

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

**MINUTES**

**Council Chamber**

**September 16, 2014**

**CONVENE: 1:39 p.m.**

**PRESENT: VOTING MEMBERS:**

Councilmember Don S. Guzman, Chair  
Councilmember Robert Carroll, Vice-Chair  
Councilmember Elle Cochran  
Councilmember Stacy Crivello  
Councilmember Michael P. Victorino

**EXCUSED:** Councilmember Gladys C. Baisa  
Councilmember Mike White

**STAFF:** Sharon Brooks, Legislative Attorney  
Jordan Molina, Legislative Analyst  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via voice conference)  
Denise Fernandez, Council Aide, Lanai Council Office (via voice  
conference)  
Dawn Lono, Council Aide, Hana Council Office (via voice conference)

**ADMIN.:** Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation  
Counsel  
Brienne Savage, Interim Director, Department of Parks and Recreation  
(Item 42)  
Bradley Pierce, Parks Maintenance Superintendent, Department of Parks  
and Recreation (Item 42)  
Tara Sabado, Acting Grants Coordinator, Department of Parks and  
Recreation (Item 42)  
William Spence, Director, Department of Planning (Item 13)  
Joseph Alueta, Administrative Planning Officer, Department of Planning  
(Item 13)  
Scott Teruya, Administrator, Real Property Tax Division, Department of  
Finance (Item 49)  
Mark Walker, Deputy Director, Department of Finance (Item 49)  
Marcy Martin, Senior Property Technical Officer, Real Property Tax  
Division, Department of Finance (Item 49)

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

**OTHERS:** James Hirano, Warden, Maui Community Correctional Center (Item 42)  
Peter Kawaa, Community Work Line Lieutenant, Maui Community  
Correctional Center (Item 42)  
Sydney Smith, President, Maui Coffee Association  
Eve Hogan, Owner and Executive Director, The Sacred Garden  
Annette Niles  
Bobbie Patnode, Vice President, Kula Community Association  
Plus (2) other people

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

---

CHAIR GUZMAN: . . . (*gavel*) . . . The meeting of the Economic Development, Energy, Agriculture, and Recreation Committee shall now come to order. I'm Councilmember Don Guzman, the Chair of the Committee. Before we begin, can you please turn off any and all cell phones? I'd like to introduce our Committee members, our Vice-Chair Bob Carroll.

VICE-CHAIR CARROLL: Good afternoon, Chair.

CHAIR GUZMAN: Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Mr. Chair.

CHAIR GUZMAN: Elle Cochran.

COUNCILMEMBER COCHRAN: Good afternoon. Aloha, Chair.

CHAIR GUZMAN: And Mr. Mike Victorino.

COUNCILMEMBER VICTORINO: Thank you from the other end of the world.

CHAIR GUZMAN: Thank you. Excused is Chair Gladys Baisa as well as Mike White. Also like to introduce our Committee Staff which will be Pauline Martins, our Committee Secretary, and our Legislative Analyst and Attorney, Sharon Brooks. Thank you. Briefly, I'll make an announcement. Anyone who's willing or wanting to testify, please sign up at the entrance of the lobby. Once you've testified you're only limited to today's agenda. Pursuant to the Rules of the Council you'll be limited to three minutes and one minute to conclude. When you testify, please state your name and the organization in which you represent. I will now check in with our District Offices. Hana Office, please identify yourself.

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

CHAIR GUZMAN: Good afternoon, Ms. Lono. Also, in Lanai Office, please identify yourself.

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR GUZMAN: Good afternoon, Ms. Fernandez. Also, on Molokai Office, please identify yourself.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR GUZMAN: Good afternoon, Ms. Alcon. Thank you, District Offices. I'm gonna turn back to the Chambers. Ms. Brooks, can you please call on the first testifier?

MS. BROOKS: The first testifier is Sydney Smith followed by Eve Hogan.

*... BEGIN PUBLIC TESTIMONY ...*

MS. SMITH: Aloha. My name is Sydney Smith. I'm the President of the Maui Coffee Association. I'm also the owner of Maliko Estate Coffee Farm in Makawao. I'm here speaking on behalf of the Maui Coffee Association and myself. In 2012 in an effort to encourage agriculture and sustainability our State Legislators passed Senate Bill 2375. That bill allows farmers to sell the products produced by neighboring farms within the State of Hawaii. It allows farmers markets, farm retail stores, and retail food establishments on Agricultural land as an allowed accessory use. This ordinance EAR-13 makes our County consistent with State Law. Councilman Don Guzman, Chair of the Agriculture Committee gathered working farmers together to help draft this ordinance. I represented the coffee growers and roasters who live, work, grow, and roast coffee here in Maui County. Councilman Guzman and his Staff, Members of the Arakawa Administration and leaders of other commodity groups and community organizations with agriculture interests joined together and we worked through the ordinance word by word. I feel very proud of this collaborative effort. I know my coffee farmers and roasters will be able to utilize this right away. By allowing farmers to sell a broader range of agricultural products we can better afford to make the investment in a nice facility we can all be proud of in our community. Our own local families can have a greater variety of things to buy. They can experience the farm and our visitor industry will benefit too. Please support EAR-13 and Maui agriculture.

CHAIR GUZMAN: Thank you. Members, any clarification? Seeing none, thank you so much Sydney.

MS. SMITH: Thank you.

MS. BROOKS: The next testifier is Eve Hogan followed by Annette Niles.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MS. HOGAN: Aloha. My name is Eve Hogan and I'm the owner and Executive Director of The Sacred Garden property in Makawao, a retail nursery and peaceful sanctuary open to the public daily, and the adjacent property which houses Hoolau Nursery which is a wholesale certified organic nursery. I'm submitting testimony in favor of EAR-13 to allow commercial agricultural structures within the Agricultural Districts and to bring Maui County Land Use Laws into consistency with State Land Use Laws. And first, I wanna thank Councilman Don Guzman for leading the Agricultural Working Group and allowing farmers and ranchers to have input on the agricultural laws that so greatly affect us. The great architect, Frank Lloyd Wright reportedly would build a complex of buildings and rather than imposing walkways where the people had to walk, he would wait until the buildings were populated and watched to see where the people walked and then installed the walkways to support the needs of the people rather than the other way around. This type of practical and creative problem solving is rare especially in government, and so I would like to applaud you all for paying attention to the actual desired and needed uses of agricultural lands by farmers and ranchers. Any and all efforts by you to make it legal for farm owners to monetize their farms without having to seek subsidy elsewhere is a huge step in favor of keeping agricultural...agriculture alive on Maui. It's important that the County recognize that one-size laws don't fit all farms. Small family farms on Maui have huge mortgages and expenses and are competing with the huge box stores like Home Depot, Costco, Walmart, Whole Foods, and Lowes for their sales. As such, it's extremely difficult to make enough money from agricultural products alone. The ability to legally have commercial agricultural structures and the ability to sell value-added products and food items will greatly increase our ability to stay in business and keep our farms running. Thank you for recognizing the diversification of agriculture that's taken place since the last version of the Code was written and for making the laws easier to comply with.

CHAIR GUZMAN: Thank you, Eve. Members, any clarification? Seeing none, thank you very much for your testimony.

MS. HOGAN: Thank you.

MS. BROOKS: The next testifier is Annette Niles followed by Bobbie Patnode.

MS. NILES: Hi, good afternoon. My name is Annette Niles. I'm here testifying on EAR-13. I'm a farmer, and rancher. And I'm also on the Ag Working Group that is under Don...Councilman Don Guzman, and very proud to be on that group, very, very proud because of the accomplishments this group has brought for you know, agriculture and farming. And now at least we can see some light at the end of the tunnel for our families, our families to give to their families, and keep the farm alive and ranching alive instead of having to dissolve it. So I am just asking for you guys to support the EAR-13. Thank you.

CHAIR GUZMAN: Thank you, Annette. Any clarification, Members? Seeing none...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MS. BROOKS: The next testifier is Bobbie Patnode.

MS. PATNODE: Aloha, my name is Bobbie Patnode, and I am Vice President of the Kula Community Association. I'm also a member of the Agriculture Working Group which was formed last summer to provide Councilmember Don Guzman input from the ag community. I am here in support of EAR-13. The Kula Community Association Board is in favor of this bill. The Ag Working Group which helped to create this bill is in favor of this bill. We know there are small farms which are waiting for the bill to be passed. I testified last March about the process the Ag Working Group followed to create the bill. Here's some parts of the bill I'd like to again highlight. This bill brings Maui County up to date with Hawaii State Law. The group is in favor of expanding what can be sold at a farm stand to include products grown in the State of Hawaii, not just Maui County. This enables farmers to increase revenue by expanding their offerings and continuing to fill orders for restaurants and hotels when Maui crops are low. While we are in favor of selling all Hawaii grown, we also want to ensure that farm stand operators comply with this and do not bring in outside produce and claim it is grown in Hawaii. Hence the requirement to register the large stands. We do not want to add to the paperwork that farmers are required to process; therefore, we are in favor of a simple process preferably on line. We do not want to impact the very small roadside stands that are a positive characteristic of Maui's roads and ag neighborhoods. Therefore the registration requirement is only for stands over 300 square feet. This bill amends what is allowed in the Agriculture zone. We felt it was important that a lessee have a lease for a minimum of five years. So to discourage anyone who is not serious about agriculture and farming and only sees this as an opportunity to run a farm stand. This is a good bill and will benefit Maui's farmers. Please move it forward. Thank you for your support of Maui's agriculture.

CHAIR GUZMAN: Thank you. Members, any clarification? Seeing none, thank you so much, Bobbie.

MS. BROOKS: There are no more testifiers in the Chamber.

CHAIR GUZMAN: Excuse me?

MS. BROOKS: There are no more testifiers in the Chamber.

CHAIR GUZMAN: Okay, thank you. Thank you, Sharon. I'm gonna turn to our District Offices. In Hana District Office, do you have anyone wishing to testify?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR GUZMAN: Lanai District Office, is anyone wishing to testify?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

CHAIR GUZMAN: Thank you. And Molokai District Office, anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR GUZMAN: Oh, thank you. Anyone else in the gallery that would like to testify? Seeing none, Members without objection, I would close open testimony, public testimony, excuse me.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

*... END OF PUBLIC TESTIMONY ...*

CHAIR GUZMAN: Thank you.

**EAR-42 EVALUATION OF THE MAUI COMMUNITY CORRECTIONAL CENTER  
WORK LINE PROGRAM (CC 13-219)**

CHAIR GUZMAN: Moving on, Members looking at today's agenda first one on today's agenda is EAR-42. This is the EVALUATION OF THE MAUI COMMUNITY CORRECTIONAL CENTER WORK LINE PROGRAM. The introduction is the Committee is in receipt of the Miscellaneous Communication, dated May 28, 2104, from the Deputy County Clerk, referring the matter of an evaluation of the Maui Community Correctional Center Work Line Program. Before we begin, I would like to take a moment to make a few opening remarks. I have scheduled this item today to allow the Committee to gather information and determine whether the grant funds expended by the County on the Work Line Program are well-spent. In FY 2015 the County appropriated 117,000 for the program. The Committee will examine the County's return on the investment. As well as, Committee members, I have to I guess inform you or remind that this item was referred to this Committee from Budget for us to examine. Yesterday, the Committee also received correspondence dated September 15, 2014, from the Interim Director of Parks and Recreation, Brianne Savage, providing information about the program which is in your binders, Members. I'm going to go ahead and introduce Ms. Savage from the Department of Parks and Recreation, and if she has any opening remarks.

