff about how we would and they would have to work it out--set aside so much of the...some of that money in a set-aside account, if justified. You come back and you say, hey, look, we had this big fire in Molokai or big fire in Lanai or wherever, and, hey, we need 275,000 or 480,000, whatever amount you need to pay for the overtime that was accrued during that emergency. And that money would be there, no questions asked, you know. But at the same time, would reduce the amount of overtime and fairly...take it away from all the various departments, you know. All this...overtime, premium pay, premium pay, yeah? Not so much standby but premium pay. That's what I was looking at. So, first of all, my question to you, if we did something of that nature...where you knew it was available if needed, would you have a problem with that?

MR. MURRAY: My only question would be, Mr. Victorino, is how fast would that money be able to turn...be turned over to our department--

COUNCILMEMBER VICTORINO: Uh-huh.

MR. MURRAY: --without us violating any laws?

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COUNCILMEMBER VICTORINO: Right. Well, I think that's something we gotta work out yet, you know. I mean I think that's something that we were looking at as far as...as far as that is concerned. So if we can get a definitive answer and...and it wouldn't be a real hassle, then I would...I would be looking at that as being part of it, you know. If it is a major hassle, then obviously then we may have to look at some cuts, but being more realistic in the cut instead of 50 percent, yeah? But, you know, I just...we're looking for ways and it's just hard to justify out there \$12 million in overtime when you're talking all the...all the departments. That's a lot of money. And we talk about 53 million here. We talk about 10 million there. Then we have all this set aside. And grant you, there are times when they're needed. And nobody's gonna deny that, you know. But if...if not, we get money tied up now that we may need for other things in the upcoming fiscal year. So that was my only question, and...and...and I'm glad you gave me that answer. And I think, you know, the rest--I don't know if anybody else has any other question in that area. But that was my...my rationale for bringing you back, is to ask what you thought of that. And I think you've answered the question and I appreciate it. Thank you. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Fire Chief? Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Chief, good morning. Thanks for being here.

MR. MURRAY: Good morning. How are you?

COUNCILMEMBER MEDEIROS: Yeah, good. I...I wanted to ask, because of, you know, have...have worked in the Fire Department for six years. It was a little bit different structured-wise as far as the personnel. The Wailuku Station had the largest crew, a nine-member crew, and we supported all the other stations when there was a shortage of personnel. Do you have requirements from your labor agreement or from any other requirements, say, from the national standards where there has to be a...a minimum amount of personnel at a station on duty?

MR. MURRAY: Well, a national standard that we follow is a four-man minimum per company.

COUNCILMEMBER MEDEIROS: Okay.

MR. MURRAY: And that would be any type of company, whether it's a rescue company, engine company, ladder, what have you. A four-man minimum. One

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of the key reasons for that four-man minimum is a Federal law that allows fire departments to do rescues, fight fires interiorly and what have you and do searches. And that is the two-in, two-out rule. So in order to send two individuals in to make that attempt--

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MURRAY: --you have to have two viable, ready individuals on the outside.

COUNCILMEMBER MEDEIROS: Right.

MR. MURRAY: And that...where...that's how we come up with that four-man minimum.

COUNCILMEMBER MEDEIROS: Okay. And...and that's good information for this body to hear and understand. What happens when a station is less than four personnel available to work that day? How do you cover that to make it the minimum required?

MR. MURRAY: First of all, we go within the battalion that has that shortage and take from a station that has five for that day, and move that one person to that three-man...or...or what have you, personnel. Or we go outside of the battalion, basically the whole Department tries to share that burden.

COUNCILMEMBER MEDEIROS: So has...has it been the Department's experience that you could find the personnel you need to support the lack of personnel at a certain station within? Or does it come a time when you hold people over or you call people in, in order to fill that which would affect premium pay and overtime?

