

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

September 20, 2011

Council Chamber, 8th Floor

CONVENE: 9:05 a.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember G. Riki Hokama, Vice-Chair
Councilmember Robert Carroll, Member
Councilmember Danny A. Mateo, Member
Councilmember Mike White, Member

EXCUSED: Councilmember Gladys C. Baisa, Member
Councilmember Elle Cochran, Member
Councilmember Donald G. Couch, Jr., Member
Councilmember Michael P. Victorino, Member

STAFF: Scott Kaneshina, Legislative Analyst
Camille Sakamoto, Committee Secretary

Troy Hashimoto, Executive Assistant to Councilmember Mike White
Lois Bisquera, Executive Assistant to Councilmember Mike White

ADMIN.: Jeremiah L. Savage, Deputy Director, Department of Finance
Gery Madriaga, Assistant Administrator, Real Property Tax Division, Department of Finance
Marcy Martin, County Real Property Technical Officer, Real Property Tax Division, Department of Finance
Adrienne N. Heely, Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:

Sananda K. Baz, Budget Director, Office of the Mayor

OTHERS: Robert Karpovich
Thomas Croly

Warren Watanabe
David DeLeon
Whitney White

PRESS: *Akaku: Maui Community Television, Inc.*
Ilima Loomis, The Maui News

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CHAIR PONTANILLA: . . . *(gavel)*. . . The Budget and Finance Committee meeting for September 20th is now in session. The time is 9:05 a.m. We do have a quorum, bare quorum. At this time the Chairman would like to introduce the Committee Members. We do have Member Carroll.

COUNCILMEMBER CARROLL: . . . *(Inaudible)*. . .

CHAIR PONTANILLA: Good morning. Member Hokama, Member White--

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR PONTANILLA: --Member Mateo.

COUNCILMEMBER MATEO: Morning.

CHAIR PONTANILLA: Excused at this time are Members Baisa, Cochran, Couch, and Victorino. Um . . . *(laughter)*. . . we don't have anybody from . . . the Administration . . . *(laughter)*. . . Surprises me.

COUNCILMEMBER WHITE: We have . . . *(inaudible)*. . .

CHAIR PONTANILLA: Did we invite Administration to this meeting?

MR. KANESHINA: Yes.

MS. SAKAMOTO: Yes.

CHAIR PONTANILLA: We did?

MS. SAKAMOTO: Yes.

COUNCILMEMBER WHITE: . . . *(Inaudible)*. . .

MS. SAKAMOTO: Finance and Corporation Counsel.

CHAIR PONTANILLA: How 'bout coming forward? And if you can call Corp. Counsel?

NOTE: Pause while Administration representatives approached the Council floor.

CHAIR PONTANILLA: . . . And of course supporting the Committee, we do have Scott Kaneshina, our Legislative Analyst; as well as Camille Sakamoto, Committee Secretary.

NOTE: Pause.

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CHAIR PONTANILLA: . . . And we do have the Deputy Director from the Finance Department, Mr. Savage. And if you can introduce your people at this time?

MR. SAVAGE: Thank you. This is Gery, he is our, in our, works in our Real Property Tax; and as well as Marcy back here. And they are our specialists in this area.

CHAIR PONTANILLA: Thank you, Mr. Savage. Members. . .we're presently trying to get Corporation Counsel over here this morning. We do have two people from the public signed up for public testimony this morning. For those of you that are providing public testimony, you have three minutes to provide your testimony, and Chair will allow you one minute to conclude. Before I take public testimony, if every one of us in the Chamber could please turn off their cell phones or put it on the silent mode? The first testifier this morning is Robert Karpovich.

. . .BEGIN PUBLIC TESTIMONY. . .

NOTE: Pause while Mr. Karpovich approached the podium

MR. KARPOVICH: Good morning, Mr. Chair and Council members. My name is Robert Karpovich. I'm here to wholeheartedly support Mr. White's efforts to look into the real property tax system as it applies to Agricultural assessments. I'm a property owner here. I've had property on Kauai and on the Big Island. I've been involved in COMET. And the disparities in the real property tax system are enormous. I've testified on this before and sent letters asking about assessments. And today I'm not going to name any specific properties because landowners take their taxes very personal and I don't want to feel like I'm attacking anybody in particular, but rather addressing the system as a whole. The County Code calls for Agricultural assessments on land that's actually used for agriculture. I watch in dismay as the, as large tracts of land in Haiku and Kula, which are the areas I'm most familiar with, been taken out of, say, out of pineapple, some for a few years, some for decades, yet you cruise through the real property tax computer, what do you see, pineapple assessment, pineapple assessment, pineapple assessment, hundreds of acre, acres assessed for, you know, a few thousand dollars and property tax of minimum property taxes. Seems like the system is rigged for the large landowners to hold their lands and pay no tax. Meanwhile, someone with a house lot down in Kuau or Paia may pay thousands or tens of thousands of dollars, as I do, on property. There's 350-acre parcels with miles of prime cliff front in Haiku that are out of production and pineapple. There's no more pineapple. So that, that's, that's one issue that could be addressed without changing any, any Codes. The other Codes is, is what is a real farm? Well, the Supreme Court once said, I can't define pornography but I know it when I see it. So that's kind of the basis of where we're at right now with protecting farming versus real property assessments for, well, gentlemen's estates, house lots. Most people come here and they say, well, I can buy lot in town for half a million. I can buy a lot, a lot out in the country, a couple acres for half a million, but gee, property tax on one might be several thousand and if I've got a fence, the property tax on the other is a couple hundred bucks. So real estate's a commodity, unfortunately. You look at what's for sale now; it's all of Haiku --

MR. KANESHINA: Three minutes.