MS. SAVAGE: Good afternoon, Chair. I guess opening remarks just overall this is a truly a partnership type of program, one that the State, County and the community all have a stake in. It's a program that both from a financial standpoint it's a partnership. The County puts in some funds, the State also has funding that they take part in and then there's a lot of different ways that the program is utilized into the community whether it's through helping different nonprofits that have activities or organized activities on County property or County cosponsored events as well as assisting in some of the additional work that we're just not able to get done with our staffing

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

within the Department. So there's many, many variety of benefits for the program and we can go into more detail if those come up.

CHAIR GUZMAN: Okay, thank you. Also, I'd like to introduce the representatives from the Maui Community Correctional Center. I believe today we have Warden James Hirano. Do you have any opening statements that you would like to provide our Committee members?

MR. HIRANO: Thank you, Chair Guzman. I would like to provide some information just to reemphasize that we do have a strong collaboration that's been going on with the County for well over ten years. It is has been a benefit to us. Us meaning the Maui Community Correctional Center specifically. It has been a benefit to the community because utilizing the program we start to transition people and expose them, you know, back into the community that they're gonna return to.

CHAIR GUZMAN: And also we have Lieutenant Peter Kawaa. Do you have any opening statements you would like to provide?

MR. KAWAA: Good afternoon, Chairman. No, unless you have some questions, no opening statements.

CHAIR GUZMAN: Okay, thank you. Members, do we have any questions at this...

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair very much and thank you all for being here. I guess my question to the Correctional Director is two. Number 1, approximately how many man hours do you contribute to the County each year? And Number 2, with the lack of correctional officers to take these work line out into the community has that inhibited the numbers and made it less because you don't, just don't have enough correctional officers to go out there, and ACOs to go out there and do the job?

MR. HIRANO: To answer your question, no. It has not inhibited our ability to meet the...it has not inhibited our ability to meet the grant requirements.

COUNCILMEMBER VICTORINO: Okay.

MR. HIRANO: We've always exceeded the grant hours every year. We believe it's that important so we do dedicate the staff to that purpose.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

COUNCILMEMBER VICTORINO: When you say exceed grant hours by how much, 10 percent, 20 percent, 5 percent? What do you normally exceed it by?

MR. HIRANO: It's well over 10 percent.

COUNCILMEMBER VICTORINO: Well over 10 percent--

MR. HIRANO: Yes.

COUNCILMEMBER VICTORINO: --of the required hours by our--

MR. HIRANO: The grant, correct.

COUNCILMEMBER VICTORINO: --the grant itself. Okay. And then, I guess the other issue was I think we have been dedicating this money for the purpose of equipment, transportation, I think there was a van involved in last year or two years ago. I cannot remember Mr. Chair, but I kinda remember through the years that different issues came up as far as equipment-based. This is not to pay the men to do this. It is to get the equipment for them to, to allow them to do the job we are asking them to do. Is that correct?

MR. HIRANO: That is correct.

COUNCILMEMBER VICTORINO: Okay, so, so the 117,000 I think we allocated this past fiscal year, that would be for, for example if you need another van, or you needed a mower or you needed weed wackers or whatever it may be, the equipment necessary for your men to carry out the jobs of cleaning our parks and our roadsides and whatever else there may be endeavoring?

MR. HIRANO: That's correct.

COUNCILMEMBER VICTORINO: Okay, thank you. Thank you, Mr. Chair.

CHAIR GUZMAN: Thank you. I think Ms. Savage can also answer part of that question as well.

COUNCILMEMBER VICTORINO: Yeah or Ms. Savage, well I wasn't go...I was going, I was going go her next, but thanks.

CHAIR GUZMAN: Oh, yes, yes.

COUNCILMEMBER VICTORINO: Okay, go ahead, Ms. Savage?



**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MS. SAVAGE: Just to touch on that. Some of the information we provided includes the breakdown of the budget which it shows the different categories. You guys I believe should have that for the last three years, the budgetary breakdown as well.

COUNCILMEMBER VICTORINO: And I thank you, Ms. Savage. I know I have it, but I need the public to know, and that's just as important because they don't have it. And that's one of the real challenges, Mr. Chair, when we have these kinds of issues. We know what we see and we can...we...but the public has no idea and that's why they're here to address that. That's why I wanted those questions asked in that manner so that the public truly understands the value that these gentlemen bring to the table. On top of everything else, this is training for them, giving a sense of worth, a sense of giving back. You know, I have dealt with them through the Fair Association for many years, and so I know many of these men and women, 'cause I had women come. They have a sense of give back, a sense of giving back to the community for this event and others throughout the County. And I think that's the other part. It's an intangible. There's no dollar to put on it, but it is what they feel they can do for what they feel this community needs. And I think that's very important. And that's always lost in the shuffle, Mr. Chair.

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: It's not really brought up. We look at dollars and cents, and what we spend, and the hours they work. But the self-fulfillment that bring in their self-worth forward so that when they come out some of them, if not many of them, become productive citizens and this is what this program is all about is to give 'em that opportunity. And am I far off base, sir?

MR. HIRANO: No, you're actually right on, spot on for that period and that particular part of that. But I would like to mention a couple other things?

COUNCILMEMBER VICTORINO: With the Chair's permission.

CHAIR GUZMAN: Oh, yes. Go ahead. You may proceed.

MR. HIRANO: Thank you. Well, I have some...broken down some of the statistics that were presented to the County Council. For example, in the last nine months, not the last time I submitted, the nine months between April 2013 and December 2013, there's a cost savings of approximately \$339,000 to the County. That's because we're providing the labor in these various projects. From March 2014 to August 2014 just the recent months, there's been a cost savings of \$239,000 to the County. So those are the types of cost savings that we are contributing in addition to providing the reintegration processes through the people that are coming out. In addition to that, the Maui Community Correctional Center provides the staffing for this particular grant and that amounts to a base salary of about \$263,000 per year. So that comes out of my budget.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

CHAIR GUZMAN: Thank you. I have a follow-up question and maybe the Parks Department can answer it. When you're talking about cost savings to use your agencies and I'm looking at some of the CWL projects and it's mentioning on the project descriptions, and Members, this is in your binder. For instance, it will say, cut grass Kamehameha Avenue or KCC Park, and it will say, the next line is number of project days. Is that the days it took for the project or for them to work on that? And then inmates, it says nine of them worked on it and then they have the total hours that they've worked on it was 63. And then we get into cost savings. How does this cost savings work? I mean, can you explain? It looks as though it's \$862.47 cost savings for that particular project that they worked on.

MS. SAVAGE: Yeah, Chair, if we could direct that question to the Warden? It's actually their document that they compiled on tracking.

CHAIR GUZMAN: Oh, okay. Yes, yes, Warden, can you explain this to our members and as well as to the public?

MR. HIRANO: You know, these general numbers I'm actually gonna refer to my Community Work Line Lieutenant to explain how the cost savings is approached.

MR. KAWAA: Mr. Chair, the numbers came...I can't say how far back it was, it was based on paying a civilian 13.69 pay scale. Based on that 13.69 this is years ago, and we just kept that number and it was actually for our own use and it wasn't intended to be out, but it was based on a salary of 13.69, and this particular format that we was running is maybe close to eight years now as far as that and trying to figure out the numbers. The hours and days we know, and then this 13.69 was based on our previous Warden's instructions for his reporting. So it's about eight years we've stuck with the same number as far as the pay wage, paying that particular person 13.69 an hour.

CHAIR GUZMAN: So I take it that the current numbers that are reflected are somewhat not accurate because I...you know, are we still at 13.69? I mean--

MR. HIRANO: Actually if anything, they're low.

CHAIR GUZMAN: Lower?

MR. HIRANO: Yeah, 'cause the 13.69 factor is times'd by the total amount of hours if you look in the total number of hours column. That's how they arrive at the estimated cost savings dollar amount. The 13.69 average was based on the salary for someone that would be doing the same job about ten years ago.

CHAIR GUZMAN: Okay, okay. Wow, okay, that is really a cost savings. Members, do you have any follow-up questions? What about the break down on the ... I know Mr. Victorino mentioned 117,000. And can we go through the expenses and what was budgeted or at least what was the

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

amount spent on those items? It looks as though I'm looking at...I don't know if this is correct, but it says July 28, 2014, and it listing the expenses. Supplies you have \$41,039.17, inmate compensation \$6,769, meals 40,478.68, vehicle repair \$6,122.46, new equipment which is 9,000, and clothing \$13,590.69. Is that correct for the, for the items that were expended?

MR. HIRANO: I believe that's the report that was submitted, correct.

CHAIR GUZMAN: Yes, okay.

MR. HIRANO: If you want a breakdown of how it's done, I can refer to Lieutenant Kawaa again.

CHAIR GUZMAN: Okay, can we have somewhat of a breakdown?

MR. KAWAA: I'm sorry, I didn't have a copy but I know like as far as maintenance and repairs it can vary throughout the years. The County has stepped up as far as helping us repair the vehicles. We're actually taking it in now for servicing whereas before we kinda did what we can ourselves with the support line that we have. Supplies is a main issue from uniform, boots, safety equipment, to toilet paper, laundry soap to support the workers. Food is an issue and it's...and any time you have a plate lunch for incarcerated it's they're dying to get out. So you know, it's a big factor. It's a driving factor to get 'em to work. A lot of 'em haven't had work experience period. So, just to have a plate lunch they're motivated to get out and...which helps us as far as programming. It's a big factor as far as the lunches and feeding them, yeah.

CHAIR GUZMAN: Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, and again, I do concur because I know the people involved whenever you talking about plate lunches, man, there are smiles from end to the other because the food in the facility is okay, but this is a treat to them. I mean this is what I call a real treat. So, I know they are...you know, whenever lunch time rolled around or when break time rolled around and it was, you know fun to eat, I can tell you the smiles when they got their plate lunches. You cannot describe it unless you're sitting there and watching them smile, you know, males and females just having a great time having...and sitting under a tree and actually being able to eat a plate lunch under a tree without, you know, anybody, you know inhibiting them from going anywhere. They're pretty good. The other question I had is, you know, mentioned about safety equipment and I think that was one of the concerns that we had had years ago because we had heard that sometimes the men weren't or the people because there were men and women, weren't given the right safety equipment, but that has changed through the years if I'm correct?