MR. MURRAY: Well, what normally happens if the...if there is an advance notice on that station being short, like say, a sick call is called in that morning, an individual has to be properly relieved so the holdover comes into play for premium pay as well. And we also have to pay mileage for that...individual from wherever station they are assigned to.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MURRAY: And if that...we don't have any person, then we do a call back and that individual is held until properly relieved.

COUNCILMEMBER MEDEIROS: Right. And that would involve overtime?

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MR. MURRAY: Yes, it does.

COUNCILMEMBER MEDEIROS: For that person?

MR. MURRAY: Yes, it does.

COUNCILMEMBER MEDEIROS: Which would be part of premium pay?

MR. MURRAY: Yes, premium pay is covered also in a temporary assignment for that individual if that individual is a driver for that day, or what have you.

COUNCILMEMBER MEDEIROS: Right.

MR. MURRAY: Or the captain.

COUNCILMEMBER MEDEIROS: Yeah, and...and--

MR. MURRAY: It all comes into play.

COUNCILMEMBER MEDEIROS: --I think...unless, you know, you have a good understanding of how temporary assignment works and how the Department, the Fire Department works as far as filling positions and TAing people up to positions required, then seems like the premium pay is really high. But knowing...having worked there, you go through that requirement almost daily trying to fit people into positions that the incumbent is not there to work for whatever reason. Is that true?

MR. MURRAY: Absolutely. That is true. That actually happens every day. I don't think there's a day go...goes by where we are completely full.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MURRAY: For whatever...whatever...

COUNCILMEMBER MEDEIROS: And...and I think, you know, as the Committee Chair has expressed many times, is our concern is to be sure that we have our core services, especially our public safety services available to the people in the standard that's required. So I thank you for that information and that...those responses.

MR. MURRAY: You're welcome.

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Chief? Seeing none, thank you, Chief Murray, for being here this morning.

MR. MURRAY: Thank you, Chair.

CHAIR PONTANILLA: Okay, Members, that's all we have for this morning. This afternoon we do have Chief Yabuta coming in at 1:30. So Chair is gonna recess this meeting until 1:30. . . .*(gavel)*. . .

RECESS: 11:43 a.m.
RECONVENE: 1:31 p. m.

CHAIR PONTANILLA: . . .*(gavel)*. . . The Budget and Finance Committee is now reconvened. Members, this afternoon we do have members of the Police Department with us. They're here because of a request that was made. So at this time, the Chair would recognize Member Victorino.

COUNCILMEMBER VICTORINO: Thank you. And thank you, Chief, for being here. And thank you for this breakdown. This...this is very helpful as far as the premium pay, 'cause my question this morning to the Chief of the...the Fire Chief, and the same thing I would ask you is, you know, reduction in...in...in the premium pay. And I'm looking here that right now year to date, you guy's used 3,880,000 year to date. That is through March of 2010. Is that correct?

MR. YABUTA: That's correct.

COUNCILMEMBER VICTORINO: Okay, and then you projected \$5,174,616 for the upcoming...I mean for the rest of this fiscal year. In other words, you're projecting...basically you're going to use 4...\$4,929,300. That's what you think you'll end up using this year? 'Cause you see...I see projected and budgeted. So you're projecting that you're gonna end up using 5 million?

MR. YABUTA: Five million, one seventy four, six one six.

COUNCILMEMBER VICTORINO: At the rate you going at this time?

MR. YABUTA: That's correct.

COUNCILMEMBER VICTORINO: And so you budgeted for 4,929,000. So you'll be off by a...by a additional six million...I mean 631,000?

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MR. YABUTA: Yes, that's correct.

COUNCILMEMBER VICTORINO: So that's not...actually, yeah, well it's not a minus if you guys...actually more than you projected, right?

MR. YABUTA: Well, what we projected and what we were--

COUNCILMEMBER VICTORINO: Budgeted.

MR. YABUTA: --actually allowed to be--

COUNCILMEMBER VICTORINO: Budgeted.

MR. YABUTA: --budgeted for is two different stories.