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MR. KARPOVICH: --is for sale, all of Kula is for sale. It's all being reconsolidated, resubdivided in old Tax Map Keys, but the, the properties are out of production. And if you talk to the Tax Office, they have some unwritten rules or guidelines, I really don't know. They say the land is fallow, so we give them a few years break. But give me a break; I pay a lot of tax. I don't mind paying my fair share, but the large, richest property owners feel entitled and like they wrote the system, I'm sure, back long before I was born. But they, they're entitled and they pay very, very little tax on the majority of the real estate on Maui. Thank you very much.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier? Seeing none, thank you, Mr. Karpovich. The next testifier is Thomas Cook--Croly, I'm sorry.

MR. CROLY, FROM THE AUDIENCE: . . .*(laughter)*. . .

CHAIR PONTANILLA: . . .*(laughter)*. . .

MR. CROLY: Aloha, Chair. Aloha, Committee members. I'm Thomas Croly, today speaking on my own behalf. My sincerest compliments to Councilmember White for bringing forward the issue of Ag assessments for this Committee to consider today. Those of you who know me know that I've stood here for many years talking about this among other issues in our Real Property Tax Code, and I'm glad that we're taking a look at this--and hopefully some of the other items--that, that present some disparities in our Real Property Tax Code. The favorable assess, assessments that are given to properties with ag activity is costing the County approximately \$28 million a year in real property tax revenues. If this Council feels that that's a reasonable amount for the purpose of promoting agriculture, then that's okay by me. However, I hope that after looking thoroughly at this matter, the Committee will conclude, as I have, that our Ag subsidy is inequitably applied, and it should be reconsidered to, to better, um, consider the actual land uses that are taking place and the actual ag production values of the land. Again I will point out what I believe to be the biggest abuse of this system--and that is what I call "the double dip", many homeowners who take both an Ag assessment and a homeowner exemption and Homeowner rate. Using the two of these things, you can take the value of a \$4 million property down to the point where for tax purposes you pay the minimum tax of \$150, and something's wrong there. A related problem is how are assessed values with both a home site and ag production are computed? This is a little confusing. But let's say you have a ten-acre parcel and you. . . a half acre of that is used for home site and nine-and-a-half acres is used for ag production in one way or another. The way it's presently computed is they take the total value of that ten-acre parcel and then 95 percent of it is taken away for the Ag assessment and only 5 percent is left for the home site. Well, everyone knows that a half-acre parcel surrounded by ten acres of land is, is going to be a pretty valuable home site, and it's not going to be worth only 5 percent of the value of that whole land. So that's, that if, if, if one thing, if only one thing could come out of that, addressing that would make a big difference. Again, I thank this Committee for taking up this issue and I support reforms in our Real Property Tax Code in an effort to produce both more revenue for the County and establish more fairness for everyone who is subject to our Code. Honestly, as I've looked at this and I've considered it through the years, I've thought, why don't

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I just hang a shingle out and show people how to get around paying their taxes, because there a lot of places in our Code where you can do that, and with --

MR. KANESHINA: Three minutes.

MR. CROLY: --just a little knowledge of the Code, you can, you can find your way around. And unfortunately the people with the knowledge of the Code are usually the people who would have the highest tax bills, when it really comes down it to it, and sometimes not the people that we would intend to help with some of the things that are in our Code. Thank you and I wish you luck on this endeavor.

CHAIR PONTANILLA: Thank you. Members, questions for testifier this morning? Seeing none, thank you again, Mr. Croly. Mr. Croly was the last person to sign up for public testimony prior to the meeting. Is there anyone in the audience that would like to 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.

CHAIR PONTANILLA: Thank you.

...END OF PUBLIC TESTIMONY...

CHAIR PONTANILLA: Again, Members, we do have Item BF-70, Disparity of Real Property Assessments for Agricultural Versus Non-Agricultural Lands. This Committee is in receipt of County Communication No. 11-227, regarding the matter relating to the disparity of real property assessments for agriculture versus non-ag lands, included, including the matter of an investigative group as permitted under Section 92-2.5, Hawaii Revised Statutes.

**ITEM NO. 70: DISPARITY OF REAL PROPERTY ASSESSMENTS FOR
 AGRICULTURAL VERSUS NON-AGRICULTURAL LANDS**
(C.C. No. 11-227)

CHAIR PONTANILLA: This morning, we're going to be having a PowerPoint presentation by one of our Members, Mr. White, following a short recess. So at this time, I'd like to prepare the Chambers for this presentation. So we'll take a short recess. Meeting is in recess. ...*(gavel)*...