MR. KAWAA: We've gotten better over the years, gotten better especially trying to incorporate our own training among our own staff members so when inmates come on line we can have a in-service training so that's been, that's been kinda put in effect recently.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

COUNCILMEMBER VICTORINO: And the ACOs, are the ACOs really enforcing the safety rules now because at one time...and not that they didn't, but they were having a hard time because they had the lack of equipment.

MR. KAWAA: Lack of equipment and actually getting to...communicating with Brad really more, you know, some of the projects are iffy. The bottom line we're responsible for their safety too on the type of projects we do. So we communicate with Brad really good on that part, like traffic control...

COUNCILMEMBER VICTORINO: And last, last question I have. Where does most of the work lines work? You know, is it just Central Maui? Do we expand to Kihei? How far and what is the radius and I'm not sure, I mean somebody can answer that question I imagine. But how far is the radius of work release as far as helping the County?

MR. KAWAA: You know, we're assigned to assist all, all Parks and Recreation areas. So can be Makawao, Lahaina, Kihei, Hookipa--

COUNCILMEMBER VICTORINO: Okay.

MR. KAWAA: --and there's regular routes that we maintain. And most of the projects that we assist the County with is out of the ordinary where it's not a regular maintained area, but areas that are hard to access or can be done maybe once a month.

COUNCILMEMBER VICTORINO: I see.

MR. KAWAA: Out of sight which is what we help assist the County with. You know, big projects that needs to be done a quarter or so, so we can assist and stay away from the main maintenance areas that the County already has in place. But it varies, it's all over the island, any Parks and Recreation area.

COUNCILMEMBER VICTORINO: Okay, thank you. Ms. Savage, do they also...being, you know talking about Parks and Recreation, the drainage and some of our gulches and some of the areas where we know cleaning must be done every so often, do they help us in that area? You know, and I'm referring to like Keopuolani and some of our other parks where I know, I know like Wells Park there's that drain, that ditch that goes right through Wells Parks between the housing and the school and the actual park itself. And sometimes that just gets overgrown and becomes very dangerous and if there's heavy rains, you know, talking about water backing up. So do they endeavor with that or who does those kinds of challenges because I understand that they may assist you in that area?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MS. SAVAGE: Okay, I'm going to go ahead and defer to Brad Pierce, who is our Division Chief, Maintenance.

MR. PIERCE: Thank you. Most of the major drainage areas, we work...we take care of the smaller ones that are within the parks systems, but the major ones are covered through the Department of Public Works.

COUNCILMEMBER VICTORINO: Okay.

MR. PIERCE: But we help out in a...up at Eddie Tam there's a drainage along the side up there along the east side of the park that goes down to...into a drainage sump. We help out at Rice Park, also in a few other remote areas. But generally the drainage ditches we work with...in conjunction with Public Works on where, where that can be, but our...the work line is limited by strictly manpower.

COUNCILMEMBER VICTORINO: Okay.

MR. PIERCE: And so a lot of areas are just as, as Peter was saying, are just too big, too massive for just a crew of men to go in and do, a crew without equipment like in major equipment and that's where Public Works takes over.

COUNCILMEMBER VICTORINO: Okay, thank you for that clarification. Thank you, Mr. Chair.

CHAIR GUZMAN: Thank you, Mr. Victorino. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, everyone, for being here. Nice to see you, Warden and everyone, and I think lots of benefits to this Work Line Program. As Mr. Victorino mentioned the benefits, and also yourselves, and the Parks, and the efforts, you know cost savings, but also I think the most important part is for the inmates themselves to get outdoors to learn a skill, to learn a trade so yes, they can come back out and be productive members. How to interact with one another and just get out in the open air is very healthy and good for a person. So I appreciate the overall, you know, benefits of this program for everyone included. But I'm looking at the dates, I guess the work line job assignment pages and there's a whole section...so I'm just...I finally figured out what black, brown, and white stand for. It's in your, I think your queries, Chair--

CHAIR GUZMAN: Yes, yes.

COUNCILMEMBER COCHRAN: --to department and so that explained that you know one is in regards to the people who stay back at MCCC and do work, the others do graffiti abatement, park facilities, the weed whacking and so on. There's a section, and so I'm looking at the three sections and then there's a brown...in the brown section from December 19<sup>th</sup> through March 2<sup>nd</sup>

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

it says no ACO, and that's like quite a few. That's not just a few days, that's like months that had gone by without any type of work in that category. So I was just wondering was this work not needed or were we lacking in, you know, an ACO in order to put that category into...on the work line or what was the issue with three months of non, no work in that category? Sorry, do you know where I'm looking at? It says, Page 6 of 26? Well, it runs from Page--

CHAIR GUZMAN: Yep.

COUNCILMEMBER COCHRAN: --5 of 26 over to Page 6 of 26.

CHAIR GUZMAN: This is the work line job assignments.

COUNCILMEMBER COCHRAN: Yeah, work line job assignment lists.

CHAIR GUZMAN: Pages 1 of, 1 through 26.

COUNCILMEMBER COCHRAN: And it's about three months worth of nonperformance I guess or work.

MR. KAWAA: Page 5 of 26?

COUNCILMEMBER COCHRAN: Yeah, 5; and then it rolls over to Page 6 also. So just wondering if that was just work wasn't needed in that category--

MR. KAWAA: No, we--

COUNCILMEMBER COCHRAN: --the brown category?

MR. KAWAA: Madam, we haven't had a line shut down for that long.

COUNCILMEMBER COCHRAN: Oh, okay.

MR. KAWAA: I need to investigate that.

COUNCILMEMBER COCHRAN: Okay. Yeah, it was just the kind of a big gap, you know, so I just had a question on as to what that was.

MR. KAWAA: Sometimes it's either vacation or in-service training. We'll have the guards requalify for weapons, CPR, something that we need to maintain.

COUNCILMEMBER COCHRAN: Yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MR. KAWAA: Vacation, sick leave.

MR. HIRANO: There's no period of time that there was...

COUNCILMEMBER COCHRAN: You had gone yeah with no performance in the area, okay.

CHAIR GUZMAN: Yeah, I see that 5 of 26.

COUNCILMEMBER COCHRAN: Yeah, it just seemed like a big gap is all.

CHAIR GUZMAN: Same with Kam Avenue and the MACC and the Leisure Estates, Eddie Tam, there you go, Eddie Tam, Eddie Tam, Pukalani Community Center--

COUNCILMEMBER COCHRAN: Right.

CHAIR GUZMAN: --yeah, I see that the whole month of January.

COUNCILMEMBER COCHRAN: Yeah, in that particular category. I mean, there was jobs done in other categories but it was just in that one section. But it was just the sort of a glaring blank I guess. So anyhow, it's okay. I'm sure there's an explanation.

MR. KAWAA: We've never had it out for that long.

COUNCILMEMBER COCHRAN: Okay. Yeah, I just wanna commend you folks for working together, and I notice in also Parks' comments in regards to State and County looking to work together to improve performance and start monitoring or documenting I guess is the thing so we can cross reference how performance measures I guess in a sense. But I do know that I do see the workers along Wahikuli Wayside Park and places in Lahaina and they're always, they're working. They're not just hanging out. So yeah, it's a good, it's a good program so I appreciate what everyone does and the efforts being put into it to make it happen. So thank you, Chair, for bringing this up.

CHAIR GUZMAN: Thank you. Thank you, Ms. Cochran. I would like to just follow up with Ms. Cochran's line of questioning for the Warden. Is, can you explain at least for the general public what the different lines are, work lines? I know that she mentioned blue, white, brown, black and I know that the general public basically sees orange out there, but not that that's significant, but that is...

MR. KAWAA: Mr. Chair, if it's okay with you I'll go ahead and break it down?

CHAIR GUZMAN: Yes, yes, why don't you provide us an explanation as to what Ms. Cochran was inquiring about, blue, white, brown, black?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

MR. KAWAA: Previously before we had a contract with the County we actually had a State line, a County line and a nonprofit line and since we got in contact...contract with the County. The white line I don't know how we got it, but the white line is actually a painting crew. It will maintain anything graffiti, upkeep of the different park areas. And so they're assigned certain equipment like ladders, paint brushes, poles. The black line is actually our landscaping line, and again we cover all the Parks and Recreation areas and with that come the weed eaters, the chain saws, landscaping equipment. And the brown line is our kinda like a construction/carpentry line. And they maintain most of the fencing areas that you see around the parks. They cement the cement poles and wooden slates. Pretty much upkeep that. And so it's actually a painting crew, a landscaping crew, and a minor construction crew, and then...that's the brown line. And then we have a support crew that's we keep back at the facility. That's called the blue line if it does, if you do see it on the assignments here and they're the support line. Basically we have a inventory person, a mechanic, and a welder, carpenter someone skilled in that area. And they basically support the lines when there's repairs need to be done, vehicle minor upkeep. So that's how it's pretty much breaking down. At certain times we'll be asked to do other things like move offices, odds and end type jobs, but yeah.

CHAIR GUZMAN: And are there qualifications for I guess the inmates per work line? And how do they, how do they get I guess recruited or involved in each of the different work lines? Is there a step-up process? You know they go to blue and then move up to white or how does that work? I mean, what is the criteria in I guess number one, getting them on the work...on any kind of work line? And number two, how do you distinguish them in terms of which line they should go into?

MR. HIRANO: Well, when everybody comes in sentenced to the Maui Community Correctional Center, they are going before what they call Program Committee. Program Committee is an interview process and it assesses people in their risk classification, programming efforts, and their progress as well as their skill levels if any in any type of trade or such. From that, the...and it incorporating that information there's a Work Line Committee that is held every week and they, the Lieutenant from the Community Work Line, the Offender Services Administrator, one of the social workers I believe, and also our kitchen representative. They decide among themselves who will go on which work line whether it be the kitchen work line or the community work line generally. The community work line generally is then decided by Lieutenant Kawaa and his crew as to where the dispersion of the people will go. There's no progression between the lines necessarily, but there's a progression from inside to outside. So we get a chance to help people stabilize once they come into the facility from towards their end part of their sentence. And then they are further stabilized once they go onto the community work line and then they're evaluated after that, after a period of a few months to go on further to another sequential phasing point called the Work Furlough Process.

CHAIR GUZMAN: Do all of the work line, do they all get paid the same amount?



**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MR. HIRANO: Yes.

CHAIR GUZMAN: Okay, I see.

MR. HIRANO: And get paid 25 cents an hour.

CHAIR GUZMAN: Twenty-five cents an hour?

MR. HIRANO: That's correct.

CHAIR GUZMAN: Okay. Yeah, that it's, it's really...well, anyways on the...in terms of the benefits to the inmate, and individual inmates themselves, do you have statistics as to what is the percentage of those that you know I guess are released and then placed back into the system? Do you have a higher rate of success when they go through the Work Line Program versus those that do not?

