

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

November 15, 2011

Council Chamber, 8th Floor

CONVENE: 1:35 p.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember G. Riki Hokama, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member
Councilmember Donald G. Couch, Jr., Member
Councilmember Michael P. Victorino, Member
Councilmember Mike White, Member

EXCUSED: Councilmember Danny A. Mateo, Member

STAFF: Scott Kaneshina, Legislative Analyst
Camille Sakamoto, Committee Secretary
Lois Bisquera, Executive Assistant to Councilmember Mike White

ADMIN.: Jeremiah L. Savage, Deputy Director, Department of Finance
Scott K. Teruya, 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: Tom Luten (Item BF-70)
Warren Watanabe, Executive Director, Maui County Farm Bureau (Item BF-70)
Christine Andrews (Item BF-70)
Thomas Croly (Item BF-70)
John J. Wilson (Item BF-70)
Jason Medeiros (Item BF-70)
Stephen West, Representative, International Longshore Warehouse Workers Union
("ILWU") (Item BF-70)
Christine Andrews (Item BF-86)
David DeLeon
Three (3) additional unidentified attendees

PRESS: *Akaku: Maui Community Television, Inc.*

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Ilima Loomis, *The Maui News*

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting is now in session. Today's date is November 15, 2011. The time is 1:35. Good afternoon, Members.

COUNCIL MEMBERS: Good afternoon.

CHAIR PONTANILLA: At this time, the Chair would like to recognize the Members that are present this afternoon. We do have Member Carroll, Member Baisa, Member Cochran, Member Couch, the Vice-Chair for this Committee Member Hokama, Member Victorino --

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR PONTANILLA: --Member White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR PONTANILLA: Excused at this time is our Chairman, Member Mateo. From the Administration, we do have Adrienne Heely, Deputy Corporation Counsel.

MS. HEELY: Good afternoon.

CHAIR PONTANILLA: Mr. Savage, who is the Deputy Director for the Finance Department.

MR. SAVAGE: Good afternoon.

CHAIR PONTANILLA: Good afternoon. And our Real Property Tax Administrator, Scott Teruya. Sitting in the back is Marcy Martin, also from the Finance Department. Supporting the Committee this afternoon, we do have Scott Kaneshina as well as Camille Sakamoto. Members, we do have several people signed up for public testimony this afternoon, but before we take any public testimony, if every one of us could put our cell phones to the silent mode or turn it off. Thank you. For those that are providing public testimony this afternoon, Chair will give you three minutes to provide your testimony with one minute to conclude. After the three-minute mark, you will be notified that you have one minute to conclude. If you can state your name, organization that you represent, the Committee would appreciate that. The first person to sign up for public testimony this afternoon is Tom Lutten.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. LUTEN: Chairman, Councilors, thank you for this opportunity. The first thing I wanna say is, is to the Director or the Administrator of the Real Property Tax Division, I spend a lot of time in your tax database. It is first class. I thank you for it. It's excellent. I'd also like to thank Mike White for taking the initiative on this, this project that he's working on. I've looked at the

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documents, both the findings and proposals and again nice work. Thank you very much. I've distributed some written testimony. It's a one-page sheet of paper with some, a few words at the top and some tables. It's what I'm gonna be talking about. In the course of investigating vacation rentals in particular in Maui Meadows, I've run across a number of discrepancies and disparities in property taxes. And since the subject of this, today's meeting is to deal with disparities between Ag and non-Ag land assessments, it seems to me that one of the places you all need to start is to deal with discrepancies in real property tax assessments. These two tables, the first of them show ten properties that are listed for rent in the Internet as vacation rentals. There are ten of them. All ten of them claim a \$300,000 property tax exemption, and all ten of them claim a residential tax rate. I don't think I need to say anything more about that than that, except that I now give you these addresses and the associated Internet addresses where the advertising can be found. Now whether you want to deal with the issue of Resort and Hotel tax rates for these kinds of properties really isn't relevant here. These are properties that have listed themselves for rent and they, therefore, are not entitled to a residential tax rate and they are not entitled to a \$300,000 property tax exemption. And these are just the ones that are in Maui Meadows. The lower table is something that sort of popped up in the middle of that, that research. There are 20 addresses, again all in Maui Meadows, and it was, this work is easier than it looks because all the tax map keys in Maui Meadows are sequential. And once you figure out what the lowest one of the bunch is, you just hit the next key and you get the next property. And out of looking at about 600 properties, 20 pop up that have non-standard property tax exemptions. That is, the property tax exemptions are, the exemptions are neither zero nor 300,000. And these 20 range from as low as 150,000, and I don't know what that's about, and they go up as high as \$600,000, or twice. And there are actually four properties that are approaching \$600,000 exemptions. There's five or six at 325 and 350 thousand. I'm going to guess that those have to do with disabilities or some special case. And there's one property there at 544 Mililani, who uses his tax address at 11, 111 Kahului Beach Road, which I think is Harbor Lights. And he claims a \$300,000 exemption on both properties, and I think the owners are the same. So that's all I need to say on these. I offer you this information and, and hope that you will act responsibly on them. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Member Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. You got all of this from the County website?

