

MINUTES

of the

PUBLIC HEARING HELD ON

MAY 24, 2011

THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, CONVENED A PUBLIC HEARING ON TUESDAY, MAY 24, 2011 AT 9.09 A.M., WITH CHAIR DENNIS A. MATEO PRESIDING, FOR THE PURPOSE OF RECEIVING TESTIMONY ON THE PROPOSED OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM FOR THE FISCAL YEAR JULY 1, 2011 TO JUNE 30, 2012.

CHAIR MATEO: Council of the County of Maui, Notice of Public Hearing for May 24, 2011. Meeting will come to order.

Mr. Clerk, may we have the roll call please.

ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., G. RIKI HOKAMA, MICHAEL P. VICTORINO, MICHAEL B. WHITE, VICE-CHAIR JOSEPH PONTANILLA, AND CHAIR DENNIS A. MATEO.

EXCUSED: NONE.

There were approximately 15 members of the public in attendance.

NOTICE OF PUBLIC HEARING

COUNTY CLERK JEFFREY T. KUWADA: Mr. Chairman, all nine Members of the Council are present.

Mr. Chairman, Notice of this Public Hearing was published in the April 17, 2011 and April 22, 2011 editions of the Maui News.

CHAIR MATEO: Thank you, Mr. Clerk. Members, just as a reminder, the purpose of this public hearing is to receive public testimony on the proposed Fiscal 2012 Budget.

Mr. Clerk, do we have individuals signed up to provide testimony this morning?

COUNTY CLERK: Mr. Chairman, presently we have received requests from five individuals.

CHAIR MATEO: Thank you. Before the Clerk calls up the testifiers, the Chair would like to set the parameters for those individuals providing testimony. We welcome anyone wanting to provide testimony to the Council this morning. You will be allowed to speak for three minutes on, on the proposed 2012 Budget. During your testimony if you need an additional minute to conclude your comments that may be provided to you.

When your name is called please advance to the podium, state your name for the record. If you represent a group or organization, please so state the name of that group or organization.

A lighting system on the podium is there to assist you with your testimony. At the start of your comments the green light will be lit. At the two minute thirty second mark the yellow light will be lit. And at the three minute mark the red light will be lit letting you know you will need to conclude.

For those of us with cell phones, pagers, or other noise making devices, please either turn them off or set them on the silent mode. Decorum in this chamber will be maintained at all times.

Mr. Clerk, call up our first testifier.

COUNTY CLERK: Calling Barry Hyman. Mr. Hyman will be followed by Greg LaGoy. Mr. Hyman, you may begin.

TESTIMONY

MR. BARRY HYMAN, HOSPICE MAUI:

Good morning, aloha kakahiaka. My name is Barry Hyman, I'm the Treasurer for the Board of Directors of Maui Hospice. As a Board Member, I want to thank the Council for supporting the vision of a new inpatient hospice center. The center will serve approximately 100 persons per year, will return about 2,000 patient days to Maui

Memorial Medical Center, and it will save an estimated \$1.7 million annually in hospitalization costs.

As compelling as these statistics may be, the real value of this project is that the compassion, comfort, and care of Hospice will now be available to everyone on Maui for the first time. End of life due to terminal illness will no longer mean dying in a hospital or a nursing home for those who are unable to have caregivers or for those who do not have a home. For this we thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Hyman.

Mr. Clerk.

COUNTY CLERK: Greg LaGoy. Mr. LaGoy will be followed by William Jacintho.

MR. GREG LAGOY, HOSPICE MAUI:

Good morning, Council. I am here also to say my thanks and to ask our Board of Directors, we have a number of our Board to just please stand for a moment. We so, including Reverend Jeff Soga. We so appreciate, we so appreciate the Council's considering our request this year and we thank you.

CHAIR MATEO: Thank you. Members, is there a need for clarification from the testifier? Thank you very much.

Mr. Clerk.

COUNTY CLERK: William Jacintho. Mr. Jacintho will be followed by Lyn McNeff.

MR. WILLIAM JACINTHO, MAUI CATTLEMEN'S ASSOCIATION:

Good morning, Chair, Councilmembers. Thank you for having this.

For the record, my name is William Jacintho, I'm here to represent the Maui Cattlemen's Association. Maui Cattlemen's Association is a non-profit organization representing small and large livestock producers in Maui.