MR. HIRANO: Great question. The Work Line Program is actually a component of our whole sequential phasing process. Sequential phasing is a way that we move a person through our system, help them to get some core foundational programming to address their issues that bring them back into incarceration. At a triple C or community correctional center we're then addressing more of the supportive or continuum type of services, one of which is also work line and the work line demonstrates the ability to work with others, the ability to take supervision and prepares them for actually working in a work environment with a supervisor and other coworkers. So going back to your question though, in 2010 I believe the ICIS, the Intermediate Council of...or Interagency Council of Intermediate Sanctions came out with a report that stated that in Maui in particular our recidivism rate was very low. It was actually in the 30 percent range which is contra to what nationally it is, you know, anywhere else. We're the second in the State to have the, the second lowest recidivism rate in the State, the first being Kauai.

CHAIR GUZMAN: Wow, that's great.

MR. HIRANO: It is, it is really great actually. I'm very, very happy for the people here. We have a great, you know, relationship with the County. The collaboration that we do is a critical piece. I encourage further investment in this program and continued investment in this program. In addition to that I actually did another statistical piece as part of the Drug Court Program and Judge Raffetto was here at the time of the bench and everybody was tracked from the beginning of the Drug Court Program all the way through to I think five years of their release and the success rate was 84 percent.

CHAIR GUZMAN: Wow, that's good.

MR. HIRANO: So if you can imagine that. And the Maui Community Correctional Center is the only facility in the State that has female and male component of Drug Court in the facility. So along

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

with Community Work Line as well as these other programs, you know, we're really making a real big impact on our people, our citizens.

CHAIR GUZMAN: That's great. That's so awesome. I have a question for the Department, the Parks Department. How do you determine which assignments go to the work line? I mean, like which projects, what works I guess, work that needs to be done? How do you assign it? Or do you have like a year's schedule, or is it as needed?

MS. SAVAGE: I'll go ahead and let our Maintenance Superintendent take that one as well.

MR. PIERCE: We have a...it's a combination of we have a schedule and then we also as the need arises if we at request from within our Parks Department for different areas that need to be worked on whether there're repairs to post and rail, graffiti that's out there, areas that have overgrown, that need to be weed whacked and so we work on that. And we have a, as alluded to earlier, we do have a regular schedule of weed whacking in remote areas that we deal with on a infrequent basis. We also get requests from within, within the County, other departments for moving the, moving supplies around from Finance, and from the DMV, and different, different departments like that. We also receive requests that come through MCCC and then through us also from nonprofits, and we help out as we can when they're a partnership with the County. We're trying to watch that real careful so that we don't, that we, that we stay within our grant and we're above board, and so we, that how, that's basically how it comes out and we just have a...we make a plan for a week or so, a week or two in advance and some of events we can plan way in advance, County Fair, the Maui Basketball Tournament, the Senior Fair, the Maui Marathon, these are things that, you know, that we know a year in advance they're gonna happen, but other things come in and sometimes a phone call, right away, oh we need help 'cause of a water main break. Or other departments will call, set up a couple weeks in advance so it's a combination.

CHAIR GUZMAN: Very good. I guess the ultimate question to be asked by I guess the...to the Warden and to the Department is what is the current strength of the program, and what do feel needs to be improved, and what as we, as the Council can do about I guess making that happen on the improvements side? So I guess the number one...I guess that's kind of a compound question, but what are the strengths, and what needs to be improved at this stage, and what can we anticipate doing for the future?

MS. SAVAGE: I'll go first. So I think a lot of the strengths again, is just the true partnership nature of the program itself, you know, and the way that the grant's set up that there really is tremendous benefit both on the County side as well on the State side, as well as just for the community itself. So just the nature of the program. You know, it's every strong program. It's an excellent partnership. I think the flexibility of the program is also something that's beneficial, you know, kind of having that general schedule that we know that's happening but also being able to respond or reschedule, you know, reassignment of different tasks by working closely with the State and as we have that strong relationship, it makes that much easier for us to be flexible and

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

being able to respond to by either helping other departments maybe in moving or, you know as Brad mentioned, something breaks, the room's flooded out, we need to move something quickly, but then also having that consistency to know that we can provide with them larger amounts of support to some of the, you know, especially the fair. There's a tremendous amount of support that gets put there, you know, that without it would be very difficult for the fair as well as for the County to work together for collaborating for those types of events. The, I don't see there as being necessarily need deficiencies or weaknesses in the program. Recently, we've had a lot more meetings between the two organizations and tried to look at how can we improve the grant the way that it currently exists. And one of the things that we initially did with the help of, we have Tara Sabado, who's been filling in for our Grants Coordinator position for a little over six months; and she really was able to rework a lot of this grant. It's, because it's a County and a State agency, it's a little bit different than a lot of our other grants, where we're having nonprofits fill out different applications; and previously, they'd always used the same application, so there was a lot of just NAs (not applicable) you know, 'cause it's just different with the State and the County. So we were able to redo the grant agreement and look at some of the requirements and say what makes sense for the nature of this grant and let's only ask for that information that's relevant and pertinent. And we've also been trying to work on some different performance measures and tracking. There hasn't always been a really good tracking of information or what types of information is being kept. What are good goals and objectives or measurement points, you know, for us to be able to assess to say, yes, we're fulfilling what we set out to fulfill through this grant? And so we've been working on trying to identify what some of those program measures might look like, what are goals and objectives, and we'll continue to work on that to try to make that more streamlined. I think the other component of that is anytime you're wanting more information to be tracked, there's always that level of what does staffing look like, how do we tabulate this information, how do we keep track of the information? If it's something we've always been doing, but we haven't been keeping the type of records that gives us the type of information we wanna analyze there's always that question of who's gonna keep track of this information and how are we gonna provide the staffing? And so there has been some initial conversations. This grant amount has not increased in quite a few years and so we've been looking at, you know, if we're wanting more statistical information what would that look like from a staffing perspective as well as having, and I think the warden can probably touch on this, you know, just more looking at from their side what are the costs of the grant. And so I would anticipate that in this next fiscal year to be an increase, a requested increase in this amount and that will be based on, you know a lot of the review of what is the types of information, what are the different performance evaluations that we would like to be able to have included and making sure that there's that administrative component included to be able to provide that type of information.

CHAIR GUZMAN: Thank you. And I think, Members, this was one of the reasons why it was referred from Budget Committee to our Committee because when we were, when we were examining the budget there was real no, that was no data to go by. And I think the Department is now trying to get on it in terms of getting goals and performance measures put together. I know that the grant

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

has been redrafted. Is there anything significant that we should be aware of in terms of the grant, Tara, or someone that could?

MS. SABADO: Having just position support for the administrative.

MS. SAVAGE: Yeah, mostly just the, again, the administrative position report. You know, the meats, the meat and bones of the grant hasn't changed. It's more of looking at what is the format in which where our application gets taken in every year, what does the forms look like that they fill, and we've also been working pretty closely with Corporation Counsel on all that to make sure, you know that everything's still in compliance, but mostly just the administrative support component.

CHAIR GUZMAN: Good, good. Do you think you would have that data ready, ready for presentation if we were to refer this out of our Committee to Budget and Finance Committee, you know, as the budget comes closer in March? Would you be ready to present at that time, or would you like more time in this Committee? Because it's all about justification, right? You've gotta justify why you need the additional monies.

MS. SAVAGE: You're saying information as far as strictly for budget increase or...

CHAIR GUZMAN: Yeah, because it sounds as though you wanted to get goals, objectives, performance measures, the data that we were looking for during budget. And...well, I guess the question is what is your timeline in putting this all together?

MS. SAVAGE: So we, we made some improvements or some progress towards trying to have better information that we're gathering in what will be the Fiscal Year '15 grant, and we'll continue to work on that, and I think the hope is that for the Fiscal Year '16 grant we'll have more information. So definitely in time for when we're submitting, you know, and going through the budgeting process. I don't know that we'll be able to have too much done before then. We're, you know really shooting to try to have it a little more compiled in time for that.

CHAIR GUZMAN: That's good though. And I'm glad to see that the Department is working towards being more efficient and working in collaboration with the State. Warden, do you have any comments in terms of what needs to be improved or what we can do to collaborate I guess future endeavors with...

MR. HIRANO: Thank you. I appreciate the opportunity to be here and testify a little bit or provide information. Going back to your original question about strengths and opportunities, the strengths that I see with this collaboration for the duration that it's been in which is a long, long time, it's we're always combining the efforts of two agencies especially in Maui. There are not a lot of agencies like correctional centers that I know of, my counterparts that can really claim that they work in such close relation with their counties. So I really appreciate that and I thank you

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

folks for that opportunity for us to be able to do that. Some of the other strengths I see is that through the collaboration development and we've evolved to the point where we now incorporate the County in evaluation of the work that might be performed for nonprofit agencies. And I think that that's a real, another evolution into a real collaborative type of a relationship. What I would like to see as an opportunity now is the ability to do more for nonprofit agencies, and one of the ways that I can see that through expanding our work lines to gaining more staff is for everyone to support the current proposal for the build in Pulehunui which is the Maui Regional Public Safety Complex. The Maui Regional Public Safety Complex is initially a 605 bed facility and my numbers currently reflect that all those 605 beds are what we actually need right now. They're not projected that we're gonna grow. These are...we have 412 people in our facility now. Our infrastructure is 301. So just to give you an idea and it's been that way since...well, we've been at 350, about 350 since 1998. So what I'm telling you right now is nothing that's new. Okay, 1998 till now is 16 years, we've been 40 over at least...now we're 412, 16 years later and that's growth, that's what happens. But we're 412 because we send people, sentenced our own probationers to the Federal Detention Center because we can't house them. We don't have enough already. We can't add 50 or 60 more people. And then we have women's, people at the women's facility, so if I add all those numbers, the women's facility in Arizona as everybody's heard about, the Federal Detention Center, my numbers are about 604 and that's current. That's not tomorrow's numbers. So I just...I'm emphasizing this because I do wanna make sure everybody knows how important this Maui Regional Public Safety Complex is to support in Pulehunui. If that is built and we had 600 people there, we could expand our work lines, we could do six work lines. That's the projection actually is running six work lines out of there in addition to not having to send our people, our citizens, our Maui citizens to another place like Oahu or Arizona or anywhere else and we can take care of them here. We don't disenfranchise the families, we don't perpetuate the separateness of the person from the community and we can invite even more community support through the County as well as community agencies to help us in this, in this real important goal of bringing people back into what's normal. And sorry for the soapbox, I know I hope got off track, but it was an opportunity and I took it.

CHAIR GUZMAN: Right. Thank you.

COUNCILMEMBER VICTORINO: Chair, chair?