MR. LUTEN: Yes sir.

COUNCILMEMBER CARROLL: Was it difficult?

MR. LUTEN: No. It's a very good database.

COUNCILMEMBER CARROLL: Thank you.

MR. LUTEN: And I'm confident that the interface that the County has, as opposed to the ones that the public has, is even better.

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COUNCILMEMBER CARROLL: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for the testifier? Seeing none. Thank you again.

MR. LUTEN: Thank you.

CHAIR PONTANILLA: The next testifier is Warren Watanabe.

MR. WATANABE: Good afternoon, Chair Pontanilla, Members of the Committee. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. The Maui County Farm Bureau, on behalf of our, of our commercial farming ranch families and organizations, appreciates the efforts that have been undertaken to address the property tax disparities associated with agricultural lands. We strongly support the intent of BF-70, but feel there is more work that needs to be done, and provide the following comments. The intent of the measure to require fair taxation for agricultural lands is sound. At the leftover use, as the leftover land use category, there are many examples in which agricultural tax rate is not appropriate. However, in the process, we need to ensure that we do not prematurely force lands out of agriculture due to tax rates associated with highest and best use. One, accelerate the identification of Important Agricultural Lands. On these lands, commercial agriculture is the only approved use and commercial agricultural taxation is clear. Two, we support the differential Commercial rate, Agricultural property rates based on years of dedication with lowest tax rate associated with the longest term of dedication. But we need to ensure that a process is simple and timely. Three, recognize that land in active commercial agriculture is valuable. Four, utilize conservation plans with viable farm plans as a means to justify dedication. And five, provide funding to implement the process. Unfunded mandates will not bring about the desired results. As this process seeks to bring fairness into the system, we need to ensure that unintended consequences that reduce the farmers and ranchers does not occur. Incentivizing the process to have active farming is equally important as tax assessment, assessment processes, as tax assessment processes are determined. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Member Couch?

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Watanabe, for being here. I have a question for you on No. 5.

MR. WATANABE: Uh-huh.

COUNCILMEMBER COUCH: When you say provide funding to implement the process, what kind of funding would be needed to implement...

MR. WATANABE: I, I mean I think, you know, you know, we all are aware that, you know, legislation doesn't work without enforcement. So what we're, what I'm talking about is, you know,

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providing, whether it's the Real Property Tax or the Finance Department, adequate resources to carry out this mandate.

COUNCILMEMBER COUCH: Oh. Okay. Great. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for the testifier? Seeing none, thank you very much.

MR. WATANABE: Okay. Thank you.

CHAIR PONTANILLA: The next testifier is Christine Andrews, J.D. She's testifying on BF-70 as well as BF-86.

MS. ANDREWS: I'll reserve my comments for BF-86 until then if that's okay. All right. Thank you, Members. My name is Christine Andrews and I'm a resident of Wailuku Heights. And I thank the Temporary Investigative Group for their work on addressing disparity of real property tax assessments. I believe that the disparity has been a known problem in the County for many years, and I applaud the courage of the group's members to take on this issue. While the group's work was by, was rushed by the limited timeframe allowed them, I do agree with their findings as submitted, and agree that additional work is necessary. I did some quick research just to come up with some examples of the disparity the proposed bill is intended to address. These are based on my experience in Wailuku town, just looking at some neighboring properties in Happy Valley. There's one property that I know of that is classified Agricultural. It was acquired in 2002 and developed in 2003 with two new residences, about 696 square feet each. This was a historically vacant property. It was never in any agricultural use that I know of, at least since the 1990's. The residences on the property are used as rentals, and the land is used as a yard. The property is classified Ag, the land totals 23,653 square feet, and the assessed land value is \$227,000. The tax payment for this period is 1,200 bucks. The neighboring property across the canal in Happy Valley is tax-classed Residential. The properties are essentially the same and the type of land. This property is a historic plantation property. It was developed with residences in the 1930's and '40's, and was last conveyed in 1992. The land totals 1200, 12,000 square feet approximately, and is about half the size of the previously mentioned parcel. And yet the assessed land value for the smaller property is \$451,000, which is almost twice that of the more recently developed Ag property. The smaller property, with historic plantation buildings, has a tax assessment for the same period of \$1,589. This disparity in assessment between neighbors is inherently inequitable and is one of the problems that we are needing to address. I believe that Agricultural tax classification should be reserved for land in active agricultural use, and that homesites should be excluded. I support the proposed bill and recommend passage. Thank you.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier? Seeing none, thank you very much.