The proposed bill appropriates estimated revenue from real property tax revenue. Unless amended from yesterday's hearing, the proposed real property tax rate per, per one thousand dollars of net taxable assessed valuation for Agricultural classification of real property shall increase to \$5.80. This results in an increase of

16 percent from the current rate. This is the second highest percentage increase in all classifications listed. In addition to the rate increase the proposed minimum tax per TMK will double from 150 to \$300.

Many livestock producers operate on multiple TMK's because that is what is available. These tax payments are passed on, and are part of property rentals. To double the current minimum charge at this point would make it impossible for some livestock producers to continue business. This is a true disappointment, especially when agriculture is trying to move forward and advance in sustainability. Our profit margins are very minimal and most of us do not earn a paycheck for the time spent working on our business.

We have multiple, escalating operating costs, where ranchers and farmers pay rent, property tax, insurance, water, fuel, and more. A couple of years ago, the minimum property tax charge more than doubled from \$60 to 150. Now we are looking at another double charge.

We realize the County is in financial need, but this method of generating income for the benefit of all will hurt Maui County's livestock producers and farmers the most and will have significant long-term impacts on the survival of agricultural industry. Thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Jacintho.

MR. JACINTHO: Thank you.

CHAIR MATEO: Mr. Clerk.

COUNTY CLERK: Lyn McNeff. Ms. McNeff will be followed by DeGray Vanderbilt.

MS. LYN MCNEFF, MAUI ECONOMIC OPPORTUNITY, INC.:

Good morning, Council Chair Mateo and Councilmembers. I'm here to thank you for your hard work and dedication during this last budget hearings and meetings. It, I know it was hard, I know that you, it was, it's hard any year, this year's particularly hard.

I also wanted to let you know that there's been some movement on the State money for our transportation since you have put the 250,000 in. Senator Tsutsui has written to the Governor and the Governor's CIP Specialist has requested how we will spend the four million so he can present that to the Governor. So I thank you again for your hard work.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased?

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Ms. McNeff for being here and I'm happy to hear that because, you know, it's really important if our challenge to the State by giving support to the MEO project will force them or encourage them to release their share of it then--

MS. MCNEFF: Correct.

COUNCILMEMBER BAISA: --it'll be for the benefit of the community so that's what you're--

MS. MCNEFF: Absolutely.

COUNCILMEMBER BAISA: --you're saying you had no movement until this happened.

MS. MCNEFF: Correct, we had been, it was stagnant.

COUNCILMEMBER BAISA: So good, thank you very much.

MS. MCNEFF: You're welcome.

CHAIR MATEO: Thank you, Ms. Baisa. Thank you very much, Ms. McNeff.

Mr. Clerk.

COUNTY CLERK: DeGray Vanderbilt. Mr. Vanderbilt will be followed by Renny Hyun.

MR. DEGRAY VANDERBILT:

Good morning, Chair Mateo and Members of the Maui County Council. My name is DeGray Vanderbilt, a resident of Molokai. And I'd just like to share my appreciation with this Council for all the support that you gave Molokai this year. The money for the Molokai Economic Development and Cultural Program; the East Molokai Watershed Project; the 75,000 for the Humane Society; the various water system improvements on Molokai; plus the Kaunakakai Drainage System; and especially the 250,000 you set aside for the Molokai Visitor Industry.

We have a tremendous concept for the visitor industry on Molokai which was put together many, a few years ago in this study "Molokai Responsible Tourism" which I

think all of you now have a copy of. If you read it through it, it's what Molokai is all about. And we're looking for a niche in the, in the market, we, we, Molokai is not going to change to attract visitors and the visitors to come to Molokai that enjoy Molokai for what it is, they're really nice people, you don't have anybody snapping their fingers or anything else. And if Molokai holds true to its vision, we'll have a wonderful, continue to have a wonderful tourism industry and much of it is going to be because of you all setting aside some money for this fine work that the group on Molokai does.

So thank you very much.

CHAIR MATEO: Thank you. Members, questions for the testifier? Thank you, Mr. Vanderbilt.

Mr. Clerk.

COUNTY CLERK: Renny Hyun. Mr. Hyun will be followed by Johanna Kamaunu.

MR. RENNY HYUN:

Hello, my, my name is Renny Hyun, I am the Chaplin for the Disabled Veterans of America. I just like to bring up the fact that this minimum property tax increase is going to create a hard, a hardship for disabled veterans who are already on a fixed income and already suffer hardship for the fact that a lot of these are, veteran's going to be affected are severely disabled and because of that they cannot produce more income because they're you know, like I said on a fixed income.