CHAIR GUZMAN: Yeah, Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Warden. You have air time. We've given you the air time for everything you do and your staff. But I wanted to close on another important issue that's, you know, has come about is that again, a lot of hours if you looked in here, a lot of hours say, fair, fair, fair, fair, a lot of...and without the work line that public event may not come off or that public event may cost a lot more to come off. And I think Brianne and Brad will agree without their help that major, one...once-a-year event that benefits a tremendous number of

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

nonprofits and others throughout this community and throughout the County actually would not occur. And I think the bottom line in all this, these men and women who have come through the years that I was there and all the years since I've been there, when I see them it's a real give back for that particular event. And I wanna bring out one other issue, and it's all forgotten, it's a fact that these inmates are there when we have our special fair. They help unload all our needy citizens, our disabled citizens, both physically and intellectually disabled citizens. These are the people that help unload them, help them get started on the special fair which comes every Friday, the only one in the entire State that is dedicated to our special needs. I say the entire State and one of very few throughout the nation. So I wanna thank them for all their help in what they do because that's another aspect that's lost in this equation, but their satisfaction, their gratitude, their smiles when they see helping these people do things that no one said they could ever do is so gratifying Mr. Chair. That if you gotta go do it, you gotta be there to understand the real feeling. But I wanna thank you and I think I've said enough. I was on my soapbox, I'll step down, Warden, just like you, but thank you very, very much. And thank you, Mr. Chair, for bringing this up.

CHAIR GUZMAN: Thank you, Mr. Victorino. Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Getting back to work line. So this is strictly just for sentenced people only, right?

MR. HIRANO: That's correct.

COUNCILMEMBER COCHRAN: Okay, 'cause and so you mentioned 420 in the facility. How much of that number are pretrial?

MR. HIRANO: We're usually at triple C's Community Correctional Center, the average is approximately 66 percent or two-thirds. Around 63 percent maybe, so little less than two-thirds.

COUNCILMEMBER COCHRAN: Okay, and then 'cause you mentioned in this new facility if built six more work lines, and currently I don't know if that 117 is considered and the program now is you're considering one work line so times that by six, 117 times 6 is that what a guesstimated number would be to provide six more work lines?

MR. HIRANO: Well, it would be six total work lines, but a 117,000 is three work lines.

COUNCILMEMBER COCHRAN: That's three, oh okay.

MR. HIRANO: So probably a couple, you know, times two. And that's really guesstimating a lot though, Ms. Cochran.

COUNCILMEMBER COCHRAN: Right. Yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MR. HIRANO: Because I mean costs you never know. I mean maybe the State will absorb more. I...you know 'cause work lines are something that you know we see as very valuable not only in reintegration, but also in helping our community. You know and because we're triple C, we are actually the Maui's Community Correctional Center, yeah.

COUNCILMEMBER COCHRAN: Right.

MR. HIRANO: So that's what I think about.

COUNCILMEMBER COCHRAN: Thank you, Warden. And so the 117 comes strictly all from County, and then what...is there monetary contributions via State into this program?

MR. HIRANO: Well, the monetary contributions as I mentioned before were really absorbed by our budget, yeah, which will be in this case \$263,000 base salaries for five employees at this time.

COUNCILMEMBER COCHRAN: Oh, okay. So that would be like towards your personnel--

MR. HIRANO: Yeah.

COUNCILMEMBER COCHRAN: --the salaries of the ACOs in the facility that help accommodate the program--

MR. HIRANO: Right.

COUNCILMEMBER COCHRAN: --to make it happen.

MR. HIRANO: Exactly.

COUNCILMEMBER COCHRAN: Okay, okay. And the...what is that...the force, the blue line that stays back, the support group would those inmates be... 'cause I got the tour, Ward, remember and I saw the...and obviously been there personally, but just how things are falling apart. I mean, it's a old facility as you say, and I know your passion and reason for wanting the new facility and the need. I mean there's, there's some unsafe conditions and things, not of anybody's doing but it's just the way things are and budget, budget and what have you. But or do these inmates help assist? I mean you have a crumbling roof or a door that's you know rotting and falling apart. Are these things that the support crew on site in the facility sorta have been addressing throughout the years to help keep everything together?

MR. HIRANO: No, actually the support crew is basically for the community work line.

COUNCILMEMBER COCHRAN: Oh.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

MR. HIRANO: Yeah. We have our own separate maintenance department as well as these issues and how we go about to get major amounts of money to redo our roof for example. You know, it would be about quarter million dollars roughly for one side of the roof. Another quarter million for the other. We just recently had our boiler replaced. That's just a recent CIP project as well as our kitchen is being replaced. So there's several kind of bigger projects that go on. *(NOTE: Beep coming from Polycom)* But yeah, the blue line would only be for the community work line support.

COUNCILMEMBER COCHRAN: Oh gotcha. Okay, all right. Well, thank you, Warden, for what you do. I know it's not easy and you make do with what you got. So thank you very much.

MR. HIRANO: Thank you.

CHAIR GUZMAN: Okay, Members, if there's no other questions. *(NOTE: Beep and static coming from Polycom)* Excuse me. Yeah, Members, if there's no further questions...the ultimate goal here is, we're going to try to see if we can get some recommendations, put that together, and then I'll refer it back to Budget and Finance Committee. So we'll, we'll go ahead; and without objections, defer this matter.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR GUZMAN: Thank you. So, I'd like to thank the Department as well as the Maui correctional facility, and the Warden and the Lieutenant for coming and explaining how the work line works. So, thank you very much.

MR. HIRANO: You're welcome.

CHAIR GUZMAN: Thank you. So Members, I'm going to take a brief recess so that we can do our personal thing and we'll come back in about five minutes. Okay. . . . *(gavel)* . . .

**RECESS: 2:45 p.m.**

**RECONVENE: 3:04 p.m.**

CHAIR GUZMAN: . . . *(gavel)* . . . That was a long five minutes, Members, but I apologize and the EAR Committee shall now reconvene. Just as a housekeeping matter, Members, I wanted to recall EAR-42. And since we orally deferred it, I would like to recommend that we actually file, file the item; and therefore, a report can be generated, and then we can thereafter transmit it to Finance Committee. So at this time, the Chair will entertain a motion to recommend filing of EAR-42, Miscellaneous Communication dated May 28, 2014.



**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR GUZMAN: Moved by Mr. Carroll, seconded by Mr. Victorino. All in favor say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All opposed, say "nay"? Any discussion? Seeing none, motion carries.

**VOTE: AYES: Chair Guzman, Vice-Chair Carroll, Councilmembers  
Cochran, Crivello, and Victorino.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa and White.**

**MOTION CARRIED.**

**ACTION: FILE COMMUNICATION.**

CHAIR GUZMAN: Thank you, Members.

**EAR-13 ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL  
DISTRICTS (MISC)**

CHAIR GUZMAN: Moving on to the next item on the agenda is EAR-13, ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICTS. By way of Committee Report 13-67, the Planning Committee referred to the EAR Committee County Communications 13-85 from Councilmember Cochran, transmitting a proposed resolution entitled, Referring to the Lanai, Maui, Molokai Planning Commissions a Proposed Bill Amending Chapter 19.30A of the Maui County Code Relating to Roadside Stands and Farmer's Markets in the Agricultural District. Currently the County Zoning permits the operation of an agricultural project stand or farmer's market as an accessory use. However, this permitted use applies only to operations that exclusively sell agricultural projects grown on the same property on which the sales occur. Any operations not exclusively selling products grown on property is required to engage in the County's burdensome permitting process to obtain a Special Use

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

Permit. State law is less restrictive allowing for a roadside stand or farmer's market to sell any product so long as the product is grown in Hawaii. The intent of this bill is to address the inconsistencies between County and State regulations within the Agricultural District. The bill expands County zoning regulations to allow for the sale of any Hawaii grown product at agricultural product stands and farmer's markets without the need for a Special Use Permit. Further review of Section 205 of the Hawaii Revised Statutes uncovered other types of agricultural-based commercial operations allowed within the Agricultural District including retail activities and retail food establishments. In an attempt to expand upon Councilmember Cochran's efforts, I have introduced and proposed the bill that is at hand, EAR-13 to include these other types of agriculture-based commercial operations recognized in HRS. The bill identifies those structures associated with agriculture-based commercial operations as commercial agriculture structures. Any producer looking to operate a commercial agriculture structure must register their structure with the Planning Department. To protect the farmer's existing privileges, those agricultural product stands with a floor area of less than 300 square feet are exempt from the registration requirement. The proposed bill is the result of countless hours contributed by the Ag Working Group, the Planning Department, and my office Staff. The Ag Working Group is a collective, collection of Maui farmers and ranchers organized to assist my efforts as the EAR Committee Chair in addressing the many issues facing Maui's agriculture industry. The bill takes into account the needs of both the agricultural community and the Planning Department by effectively balancing regulation of the agriculture-based commercial operations with the farmer's right to operate commercial agriculture structures such as roadside stands and farmer's markets. This bill will fulfill the goals of Councilmember Cochran's proposal while providing additional opportunities for our local agriculture industry to stay competitive and viable in the marketplace. Members, on April 4, 2104, the Council adopted Resolution 14-40, referring to the Lanai, Maui, and Molokai Planning Commissions, a proposed bill to allow commercial agriculture structures within the Agriculture District as accessory uses and special uses subject to the appropriate restrictions and standards. The resolution included a request that the Commission transmit their findings and recommendations to the Council as expeditiously as possible. As of this date, the Council has yet to receive any report from the Commissions on the proposed legislation. Section 8-8.6(2) of the Revised Charter of the County of Maui, 1983, as amended provides for Planning Commission review of the General Plan, zoning or other land use ordinances proposed by Council resolution, specifying that if the Commission fails to make its report within a period of a 120 days after receipt of the referral the Council may nevertheless pass such revision upon a vote of a two-thirds of the Council's entire membership. Accordingly the, accordingly, the deadline for the submission of the Planning Commission's report was August 2, 2014. I've scheduled this matter in light of our Council term waning, I guess waning in providing the Committee an opportunity to familiarize itself with the content as well as the exercise of authority as provided by Charter. My intent for this discussion is to consider the specific details of the proposed bill and to provide an opportunity for the Administration to provide comments on the proposed bill as well as information concerning the status of each of the Commissions' work as of date. So at

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

this time Members, I'd like to call on the Department of Planning for opening remarks. We have our Director, Mr. Spence.

MR. SPENCE: Thank you, Mr. Chairman, Committee members. I think to start out I just owe the Committee and the Council a big apology. This is a bill that was sent down to us and it fell through the cracks and we just...you know, I'll just admit that we blew it. We did send the bill out for agency comment and Mr. Alueta can elaborate on what we've gotten back if the Committee wants to know. We have yet to send it to the different Planning Commissions and we will do so at the earliest opportunity. That probably means, okay, we're halfway through September, probably means by the end of October we'll get it to the Commissions for public hearing and then get it back up to Council as soon as possible, and we'll put a rush on the minutes so those things get done and that's not a delay in getting the bills back up. So I would certainly, you know, any questions you have on that I'm certainly willing to answer whatever you have. As to the bill itself, we're supportive of the bill and the intent, I know there has been an awful lot of time put into this and I do think that our requirements in the Code are overly restrictive in promoting you know Maui's, Maui County's agricultural activities. We will have specific suggestions as we go through the bill, mostly not, mostly structural not as much as to content, but we'll cross that path as we go through the bill. Those are my comments, Mr. Chair.