MS. ANDREWS: Thank you.

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CHAIR PONTANILLA: The next testifier is Thomas Croly.

MR. CROLY: Aloha, Chair. Aloha, Committee. I'm Thomas Croly, speaking today on my own behalf. I, too, would like to thank the, the members of the Temporary Investigative Group for all of their hard work in looking into this matter. Certainly, the nine meetings that you had over two weeks, mostly in your own private time, is, is well appreciated and I just wanna acknowledge it as what you're, what you're doing to help the people of Maui. There's a wide breadth of consideration that goes into agricultural assessments. And some are policy decisions. And one of the long-standing Maui County policy decisions is that we support agriculture with a low tax rate, and I am in favor of that as well. But there's one aspect to our agricultural assessments that's just out of whack and it needs to be brought into fairness for all. And that is the way that we assess the value of the homesite on a particular property that's being used both as an agricultural property and as someone's home. I'm gonna try to give you a little example here, using something to illustrate. If we picture this as a half-acre lot, okay, this half-acre lot, if it's out on its own in Rural zoning, say in Haiku, is valued at about \$350,000. Now, let's take a two-acre Agricultural lot, agricultural the green. And a two-acre Agricultural lot in Haiku, for example, would be valued at about \$400,000. So the difference between this half-acre lot and this two-acre lot is about \$50,000. Now, if I put this two-acre lot on top of this, or this half-acre lot on top of this two-acre lot, and I scope out a half-acre homesite on this \$400,000 property, the net result is that this half-acre, which is the same as the guy in Rural, now gets assessed at one quarter of the value of this total lot. So what that ends up is in Rural zoning, this was 350,000. Now, in this particular application, it's 100,000. Now, let's double the size of that lot. Let's say we now have a four-acre lot, and it's the same half-acre homesite, but it's on this four-acre lot. The market value of that four-acre lot is approximately \$450,000. But we put this half-acre on top of it, and now because that half acre only makes up one-eighth of that total lot, we're now down to about \$50,000 assessment on that. Now let's make it a little bit bigger, take it to an eight-acre property. On an eight-acre property, it would only then be the, the half-acre homesite, would be occupying one-sixteenth. So its value becomes set at one-sixteenth of that eight-acre homesite, which then brings it down to something like \$40,000. And then take it on ad nauseum, when you go to a large parcel, like, like say a 15-acre parcel that this would represent. That 15-acre parcel, its total market value is about \$600,000. But because the homesite is only making up 1/32 of that, the homesite's valued at \$20,000. So here we have a homesite, in one application it's being taxed or assessed at \$350,000. In another, as low as \$20,000. And that needs to be rectified. I support that this, the portion of this property that's being used in Ag, and that people can demonstrate is used in Ag, get an Ag assessment. I mean, I think that, that supports our effort for agriculture. But they shouldn't be getting a discount on the homesite just based on how the rest of the property is being used. And again, I got this information from the Real Property Tax website --

MR. KANESHINA: Three minutes.

MR. CROLY: --which I do agree is very well done. You can, you can get whatever information you want on your own property and anyone else's property, and it's a really good example of

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transparency in our government. And my acknowledgement to, to the Administration for putting together and maintaining such a good website. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Seeing none, thank, thanks again, Tom. The next testifier is John Wilson. Members, all of the testifiers have signed up for BF-70.