RECESS: 9:17 a.m.

RECONVENE: 9:19 a.m.

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting is now reconvened. At this time, the Chair would like to introduce Mr. Mike White to present his overview in regards to disparity in real property tax assessments. Mr. White?

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COUNCILMEMBER WHITE: Thank you, Mr. Chair. I'd like to start with a slide that just mentions that in no way are we suggesting that the owners of the properties in this presentation are doing anything more than our laws allow. As the testifiers mentioned, we have some areas where the law can be used to advantage and none of these, none of these property owners are doing anything against the law. The examples used, included my own residence, show some of the weaknesses created by our County's rules and regulations, and unless otherwise noted all the comparisons are between taxable land values, not taxes--and that's because the varying rates on different types of use. And I just want to point out that the purpose of bringing this forward is to give the Council a view of what we need to do to change the framework within which the Property Tax Division is able to do their work on Ag properties, and it's not to point any fingers--because this is a system that has taken many, many years to develop and will take some time to unwind and, and rework.

To give you an idea of the, the mix of properties, there are 10,570 privately owned Ag-zoned parcels. There are a little over 12,000 if you include the government-owned parcels. Of those--and this is an important note--56.2 percent of those parcels are already paying taxes based on the market value, not an Ag assessed value. Of the market-priced homes or market-priced parcels I should say, 300. .or 3,381 or 32 percent have homeowner's exemptions and the remaining 200 and. . or 2,556 do not. Regarding the Ag assessed value or Ag assessed parcels, there are 1,343 in which the, the owner has both the Ag assessed value and the homeowner's exemption, and then 3,290 that have just the Ag assessed value. And of course, most of those are likely true Ag parcels.

The challenge for us is that since taking over responsibility for property taxation in the early '80s Maui County has done well with non-Agricultural assessments, but little has been done to build the legislative framework for the Department to provide consistency and fairness in the assessment of Agricultural parcels. Many property owners take advantage of the weak framework that the Department must work within.

Over the years, it seems that while values in all other property categories have risen dramatically, the assessed values for many parcels in the Agricultural use or in Agricultural use have remained more static. In some cases, the values assigned to parcels seem to be unchanged from the '80s.

The Rules and Regulations of the Director of Finance, relating to the Assessment of Agricultural Lands, signed into law by Hannibal Tavares in 1981, don't seem to have provided the expected level of guidance for the Department or the anticipated outcomes...which would be fairness.

How are the Ag values calculated? This is, this is a tough question to answer--and I'm sure those in the, in the Department can add some light to that as we go through these discussions. But in many cases it's difficult to understand how the calculations are arrived at for the discounting to value parcels with Ag uses. In some cases, just a few goats can reduce the tax bill of a, of a large estate by thousands of dollars.

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Ag values are often a small fraction of the purchase price or market land value. In many cases, parcels bought in recent years for millions of dollars are paying the minimum tax of \$150.

This is an example of a parcel that has a significant Ag discount. In the lower right-hand corner you can see that the discount off of their market value is 1,960,000 and even when you get a much clearer picture of this than this shows, you, you're hard pressed to find any Ag value or Ag use--and yet that discount is providing this owner a savings of 11,368 per year.

These are two identically sized parcels in Makena. This one, the top one is valued at 3.4 million and taxed at just about \$20,000. The lower one, as you can see, has a round pen for training horses and it's valued. . .now on the tax website it says five million, three, but I'm assuming that, that's a typo that it's three million, five. The taxable land value is a \$100 and the taxes paid are the, is the minimum tax of 150.

This is an example of, this is a, the parcel on the lower side is owned by somebody from the mainland, they obviously haven't done much with it. They're paying the full land tax at the Ag rate, 2,938 per year. The 2.24 acre parcel above has reduced their or has had their value reduced from 481 to 54,000 and pays a land tax of 135. So by putting 35 percent of their land into Ag, they've reduced the taxable value of their parcel by 89 percent. If the percentage of Ag use equaled the percentage reduction in value, then their taxes paid would increase by \$698 per year.

The two parcels with, that are closest to that box, are owned by the same person. The parcel on the right is fenced and therefore...and, and has no home it. So the value of the parcel's reduced, the market value is \$640,000 reduced for tax purposes of \$400, so they too are paying \$150. Without the goats that...the tax on that parcel would be 3,700. The other parcel has the back third of it being used for goats and the value of the parcel has been reduced from 641 to 80,000. And they pay tax on...they pay a tax of 200. The next door neighbor is paying about the same as they would, they would have paid on the other side. But this owner by having goats in, in the two parcels is saving \$5,000 a year.

This is just to show you a number of Ag parcels and their prices compared to a lot in, I believe this is in Kahului. It's an 8,400 square foot lot valued at \$266,000; whereas a 354,000 square foot lot, this is out near Hana, is valued at \$165,000. About a nine or...about a nine-acre parcel in Kula is valued at 225, and a two-acre lot I believe up in Upcountry is valued at 78,000.