CHAIR GUZMAN: Thank you, Mr. Spence. I do understand the situation and it's you know sometimes it does happen. I just was on my part was just looking at the time table and just following the Charter as written, but I'm more than willing to give that concession and hopefully your Department or at least it will get transmitted over and at least the efforts are being expeditiously processed through with what happened. At this time, Members, would you like to hear the comments from the other departments? I do know that they've received comments from the other departments or would you like to wait until it comes back from the Commissions.

COUNCILMEMBER VICTORINO: Chair, for me personally I'd like to wait 'cause I'd like to spend more time on the next one first and foremost, and since we're not ready to...I would like a total review and hopefully that...to me that would be more, more proper in this whole issue. And it's too bad that we've gotten to this point and we still gotta wait some more but that's the process we live with. So for me personally I would like to wait so I can spend more time on EAR-49--

CHAIR GUZMAN: Okay.

COUNCILMEMBER VICTORINO: --you know, and I think that one is one of those that is a lot more near and dear to our heart.

CHAIR GUZMAN: Okay. Members, is there a...I just wanna get a consensus if you wanted to move forward or would you like me to go over the ordinance and...

UNIDENTIFIED SPEAKER: Move forward.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

CHAIR GUZMAN: Move forward, okay. We'll just go ahead and I will defer this matter and we'll wait upon the Planning Department to make good on their word.

COUNCILMEMBER VICTORINO: No objection, Mr. Chair.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you very much.

MR. SPENCE: Thank you, Mr. Chairman. Again, my apologies, Committee members.

CHAIR GUZMAN: Yes, it does happen. Thank you. So we'll move on, Members, to the next item.

**EAR-49 PRESERVING FAMILY FARMS BY DEFERRING A PORTION OF REAL  
PROPERTY TAX ON AGRICULTURAL-ZONED LAND (CC 14-214)**

CHAIR GUZMAN: Members, referring to EAR-49, PRESERVING FAMILY FARMS BY DEFERRING A PORTION OF REAL PROPERTY TAX ON AGRICULTURAL-ZONED LAND. The committee is in receipt of the following: County Communication 14-214, from me, relating to a roll back tax exemption for family subdivisions on agricultural-zoned land. By correspondence dated September 10, 2014, transmitting a proposed bill entitled, A BILL FOR AN ORDINANCE TO PRESERVE FAMILY FARMS BY DEFERRING A PORTION OF REAL PROPERTY TAX. The purpose of the proposed bill is to allow families to preserve farms in agricultural lands by deferring roll back taxes when the land is subdivided into four divisions or less and transferred to family members. Members, I've introduced this bill to help families preserve their farms. When a family member wants to subdivide and keep the land within the family, this bill if passed would allow the family member to defer the roll back taxes that a subdivider would otherwise incur. Under Maui County Code, Section 3.48.325, if for example a father would like to subdivide his farm and transfer title to the new parcels to his children the taxes that were deferred for the prior ten years due to the lands agriculturally zoning would be charged for the father retroactively upon subdivision. And let, let me explain this and I'm gonna put it in a very simple term so that you understand. So in our current law we have now is that take for example, I'm the original owner and I buy parcels of land and ten years later I become older and I want to subdivide my land into a family subdivision. Well, the current law says that I have to go retroactively back from the time that I bought the property and then pay the taxes from...all the deferred taxes backwards as if I bought the land subdivided. So once I...so currently if I want to subdivide it I would have to pay this deferred tax or the back taxes as if I originally bought the land as it being subdivided. So my, what my proposal does or at the least

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

the bill will do is to allow the person to subdivide the land in a family subdivision and not have to pay that deferred tax, and it would be allowed to convey the lands to their families without having to pay the back taxes on it or at least the deferred taxes, and I'm just telling you in simple terms. Once you've conveyed the land or subdivided and you conveyed it to your heirs, your children or your grandchildren, they would then take ownership of their parcels. Once they, themselves, decided to go outside the land or outside the family to sell it to outside member of the family then they would then have to pay the roll back tax. So this is all about preserving the land within the family and not having them pay the deferred tax or at least deferring it until they at some point sell it to someone outside the, outside the family. Now this proposed bill would amend Section 13.48.325 to continue the tax deferral when the land is subdivided into four lots or less and transferred to family members related by blood, adoption or marriage who are parents, spouses, children, siblings, grandchildren or great grandchildren. When the land is subsequently transferred outside of the family, the deferred taxes would be assessed to the transfer retroactively for five years. The five-year period shortened from the ten-year retroactive period for other exemptions was meant to ease the burden on families. However, the Committee could consider whether it is advisable to make it consistent with the other exemptions. Additionally, in order to provide notice to the department of a transfer outside of the family, the Committee could consider adding a requirement for the transfer to record the transfer with the Bureau of Conveyances. The proposed new tax deferral is intended to encourage Maui County's families to preserve their farms. Additionally, Members, this is also something that would help promote affordable housing, because if you're able to subdivide your lands and give it to your relatives and your family members that's less money that they would have to pay to buy a house and a lot, so...I mean, at least a lot for their house. So this is something that would help promote at least for affordable housing, and somehow later down the road we could probably figure out a way to connect our affordable housing fund with those, those lots or subdivisions that are subdivided via family subdivision. So that was my intent and I found something that was...that you know, a low-hanging fruit that could be corrected and I was able to go to the RPT Department and talk to them about these issues, and I'd like to at least have them give an opening comments as before we get straight into the bill. So if our Finance Department, we have...can you please identify yourself and who is here as your source of information?

MR. WALKER: Hi, Mark Walker, Deputy, Scott Teruya who's the Administrator, Marcy Martin who's the Real Property Technical Officer, and that's our team today.

CHAIR GUZMAN: Do you have any opening comments?

MR. WALKER: I do, and this is, you know, this is an overview and we appreciate, Chair, the opportunity to address the Committee on this proposed legislation. What we wanna make sure is that we fully vet this and so that there are no...we understand all the consequences and that there are no unintended consequences or that we could see those in advance. And from the Department's perspective that we are able to be compliant and be able to do what you want us to do as it relates to the different things that would be required by this bill in collecting this tax

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

down the road, et cetera. As I think you all know there is a, in the Subdivision Code, a Family Subdivision Ordinance which allows people to subdivide Ag land and defer those...the conditions that would be imposed by the County whether that's Public Works, whether that's Planning, whether that's the Water Department, widening the road, bring in a fire hydrant from a mile away, whatever that might be, getting additional meters, it defers those requirements so that they can create the map and deed those parcels usually for among, obviously among family members, but for tax planning purposes they can deed those parcels that what...and during that process the final thing they do is they pay a roll back tax and that gets them that subdivision in this family subdivision context as well as other types of subdivisions. What the hook is there, the trigger is when any of...whether it's five parcels, ten parcels, four parcels, three parcels, down the road when one of those lot owners, one of the family members comes in and wants a building permit whether it's to build a chicken coop or a fence or a house, they have to satisfy all the conditions of the subdivision. And I guess whether that's widening...whatever those might be, widening the road, whatever they might be, I guess my one question would be if this moves forward I think it would be worth exploring whether or not this...if the body decides they wanna defer this if that might be an area they might look to insert this type of bill in, you know, and make that...make the trigger still be a building permit, because otherwise I'm not sure how we would be able to comply when a property is sold, we're not notified typically that a property's been sold and that we'd need to collect the tax anyway. I mean, there are other comments that my colleagues have and that was just my sorta opening salvo, but we appreciate the opportunity and I'll turn it over to Scott if he'd like to have a few opening comments?

CHAIR GUZMAN: Yeah, I understand in terms of notifying the Department. That's why I did mention earlier in my statement that maybe we could within the ordinance require a notification to the Department as maybe a copy of the conveyance document, the deed you know, as it gets filed with the BOC, Bureau of Conveyance, you know, and make it a simultaneously you know at least a mandatory requirement for them to send, send the Department a copy of the deed of transfer, the conveyance.

MR. WALKER: Yeah, if I might, I talking to the Planning Department, right, that's their...zoning that's their kuleana. And I said, hey, when you guys do family subdivisions, you know it says if you transfer the lot, the land to someone outside the family then they have to, you know, then that, then that triggers the family subdivision, the conditions of the subdivision. I said, uh, does that ever happen? They go, no. But they don't know. They don't know if the property's been transferred. When someone comes in for a building permit that's when they...I don't wanna say that's when they get 'em, but that's when they realize that okay, now we gonna, now we're gonna enforce all of these conditions. But...yes, and I think you know that's fine to put it in the bill but whether you're gonna actually get compliance from the public is another question I guess anyway...'cause it's in their ordinance as well. You shall notify us if you sell. Well, they just don't. So, okay thank you.

CHAIR GUZMAN: Any comments from RPT regarding the bill?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

MR. TERUYA: Thank you, Chair. Chair and Members, good afternoon. Upon initial review of the bill we had some time to talk with the Chair about it in the past and while we don't have really any problems with the intent of the bill, we do have concerns as to the existing verbiage and maybe how it would be implemented. And it may be somewhat problematic without additional Code amendments as it exists. The proposed language also conflicts with existing language in the Code and therefore, maybe a little time may be needed to make it, make amendments, or we are here actually today to fulfill the intent of the Chair to make the bill workable so we can get into the specifics or we can just have the Members comment and we can go along with what you have.

CHAIR GUZMAN: Okay, why don't we start with any questions from the Members and then we'll go into any recommendations from RPT or Finance Department in terms of the language that they feel more comfortable with.

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. And Chair, thank you for, you know, first of all I think your intent and where we wanna go with this is very admirable and I think it's very important. I do have some major concerns verbiage wise and I'm not a lawyer so I'm gonna ask the Department and maybe Corporation Counsel for clarification. But I think, you know, the key here and I guess, Mr. Teruya, I'll start with you and then we can maybe go to Mr. Ueoka if necessary, and maybe Marcy can chime in, yeah. In reviewing this, and again I'm not a lawyer by no stretch of the imagination, but I found some very curious and maybe somewhat ambiguous language but you gotta explain to me how that works. First of all, if I have one lot right now, and you basically said, Mr. Chair, that one lot and whatever acreage, let's say 20 acres just for the sake of mathematics, right? And I have three children and I decide to subdivide amongst my three children and myself. So I went from 20 to 4 or 5 lots, right? Okay, my question to you is this, and I'll start with this and maybe you can explain a little more thoroughly, when I do that if I had 4 lots and it was subdivided, at that point I would pay whatever roll back taxes and all that at that point in time, but this is deferring that so that we can help them build, and help them do other things, and get their family subdivision, like you say affordable housing and all that started. My question to you is, Mr. Teruya, by doing this in five years or four years one of the entities decide to sell their property outside, and I know you covered it to a point, but I think I wasn't satisfied in you discussion, Mr. Chair, so I'm gonna ask the experts. And so all of a sudden they sell that, what happens now? Does that, just that one entity get charged for the past three years or four years prior with what is...what's to be paid or what was being paid? Now that's a kind of a tricky question but if you understand where I'm leading this, somebody goes outside. And is all the parties responsible or just that one individual? Now, you know that's questions to be begged to be asked at this point. So maybe, Mr. Teruya, you can enlighten all of us because I

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

think it's important we don't put anything forward and find out like we've done in the past some major impact and some financial undoing for some families. So if you would, Mr. Teruya?