MR. WILSON: Thank you for the opportunity. And I do want to also acknowledge the work that the Committee worked to put this idea together and the research they did, and the time they spent. I just want to bring to your attention, along with the previous speaker, the problem we have with two-acre Ag subdivisions. The two that I am familiar with are Kula Glen and Kula Gulch, Kula Glen and Kula 200, I'm sorry. There's two gulches, Kula 200. I'm a resident of Kula Glen. I own a two-acre Ag lot. My Ag lot is about a third in a gulch, non-Ag use, about another third on a road bank and rocky area which can't be used for Ag purposes, and is appropriately assessed as such. I have about an acre of land on which is a homesite and some agricultural production. I would like to be able to earn at least a thousand dollars on the, the Ag production that I can make out of that. I have had a difficult time doing that with the protea. That also helps me keep my Ag water rate. I just wanna bring to the, to the Budget Committee's attention the possibility of looking at these subdivisions, and there was, I think, a previous one might've been referred to also, that are two-acre Ag subdivisions that probably should've been zoned as Rural when they were first taken out of Ag use as a large perhaps pasture land, and put into an Ag two-acre subdivision. I just wanna bring that problem to your attention, because I think there's more to this situation than is being addressed just with the real property tax rates. And I, I really think that in that, in that Kula Glen area, there's probably three or four of us that actually are trying to produce something on that land. Now whether we can or not to make, keep our Ag water rates is another question. But there are probably some people who are actually using that Ag. I know one gentleman has, has some acreage in the Kula Ag park as well as farming on his, his part of the two acres that he has in that Kula Glen subdivision. So I just wanna bring to your attention the problems that you might run into and perhaps address as you get into further discussion on these problems that you're dealing with real property tax assessment. And that's all I needed to talk about.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier? Member Couch?

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Wilson, for coming. Mr. Wilson.

CHAIR PONTANILLA: Mr. Wilson?

COUNCILMEMBER COUCH: I got a question for you. Thank you for, for coming. You, you mentioned you wanted to get Ag water rates. You are doing, you wanna try and do Ag on what...

MR. WILSON: I am doing Ag.

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COUNCILMEMBER COUCH: You are?

MR. WILSON: I've been doing Ag since 1984, since I first property, first purchased the property in 1980. I've been trying to follow the ordinances of the County in trying to maintain Ag in Ag-zoned areas.

COUNCILMEMBER COUCH: Sure. What are your...

MR. WILSON: And it's kind of difficult to do.

COUNCILMEMBER COUCH: Yeah. What kind of Ag are you doing?

MR. WILSON: I'm doing horticulture.

COUNCILMEMBER COUCH: Okay. Do you fill out a Schedule F for the IRS?

MR. WILSON: I do.

COUNCILMEMBER COUCH: Okay. That, because we're trying to look at seeing if that's a possibility of determining, as opposed to making...

MR. WILSON: There's another thing. The Water Department also has access to your State tax forms. And if you put that into your computer, you'd probably find a lot of differences in terms of what people are actually earning and what they might be saying they're earning, because in the past, I've put in estimated earnings, and sometimes I make it and sometimes I don't.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR PONTANILLA: Thank you. And he does Ag.

COUNCILMEMBER COUCH: No, no. I just...

CHAIR PONTANILLA: No, no. I know for a fact. Thank you, John. My ex-boss. The next testifier is Jason Medeiros.

MR. MEDEIROS: Aloha. My name is Jason Medeiros and I'm speaking on behalf of myself. I'm in full support of this resolution. I think that it's fair and that there has been many, too many people taking advantage of a loophole. I cannot understand why a retiree or a person still trying to raise their family, living in a house and lot has a higher tax rate than a gentlemen farmer. It's absurd. You know, if you're a farmer, and you're getting your hands dirty, God bless you. If you're taking advantage of the system, I'm just saying step up to the plate and be a part of this community. That's all I got.

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CHAIR PONTANILLA: Thank you. Members, questions for Mr. Medeiros? Seeing none, thank you again.

MR. MEDEIROS: Thank you.

CHAIR PONTANILLA: The next testifier is Stephen West. And Mr. West is the last person to sign up for public testimony prior to the meeting. If there's anyone that wanna provide public testimony, if you could sign up with the Secretary out in the lobby area. Chair would appreciate that.

MR. WEST: Good afternoon, Pontanilla, Chair Pontanilla and Council members. My name is Stephen West. I'm speaking on behalf of the International Longshore Warehouse Union. After hearing the testimony of the first testifier, I would strongly urge this Council and the Administration to take a more active role in the administrative, administration of the law, basically looking at, you know, we go house to house, and we're out there during election times. And we see these homes. And we, we really know who they are, and that's why we've always taken a very strong stance on being opposed to transient vacation rentals, because there are so many people that are out there in the community today, living in our communities, that are not paying their fair share. And so, you know, we are in strong support of this bill and thank you, Mike, for bringing this forward. The one thing that I would, you know, really urge you and the Administration, is to really strongly enforce the law. And you know, I wanted to thank the gentleman that brought this information forward. That's pretty much all I have to say, but we in full support.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier? Seeing none, thank you again. Again, Members, Mr. West was the last person to sign up for public testimony prior to the meeting. Is there anyone in the Chambers that would like to provide public testimony at this time? Seeing none, Members, if there's no objections, the Chair would like to close public testimony.