These again are, the upper left you've got 25 percent of the property in ag use and a 75 percent reduction in value. So in essence, you've got a \$160,000 value for the remaining three-quarters of the property. Then the upper right-hand side is the same property, I just showed you where they've put 35 percent into ag use and got an 88 percent reduction. The one on the lower left has no apparent ag use at all and yet the parcels that they own surrounding this one do have some ag activity--so that may be the reason why this, this parcel has been reduced to 150,000 in value. It compares to a 6,100 square foot parcel in Lahaina, is valued at 258,000. Again this is just pointing out that we're not...we may not be looking at the result of the valuations, which is

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simply putting the taxable value of large parcels significantly lower than the, the value for tax purposes of the, of the smaller residential parcels.

Some small residential lots are assigned much higher tax values than large Ag parcels. This is a parcel in, on the north shore and it was purchased for \$1.85 million in 2000 and has a current market value of 1.4 million and a house that was built in the middle of the property, and it's surrounded by ag use. And I need to point out that all of these are Ag parcels with Ag valuations--and that's why I picked them. I'm not questioning, in this case, the fact that this is an ag use. The home is surrounded by pasture and I'm sure that it's legitimate Ag...but the result is that their taxable land value is 224,500, which is slightly lower than a 7,200 square foot lot value in Skill Village in Paia.

This is a...I'm sorry these...the outlines are a little bit hard to see, but you can see in the upper left-hand corner a five-acre lot outlined in blue. And the oceanfront lot is valued at, valued at and taxed at \$1.4 million. If you take a look at the, there's a five-acre parcel here that's owned by the person that owns the, the larger parcel. That parcel there is valued at 1.1, but taxed at 900,000...or \$900 compared to the same size parcel next door at 1.5. And this is, this is because it's, it's an Ag parcel and we just haven't seen the fact that this is not true Ag--because this entire area is very well maintained and mowed, so there is no ag use there. The Tax Department correctly has this listed as, I believe, a 16-acre home site. But it's still being taxed, the 25 acres of the 34 that are in Ag are taxed at 389,000. And that shows you some of the, the values that the purchase price and the home price and so forth. So the 389,000 compare...for 34 oceanfront acres compares to a parcel of 12,500 square feet along Hana Highway that's valued at 405,700 for tax purposes. The 37 acre lot or 34-acre lot is roughly 87 times larger and oceanfront.

This parcel is 67 acres and the taxable land value is \$7,100. And the interesting thing about this is that the...this parcel is, is 360 times larger than the one on the lower left, which is 8,000 square feet, and yet the taxable value is 37 times higher on the 8,000 square foot lot. Again, hard to, hard to justify that differential when the, the...this house is right about here in Waikapu off the...off frame. As you can see the market value for this parcel, the 67-acre parcel is 3.7 million and yet the taxable value is just 7,100. This parcel and these homes were purchased back in 2007 for 887,000. The taxable value currently for the lot, for the 67 acres plus the homes is 237,100. That means that the total tax value for the homes and 67 acres here is less than just the land value for this 8,000 square foot lot in Waikapu.

This is a 33...no 333-acre parcel, again on the north shore. It has 2,100 feet of ocean frontage, 20 acres in Conservation, 313 acres of Ag lands, and an 8.7-acre home site shown there. Has a market value of 200...I'm sorry, 2,590,000 and taxable land value of 506,900. The home site has a large home of about 500...or 5,600 square feet and two smaller dwellings. The land was purchased in 1995 for 1.760 million and has a taxable land value of 506,900, and that compares to a two-acre parcel in Haiku which is valued at 499,700. And again, the, you know, these are just...we bring these up just because the size of a three...I don't know how we can feel comfortable with a, a recently purchased 333-acre parcel. I'm sorry, I shouldn't say "recently purchased" because it was 1995. But we have a ten-acre home site or 8.7-acre home site here

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which essentially, even if you take out all the Ag land, this home site is being valued less than this two-acre parcel.

This, this slide is my house and I bring this one up because I mentioned this on the floor many times that I, I have the benefit of both the Ag assessed value and the homeowner's exemption and I...this is the one slide where I'm going to present the taxes, not just the values, because it points out what Mr. Croly was talking about earlier. I'd like to point out that I've lived in this residence for 12 years prior to, or actually about 10 years prior to applying for the homeowner's exemption. I didn't apply for it because I felt that my Ag assessed value was unfair and low and so I didn't apply for the homeowner's exemption until the Tax Department came and asked us to verify all the Ag and identify our home site. My home site is up here and it's roughly one acre out of the ten-acre parcel. You can't quite see the boundary, but it's there...and driveway access. So if you...so prior to applying for the homeowner's exemption my tax bill, I believe, was either 2,400 or 2,600 a year. So I was expecting to be charged for my home site as a result of that, that process. The market value of my house...no, the market value of my lot and, yeah, house and lot is close to \$2 million; and yet with the Agricultural valuation and the homeowner's exemption combined, my taxable property value is about 12 percent of my market value or 215,300. With the homeowner tax rate of \$2.50 per thousand, my taxes this year are \$538...down from 2,400, 2,600 a couple years ago. This compares to a Makawao parcel of 7,200 square feet. I'm comparing this because I know the folks that live there and I know they're homeowners but the, and the other thing I'd like to point out is that not all of our homeowners obviously are aware of the homeowner's exemption. ...*(clearing his throat)*... Excuse me. They've not filed for one, so this is a particularly good example of what happens when you've got the combination of the, of the homeowner tax rate, the homeowner exemption and the Ag valuation. These people are homeowners, their house is worth 431,000 and their annual tax payment is almost \$2,400, which is four times higher than my larger house on ten-and-a-half acres.