CHAIR GUZMAN: Okay, I can answer that, but I would like to hear from--

COUNCILMEMBER VICTORINO: I would like him to answer--

CHAIR GUZMAN: --from RPT--

COUNCILMEMBER VICTORINO: --yeah, I would like him to answer it.

CHAIR GUZMAN: --because, yeah, because it's basically just...

COUNCILMEMBER VICTORINO: Yeah, I would like him to answer it, but not you, Mr. Chair, no offense to you.

CHAIR GUZMAN: Yes, yes.

COUNCILMEMBER VICTORINO: I'd like...I'm asking specifically to him.

CHAIR GUZMAN: Yes, so how does he read it?

COUNCILMEMBER VICTORINO: Yeah.

CHAIR GUZMAN: That's the question. And then--

COUNCILMEMBER VICTORINO: Yeah. Well--

CHAIR GUZMAN: --but I can explain.

COUNCILMEMBER VICTORINO: --you know 'cause they're the one that administrate not you.

CHAIR GUZMAN: Right, correct, correct.

COUNCILMEMBER VICTORINO: We put laws, but they administrate.

CHAIR GUZMAN: Yes, yes. So how do you read that, Mr. Teruya?

COUNCILMEMBER VICTORINO: So I'd like to hear from them please if I may?

CHAIR GUZMAN: How do you read that language?



**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

COUNCILMEMBER VICTORINO: Or if Marcy wants to answer it, I don't care who.

MS. MARTIN: Let me just find the one section I did see.

CHAIR GUZMAN: That would be, it would be "B".

COUNCILMEMBER VICTORINO: "B", yeah.

CHAIR GUZMAN: It would be "B".

COUNCILMEMBER VICTORINO: Yeah, under Section B.

CHAIR GUZMAN: Yeah.

MS. MARTINS: I read it that just this portion that was sold off would be subject to the roll back tax and penalty.

CHAIR GUZMAN: Correct.

COUNCILMEMBER VICTORINO: No, no. We gonna challenge that one, but go ahead, go ahead.

CHAIR GUZMAN: I know ...*(inaudible)*...

MS. MARTINS: However--

COUNCILMEMBER VICTORINO: Yes, thank you.

MS. MARTINS: --the deferred taxes are on...administratively, the deferred taxes are on the mother parcel. They're not on the new parcel. So that would be an administrative challenge for the...we wanna make sure that the law's implemented as intended.

CHAIR GUZMAN: Okay, so--

COUNCILMEMBER VICTORINO: So wait, wait, wait let me ask the questions if you don't mind, Mr. Chair.

CHAIR GUZMAN: But I'm the Chair, Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah, but my questions.

CHAIR GUZMAN: Yeah, but I'm gonna follow it up really quick. And I am the Chair, Mr. Victorino, please.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

COUNCILMEMBER VICTORINO: Okay.

CHAIR GUZMAN: Can you, can you elaborate more on what you just said?

MR. TERUYA: Chairman, sorry, really quick. I don't want to go into a lot about, badgering about what is correct or wrong, but just I guess what's the difficult part here is sometimes, I mean backing up even a bit is most of the subdivision, the roll back taxes are paid prior to the subdivision. That's one of the problems that we're having to, to understand in this, in this sense because that is the current practice. If we were to subdivide parcels and it's somewhat alluding to proration of the taxes to the other parcels, one question would be is who would be the person to determine that prorated amount?

CHAIR GUZMAN: Right.

MR. TERUYA: Another question would be is who's gonna follow the ownership down the road? Even though the trigger may be a building permit is when it's transferred down, down the road, who's gonna maintain or know whether or not that is the point where it's no longer in the family? And there are other questions I would have. I know that there is a change from the deferred taxes from the current language which says ten years, and in here it mentions five years. So there are some differences. We have additional questions or comments maybe, but I think we're here as I mentioned in the beginning is we understand the intent. We can agree to the intent. We just wanna make sure when we get there or formalize the language that the Division is able to carry it out to its best ability.

CHAIR GUZMAN: Okay, thank you. Thank you very much for...yes, Mr. Victorino, you can follow up.

COUNCILMEMBER VICTORINO: Thank you very much. And thank you for that, you know, somewhat clarifying that because again in reviewing this, I could see that there's some, some challenges and it's not the intent, Mr. Chair, it is the verbiage that is there--

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: --and who does what--

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: --who's responsible for what. I mean, you gotta get all of that before...you know, we've done things in the past and we found the impact very negative at the end. Case in point and I went use that when we did the circuit breaker, we saw how badly that came back us. So I just wanna prevent that from occurring. It's nothing against you or anybody

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

in the room. I just wanna make sure we can get it as close as possible not perfect, but as close as possible. Secondly, you know we talked about dedicating ag land, you know, that if someone dedicate it for a certain specific period, ten-year, twenty-year, five-year, whatever, I mean, we threw all kinds of numbers in the definition of ag and dedication of ag. If someone had dedicated the land, would there be a difference in the overall statement you just made, Mr. Teruya, or would there be no change or could there be some change? And I guess that's what I'm asking at this point in time.

MR. TERUYA: Chairman, there's not a clear answer to that because there's several different scenarios. It could be a parcel that has been under dedication for many years already, so you know subdivision obviously wouldn't be a problem at that point. If a parcel was receiving agriculture use for some time, chose to dedicate it at whatever period, let's say five years ago, and is in year five and subdivides, potentially under current practice there is a five-year roll back because five years was already dedicated. So there are multiple scenarios to go through and I know what you're saying about dedicating the land to fulfill and potentially that may be a way out. I offer you potentially an amendment to the dedication rule to allow for family subdivisions with or without a penalty. I mean, that can be done. That's not how it's incorporated right now, but if the intent is really to help the family subdivision and you're saying dedication would be something that you would consider 'cause a dedication is a commitment to it, so if you were to dedicate it at that point with the understanding that the family must maintain it within the family for that ten-year period and dedicate and complete it, that could be done if we were to amend the Code. So you know, like I said if the Members all feel that this is the cause that they want and there is not gonna be a deferred, but there will be a commitment, long-term commitment to the farm...'cause remember now, it's to the farm, not to building houses--

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: --right, for dedication for purposes. So that is potentially something that this Committee can maybe, maybe wanna consider.

COUNCILMEMBER VICTORINO: And thank you, and again Mr. Chair, you started out by saying this was to help protect our farmers and to enhance and keep farming as a viable industry within the families, and okay, and so I'm seeing and I'm hearing that yes, you know, the intent is good but there is language in here that could be misconstrued, circumvented, and maybe abused again. And that's something I don't want to have to happen. I mean, I think there is some definite changes that or amendments that I would like to see us do in this whole, in this ordinance, but it's a good ordinance. I mean, it's good in the intent. However, I don't want another situation where we do what we thought was right and then a year or two down the road we find out it really went to pot and didn't do what we intended to do. The other question I had and the final question, I'll let others have...this will have to be for agricultural and continued agricultural use because this is what that the whole intent was. Am I correct in asking that question?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

MR. TERUYA: If we went down the dedicated road, yes.

COUNCILMEMBER VICTORINO: Yeah, okay.

MR. TERUYA: Because when you dedicated your land, you're saying you're gonna farm.

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: If not, you just...you wouldn't do it anymore and then there's no use to get. So yeah, the dedication process is a dedication to farming, yeah.

COUNCILMEMBER VICTORINO: Okay thank you, Mr. Chair. I'll let others ask questions.

MR. WALKER: Mr. Victorino, if I might just add that the roll back tax is a penalty for taking land out of agriculture, right? Whether it's if you're changing the zoning or you're taking a bigger piece and making pieces less than five acres, they're saying well, that's, you know, that's not quite the farm that we had envisioned when this...so it's a punitive measure to restrict the ability or to punish, I don't want to say punish, but to inflict some economic pain for taking land out of active agriculture.

COUNCILMEMBER VICTORINO: Thank you. And I'm glad that that way the public understands exactly what roll back means. Thank you, Mr. Chair.

CHAIR GUZMAN: Thank you, Mr. Victorino. Yeah, when in reviewing the current ordinances, it just didn't make sense that we...you have 20 acres for example, 20 acres and now you wanna subdivide it as a family subdivision and now the County is saying to you, you have to go back ten years from the time that you purchased it and pay all that back taxes as if you purchased the land as a family subdivision. It just didn't make sense to me. So I just was like, you know what, we gotta defer that, and we've got to do away with that in terms of making it easier for a family to subdivide it and convey those lands to their, to their children. So, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you for bringing this forward and I completely agree so long as there is a system to monitor when that one particular family member decides to sell outside and thereby null and voids this particular bill. And so for me then we're talking about five or less parcels. So six and above then, we do the same? There's no deferral for people of large ag lands that are now subdivided into other uses? What kind of penalties or taxation, roll back type taxation are we impose upon them? 'Cause we're trying to protect the smaller, you know, and I understand but is that safe to say then on the flip side, right, where six acres or more we're going back to perhaps Mahele days when they originally got the land? I mean, I don't know. That's just my or is that?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

CHAIR GUZMAN: No, I see what you're saying because currently as the...our current ordinance indicates that if the parcel, if you subdivide it into parcels of five acres or more then you've-- correct me if I'm wrong, RPT--then you've gotta pay your deferred tax, is that correct or at least for the last ten years, but not more than ten years. That's in the current ordinance.

MR. TERUYA: Chairman, if...my understanding is if it's a subdivision of parcels greater than five acres there is no...there's no penalty there. I think just for a point of clarity, the roll back shall go back as far as ten years --

CHAIR GUZMAN: Right.

MR. TERUYA: --for the years that you have received agricultural benefits. So point of sale may be a little misleading in the sense that if you were paying your highest and best use you wouldn't be rolling back those years. It's more the last ten years that you received the benefit.

CHAIR GUZMAN: Did that...did you need clarification, Ms. Cochran?

COUNCILMEMBER COCHRAN: So it only goes back, only goes back ten years?

CHAIR GUZMAN: Yeah, ten years.

MR. TERUYA: It's a maximum of ten years. For example, if the first year...three years that you bought it, you paid market value based on taxes, and you did not have agriculture. And the next seven years, you farmed and then we were to hit you with roll back. You could only roll back seven years 'cause you only got the break for seven years. You didn't get the break for all ten. So like I said, there's different scenarios and it matters whether or not you're in use or you're in dedication. And I think that's one of the biggest reasons for the last five, ten years we've been going back and forth on this is because to understand the complexity of agriculture there's not one single situation. And agriculture use versus agriculture dedication has a different set of penalties. Right, dedication is, one thing is you can subdivide, main thing that the use for that portion is still intact. Agriculture use the violation is subdivision of less than five acres. So there's two different things. 'Cause agricultural lots can be two acres. So the roll back is the violation of less than five acres. So if you subdivide greater than five acres there is no penalty at that point.