COUNCILMEMBER VICTORINO: No objections.

COUNCILMEMBER BAISA: No objections.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER COCHRAN: Oh. Sorry. Sorry, Chair. I thought there's what's her name, Christine Andrews.

CHAIR PONTANILLA: Uh-huh.

COUNCILMEMBER COCHRAN: Oh. So she just wanted to...but she had two items, yeah?

CHAIR PONTANILLA: Yeah, right.

COUNCILMEMBER COCHRAN: So, I guess she doesn't want to step forward.

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CHAIR PONTANILLA: Do you want to testify on BF-86 at this time?

MS. ANDREWS, FROM THE AUDIENCE: Yes.

CHAIR PONTANILLA: Okay. Members, if there, there's no objections, I'll bring up Ms. Andrews again.

COUNCILMEMBER COCHRAN: No objections.

CHAIR PONTANILLA: Okay. Thank you.

MS. ANDREWS: Thank you for hearing me. Okay, I just wanna say, in support of BF-86, that I agree with Councilmember Victorino, that the assessment and taxation of real property for Ag, agricultural use is intended to provide a benefit to legitimate agricultural operations. However, as applied, the assessment taxation of Ag land in Maui has every appearance of being arbitrary and capricious. Inequitable application of the preferential Ag assessment and taxation system hurts everyone, and encourages businesses and citizens to disregard the intent of the law, which is to promote legitimate agricultural operations. The impression of impropriety that results from the inequity in the Ag tax system harms the reputation of the County and its Real Property Tax Division, and perpetuates the image of Maui as a provincial backwater without consistent enforcement or effective rule of law. There is reason to question the extent to which County revenues are unjustly minimized by excessive subsidization of private agribusiness. While there is a public interest in promoting healthy and diversified agriculture, the extent of subsidization of some large agricultural landowners on Maui seems to enhance the bottom line of agribusiness shareholders at the expense of County residents, whom have been asked to sacrifice County services during the recent economic downturn. I believe that most County residents would be shocked and appalled to learn that A&B is paying only \$415 this period on the 342 acres it is proposing to turn into a portion of the Waiale residential development project. It is clear, as the draft EIS has just been approved, that A&B does not intend to maintain agricultural use of this property. I believe the proposed bill should be passed that landowners, such as A&B, unable to demonstrate commitment of such lands to legitimate agricultural use, can begin paying a fair and equitable share of property tax into the County coffers. The existing system is in fact corrupt and broken. According to Maui County Property Tax records, A&B's 342-acre Waiale Ag property, which is proposed for residential development, has a market land value of \$5.5 million, but an Ag land value of only \$143,000; a total property tax burden of \$831 this year. Across the highway, below me in Wailuku Heights, Wailuku Kuikahi's 130 acres, also tax classified as Ag property, have a market land value of \$6.25 million, but also an Ag land value of \$6.25 million.

MR. KANESHINA: Three minutes.

MS. ANDREWS: There is no legitimate explanation for the disparity in Ag land value between the two comparable properties. Wailuku Kuikahi's tax bill this year is \$36,000. In other words, Wailuku Kuikahi is paying 43 times more property tax on their Ag property, which is less than half the

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size of A&B's property across the road. This is a small example of how broken the Ag property tax system here on Maui is. And the only reason I looked at Wailuku Kuikahi is because they have their commercial property offices there, and I was trying to see if they were getting paid, paying for that commercial office right on the corner into Wailuku Heights. So I don't represent Wailuku Kuikahi, but it was weird. They're paying 43 times more tax. I propose the bill be passed. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Seeing none, thank you again. Okay, before I close public testimony, Chair is gonna ask, is there anyone in the audience that wanna testify on both BF-70 as well as BF-86 at this time? Seeing no one coming up, Members, again Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

...END OF PUBLIC TESTIMONY...

CHAIR PONTANILLA: Thank you. The item, the first item on our agenda this afternoon is BF-70, Disparity of Real Property Tax Assessments for Agricultural Versus Non-Agricultural Lands.

**ITEM BF-70: DISPARITY OF REAL PROPERTY ASSESSMENTS FOR
AGRICULTURAL VERSUS NON-AGRICULTURAL LANDS (CC 11-227)**

CHAIR PONTANILLA: Members, you are in receipt of a report from the TIG, Temporary Investigative Group, containing their findings and recommendations. At this time, I'd like to call on Councilmember White, Chair of the TIG, Temporary Investigative Group, who has prepared a PowerPoint presentation for us this afternoon. So at this time, the Chair will take a short recess. Recess, subject to the call of the Chair. ...*(gavel)*...