The next issue is whether or not the County should be allowing tax subsidies for land speculation. Some large parcels slated for development are taxed at very low rates while others are taxed closer to purchase price or current market land value.

These are three parcels in Upcountry. This is King Kekaulike High School and Pukalani Superette just for your bearings, and I've picked these three because I think anyone would agree that with the growth of Pukalani these parcels are probably owned for the purpose of, at some point, developing them as Pukalani grows. Parcel No. 1 was purchased for \$2 million and is now taxed at, at the full market value of roughly 1.4 million. So they're paying \$7,600 a year and \$266 per acre. Parcel No. 2 which is the, we all know it as the triangle parcel above Pukalani Superette, was bought at, as part of the larger deal so I don't know what the purchase price specifically for that parcel is. The market value is 2.9 million, they're getting somewhat of a discount for Ag, but they're still paying \$13,900 or \$342 per acre. And Parcel No. 3 was purchased in 2007 for 47...or, I'm sorry \$4.7 million, has a current market value of almost \$5.5 million, but has a taxable value of 12.4...I'm sorry 12,400 and is paying taxes at the rate of \$150 or the minimum tax. I believe this is because this parcel has been fenced and has cattle in it, so

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it, it's in Ag use. But the question that we need to be asking ourselves is, as policymakers is it appropriate for us to allow somebody who is, who has intention to, to develop something like this, that much...a 31...roughly at \$31,000 tax savings because they've put cattle on there for the short term. So how do we, how do we subsidize or how do we justify subsidizing investor three and partially subsidizing investor two and not subsidizing investor one?

Next, I'd like to compare...actually I forgot to switch this slide. Basically I'm comparing that same Parcel No. 3 with a similarly valued commercial parcel. And I realize that you can make the case, well, these guys have income generation on an ongoing basis and the Ag parcel does not. But I think it's, again, from a policy standpoint we need to be looking at if somebody is speculating on, on land development in the future, what do we need to provide the Tax Department as direction in how to handle that. In this case, you can probably see this is Pier 1, Burger King, Starbucks, and Jamba Juice, and Bank of Hawaii. The combination of these...of that parcel probably provides a couple of hundred jobs. They're generating \$38,600 a year in land tax and about 66,400 in total taxes for that parcel when you include the building values. So compare that with this parcel of 149 acres. I've already mentioned the purchase price, market value, so basically we're subsidizing that to the tune of about 300...or \$31,000. So, open space protected in the short-term, no jobs created and no ongoing economic activity until development happens. So those are just the two side by side.

Moving onto the next one, this is Makawao Town here, St. Joseph's Church up in that corner. This is a 258-acre parcel bought for 9.5 million, currently has a 24,000...a \$24 million market value and a taxable land value of 53,600. And I just need to point out again that the 53,600--if you look at this in comparison to our home sites in any residential community, whether it's Makawao, here, or Paia, Kahului, Wailuku, Kihei or Lahaina--you will not find a home site at this value...anywhere. So the current tax bill for these parcels is \$1,350. If they were being taxed on the purchase price, they would be paying 55,000. If they were taxed on the market land value, the tax bill would be 141,900. So those are the subsidies that we would have based on market value or purchase price. So the question for us is, is the County supporting agriculture, protecting open space, or allowing land banking for future development at a low cost, a low carrying cost I should say.

This is Walmart and again, I chose this because--let me just go back to that other slide. The market value...I first started looking for a market value in Kahului or Wailuku that would match the \$24.5 million value here. I was startled to find that there is no such value anywhere in Kahului, Wailuku, Kihei, or anywhere in the island outside the resort areas. The resorts have properties that are well over this value. But as far as Kahului is concerned, I couldn't find a value high enough to use for comparative purposes. But I chose Walmart because the land value is \$9.9 million and that's close enough to the \$9.5 million purchase price for the other parcel. And the total land value or total value of the parcel with the building is 22 million. This parcel provides 151,000 square feet of retail space, big savings on thousands of items for our Maui residents, probably provides hundreds...400 or 500 jobs and on the land only they're paying 69,400 in taxes. On the full building and...or the building and land they're paying a 154,300,

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and they receive no development subsidy and no ongoing subsidy, as we do with the land speculation. Those are the two parcels side by side.

This is a purchase like one of the testifiers brought up. This is two parcels totaling 1,841 acres bought in 2006 for \$22,900,000. In 2008, the owners were paying \$103,478 in taxes and I believe they probably then leased it for...leased it to ranches and they've also since filed for an 86-lot subdivision. Since the 2008 tax payment of 103,000...with the Ag valuation, their taxes have dropped to \$301 per year or a drop of 99.7 percent.

Now we're switching gears to comparing businesses to other businesses and Monsanto bought a parcel in Kihei for \$20 million in 2009, and, and yet the County has provided an Ag valuation of just \$47,000 for tax purposes. So the question comes up, how do we arrive at the Ag assessed value of 47,400? And there are, I'm sure, explanations for that. But the, there is a rule in the, in the rules signed by Hannibal Tavares in 1981 that basically says that if you don't have parcels nearby to use as comps, you should use the income, the income method. And they...by buying the parcel for \$20 million, they've given us what they consider to be the value. And in looking back at their file, I was expecting to see that this \$47,000 price tag was something that has been there a while, but about ten years ago, the agricultural valuation for this parcel was about 140,000, and that grew up to just under 300, then up to 490-something, \$490-something-thousand and then back down to 450, I think 454,000, and then just this last year it was adjusted to this \$47,000 figure. So again, the question has to be asked--how do we, how are we making these calculations? And if this is a \$20 million piece of real estate that is valued as such by the owner, is it correct for us to take one of the most valuable pieces of real estate in the, in the County--outside the resorts--and tax them at such a low rate? Even a small commercial lot in Waikapu pays more land tax than the \$275 a year paid by Monsanto for 300 acres. In fact, all of Maui's businesses pay exponentially more land tax than the multi-billion dollar international corporation pays for its Kihei land.

This is the Monsanto parcel. Those are the land values I've already discussed. The taxable land value is a quarter, less than a quarter of a percent of the purchase price. And the \$20 million purchase places a higher value on this property than any commercial or industrial property in the County, except in resort areas. Queen Kaahumanu Shopping Center, for example, is valued at 15.2 million and is paying land tax of 106,500 and a total tax of 689,000. Maui Mall has a land value of 11.6 million and is paying land tax of 81,500, and total taxes of about 147,000. Maui Marketplace has a land value of 18 million, paying land tax of 126, and total tax of 299...299,000 I should say. So should the purchase price be a valid comp for determining taxable value? And should the County be providing a subsidy amounting to about \$115,000 a year to a, a company that is much, much larger than many of the companies on the island?

This is the small lot that I mentioned. This is a 1,356 square foot lot in Wailuku. It's commercially zoned. It has a market value of \$59,700 and is paying, I exaggerated a little bit, it's paying \$373 in tax--but I like \$375 better because it means that they're paying a hundred bucks more than Monsanto.

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This is a 3,500 square foot lot on Vineyard and Kaniela with a taxable land value, market value and taxable land value of 279,000 paying \$1,744 in taxes, which is six times more than Monsanto.

This is Friendly Market on Molokai with a half acre, little over a half acre and a taxable land value of 357,000. They're paying 200, I'm sorry, \$2,236, or eight times more on their land than Monsanto on 310 acres. Arisumi Brothers on two acres, taxable land value of 2.3 million, land taxes of 14,700, and paying 53 times more than Monsanto.

So this brings to the end. . .my discussion of the various price disparity or value disparities. And the second part of the my presentation, actually it's not the second part, this is the last bit so you don't have to be concerned about staying up for a little longer. These are some of the considerations for establishing a temporary educational and investigative group. The Sunshine Law allows for expeditious in-depth review of issues by less than a quorum of a board, of board members assigned to an investigative group if specified procedures are followed. The question for us is should this Committee create an investigative group to study and make recommendations to address the disparity of real property tax, real property assessments for agricultural lands versus non-agricultural lands?

This next slide is the exact Sunshine Law section that allows for the formation of investigative groups. Basically it's section. . .of. . .92-point, or 92-2.5 of Hawaii Revised Statutes. And for those at home who may not be able to read this on their screen, Section (b) states: Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to, (1) Investigate a matter relating to the official business of their board, provided that (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board; (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and (C) Deliberation and decision-making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; and (2), they're allowed to -- no, (2) is, Present, discuss, or negotiate any position which the board has adopted at a meeting of the board, provided that the assignments, the assignment is made and the scope of each member's authority is defined at a meeting of the board prior to the presentation, discussion, or negotiation.

An investigative group can be created by a motion approved by the majority of the committee members, provided that the scope of the investigation and the scope of the member's authority are clearly established. Other County deliberative bodies have formed the investigative, have formed investigative groups to study specified issues. So this is not a -- we're not setting a precedent here for the County. Investigative groups are not required to publish meeting agendas, accept testimony, or publish minutes. And the Committee can establish procedural requirements for the investigative group including voting rules and a deadline for submitting its recommendations and voting rules. So, Mr. Chairman, that concludes my presentation. And I'll turn the meeting back to you. Thank you.

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CHAIR PONTANILLA: Thank you, Mr. White. At this time, the Chair will call for a short recess. . . .(gavel). . .

RECESS: 9:59 a.m.

RECONVENE: 10:05 a.m.

CHAIR PONTANILLA: . . .(gavel). . . The Budget and Finance Committee meeting is now reconvened. Chair would like to thank Mr. White for that presentation, and there's a lot of disparity in, in your examples. So at this time I'd like to call on the Administration, Mr. Savage, if you have any comments?

MR. SAVAGE: Thank you, Chairman. I'm Jeremiah Savage, the Deputy of Finance, and I do want to thank Councilmember Mike White to bringing to light to the public the disparities that we have in Agricultural assessment. And I do understand that it is up to this body to discuss and to determine which direction that our community goes in terms of development. So in that spirit, I have asked some of my staff that are technical specialists in this area to be able to answer you specifically with any questions that you have, so that you have the adequate information to determine the right direction we go. So you do have our Department's support on this. Thank you.

CHAIR PONTANILLA: Thank you. And Members, this morning we'll do the Q and As with the Department, or if you have any questions for Mr. White, maybe he can explain some of the presentation materials to us. Chair is not gonna take formal action in, in creating this investigative group at this meeting. At our October 4th meeting, we'll take positive action. . .if we decide to do so, to move forward on this proposal. The other thing Chair would like to mention is that if you do have any questions that can't be answered by Mr. White or the Administration, if you put it in writing, send it to this Chair, we'll have Staff send out letters to those Departments and individuals regarding some responses. So at this time, I'd like to open it up for questions. Mr. Carroll, if you do have any?

COUNCILMEMBER CARROLL: I have a lot of questions really, but I kind of like the idea of putting it in writing and submitting it. I'll go just briefly one of the lines that I would like to take, and that is it was proposed before and I don't know if they ever did it. I know they did something, this with private property owners to where the tax rate was held low and it stayed that way and it was never increased unless it was sold. At the time of sale, then you went back and the true value of those taxes had to be paid at the time of sale. They did that with residences a long time ago, and I think only 16 landowners went and took advantage of that, and they all said, well, what if I want to sell later? So it just never went anywhere and as far as I know, that they stopped that and never proceeded, but it seems like a good way to protect agricultural land in the cases outlined by Mr. White. Because those big properties. . .to be valued at their true value, whether it's the price of sale or the potential or however, you know, this Committee decides to do that or the Administration, but give them the lower Ag value. . .encouraging it to stay in agriculture. And then if they ever do sell it, it goes back to that time and they pay that back

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taxes. Instead of \$300-something a year, they pay the 189,000 or whatever it is a year, and they have to pay the back taxes on it. This is also fair and it encourages the land to stay in agriculture. And I'll be writing that up and I have a little notebook with a whole bunch of things like that have come up over the years that I'd prefer to submit it to the Chair in writing for comments, so I don't misinterpret it just verbally in the meeting today. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Mr. Hokama, questions?

VICE-CHAIR HOKAMA: I was just wondering, Chairman, if your Staff or Mr. White already had the, a proposal regarding the jurisdiction of the proposed committee, investigative committee which I am very interested in. And I would also hope that the Committee, this Committee either today or at your next meeting would actually talk about, since it's in part of rules and regulations of how the department views this, what is true agricultural use? We have it defined. And it's very clear that it, the words are actually put to agricultural use. And it also talks about the standards, it also talks about actually, the word is, that is used is the word, "actually in cultivation". And it also states what does not include or apply to, regarding some of the concerns Mr. White was able to show during his presentation. And so, you know, while I know this is something that has gone back many decades and we also had the Ag Dedication Law, the seven-year requirement of dedication to get certain tax breaks for active cultivation, I'm more than happy to review it in this point in time because times have changed, and more than happy to make the appropriate revisions to show, again, what we would hope to achieve--which is fairness and equity and consistency in the application of assessments and taxation to all property owners. Thank you very much.

CHAIR PONTANILLA: Thank you. Mr. White?

COUNCILMEMBER WHITE: Well, I'd just like to reiterate that the -- when I look at the job that the Tax Department faces, the residential, residential arena is fairly easy for them to take care of because the property sizes are all similar, if not similar they're not far apart; and when a sale takes place in a residential area, it's, I believe it's relatively easy to populate the other parcels in the surrounding area with the new, the new value, whether that's going up or going down. The challenge that I believe they have in the Ag area is one of verification, access to the property. You know, they can, you know, we can say what we want about whether the land is in cultivation or not, but if you've got a locked gate and about five or six pit bulls loose behind that gate, are you going to go check? I'm not. The website that they have created and just turned on--I believe it was in January--provides us the ability to go and look more closely. And the pictures aren't up to date necessarily, but it gives us an idea of what's going on on those properties. So I take my hat off to them for establishing what I believe is an incredible website. So I think they're on their way to coming up with some tools that are going to make their jobs easier, but at the same time we've got to provide them a framework that makes the difficult job of trying to, trying to assess or appraise a wide variety of sizes, wide variety of uses, different topographies, different views, different, all kinds of different factors that come into assessing Agricultural parcels. We've got to look for ways to provide them a framework that is much easier for them to do their job on the front side and then also have the ability to do enforcement

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on the back side. Like we've, you know, like what you have done with the homeowner's exemption and other things, we need to provide them the framework and we need to provide them tools with which to make that framework work for them and work for us.

CHAIR PONTANILLA: Thank you. Mr. Mateo?

COUNCILMEMBER MATEO: Mr. Chairman, thank you very much. I believe the, Mr. White's presentation not only spurred a lot of questions for the Members, you know, ourselves, but I think it provided an opportunity for the Department to take a look at their processes and perhaps start looking at how to update their processes. But I think that's not going to happen until the investigative group get together and try to work out problematic areas that, that we've neglected throughout the years. Good or bad, this provides us the opportunity to really test our categories at this point, because if there is disparity in this particular classification, you better believe there's questions in the others as well. But this is a starting point for us. And, you know, to use the same words that Mr. Hokama had, had, had stated earlier, the bottom line, the thrust and the focus must be on consistency and fairness as we address the tax needs and the disparity that, you know, we, we, we see through this particular presentation. So, you know, until that's done, we won't be able to give a clear direction. . .both to the, to the Department and for, for all of us to take a look at how to address the problems. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Should we move forward on this investigative group, you know, we're gonna be working very closely with the Department themselves, the Real Property Tax Division, because most of the information, they're, they're the experts, they're the ones that's out in the field doing the investigative process in regards to if true ag is being done on Agricultural lands. So we'll be working closely with the Department, ensuring that if we do decide to move forward that all questions are answered to the best of our ability. So, Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I just want to clarify one thing, that example that I was giving the first time. That is something that came up before and before I start getting letters and phone calls, there are negative aspects to that that I didn't address, which is why I'd prefer to do it by, in writing. So to the sharp people out there in television audience that are picking up their phone or starting to write letters, I realize that there are negative aspects to that, and it was just an example of what might be considered. Thank you.

CHAIR PONTANILLA: And thank you. And our next meeting in regards to this item, I'm sure this Chamber is going to be well attended, because it, it does affect people Upcountry, affects people in Wailuku, Lahaina, Molokai. I don't know about Lanai, probably not, but it affects a lot of landowners. Members, any more questions for the Administration or myself, Mr. White? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I, I appreciate your comments and yet for Lanai we do have some issues. You know, Lanai with Castle and Cooke, I believe we have one parcel that is, that's Agriculture that is 33,700 acres.

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MR. MADRIAGA: ...*(Laughter)*...

VICE-CHAIR HOKAMA: It's a massive parcel. I mean Mr. Madriaga is laughing or acknowledging because he has dealt with the Lanai real property taxation lots, and so he has history with our, our island and he understands some of the things that I, I am stating. And so for us it's how do we want to view a parcel of that size, and with its various potentials, how will we address and make it more appropriate for how we want to value it, what is a fair value and, of course, what is a fair taxation? But I just wish to share two comments, Chairman. One, it is, I would say, I would prefer to do it sooner than later, because this not only impacts Agricultural taxation category. We will make appropriate adjustments to address all other taxation categories that we have--whether it be Hotel/Resorts, whether it be Residential, Improved Residential, Conservation. It impacts the total tax structure of this County. But, and, and second, Mr. Chair, I would like the people to know, though, that this is not something unique to our County because of our development. This is a national issue that all 50 states are dealing with. Historically, it is an issue of importance from the east coast to the west coast, from Alaska to Hawaii. This is not unique to our County only, and every jurisdiction has approached it with some different or, or different approaches on how to deal with this inequities. Some have got, have gone quite draconian, some have done it through incentives or, or kind of gentle nudges, but the bottom line is if, the sooner we do it, the more fair we can assure our taxpayers that the other categories that are paying taxation is also being assessed and charged at a fair and equitable rate also. And I think that's what we want to reassure our residents and property owners. Thank you very much.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Administration at this time? Seeing none, if there's no objections, the Chair is recommending deferral of this item.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: GCB, EC, DGC, and MPV)

ACTION: DEFER pending further discussion.

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CHAIR PONTANILLA: Thank you. And at the next meeting, during posting, prior to posting, we'll probably get more information in regards to what you asked, Mr. Hokama, in regards to the, the process, the procedures, the policies. So, we'll get that out at the next meeting so we can move forward on this item. So with that, Members, the Chair is going to adjourn this meeting, and we'll reconvene--not "reconvene", but take up this matter at our October 4th meeting for BF-70. So this meeting of the Budget and Finance Committee is now adjourned. . . .(gavel). . .

ADJOURN: 10:21 a.m.

APPROVED:


JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf:min:110920

Transcribed by: Carolyn Takayama-Corden

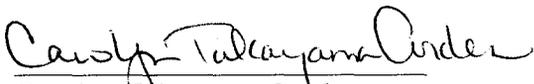
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CERTIFICATE

I, Carolyn Takayama-Corden, 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 the 6th day of October, 2011, in Makawao, Hawaii



Carolyn Takayama-Corden