COUNCILMEMBER COCHRAN: Even if non-agricultural use? You know what I mean? And here we're trying to preserve agriculture and I understand family farms of course, but anyways that's a whole other topic which I'm looking into, Chair. But this particular \_\_\_\_\_ yeah, I see it.

CHAIR GUZMAN: Yeah, the intent is there.

COUNCILMEMBER COCHRAN: Yeah, I see that, yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

CHAIR GUZMAN: We just need to, we need to work, work it though.

COUNCILMEMBER COCHRAN: So thank you. Thank you for that.

CHAIR GUZMAN: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I like the intent of this bill and you know you mentioned about opportunities for affordable homes, but then you also make mention the purpose of the proposed bill is to allow families to preserve farms and agricultural lands. So I think, I think we need to like RPT said we need to go back to the Code as to and really make sure we don't have you know, kickbacks and what have you.

CHAIR GUZMAN: Unintended consequences.

COUNCILMEMBER CRIVELLO: And if it's really for the purpose of farming, we need to distinguish that because too often, the ag land and farm lands becomes short-term rentals.

CHAIR GUZMAN: Right.

COUNCILMEMBER CRIVELLO: You know, it doesn't really fulfill the objective of us preserving ag and farm lands. So I would like for us to get that, give that more clarity so that we can make sure we're in line with the existing Code and what do we have to amend in the Code for now.

CHAIR GUZMAN: So yeah, this is just an introduction and--yes, Ms. Cochran, go ahead.

COUNCILMEMBER COCHRAN: Thank you, Chair. And so I heard, the hardship that might occur as years progress and we can't follow ownership, and when it was sold to, when, to who and all that. I'm just wondering how many of these applications occur per year, these five-lot subdivisions? I mean, are there like hundreds that was oh my God, how we're gonna keep track or are there just a handful where it shouldn't be too difficult?

MR. TERUYA: You know, it's--

COUNCILMEMBER COCHRAN: 'Cause I'm thinking there's not many.

MR. TERUYA: --it's very not many.

COUNCILMEMBER COCHRAN: Yeah, so.

MR. TERUYA: I would say one or two a year.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

COUNCILMEMBER COCHRAN: Right.

CHAIR GUZMAN: Right, right.

MR. TERUYA: At the most. So just a comment, you know, I know we're here to help farms and I don't think anybody's here to disagree that. I'm just making sure that when we do allow for the intent that is there gonna be like a length of years that you have to have at least obtained this? You know, I'm not sure if the intent is to buy a farm for I don't know "x" amount of money and then do a subdivision for a family, or is it really that you've really worked the land and therefore, you should provide for your family rather than just buying it and then subdividing it? I don't know. Just a comment, Chair.

CHAIR GUZMAN: Very good. I mean, these are issues that need to be brought up in terms of vetting through and crafting an ordinance. But I think one of the triggering factors could we not...and this is just for discussion, yeah, could we not put when a person is going to subdivide they've gotta create new deeds, right? Could we not mandate them to put an encumbrance within in the deed that says that if ever they transfer or convey a portion they need to notify the County?

MR. TERUYA: You read my mind, Chair.

CHAIR GUZMAN: I mean that's...that could be, definitely could be an encumbrance in there in terms of part of the, a deed restriction.

MR. TERUYA: Yes, That is similar to a lot of portions of our Code where even similar to home exemptions. In home exemptions it is the owner's duty who's receiving the exemption to notify the Division within 30 days of failure to fulfill the exemption. So I would a think a deed restriction similar to that effect would be a good...something to be recorded so that buyers can be beware.

CHAIR GUZMAN: Okay. And then also I have one more, one more question, on the...if we refer to Page 1, and we're looking at the 3.48.325, Section B, and that's the section where it says, you know, basically if you're going to transfer the properties to your family members and then that family member eventually sells it to a nonfamily member then that person, the seller would have to pay the deferred tax pro rata up to I guess the last sentence there, but for not more than five years. Did you wanna change the five years to ten years to be consistent with what is in the existing Code right now where it says the parcels of five acres?

MR. TERUYA: Chair, that is the current language and I would still prefer it to mimic the old language.

CHAIR GUZMAN: So you would like to see instead of the five years, it would be--

MR. TERUYA: Be back to ten.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

CHAIR GUZMAN: --amended to ten?

MR. TERUYA: Yes.

CHAIR GUZMAN: Okay. I see.

MR. TERUYA: Just another comment. Just thinking out loud, Chairman. Knowing that we're talking about a child parcel that further sells down the road, I'm just thinking out loud so we're assuming that this is gonna be like an encumbrance or possibly a lien--

CHAIR GUZMAN: Correct.

MR. TERUYA: --on the property. My only comment that may be detrimental to a recipient of that parcel who may...if there is a lien on the property and we know the intent is so that they don't, they you know pay back what is owed because it would maybe go through escrow, but the only problem to that is that they may not be able to either get loans or improve the vacant property because of the lien.

CHAIR GUZMAN: It wouldn't necessarily be a lien, but it would be...you know like a deferred tax. You know, it's...they owe the tax but it's being deferred because it's being kept within the family or it's being kept by the owner within the...*(inaudible)*...

MR. TERUYA: I would, I would defer to Corporation Counsel. I don't, it's just my comment, thinking out loud. When you have a lien, I would assume that the banks would...I'll defer to Corporation Counsel, maybe if you want that.

CHAIR GUZMAN: I think it would be more of an encumbrance, but anyway, Corporation Counsel, did you wanna pipe in on this?

MR. UEOKA: Yeah, I would view it as an encumbrance, and I'm not sure if it would ever be a lien per se, but I think Mr. Teruya is right if it was viewed as lien by whoever's approving the loan, yes, it probably would be limiting, but again, I'm not a...I don't work for the banks so I'm not quite sure what would happen at that time.

CHAIR GUZMAN: So basically deferral of taxes, yeah, but anyway...

MR. UEOKA: I guess that's difficult to say if it truly be a deferral of tax or just a deed restriction on the sale. But...

CHAIR GUZMAN: Right.



**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

MR. UEOKA: But I guess you do have it worded right now that it would be on the transfer or as opposed to it would just be, the property would be subject to...I'm confident that property tax is usually on the property and you know, the owner is listed to it, but it's...that would ride on the property, would run with the land.

CHAIR GUZMAN: Right. Yes, Finance?

MR. WALKER: Mr. Chair, yeah as a recovering banker I would just...I know when they look at a title report and they see that, 'cause you know the child is gonna get the property unencumbered except for this lien. If he ever went into get a land loan for whatever purpose when they review the title report they're gonna see that and they're gonna ask him, well what is that, how much is that? Because we're gonna be second to that even though we're, I think we're taking a first mortgage, we're gonna be junior to that encumbrance and they're gonna wanna know what that is. I mean, it will certainly open some eyes, and you know, and I'm not saying it's a bad thing. I mean, it's certainly on record that this person owes the money, but there may be some issues as expressed by Mr. Teruya that banks may have a problem with it especially if they can't quantify what that is, what...how much that's worth, what that encumbrance value is. Anyway, that's my comment.

CHAIR GUZMAN: And I think that would, just a second Ms. Cochran, I think that might be more applicable if they were intending to sell it, sell the property outside the family. But this intent of this bill is to keep it within the family. But anyway these are very good questions and issues being raised. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, and yeah, trying to hone in and define family member I guess per se. The word, Section A, No. 2, adoption, is hanai, is that a legal term? I mean, we hanai people. We are hanai'd, you know, so I mean, but this I think adopt by...transferred by blood, adoption or marriage. I think, I mean, have we ever used that term being that we, here in Hawaii, I mean, it's sort of a understanding. I don't think a lot of times it's written in black and white on paper, gone through the courts, notarized and things of that nature, but it's something that we stand by and grew up knowing and you know, generationally. So just wondering if that hanai is considered adoption or no?

CHAIR GUZMAN: Well, Ms. Cochran, I can tell you my intent was to keep it as a legal adoption, as legal family members, and blood and consanguinity, but the Corporation Counsel may wanna address the hanai concept.

COUNCILMEMBER COCHRAN: Yeah, if there's a comment. Yeah, Corporation Counsel.

MR. UEOKA: I'm pretty confident it's recognized by the HRS, the concept of hanai. I am not sure what the exact definition of it is or how it exactly it works, but I'm fairly certain it's recognized somewhere within the HRS.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

**Council of the County of Maui**

**September 16, 2014**

---

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: It's probably for a child custody type matters.

CHAIR GUZMAN: We can look, we can look into that--

COUNCILMEMBER COCHRAN: Okay, yeah.

CHAIR GUZMAN: --I mean that's why we're here. That's why we're raising this issues.

COUNCILMEMBER COCHRAN: Yeah, very good. Thank you, Chair.

CHAIR GUZMAN: We'll...Staff take all the notes of all these issues coming up.

COUNCILMEMBER COCHRAN: Thank you. Yeah, that would be nice. Thank you.

CHAIR GUZMAN: Mr. Carroll, do you have any concerns that you would like to bring up?

MR. CARROLL: I think we've covered just about everything and of course, like all of us we wanna do the best we can for them. And I hope that we can agree on what is best and get something out. But everything that I had concerns with has already been brought up. Thank you.

CHAIR GUZMAN: Okay, thank you. So members, why don't we take what we've discussed and we'll start working on advancing or at least redrafting or whatever it may be to address a lot of these issues that were brought up. So without any objections members, I would like to defer this matter.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you. And I'd like to thank the Department for being here as well as Corporation Counsel. Thank you. And Staff, good job.

COUNCILMEMBER VICTORINO: Did you adjourn the meeting?

CHAIR GUZMAN: Meeting adjourned. . . . *(gavel)* . . .

**ADJOURN: 3:56 p.m.**

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**  
Council of the County of Maui

September 16, 2014

---

APPROVED BY:



---

DON S. GUZMAN, Chair  
Economic Development, Energy, Agriculture,  
and Recreation Committee

ear:min:140916

Transcribed by: Carolyn Takayama-Corden

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE**

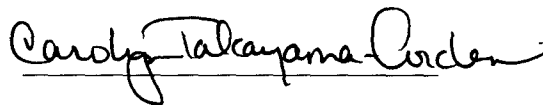
**Council of the County of Maui**

**September 16, 2014**

---

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 6<sup>th</sup> day of October, 2014, in Makawao, Hawaii

A handwritten signature in cursive script that reads "Carolyn Takayama-Corden". The signature is written in black ink and is positioned above a horizontal line.

Carolyn Takayama-Corden