COUNCILMEMBER VICTORINO: Okay, okay, okay. So...and then so at this time, do you think you will...you'll...you'll use the full...full 5 million this year?

MR. YABUTA: Absolutely.

COUNCILMEMBER VICTORINO: Okay. Okay, Mr. Chair, thank you very much for that...for...for that. At least I got a understanding now.

CHAIR PONTANILLA: Members, any more questions for the Police Department?

COUNCILMEMBER NISHIKI: No.

COUNCILMEMBER BAISA: No.

...(Pause)...

CHAIR PONTANILLA: So, Chief, fast question. All of the total premium pay from Fiscal Year 20...21 [sic] through '29 [sic], those are all actual?

MR. YABUTA: I'm sorry. Can you repeat that?

CHAIR PONTANILLA: 2001 to 2009, total premium pay. Are those actual numbers?

MR. YABUTA: That's correct.

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CHAIR PONTANILLA: Okay. Maybe for my understanding, your recruits--I don't know how many of 'em you got--I know this...they are in that 900 whatever classification at this time. So those recruits that are...you know, being recruited for Police...to become police officers, how do you fund those recruits...presently?

MR. YABUTA: Yes, sir, they're covered by the...the General Fund.

CHAIR PONTANILLA: The General Fund through...

MR. YABUTA: The positions that we have that are...

CHAIR PONTANILLA: The vacant positions that are noted--

MR. YABUTA: Right.

CHAIR PONTANILLA: --on the sheet?

MR. YABUTA: That's correct.

CHAIR PONTANILLA: And the partial funding? That's the money that you use to pay these recruits?

MR. YABUTA: That's correct.

CHAIR PONTANILLA: Okay.

MR. YABUTA: And there's approximately 47 officers who are in the training phase who occupy those 9,000 series numbers. So potentially would be pushed up upon completion of their training phase.

CHAIR PONTANILLA: So presently you have 47 recruits going through the process or...

MR. YABUTA: We have 23 in recruit class. The remaining are either awaiting the next recruit class or have graduated--excuse me--graduated recruit class are in a field training program.

CHAIR PONTANILLA: Okay, fine, thank you. That...just for my understanding in regards to how you utilize those vacant monies knowing now that they...this is how we pay those recruits while they attend training. Members, questions for the Chief? Member Medeiros.

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Chief, thank you for being here this afternoon. I...I just wanted to get some clarification on this, because when...according to your breakdown, the total premium pay, we see that line. So everything about...above that is what constitutes premium pay. Is that correct?

MR. YABUTA: That's correct.

COUNCILMEMBER MEDEIROS: Okay, so if everything above constitutes premium pay, why is premium pay like zero on...on the line with premium pay?

MR. YABUTA: Where are you referring to, sir?

COUNCILMEMBER MEDEIROS: The premium pay would be the line right above Total Premium Pay, just be...and the premium pay there says, like, all zeroes.

MR. YABUTA: Yeah, we don't really have an answer for that. What it should reflect is a Total Premium Pay which is...

COUNCILMEMBER MEDEIROS: So it would be the next line up?

MR. YABUTA: Right.

COUNCILMEMBER MEDEIROS: Right. That's what I thought.

MR. YABUTA: That's correct.

COUNCILMEMBER MEDEIROS: Okay, so...okay, thank you for the breakdown, though, because I think a lot of people think premium pay only incorporates overtime and maybe, you know, one other item. But as far as your Department we can see how many different descriptions or categories constitute premium pay.

MR. YABUTA: Absolutely.

COUNCILMEMBER MEDEIROS: Okay. Well, thank you for that information and for clearing that up. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Any more questions, Members? I get...I get one, maybe more than one. In regards to the difference from Fiscal Year 2007 through 2009, you know, we...we see increases from prior years. And any significant event that caused this big jump?

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MR. YABUTA: Yes, sir. I believe it had something to do with our second FLSA suit, lawsuit, at the time which occurred in...actually it occurred in the summer of 2006. The second one, *Alconcel versus the County of Maui*, which we eventually settled for \$1.4 million. It involved firefighters and Maui Police Department officers. This was after we had been hit with the suit in 2004, *Kaho`ohanahano versus the County of Maui*, which we suffered \$1.2 million in loss. As a result of the second lawsuit, notice of the second lawsuit, the Department was acutely aware that we had to compensate officers for work, any work, beyond their normal work period. Since then--and...and that we...we hired some excellent attorneys to, not only defend ourselves in the FLSA lawsuit but also to provide training and to develop policy. And the attorneys at that time told us initially we were going to be impacted with a rise in our overtime rates. But because the...the eventual installment of the policy and the training, and then we would see...we would see the results because any work...performed beyond the normal work period had to be approved by a supervisor. Otherwise, you'll be subject to disciplinary action. I also believe that's one of the basis that we have a decline in the overtime rates since then.

CHAIR PONTANILLA: So basically we paid for those lawsuits through, I guess, this overtime payments then?

MR. YABUTA: No, no--

CHAIR PONTANILLA: How?

MR. YABUTA: --that's not correct. Again, it...it was just a...a matter of...of changing our culture but as a result of the second lawsuit, we were in a position where those officers who did work outside of the normal work period were compensated until we were able to develop policy and training to make sure that our guidelines were intact and correct.

CHAIR PONTANILLA: Okay, okay. I think I got it now. Members, any questions? Seeing none, thank you very much, Chief Yabuta, Mr. Takahashi, for being here. And if we need you next week, we'll...certainly call you guys. ...(Chuckles)... Okay, Members, that's all we have for this afternoon.

COUNCILMEMBER VICTORINO: Thank you, Chief. Appreciate it.

CHAIR PONTANILLA: Chair has a question for you folks. Gonna recess this meeting. Reconvene at 4:30 and hopefully we have five members at 4:30--oh, 4:00? To receive...

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COUNCILMEMBER BAISA: I cannot.

COUNCILMEMBER JOHNSON:: We don't need that.

COUNCILMEMBER BAISA: I cannot.

COUNCILMEMBER NISHIKI: I don't--

COUNCILMEMBER MEDEIROS: What is it for?

COUNCILMEMBER JOHNSON:: Just to receive proposals.

CHAIR PONTANILLA: To...to receive your proposals. Gotta be received in this Chambers.

COUNCILMEMBER BAISA: Three. Three.

CHAIR PONTANILLA: Three o'clock?

COUNCILMEMBER MEDEIROS: At 4:00 today, right?

CHAIR PONTANILLA: Unless she wants 3:00.

COUNCILMEMBER MEDEIROS: No, no. You said the proposals to be received by 4:30?

CHAIR PONTANILLA: Yeah. By 4:30.

COUNCILMEMBER BAISA: By 4:30 but he didn't say at 4:30.

COUNCILMEMBER MEDEIROS: Yeah.

COUNCILMEMBER NISHIKI: We have to be here to...to...to do it?

CHAIR PONTANILLA: Yeah. It's noted.

COUNCILMEMBER NISHIKI: Well...

CHAIR PONTANILLA: And I need quorum to...to...to receive those documents.

COUNCILMEMBER NISHIKI: Can we do it at 2 o'clock?

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COUNCILMEMBER BAISA: I'm with...I can do it at...by 2:30. I can hand mine in.

CHAIR PONTANILLA: Okay, 2:30?

COUNCILMEMBER NISHIKI: I mean...I mean...if it's not in, that means...that doesn't mean it's not public record.

CHAIR PONTANILLA: Well, you know, we...we...

COUNCILMEMBER BAISA: He wants to work on it.

CHAIR PONTANILLA: Yeah, we made...made it public, Mr. Nishiki.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER NISHIKI: Oh, okay.

CHAIR PONTANILLA: Okay? So 2:30?

COUNCILMEMBER BAISA: Two-thirty. I'll be here.

COUNCILMEMBER MEDEIROS: Reconvene, okay.