RECESS: 2:06 p.m.

RECONVENE: 2:10 p.m.

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting is now reconvened. At this time, the Chair would like to turn over the presentation to Member White. Mike?

COUNCILMEMBER WHITE: Thank you, Chair. And, first of all, I'd like to thank the Members that were on the TIG Committee with me, Vice-Chair of the committee, not committee, Vice-Chair of the group, Riki Hokama, and Members Mike Victorino and Gladys Baisa. Thank you for the weekends and evenings and all the private time that you spent working through the various questions and challenges and information that was provided to us. I'd also like to thank the Administration because they supported us way beyond anything we could've expected. Especially thanks to the Real Property Tax Department, the folks that are here. Scott Teruya and Marcy Martin spent many hours with us and many hours when we weren't together, providing

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information for us to review at our next meeting. And many of the pieces of information were turned around in very short order, so to them I owe a great thanks. As you can see, the TIG was formed to make findings and recommendations on policies relating to the apparent disparity of real property assessments for agricultural use versus non-agricultural uses. And it was established on October 4th by the Budget and Finance Committee, pursuant to Chapter 92-2.5 of Hawaii Revised Statutes. We held nine meetings between October 8th and November 1st, and reported to the Committee back on November 4th. And as required by the Sunshine Law, we were not able to discuss it at that meeting and we had decided, as part of the group, that we would not discuss it until this meeting. So that was why we haven't been terribly communicative. And I've already mentioned the group members, and we were limited to investigating historical and current practices in addition to conducting interviews relating to real property taxes. The TIG spoke to representatives from the Department of Finance, both the Director, the Deputy Director and all the folks in the Real Property Tax Department. We had conversations, actually the Real Property Tax Administrators from City and County of Honolulu and the Big Island came over and spent a significant amount of time with us. And the Maui County Farm Bureau, Maui Cattlemen's Association and the USDA in several of our discussions as well. Section One will focus on the valuation of homesites on parcels with agricultural use assessments. And Section Two will focus on encouraging agriculture and preserving open space through agricultural dedications and rollback penalties. Section One findings confirmed that there were significant inequities between the homesite values in residential districts versus the homesite values for parcels receiving agricultural use assessments, as was pointed out by several of the testifiers this afternoon. Homesites on agricultural properties should be valued comparably to similar parcels being put to similar uses elsewhere as reflected in the market. Currently, if a parcel in the agricultural district has both an active agricultural use and a homesite on it, the entire parcel receives discounted tax treatment. The TIG found that agricultural benefits should be limited to the portion of a parcel in active agricultural use. And the tax, we also realized that, in order for the Real Property Tax Department to do their job significantly from their seats at their desks, for all their preliminary work we really need to provide them with updated pictometry and GIS assets for preliminary lot evaluation. As you'll see in some of the examples, the pictometry helps quite a bit, but we need updated assistance there. We also found that the methodology in establishing homesite land values should be applied equally regardless of agricultural use on a parcel. And then the practices need to be refined by establishing a means of valuing the homesite independently from the portion that is in active agricultural use. The goal of these recommendations is to establish a more equitable homesite valuation on parcels with Ag use, and to create a level of fairness between values of similar lands being put to similar uses. And that basically just means if you're on a quarter-acre lot on an agricultural parcel, you should be paying something similar or paying on an assessed value similar to a quarter-acre parcel elsewhere nearby. Homesites shall be assessed independently from the portion of the parcel in agricultural use, as determined by the Director based on fair market value. And it's important to point out that none of the recommendations would have any effect on the existing home exemption and homeowner tax rates. We feel strongly that, that should not be affected. And the homesite means those portions of the parcel excluding the portion in agricultural use and excluding the portion that consists of unusable or unsuitable land for architect, agricultural use. This is an example that I've used in the past. The blue area in the back is fenced in and I believe