It also was brought to my attention that there's going to be some Capital Improvements that you guys could get the money from instead of increasing this property tax. I would ask that, I'm humbly asking that you take, try to take the money there first, before creating such a hardship on the, on the veterans who pay, who are in this situation because they served this Country, and you know, that's all I wanted to say.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you very much. Thank you.

Mr. Clerk.

COUNTY CLERK: Johanna Kamaunu. Ms. Kamaunu will be followed by Kaniloa Kamaunu.

MS. JOHANNA KAMAUNU:

Aloha kakahiaka. I am Johanna Kamaunu, I'm from Waihee, Maui and I have a concern with these ordinances that are before us. And I realize that you spent a lot of time on it and maybe for some people this is a huge benefit. I would just like to add a word of caution in this. What's not lost on me in this process is the impact that the improvements may have to the water that we have in Waihee Valley.

I know that if we're going to be improving infrastructure or the support systems within the Wailuku-Kahului area, improvement means more water will flow. It usually always means that and in that case, I'm concerned. As a kuleana holder that has rights to water, I'm concerned about how this water would be used.

I also would like to remind decision-makers here that I would hate to see this type of encumbrance be a reason why you could not recognize our entitlements should that ever come to pass. That's all I have to say. Thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you very much.

Mr. Clerk.

COUNTY CLERK: Kaniloa Kamaunu.

MR. KANILOA KAMAUNU:

Good morning, Council. My name is Kaniloa Kamaunu, I come from Waihee Valley. As my ongoing discussions with the, the County Council, especially those from the previous Council, was always about the water and I base everything on what actually is factual and what actually is within my privy as far as the law is concerned.

The law that you would refer to is probably HRS 1, HRS 7-1, which talks about gathering rights. Again for those that just started with the, the County Council this actually derives from 1859, which was accepted into State Law, which provides the rights of the Native Hawaiians. Basically to be able to gather the needs for their personal use, not for financial gain.

Part of this was water, was water springs, waterways, drinking water, as well as right of ways. Now what this talks about is basically the rights of us as Native Hawaiians to be able to partake in these areas because it's a vested right, which makes it even more important because vested rights, once vested cannot be taken away.

In my area as far as my kuleana is concerned, we've always had running water. That has never stopped because it is part of the kuleana contract that we have from my kupuna, which affords us running water.

We notice that today with many different people coming in, real estate being sold, there are a lot of our right of ways to our waterways are being obstructed. By law that's against the law. So as, as a body of people that make policies and laws, you have to understand what affects us as Natives. You have to remember there, the County and State still has a fiduciary duties to the Native Hawaiians, to the native stability of the Hawaiians; welfare, education, and as far as health concerns.

As far as I can see, these obligations are sadly not being met and many of our people are left destitute and left without anything. And if you go back and you check the history as I come to the close of this, you find out that the laws of the State provide these protections because of obligation to the Native Hawaiians are utmost important. So those things need to be taken care of.

The process here is we're always left out of the process. We're looked at as upon, oh, we'll just make a decision for them. But yet, like I proposed to the County Council before, you have to bring us in because of obligations you have to us, you have to bring us in for discussion. You have to have us because we have vested rights, which are given to us by the law.

CHAIR MATEO: One minute to conclude.

MR. KAMAUNU: Thank you.

CHAIR MATEO: Oh, thank you. Members, is there a need to have any part of the testimony rephrased?

Go ahead, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair Mateo. Aloha, Kani, nice to see you.

MR. KAMAUNU: Aloha.

COUNCILMEMBER COCHRAN: I was just curious you mentioned two of your waterways of being obstructed right now. Can, which are those.

MR. KAMAUNU: Well, a lot of the waterways, a lot of the, I mean to be able to get up to clean our awai's and ditches are being hindered by a lot of these yellow gates. Yeah, people that say they bought this property from plantation owners and they also believe they have the right to obstruct those roads which takes us up to the mountain to be able to clean.

So, especially like in our area, they have a gate there, and not only do they have a gate, but they have toll booth that they charge people to be able to get to the mountain. And if you look at HRS 7-1, not supposed to be impeded, supposed to be able to traverse cause that is our native culture. Their culture is from the mountain to the ocean without any hindrance and that's provided in the law, HRS 7-1, when you look at HRS 172. So the thing is, you know, what we asking is that these people be made aware of what they actually buying and that they really don't buy the roadways, the roadways are already provided for us to traverse.