CHAIR PONTANILLA: Okay, we'll recess until 2:30. . . .(gavel). . .

RECESS: 1:43 p.m.

RECONVENE: 2:34 p.m.

CHAIR PONTANILLA: . . .(gavel). . . The Budget and Finance Committee is now reconvened. Members, thank you for all being here. The only exception is our Council Chairman who is on Oahu, because of the hearing tonight in regards to the TAT. Members, at this time Ms. Revels is gonna collect your proposals.

...(Pause)...

CHAIR PONTANILLA: Okay, Members, thank you. Tomorrow morning I...I'll be meeting with Staff and we're gonna compile all of the data, and on Monday morning, we'll do a presentation on the proposal for the upcoming 2011 Budget. And next week, we have all week to discuss the proposal. And I...I know some of you are still working on some...some other things in regards to...for Mr. Kaho'ohalahala on the rates and fees that he's gonna be presenting to us. So all of those things still can be presented to the Council, okay? And then you still

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have an opportunity like...you know, from last year, the same process. We are visiting line by line, getting consensus and...and once we have all agreed upon then we'll just gavel the...the Budget and get ready for First Reading. So Members, any questions?

COUNCILMEMBER NISHIKI: No.

CHAIR PONTANILLA: Member Baisa.

COUNCILMEMBER BAISA: Chair, so by Friday, whenever time, or maybe even early Saturday morning if we're here that late, this is it.

CHAIR PONTANILLA: Yes. And you still have...

COUNCILMEMBER BAISA: Of course, we have First and Second Reading after that.

CHAIR PONTANILLA: Yeah, right.

COUNCILMEMBER BAISA: But for our...our Committee work.

MS. REVELS: Revisit on Monday?

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER BAISA: We'll revisit on Monday?

CHAIR PONTANILLA: On Monday, yeah.

COUNCILMEMBER BAISA: Okay.

CHAIR PONTANILLA: And, again, because we don't know the fate of the TAT, you know, we're working on the assumption that we're gonna get it, okay? Member Molina.

COUNCILMEMBER MOLINA: Yeah, and just for clarification following up Member Baisa's line of questioning. That's Monday, the 3rd would be...if we do have to revisit, would be Monday, May 3rd?

CHAIR PONTANILLA: Yes.

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COUNCILMEMBER MOLINA: Okay, just for the information for the public and just be...whatever we submitted today, it's just only...well, can be looked at as just the beginning, right?

CHAIR PONTANILLA: Exactly.

COUNCILMEMBER MOLINA: Okay, okay so the door hasn't been totally closed on anything yet, so thank you.

CHAIR PONTANILLA: Okay. Any more questions, Members? Seeing none--oh, Member Johnson.

COUNCILMEMBER JOHNSON: I...I just wanted to ask everybody in this County to pray...(chuckles)...that everything goes in our favor. So the power of prayer oftentimes does work, and especially in regard to the funding because, you know, our people really, you know...everybody's worked really hard including the hotels to really build up that TAT, and we're doing a little bit better than some of the other counties. So I just, I encourage everyone to please use the power of prayer and use it wisely and often. Thank you.

COUNCILMEMBER BAISA: ...(Laughter)...

CHAIR PONTANILLA: Thank you. And if you've been following the *Advertiser*, you...you almost know what City and County of Honolulu is looking at in regards to their budget for next year. So those...you know, the way I...I read, it's major, major reduction in...in the services that they're gonna provide their communities. So, Members, any more discussion, questions? If not, the Budget and Finance Committee meeting for April the 23rd is now adjourned. ...*(gavel)*...

ACTION: DEFER pending further discussion.

ADJOURN: 2:39 p.m.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

April 23, 2010

APPROVED:



JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf:min:100423:rk

Transcribed by: Reinette Kutz

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

April 23, 2010

CERTIFICATE

I, Reinette Kutz, 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 14th day of May 2010, in Wailuku, Hawaii.


Reinette L. Kutz