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it still has goats there. The area in yellow is the, what I consider the homesite. And the homesite is approximately an acre and a third. Because of the previous calculations, the homesite was valued, or not, the lot was valued at \$80,000 and so what we're establishing here is a one and a third acre homesite. And the current tax method provides a taxable value of 163,537, or a tax due, excuse me, a tax due of \$409. And the proposed method would increase the taxable value to \$473,455 and increase the taxes due to nearly \$1,200 per year. I should point out that this, just to put it in a comparison, we have lots in and around Kahului and Wailuku that are affordable housing lots that are paying in excess of \$750 a year compared to that 409 there. This is a farm lot in Kula. It's 2.9 acres with a quarter-acre house lot. And we'll compare that with a house lot in Makawao, which is also .25 acres. So if you have a 2.9-acre Kula farm lot with a quarter-acre house, we're just using the example, the example we're using has 150,000, or \$153,100 building value. And so it currently has a homesite value of 56,000 and an Ag use value of 8800, I'm sorry, 88, \$887. We have replaced the homesite value with that of the Makawao lot of 241,700. So what this does at the bottom is that house site and 2.9-acre farm lot is currently paying a minimum tax of 150, and their taxes would go up to 489 under the, under the proposal where we tax the homesite as if it were a homesite elsewhere. That compares with the Makawao residence, and we put the same house value in for comparison. And so the resulting tax on a similar house and similar sized lot shows that the Makawao resident is paying \$487 currently, and the farm lot would go from 150 to 489. So, in essence, for the roughly two and a half acres of farmland, the people in Kula would be paying an additional \$2 over and above the Makawao residence. This is in Section Two. Tax incentives can and should be used to encourage agricultural use. And it's become clear to us that current practices, where there's not much of a penalty, are a weak tool for preserving agricultural land and open space. A system to require property owners to dedicate their land for agricultural use to receive the significant tax benefit is appropriate. And that establishing a penalty such as property tax rollback is a common practice to discourage the changing of land use. We also found that Maui County currently offers a 10- or 20-year agricultural dedication; however, only a small percentage have actually taken advantage of that program. All dedications should receive tax incentives; however, the public subsidy aimed at encouraging agriculture and protecting open space should provide a more significant discount for longer term dedications than for shorter ones. We also found the current agricultural use assessment system is based on agricultural values that are over 40 years old. The system has not been updated to accommodate more current values or new technologies and crops, such as hydroponics and seed crops. A new agricultural assessment methodology may be warranted, but requires more study than was permitted by the timeframe that the TIG was, was given to come up with recommendations. Agricultural use valuations have remained the same for the past 10 years and probably since 1967 when they were first established. In the past 10 years, market values and taxes paid by property owners in all other categories have increased by approximately 90 percent while Ag use values and taxes have remained flat. Since 2001, over 16,000 acres of land have been taken out of active agricultural use. This shows the changes from 2001 to 2011. On the upper portion, you can see in 2001 we had 292,500 acres, and we have dropped to 275,957. The market values have more than doubled from 2.7 billion to 5.4 billion, and the current use values have increased by only \$6,600 on a base of three point, or 35.8 million. And the taxes have increased by only \$38 in those ten years from 207,872 to 207,911. In 2001, the total for all other lands amounted to a value of 7.5 billion, and taxes paid of 40.1 million. And

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Ag lands for the numbers I just mentioned. By 2011, taxable value had increased to 14.4 billion and the taxes paid had increased to 76 million. So that's an increase of 90 percent on value, and 89.4 percent on taxes paid. And you can see right below that the increase in value for Ag lands was just a little over two-hundredths of a percent, and the taxes paid remained flat. So our recommendations were that we needed to refine and expand the Agricultural Dedication program, and provide greater incentives for preservation and more of a penalty for changing the use of the land. So, further recommendations are to, in order to receive an agricultural tax benefit, land shall be dedicated. A petition to dedicate land must be approved by the Director for a specific agricultural use for a period of 5, 10 or 20 years. So we've added five to provide some additional flexibility. The petition must establish substantial and continuous agricultural use. And agricultural use means the active, commercial and primary use of the land for aquaculture, crop production, grazing of animals used in livestock production and production of livestock byproducts and plants for food, fiber, or energy, flowers and foliage, tree farms, aquatic animals and plants, bees and related natural byproducts, biomass, nuts and seeds. Agricultural use does not include the use of areas primarily as yard space, setbacks or landscaping, or the planting of fruit or ornamental trees, flowers and vegetables primarily for home use. Who may petition? Owners representing at least a 50 percent interest in the land. Parcels must be at least two acres in size. And if they are less than two acres in size and not within a County agricultural district, land shall have been in continuous agricultural use for the past five years and the annual gross income derived from the agricultural use shall not be less than \$5,000. And, before I go on, I need to make it clear that again these are just recommendations. And these are things that we felt were, were responsible and appropriate. But, of course, they're all up for discussion, debate and, and change. Contents of the petition. You need a description of the agricultural use, the acreage involved and the agriculture and delineation of the homesite. We need three dated photos within 30 days of submitting the petition, copy of Hawaii GET tax license and Federal tax return including Schedule F for farm income. And the Director will review and approve dedication, which shall include an inspection. And this is, quite frankly, where the pictometry will come into play, because a lot of the work will be done ahead of the visit and the inspection should just be meant to confirm what, what we've seen through pictometry. Proposed dedication schedule. If you dedicate your land for five years, you'll receive a discount of 50 percent off of market, fair market value. If you dedicate for 10 years, you'll receive a discount of 80 percent from fair market value. And if you dedicate for 20 years, you'll be assessed at one-half of its, of your parcel's current agricultural use, or not current, your agricultural use value. To give you some ideas of how those play out, this is a 149-acre parcel, which was purchased for \$4.7 million and has a current taxable value of \$12,400 and is paying \$150 minimum tax. So under a five-year dedication, based on the fair market value taking 50 percent of that amount, which is 2.7 million, the taxes paid would be 15,902. For a 10-year dedication, 20 percent of the market value is 1.1 million, and taxes paid would be 6,360. But if you are making a 20-year dedication, you get a significant discount. So you're, it would still be based on fair market value, but in this example, because 50 percent off of your assessed value still doesn't, it's still under the \$150 minimum tax level, so you'd still be paying the \$150 in tax, but you'd be avoiding the, the next step up of 6,360. A little larger parcel. This is an HC&S parcel. It's 1,195 acres, with a taxable value of 488,600, and taxes paid of 2,832. A five-year dedication, the 50 percent of market would be based on five, \$5.2 million and taxes paid would be 30,310. A 10-year dedication

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would be based on 2.1 million, and the taxes would be 12,123. And a 20-year dedication would be based on half of the taxable value of 488...or 244,300 and the taxes paid would drop to \$1,416. So, as mentioned earlier, one of the ways that we felt we needed to put some teeth into the agricultural dedication process is by providing rollback and penalties if the dedication period is not fulfilled, and basically land affected by a land use change shall be subject to rollback tax and penalty with certain exceptions. "Land use change" means a State land use, County zoning change or final subdivision approval, and we have proposed that family subdivisions be exempt from this. Rollback tax shall be equal to the difference between the taxes owed for the dedicated land at 100 percent of the land's agricultural fair market value and the taxes actually imposed. The penalties shall be calculated by multiplying the number of years the rollback tax applies by 10 percent of the total rollback tax owed. Events that may trigger cancellation of the dedication without a rollback or penalty would be death of any owner or events beyond the owner's control such as long-term illness, natural disaster, loss of adequate water, et cetera. Other items - as I mentioned, family subdivisions may take place without a rollback or penalty if agricultural use continues. The Director may grant a grace period not to exceed two years. And the land shall be assessed at 100 percent of market value for the duration of the grace period. And this is basically to allow a landowner to look for a new lessee if a lessee leaves. Some examples of the calculation of the rollback. Again, this is the 149-acre parcel. And for a three-year rollback on a five-year dedication, the rollback amount would be 47,700, with a penalty of 14,300 for a total of \$62,000 on a three-year rollback. And again that's on a \$4.7 million purchase or a \$5½-million dollar value. For a rollback, a six-year rollback on a 10-year dedication, the amount of the rollback increases to 152,600 and a penalty of 91,600, for a total fee for cancellation of \$244,200. For a 12-year rollback on a 20-year dedication, you can see that the penalty is significant, at 381,000 of rollback and 457,000 of penalty for a total of 839,000. For the larger parcel, the 1195-acre cane parcel, a five-year rollback, I'm sorry, a three-year rollback on a five-year dedication, there would be \$91,000 in rollback and 27,000 in penalty for a total of 118,000. Or a six-year rollback on a 10-year dedication, the rollback would be 291,000. The penalty would be 174,000, for a total of 465,000. And the 12-year rollback on a 20-year dedication would be 710,000 in rollback, 852,000 in penalty for a total of \$1,563,000. That completes our recommendations as far as the two main issues are concerned, but we also feel that for us to properly enforce the provisions that we feel are important for us to move forward with, we will likely need additional staffing in the Real Property Tax division to inspect properties as, as outlined. And we also feel that they need to have pictometry software and geographic information software, and related hardware and training to make use of these, these new assets. They've got a lot at their disposal now, as you can see with the Real Property Tax website, but the pictometry software that is available now from what RPT has told us, will allow them not only to see what is taking place on the property, but it will also allow them to measure the size of the, of the structures on the property, both in square footage and height. So it'll give them a significant increase of, of capacity or capability. We also feel that the implementation of the dedications will require significant public outreach efforts in order to explain what the changes are and how we're going about it. And the deadlines should be well publicized. As we were unable to include all of the things that we wanted, these are just things for future consideration. The first is to look at alternative methods for assessing values, looking at longer dedication timeframes and greater incentives for longer terms,