COUNCILMEMBER COCHRAN: Thank you. Thank you, Chair Mateo.

CHAIR MATEO: Thank you, Ms. Cochran.

VICE-CHAIR PONTANILLA: Chairman.

CHAIR MATEO: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Good morning, Kaniloa.

MR. KAMAUNU: Good morning.

VICE-CHAIR PONTANILLA: So the roadways, I assume don't have any easement or right of entry to take you folks up to the mountain to clean those ditches.

MR. KAMAUNU: Cause if you look at, not only Waihee but in Waiehu, the one that takes you straight up Malaihi Road, is being obstructed. As far as some of the other areas in that, when Hale Mua came in and some of the other foreign owners came in, they started to block off the actual ancient, or areas that the people that normally would traverse. Even when you talking about the ocean side, same thing, yeah.

VICE-CHAIR PONTANILLA: And the other question I had is that you mentioned about a toll booth.

MR. KAMAUNU: Yeah, he runs a toll booth and he charges, he has this arrangement with a tour group that he charges whenever they bring up a busload that they pay him so much for the use of that right of way, or that, that, that easement. And, being that, you know, kuleana, and being that actually the road is encumbrance in our law . . . you know, I don't know where he gets that he can do it but he's been doing it for. And I've complained about it but nobody's come to see it, and nobody's come to talk to him about it.

VICE-CHAIR PONTANILLA: Final question, who's the property owner?

MR. KAMAUNU: Um, oh, I keep forgetting his name, Varel, Mr. Varel.

VICE-CHAIR PONTANILLA: Thank you. Thank you.

CHAIR MATEO: Thank you.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Have you made any formal complaints to like State DLNR or State or County agencies, you know, even our, any of our departments a formal complaint saying that your rights are being impeded. Now, since you brought HRS, I would think you would go to the State and make a formal complaint. Has that been done?

MR. KAMAUNU: Yes, I have. I haven't heard anything from them.

COUNCILMEMBER VICTORINO: When was this done?

MR. KAMAUNU: Ah, this was done, I think at the ending of last year.

COUNCILMEMBER VICTORINO: Of 2010.

MR. KAMAUNU: So yeah, it's about six months now, I haven't really heard anything.

COUNCILMEMBER VICTORINO: And this was through?

MR. KAMAUNU: Um, it was through, I believe it was, what's his name, Daniel Ornellas--

COUNCILMEMBER VICTORINO: DLNR.

MR. KAMAUNU: Yeah, DLNR.

COUNCILMEMBER VICTORINO: DLNR.

MR. KAMAUNU: Yeah.

COUNCILMEMBER VICTORINO: Okay, okay.

MR. KAMAUNU: Because it's actually, it's dealing with the State law yeah.

COUNCILMEMBER VICTORINO: Right, right, right and that's why I was asking that question and, and then, and later on maybe you can call me and we can follow-up on that.

MR. KAMAUNU: Yeah.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair.

CHAIR MATEO: Thank you, Mr. Victorino. Members, further questions? Thank you very much.

MR. KAMAUNU: Thank you.

CHAIR MATEO: Mr. Clerk.

COUNTY CLERK: Agapito Sarmiento.

MR. AGAPITO SARMIENTO:

Good morning, everyone. I'm here to testify on the behalf of my . . . brothers of the, in the DAV, Disabled American Vet, about the taxes that you are planning to raise on us. I'm also known as a Kahu for Jesus Ministry Inc. Right now I helping a family, he's a vet, and he's very ill, he's in ICU, I don't believe he's going to make it. And the wife is really struggling. This, he's sixty-something years old, so, so she, is she. They have bills by the galore, even they have some Veteran Administration benefits to help, it's not sufficient. And they struggling about pills and so forth.

Besides all that you have the children that is involved. They all age, but yet, they all worrying because they might lose the house, whatever happens to the husband. You might be looking back at some of the insurance they might have but even that is not sufficient the way times is now.

And to add more to, to the burden of many of these families by the taxes, even though for some of you or some of us might think it's just manini, but for others it is, it's real moderate when one say it's hardship one of my . . . brothers said that. But for me for what I see in those that I'm helping now, working with is devastating, and that's including me.

I hope that every one of you will, will search your hearts first before you decide what you need to do to help to meet the budget. And we all voted you in to, we trusted you, in . . . so we, we put our burden upon you and hoping that you can come out with some sort of a solution onto our budget situation, you know, especially in our County.

But remember this, we vet's didn't put the situation in you folks hands. What we did was to defend the Constitution so all of us here, our children's children, can have a, better quality life. Yes, it is, it is hard for you because there's so much you have to

bear with and scratch this and many all not going to be happy. But if you look the overall picture, many of my brothers and family did not return from the country. I did two years, two tours there. They did not return.

Three of my brothers and I was there. Two of my younger siblings wanted to join, why, because we believe, we trust, we trust in United States, we trust all of you. So our life and many others is in your hands today. It's not a great position to be in but I beg you, I ask you to please, to ask the one above that needs to help you because he has higher thoughts and his place is higher, he has the wisdom--

CHAIR MATEO: One minute to conclude, Mr. Sarmiento.

MR. SARMIENTO: And our prayer is with you. I end it with this, when the law bless each and every one of you with the knowledge and wisdom, that we so look forward that you will come out in a very fair and reasonable decision, but please do not add any more burden to the vets, we all suffering with our mental state and so forth and our physicalness. We cry day and night. So I ask this, this chamber to please, ask the Lord for your help and our prayers will be with you. Thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Sarmiento.

MR. SARMIENTO: Thank you. Amen

CHAIR MATEO: Mr. Clerk.

COUNTY CLERK: Mr. Chairman, we have no further requests to offer testimony.

CHAIR MATEO: Members, Mr. Sarmiento was the last individual signed up to provide testimony to the Council this morning. The Chair will offer an opportunity for anyone in the gallery wanting to provide testimony to please come up to the podium at this time. State your name for the record please.

MS. JUDITH FOX:

Hi, I'm Judy Fox.

CHAIR MATEO: Ms. Fox, when you are completed if you can please go back to the table in the back--

MS. FOX: I will, I will.

CHAIR MATEO: --and fill out the form please. Thank you, go ahead.

MS. FOX: I testified yesterday and I got all emotional, but this last speaker, how can you guys do this? I don't understand, I really don't understand. How many of you have had a 500 percent increase in your property taxes in the last three years. You've got to be out of your minds.

There's so many people out there who can afford to pay more property taxes in the State of Hawaii than the vets. And you've got to separate them out and you've got to separate out the poor kupuna. I don't understand why you can't demand a copy of the State tax return again, and the Federal, Federal and State actually at the time that an application is made so that you can determine by assets or by AGI on the tax return whether people have the money to pay this or not.

I mean, I'd like to ask Mr. Ponatallo *[sic]* if he wants to pontificate one more time like I heard him yesterday, but I'm, I'm just so upset that I just cannot believe that you guys would tax veterans in this manner. Thank you for your time.

CHAIR MATEO: Thank you. Members, is there a need to have any part of that testimony rephrased? Thank you very much, Ms. Fox.

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, we have no further requests to offer testimony.

CHAIR MATEO: Thank you. Members, with no objections, the Chair will want to close public testimony at this time. Any objections.

MEMBERS VOICED NO OBJECTIONS

CHAIR MATEO: Mr. Clerk, have we received any written testimony?

COUNTY CLERK: Yes we have, Mr., Mr. Chairman.

CHAIR MATEO: Members, likewise, with no objections we are in receipt of written testimony. The Chair would like to accept that into the record. Any objections?

MEMBERS VOICED NO OBJECTIONS

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM VARIOUS INDIVIDUALS WERE MADE A PART OF THE RECORD OF THIS MEETING.

CHAIR MATEO: Thank you. So ordered.

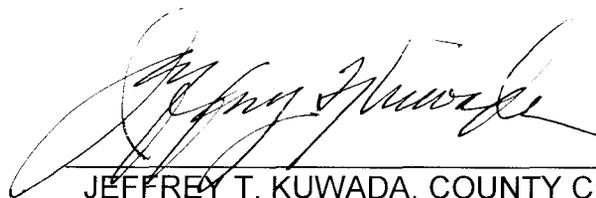
Mr. Clerk, is there further business for the Council.

COUNTY CLERK: There is no further business scheduled to come before the Council.

CHAIR MATEO: Thank you. Members we've concluded the business for the morning in regards to our public hearing. Council of the County of Maui Public Hearing on the 2012 Budget for May 24, 2011 is now adjourned.

ADJOURNMENT

The public hearing of *MAY 24, 2011*, was adjourned by the Chair at 9:38 a.m.



JEFFREY T. KUWADA, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII