

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

MINUTES

March 10, 2016

Council Chamber

RECONVENE: 5:02 p.m.

PRESENT: Councilmember Riki Hokama, Chair
Councilmember Mike White, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member
Councilmember Don Couch, Member
Councilmember Stacy Crivello, Member
Councilmember Don S. Guzman, Member
Councilmember Michael P. Victorino, Member

STAFF: Michele Yoshimura, Legislative Analyst
Steve Selee, Legislative Analyst
Yvette Bouthillier, Committee Secretary

ADMIN.: Scott Teruya, Real Property Tax Administrator, Department of Finance
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS: Others (+70)

PRESS: Akaku: Maui Community Television, Inc.
Melissa Tanji, *The Maui News*
Susan Halas, *Maui Watch*

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

CHAIR HOKAMA: ...*(gavel)*... We shall reconvene a recessed meeting. This is the continuation of the Budget and Finance Committee meeting that we started on February 29, 2016. This recessed meeting continues where we left off, and so when we ended on the 29th, we completed testimony. And we will now go through a review of the proposed bill for consideration. And so first, we want to thank all of those of you that made the effort to be here this evening, we thank you very much. And so you know how we're going to do it, we're going to go through the bill as revised after listening to testimony on the 29th. And the Members will be able to say their comments regarding the revisions. So we have posted this form of the bill on March 3rd, one week ago, and we also ran it by some of the representatives of the Ag Working

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Group for comment on the proposed revisions that we have made. So at this time, we're going to go through the revisions with the Committee Members that we did on the 3rd. So if you can take a look at your bill for an ordinance, Members. We also have Mr. Agsalog and Mr. Teruya from Department of Finance. We have Mr. Ueoka from Department of Corporation Counsel to assist in responding to questions or concerns regarding the legislation under consideration. So let's go through the initial bill, Members, and then I'll ask also Corp. Counsel if there are any other nonsubstantive changes they may have considered regarding the drafting of the legislation. So Page 1 basically, Members, under the Section of 005 or Definitions, as we start the...I believe we've added...Mr. Ueoka, did we make any adjustments on definitions?

MR. UEOKA: Yes, Chair. We moved a few of the definitions over to the main section, but we added in the definition of "kuleana land" because it's referenced later on in the bill.

CHAIR HOKAMA: Okay. So for those that are following on the screen, including the community that is not here, you see the underscoring on the screen, it's under "kuleana land." And we have it as "means those lands granted to native tenants pursuant to L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as originally enacted and as amended." That is the definition that we have placed in this area. Any questions, Members, on this component? Okay. Let's move forward. Mr. Ueoka, any other revisions?

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Some of the stuff was in there that we haven't had a chance to talk about it before. The line above, it says "Director," and "means the director of finance of the County" and you asked to strike "or an authorized subordinate." Is that, any reason for that?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I believe it's for consistency with other sections of the Code. They're trying to go more toward just director meaning the Director as opposed to "or the authorized subordinate." Thank you.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Well, what does that mean in reality? Does that mean Mr. Agsalog is the only one that can make the decision?

CHAIR HOKAMA: My understanding is they can enter into an administrative process procedure and conduct rules that, to further enhance the administration of this

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chapter in the Maui County Code, and they can consider additional rules and amendments that have the standing of law as a way to further define the administration of this chapter.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR HOKAMA: Further questions, Members? Mr. Ueoka, continue please.

MR. UEOKA: Thank you, Chair. Essentially the next change would be on Page 10.

COUNCILMEMBER BAISA: You wanna go through everything? Excuse me, Chair?

CHAIR HOKAMA: Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Anything underlined, is that what we're going to do? Or we're going to pick and choose?

CHAIR HOKAMA: You know what, to make it easier we're go through all the underscoring.

COUNCILMEMBER BAISA: I think it's easier.

CHAIR HOKAMA: We'll do that, Mr. Ueoka. I mean even if we didn't make adjustments we'll just go through it so that --

COUNCILMEMBER BAISA: Because if we had this --

CHAIR HOKAMA: --easy to follow.

COUNCILMEMBER BAISA: --you know, if we had this in like a red and green or something where you could pick out the changes. This is hard to follow.

CHAIR HOKAMA: Mr. Ueoka, let's hit the "unusable or unsuitable lands for agriculture use."

MR. UEOKA: Okay.

COUNCILMEMBER BAISA: Yeah. Many brackets you cannot see.

MR. UEOKA: Thank you, Chair. Top of Page 2, that definition, "unusable or unsuitable land for agricultural use." This definition is essentially just for what's unusable or unsuitable, and it's going to be excluded for certain purposes. The next Section under 3.48.185...

CHAIR HOKAMA: Okay. Any questions on that unsuitable component? Mr. White?

VICE-CHAIR WHITE: Thank you, Mr. Chair. I think there was some concern about the wording "as determined in the director's sole discretion." And I think we had had a bunch of testimony relating to the use or employment of an ag advisory group. I'm

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assuming that...well, I won't assume anything. The ag advisory group would be the first round and would be making recommendations to the Director or...

CHAIR HOKAMA: They'll be the...yeah, the bill, one of the way we've proposed this bill is this group will help assist the Department in the review of ag plans and that we...okay, everybody, even for the Members, we're going to need to have our devices on silent mode please. So even the Members, if you would give everyone the courtesy to our Members as well as to our audience. I'm sorry, Mr. White. Regarding your concern, I would say that the ag...there's ways we can amend or adjust the ag working group. One consideration also is to maybe have them consider to be a review board of a Director's decision that could...at least then that way the property owner can go to what we would consider professional qualified agricultural practitioners to help make a determination on whether or not that decision is to remain or to have it voided.

VICE-CHAIR WHITE: Was the intention to have the advisory group make a determination prior to submittal to the Director or only after the Director...and maybe Mr. Ueoka can...after the Director has made a determination, then does it go to the group for a review? And I'm assuming any decision by the Director remains appealable to the tax review commission or committee or Tax Review Board. Is that correct?

CHAIR HOKAMA: As...and I'll let Mr. Ueoka respond. This is going to be one area that they'll have multiple options on how they want to move their concern forward. There definitely will be a real property tax review component that they can, any property owner can go before regarding assessments and valuations. If it's a use, they can go before the Board of Variances and Appeals for a formal decision by that board on the application of the law and whether or not it fits within the parameters of permitted uses as one way to address it. Or we could consider having them work through this agricultural working group as one that would advise and consult with the Director. But again, for me it depends what you folks want and what the community, agricultural community wants. This group can be in both the front end of reviewing the ag plans before it goes to the Director for final decision as well as potentially this ag group could be used as an appeal component if let's say after inspection, the Director feels that the benefit should be cancelled. Then as I understand it, I believe we allow 15 days to appeal a Director's decision, and that group could be the appropriate appeal review board for that type of use.

VICE-CHAIR WHITE: Well, in this particular area where it's unusable or unsuitable land for agricultural use, I don't, I think it would be appropriate for and actually probably in the other instances as well, it'd be appropriate for the Director to make a decision rather than everything having to go through the ag advisory group. But I think it's, if there's a decision that an owner feels is incorrect then it needs to go through the ag advisory group for a determination. I'm assuming that's the way it's been set up. Is that your understanding, Mr. Ueoka?

CHAIR HOKAMA: Mr. Ueoka?

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MR. UEOKA: Thank you, Chair. Currently, Mr. White, the Agriculture Advisory Dedication Committee will review petitions for dedication and make a recommendation to the Director. The way it's worded right now there is not a, they're not an appeal board at this current time, but of course you can add that in.

VICE-CHAIR WHITE: But if they, if the owner still doesn't agree with the determination by the ag group, do they still have the ability to appeal through the tax review process?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I would believe so as it would be affecting valuation and assessment, so I would...it would to me right now...circumstances of course would be dependent on...I'm sorry, it would depend on the circumstances but yeah, it would probably be something the board of review could hear under their --

VICE-CHAIR WHITE: Okay.

MR. UEOKA: --authority currently.

VICE-CHAIR WHITE: So at this point we have two levels of appeal so to speak, or two levels of review. Both the ag group's, ag advisory group's review and then the tax review commission if necessary.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Yes. Thank you, Mr. Chair. Yes, Mr. White.

VICE-CHAIR WHITE: Okay. Thank you. Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Crivello, questions?

COUNCILMEMBER CRIVELLO: Not right now. Thank you.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Other Members have questions.

CHAIR HOKAMA: Okay.

COUNCILMEMBER COUCH: I've asked some. Thanks.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I think following up on Chair White's discussion in regards to that sentence "director's sole discretion." Been getting countless e-mails in regards to those particular words, and I believe that a lot of people...not, I don't want to say trust or anything but feel as the Director really doesn't

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have the capacity or knowledge or whatever, experience to be that sole, to make that sole determination. And so I think even in any parts of this where that is stated, to have it also include and say it plain as day, black and white that it goes through that advisory committee. So but my follow-up is I heard Mr. Ueoka say this committee is not an appeal per se board but --

CHAIR HOKAMA: The way it's current...

COUNCILMEMBER COCHRAN: --right below it...

CHAIR HOKAMA: The way it's currently drafted, that, he's correct, Ms. Cochran.

COUNCILMEMBER COCHRAN: And so Item S, Appeal, it says board of review, who is that?

CHAIR HOKAMA: Mr. Ueoka?

COUNCILMEMBER COCHRAN: Is it...

MR. UEOKA: Thank you, Chair. The current Tax Review Board, board of review in the Code. They exist as of right now.

COUNCILMEMBER COCHRAN: So Real Property Tax Board [*sic*] review, is that who it is? So I mean if we're going to say that then that's what it should say, 'cause currently I don't know what, who's this board. I mean we all...you might know but it doesn't say it here, so maybe we can add in to really clarify who the board is. But again, I think this advisory committee should, is the expertise in the field of agriculture and not so much Director. Nothing, you know, against Mr. Aagsalog, he has his skills, but in the agricultural field, I think majority of the people really prefer not to have one single person to be the sole call on these determinations. So that's just where I'm very uncomfortable in that particular sentence and have heard it resonate in this community too, so just wanted to bring that up at this time, Chair.

CHAIR HOKAMA: Thank you for doing _____. And again, we, you know, I will say that we listened hard to the testimony on the 29th and therefore we've made some revisions. And part of the discussion of, among the Members is to bring up additional points of view that...and again, this is your working draft that I put forth after the January...February 29th meeting of hearing the testimony regarding ag values, ag committee, length of dedication and whatnot. So you will see those revisions in this proposal after hearing the testimony. And again, what you brought up is again something that we're very open to and we can make those revisions in the proposal --

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: --so that's an not issue. Ms. Baisa?

COUNCILMEMBER COCHRAN: Yeah, thank you.

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COUNCILMEMBER BAISA: Yes. Just again following up on what Chair, that section that Chair White brought up. You know I heard in your response several times that you used the phrase ag working group. I don't think we want to get confused because the Ag Working Group is a different group, they're not the Ag Dedication Advisory Committee.

CHAIR HOKAMA: You're right.

COUNCILMEMBER BAISA: So I don't think we should bring the Ag Working Group into this at all, because they are a group that was organized to assist Member Guzman in what he's trying to do, but they're not involved in administering this in any way as far as I understand it. Thank you.

CHAIR HOKAMA: Thank you for that. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair.

COUNCILMEMBER BAISA: Maybe they should be.

COUNCILMEMBER CARROLL: I have an amendment but I don't know if this would be the proper time to bring it forward, concerning this position of how the operation would work with the ag group. But we're talking about the qualifications of the ag group now. But as I understand it that, that group would be, the Farm Bureau would turn in names. They would be vetted the same way that other are and it would have to be approved by the Council, the names that were given. So we should have responsible people on there. However, the final decision I think that is determined more by how we are organized with the Charter, that they would make the recommendation to the Department head, and he would be the one to make the final decision. But I can't imagine that person making, going against these experts on there that were vetted by us and came also through the Administration. I cannot imagine a situation where he would change the committee's recommendation. So I think that'll work well. And I do have something but I don't know if it'd be the time to bring it up now.

CHAIR HOKAMA: What I would prefer, Members and Mr. Carroll, is let us go through the revisions so people know one, we listened on the 29th and we can have some discussion, and then I'll be happy to come back to you, Mr. Carroll, and ask what your proposal is for your amendment.

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair. And I also have an amendment but I know it's going to come under Page 16, Section R, so I'll hold up 'til then, mister...I know exactly where I want to put things. So and that would change this language somewhat. But I cannot support the sole discretion of the Director, you know, so we need to amend that to make sure that if it's the advisory group then they'd be the first

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crack at it and then the Director. And no offense to Mr. Aagsalag or anybody in the room, I don't think one person should have sole power and jurisdiction over anything without some adjudication power given to a group. Just like we've done with the water when the Director has the only decision and makes the only decision and at least they can go back and adjudicate that, so that's something that I will definitely be pushing for somewhere along in this bill. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay. Thank you. Before I recognize Mr. Guzman, Members, I would just say if you are thinking of a consideration, a proposal, an amendment, if at all possible I would ask you to share that with the Staff so we can have it written out and we can make sure the language is what you intend to propose. And then we can make sure that all the Members look at the same thing at the same time. So that would be my request to you if you are aware of what you want to propose, if you can assist us so that we can share that information with everyone. Mr. Guzman, questions at this time?

COUNCILMEMBER GUZMAN: Nothing further, Chair. I believe that most of my colleagues have conveyed their sentiments and the Director's sole discretion, so we don't need to go over that as well. I do have some amendments and those will be shared with Staff as well. Thank you.

CHAIR HOKAMA: Thank you. We appreciate that. Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, you know, in listening to all the Members discuss their concerns and whatnot, I'm wondering if I might make not an amendment at this time but a suggestion that might save us some time. You have done a lot of work. It sounds like you've listened to, you know, in reading this, you've listened to some of the things that the testifiers have had to say and so you've done a lot of work to change this. But we're talking about an ag group and the assessment committee and another, you know, committee that already exists. I think that a lot of the testimony talked about inspectors. Why don't we have...like we have an Office of Economic Development out of the Mayor's Office, why don't we have an office of agriculture out of the Mayor's Office? Have several people have all concerns about ag go through that office and they say yes, this is ag so RPT can do the ag valuation. Yes, this is ag so Water can do the water rates for it. And yes, this is ag for Planning's purposes for the accessory dwelling. That would eliminate a lot of the...we're trying to attack a small situation with a huge sledgehammer. If we can do it through a department or an office of ag, that might solve most of the problems that we're trying to fix here. Just something for you to consider and for the Members to consider is two or three or four people up in that office can really do a whole lot more, just like we have our Office of Economic Development that does a lot of stuff for economic development. These folks can be the ag inspectors and the true people who say yes, this is really what ag is and yes, they get the Ag valuation, and yes, they get Ag water rates. No, this is not, this is a gentleman's farm, sorry, you get market value and off you go. And then that can be appealed at the Board of Variances and Appeals. And we have situations like this already, let's not reinvent a huge wheel to fix something that we all agree needs...the issue is what we're going after here is the non-farmers, if

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you will. So I think that may be a quicker and better way to do it, but I'm willing to go through and do this. But to get that concept into here might be a little bit difficult. But even after all the hard work that you have put into this, I still have a hard time supporting this. So if we can figure out a way to do it the other way I'd appreciate it. Thank you.

CHAIR HOKAMA: And we appreciate your comments, Mr. Couch. You know inspectors definitely can assist us in what we do. You know I remember those that sat here before us, at one time I believe they tried a water police kind of program because of the issues with water in the past, and it never worked because there was always a family connection, a neighbor, a friend that the person didn't want to turn in for violating the water regulations. This is a small island, we understand that. It's tough to put people in certain situations, because other factors come into play from at times conflicting what their responsibility to perform is. We don't want to put people in that kind of situations if at all possible, Members. So for me is we should be looking at various options on how to have a fair and equitable policy that applies to everybody and it doesn't take a special enforcement component to turn in neighbors, turn in family. So again, but one of the things with that component, Mr. Couch, is we're gonna need to again work with people like Director Agsalog. We gotta look at structure, we gotta deal with contracts, we gotta deal with a lot of things that we may need to do, and it's going to cost money and we're going to need to go back to the base to find the funds to make it happen. So I take your suggestion and I appreciate it, and we thank you, but we're going to continue to go through the bill so people can see what we've revised and what we're trying to move forward, if it's worthy. Mr. Ueoka, let's go with Time of assessment and levy, which is we're just carving out the year.

MR. UEOKA: Thank you, Chair. What we did was we just added in a definition of the "assessment year" which would mean the calendar year starting on January 1st and ending on December 31st, and just clearing up that the assessed values, tax rate classifications, exemptions for an assessment year, shall be the basis for the tax bills for the subsequent tax year. "Tax year" is previously defined as the fiscal year, July 1st through June 30th of the following year; that's just a housekeeping matter. It was important to just clarify that for just people can understand when they read it. Thank you, Chair.

CHAIR HOKAMA: Okay. Any questions on that, Members? That is our fiscal year, July 1st to June 30th, and our budget, how we calculate the County's budgeting. Okay. Next, Mr. Ueoka.

MR. UEOKA: Thank you. Thank you, Chair. On the corrections to 3.48.290 Considerations by the director, just housekeeping and changing the reference from 3.48.350 to 351, just because we're repealing 350 and replacing it with 351. Thank you, Chair.

CHAIR HOKAMA: Okay. Any questions on that housekeeping component, Members? Okay, proceed.

COUNCILMEMBER COUCH: Yeah. I'm sorry, Mr. Chair.

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CHAIR HOKAMA: Yes, Mr. Couch?

COUNCILMEMBER COUCH: You mentioned 3.48.350 but there's also a 3.48.320 that's being replaced by 351.

MR. UEOKA: Thank you, Chair. Three-two-O is the current ag use valuations section --

COUNCILMEMBER COUCH: Gotcha.

MR. UEOKA: --so it will also be referenced in 351.

COUNCILMEMBER COUCH: Okay, thank you.

MR. UEOKA: Thank you.

CHAIR HOKAMA: Okay. Any other questions, Members? Mr. Ueoka?

MR. UEOKA: Thank you, Chair. In 3.48.305 which is the Classifications section, we're amending the portion relating to the Homeowner Exemption or Homeowner classification I should say, I'm sorry, to be for "a parcel or a portion of a parcel that is used exclusively as the owner's residence, notwithstanding any long-term residential uses on a portion of the parcel." This essentially will allow Real Property Tax to give the Homeowner class and for a portion of a parcel. The way it was currently worded, they weren't...they just wanted it cleaned up. Thank you, Chair.

CHAIR HOKAMA: Okay. Members, questions on this component? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. So this is saying that you've got the house and the accessory dwelling which is typically an ohana, it's okay to have the ohana, you can still get the Homeowner's value only on the main house or wherever you're claiming the Homeowners Exemption?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. It's for if you have a long-term residential use on a portion of the parcel, you can still get the Homeowner for the entire...for that portion, the portion of the parcel that's being used for homeowner and long-term residential use.

COUNCILMEMBER COUCH: Gotcha. Okay, thank you.

CHAIR HOKAMA: Okay. Any other questions, Members? Proceed.

MR. UEOKA: Thank you, Chair. We're repealing Section 3.48.320 which is the Land classified as agriculture or commercialized residential and used for agriculture. It will be addressed in 3.51 [sic]. Thank you, Chair.

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CHAIR HOKAMA: Okay. Questions, Members? Proceed.

MR. UEOKA: We're repealing Section 3.48.325 which is the current roll-back provision. It will also be addressed in Section 3.48.351. Thank you, Chair.

CHAIR HOKAMA: Questions, Members? Mr. Ueoka?

MR. UEOKA: Thank you. We're also repealing Section 3.48.330 which is Unusable or unsuitable land for agricultural use. RPT assessment does address this so through their current valuation methods, and this actually takes into account like if at a later time it is used, it gets assessed by a certain portion of this Code. But we're repealing it, it is addressed in 3.51 [sic]. Thank you, Chair.

CHAIR HOKAMA: Questions, Members? Proceed.

MR. UEOKA: Thank you. Section 9 which starts at Page 6 is repealing 3.48.350 which is the current dedication provision. And it, the deletion goes 'til the middle of the page on Page 9. Thank you, Chair.

CHAIR HOKAMA: Okay. Questions, Members? Okay. Let's do the one that I'm sure we going get questions which is the proposed 3 point...point 351. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. It starts off with a general statement which is similar to the existing 3.48.350. It moves on to definitions. The first definition for this section is "Agricultural use" and it goes over multiple forms of ag; however, it does have a statement that it does not include, you know, home use type things and that's one of the...and that's part of the definition. It goes on to define "Aquaculture," the "Dedicated area," "Family subdivision" which just references the Subdivision Code. It goes on to do a land use, define "Land use change." This is a key term. A land use change would be "a change in the State land use classification from ag to urban or rural district,"--and all these have to be initiated or authorized by the owner--"a change in the County zoning from the ag district, final subdivision approval of the dedicated area," however, "a family subdivision shall not constitute a land use change." The next definition covered is "Livestock production."

CHAIR HOKAMA: So hold on, mister...so people get a good understanding regarding that last provision, that family subdivisions does not constitute a land use change. Can you give us little bit more comment please?

MR. UEOKA: Okay, thank you, Chair.

CHAIR HOKAMA: 'Cause that's an area of concern for certain families.

MR. UEOKA: Okay, thank you, Chair. This "Land use change" is a key definition because in one of the later sections pertaining to cancellation it says a land use change would be a cause for a cancellation, and a cancellation would lead to the cancellation of dedication and potentially rollback; however, there are ways to waive the rollback

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provisions. So if you go to change your land, State land use classification from Ag or Urban, that would be a land use change. If you go from Ag District County zoning to something else, that would also be a land use change. But it...and if you go to subdivide the dedicated area, that would be a land use change; however, if it's a family subdivision as it's defined in the Subdivision Code, Title 18, then it would not be a land use change so therefore you would not cancel your dedication.

CHAIR HOKAMA: Okay.

MR. UEOKA: Is that good, Chair?

CHAIR HOKAMA: Yeah. Questions? Ms. Baisa?

COUNCILMEMBER BAISA: Not a question, Chair. But, you know, for the benefit, I would assume that a lot of people in the audience do not have a copy of what we're looking at. So it might be helpful...I don't know if they can read that thing. Some people need kupuna font. Can you folks read that? I'm just curious.

UNIDENTIFIED SPEAKER (from the audience): No.

UNIDENTIFIED SPEAKER (from the audience): No.

COUNCILMEMBER BAISA: Yeah, I don't think they can so really they're missing a lot of what we're assuming they know, and it's hard to read that. I've watched it at TV, on TV at home and hard to see.

CHAIR HOKAMA: Yeah.

COUNCILMEMBER BAISA: So I'm just wondering ---

CHAIR HOKAMA: I believe we made some --

COUNCILMEMBER BAISA: --if we should take the time and read it or make more --

CHAIR HOKAMA: --copies.

COUNCILMEMBER BAISA: --copies.

CHAIR HOKAMA: Yeah. Did we make copies? Okay. Why don't we see if we can assist with more copies also.

COUNCILMEMBER BAISA: I hate later on for them to say we didn't know what you were talking about.

CHAIR HOKAMA: No, we thank you for that comment.

COUNCILMEMBER BAISA: Thank you.

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CHAIR HOKAMA: Okay. Questions, Members? Mr. Ueoka, if you would continue on with the various definition areas.

MR. UEOKA: Thank you, Chair. It goes on to --

VICE-CHAIR WHITE: Chair?

MR. UEOKA: --define "Livestock..."

CHAIR HOKAMA: Yes, mister...hold on please. Mr. White?

VICE-CHAIR WHITE: I'm sorry. Before Mr. Ueoka proceeds, I think based on the critical nature of the definition of "Agricultural use," since...

COUNCILMEMBER BAISA: Chair, your mic.

VICE-CHAIR WHITE: Oh, sorry. I'll try to get a little closer. Since nobody has copies just yet and if that's hard to read on TV, I think it...because the definition of "Agricultural use" is a fairly pivotal definition, it would be appropriate for him to read that out loud.

CHAIR HOKAMA: Sure. Sure.

VICE-CHAIR WHITE: If you don't mind? Thank you.

CHAIR HOKAMA: We can do that. No, thank you for that request. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. "Agricultural use" means the active, commercial, and primary use of land for any of the following: aquaculture; crop production; livestock production; horses; grazing of animals used in livestock production; production of livestock byproducts and plants for food, fiber, or energy; flowers and foliage; tree farms; bees and related natural byproducts; biomass; nuts; and seeds. Agricultural use does not include the use of areas primarily as yard space, setbacks, landscaping, or for the planting of fruit or ornamental trees, flowers, and vegetables primarily for home use. For land in the urban state land use district, agricultural use does not include pasturing or grazing."

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: No, I just think it was important to read it out. Thank you.

CHAIR HOKAMA: Okay, thank you. Mr. Couch?

COUNCILMEMBER COUCH: Yeah, thank you, Mr. Chair. And just for clarification, where it says "agricultural use does not include the use of areas primarily as yard space, setbacks, landscaping, or for the planting of fruit or ornamental trees, flowers, and vegetables primarily for home use." Because of the use of commas, et cetera, and I

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know how lawyers work sometimes, can we put it on record that the part “primarily for home use” applies to all of this “fruit or ornamental trees, flowers, and vegetables” ‘cause otherwise somebody could say if you plant any fruit trees it is...that doesn’t count as agriculture use. I just want to make sure that it’s clarified that the fruit trees are primarily for home use and the flowers primarily for home use, that kind of thing. Is that what the intent is of that, Mr. Ueoka?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Yes, Mr. Couch.

COUNCILMEMBER COUCH: Thank you. I just want it clarified. Thanks.

CHAIR HOKAMA: No, thank you. Any other questions, Members, on this area? Okay, Mr. Ueoka, let’s continue please.

MR. UEOKA: Thank you, Chair. There’s a definition of “Livestock production.”

CHAIR HOKAMA: Okay.

MR. UEOKA: There’s a definition of “Owner” or “property owner.”

VICE-CHAIR WHITE: But --

CHAIR HOKAMA: Why don’t you read that?

VICE-CHAIR WHITE: --again, Chair --

COUNCILMEMBER VICTORINO: Oh yeah.

CHAIR HOKAMA: Read the definition.

VICE-CHAIR WHITE: --it’s going to be simpler if we just read them since we don’t have copies at this point.

COUNCILMEMBER VICTORINO: Plus the public out there cannot read it.

UNIDENTIFIED SPEAKER: Yeah, they cannot, they don’t know.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. ““Livestock production” means the raising of cattle, sheep, swine, goats, elk, deer, rabbits, or poultry for food or for the production of food.” ““Owner” or “property owner” means the fee simple owner of the real property, provided that for government-owned real property, “owner” or “property owner” means a lessee of the land where the lease allows the specific agricultural use, further provided that for kuleana lands “owner” or “property owner” means any individual or

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entity holding an interest in the property.” Just a note, Chair, the “Owner” or “property owner” definition is a little more important because...

. . .*(cell phone rings in the audience)*. . .

CHAIR HOKAMA: You’re going to need to cut that out please.

MR. UEOKA: In the bill currently only owners are allowed to petition for dedication. The next definition is ““Revenue-generating” means producing income from the agricultural use of the property.” ““Substantial and continuous agricultural use” means the dedicated land shall be in active, continuous, and revenue-generating agricultural use throughout the period of dedication. The term includes necessary and customary fallowing periods.” ““Tree farm property” and “tree farm” mean land classified as tree farm property under chapter 186, Hawaii Revised Statutes.” Thank you, Chair.

CHAIR HOKAMA: Okay. Questions, Members, on that area Mr. Ueoka just went through? Okay, having none, let’s go to the next components of the proposal for this section.

MR. UEOKA: Thank you, Chair. This next section was the “Period of dedication.” So it kind of changed from what was previously presented and it states now “All dedications shall be for a minimum period of ten years.”

CHAIR HOKAMA: Okay. Questions, Members?

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: So, Mr. Ueoka, if I’m correct in saying that at this point in time, the way it reads it that what if you’re an active, an existing lease and your lease has so many years before it’s completed, would they still have to dedicate for ten years or would that lease...upon the completion of that lease, then they would be required to go ten years?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Mr. Chair. Jumping ahead to Section C for “Existing leases.” If you had an existing lease that was in effect prior to one of the effective dates in this bill, this language in Item C would allow you to dedicate for the remaining period of the existing lease rather than have to do like a whole new ten. That’s for leases.

COUNCILMEMBER VICTORINO: Existing leases?

MR. UEOKA: Existing leases.

COUNCILMEMBER VICTORINO: And at that point the way it reads now, they’d have to opt for another ten years when that existing lease was completed?

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MR. UEOKA: Yes, Mr. Victorino, the way it's worded right now.

COUNCILMEMBER VICTORINO: Okay. Need another change there. Okay, thank you.

CHAIR HOKAMA: Okay. Other questions, Members? Miss...we'll go right down.
Mr. Guzman, anything at this time?

COUNCILMEMBER GUZMAN: Oh, not at this time.

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: No, I appreciate you adding that in, because I think it's important to protect existing leases from any impacts of an owner's decision on how they're going to proceed, whether it's a dedication or not. If they choose not to dedicate, it leaves the lessee in a real bind, so I appreciate you adding that in.

CHAIR HOKAMA: Ms. Crivello? Mister...

COUNCILMEMBER CRIVELLO: . . .*(inaudible)*. . .

CHAIR HOKAMA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Because we haven't really gone through the existing lease portion, let me just real quick off the...if somebody has a remaining...they had a 20-year lease, when this comes into effect, they got 6 years remaining. So that's all they have to, they would have to dedicate then? Is that what you're saying?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Mr. Chair. The...I guess they can dedicate 'cause the idea, you want dedication because if you dedicate you get the ag use valuation.

COUNCILMEMBER COUCH: Right, correct.

MR. UEOKA: So they would be allowed instead of having to dedicate for six...or I'm sorry, for ten years, they would be able to finish out the remainder of their existing lease for six years and receive the ag use value for the remainder of that lease.

COUNCILMEMBER COUCH: Gotcha. So in effect you were dedicated for that six years, and then they can go on to do another ten years if they wanted to.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Yes, Mr. Couch.

COUNCILMEMBER COUCH: All right, thank you. Thank you, Chair.

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CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And so in the previous bill with all the different years, the 5, 10, 15, 20, that's gone? It's now just condensed down to this period of 10 years. And also along with the previous verbiage that had the discounted and the percentages and all that stuff, that's all gone at this point? Okay.

CHAIR HOKAMA: That's what we heard at the 29th meeting --

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: --they preferred to get rid of that incremental.

COUNCILMEMBER COCHRAN: Okay. And I guess we'll continue on with the "Existing lease" section but I think I heard comments in regards to people have leases that were never recorded, it was just sort of a, you know, I'm leasing to you and you do ag for X amount of years and...or year to year or whatever. So there's no real recordation for some and, you know, they're...but again that can be amendments, I guess, being proposed. So we'll discuss the next item, Chair.

CHAIR HOKAMA: Okay, thank you. Ms. Baisa?

COUNCILMEMBER BAISA: No, she asked the question that I was going to ask. Thank you.

CHAIR HOKAMA: Okay. Mr. Carroll? Okay, let's continue the review, Mr. Ueoka.

MR. UEOKA: Thank you, Chair. Would you like me to go through "Existing leases" or move forward?

COUNCILMEMBER COCHRAN: No, go through it.

VICE-CHAIR WHITE: No, just...

COUNCILMEMBER COUCH: Go through "Existing leases."

COUNCILMEMBER COCHRAN: Read it.

MR. UEOKA: Okay. All right.

VICE-CHAIR WHITE: Oh, okay.

MR. UEOKA: Okay.

CHAIR HOKAMA: Proceed.

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MR. UEOKA: Essentially for the “Existing leases” it requires “those owners that are able to produce evidence of an existing agricultural use lease properly recorded with the State of Hawaii Bureau of Conveyances or Land Court.” We have in here currently January 1, 2019, prior to that. That’s the effective date essentially of this bill, so it, if you have a lease recorded after that date, you should probably dedicate. But if it’s before then, it would be honored of course. And we’ve also put in “that expires prior to July 1, 2030.” The thinking behind that was it, again, it goes into effect in 2020 so if it expires after ten years you should probably just dedicate under this bill since it’s over ten years left.

CHAIR HOKAMA: Any questions on this area? Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. So that means that the, if you have as Ms. Cochran mentioned, if you have an unrecorded lease, you have until 2019 to record it. Is that correct?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Yes, Mr. White, under the current language you would have until 2019, and of course it would have to be for a period that expires prior to 2030.

VICE-CHAIR WHITE: Two thousand thirty. Right. Okay, thank you. Thank you, Chair.

CHAIR HOKAMA: Other questions, Members? Okay, let’s work...go to the petition component.

MR. UEOKA: Thank you, Chair. The next section is the “Petition for dedication.” So currently the language states that those lands already dedicated would have to resubmit a petition by, you know, the year...normal years would be September 1st; however, for the first rollout, we did state that for the...those ag use values effective Fiscal Year 2020, the department would need ‘em by July 1, 2017, for that first rollout. We’re assuming there would be a massive amount of petitions coming in and they would all need to be reviewed by the Agricultural Dedication Advisory Committee, so we’d need a lot of time for them to go over it. So we’re asking for that 2020 year, applications be due by July 1, 2017. Moving on to what would be requested to be submitted. There would be an agricultural use plan on a form which would be provided by the director. “Where the owner is leasing the land” and...I mean I’m sorry, the party’s leasing the land and they’re working with the owner to do the dedication, we’d also need to get a copy of the lease, a recorded lease preferably...or not preferably, it would have to be a recorded lease agreement. And we’re asking that the term of the lease shall be greater than or equal to the term of the dedication. The next section requires “A declaration signed by the owner stating that if the petition is approved by the director, the dedicated area shall be used only for the specific agricultural use set forth in the petition for the duration of the dedication period.” I’d like to state here that there’s also a section that allows a process to change the agricultural use. The next section is they’d like a copy of a Hawaii GET license.

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COUNCILMEMBER BAISA: Chair?

UNIDENTIFIED SPEAKER: Chair?

CHAIR HOKAMA: Yes. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Sorry I missed it, but on the ten-year --

CHAIR HOKAMA: Yes.

COUNCILMEMBER BAISA: --if they fulfill the ten years --

CHAIR HOKAMA: Yes.

COUNCILMEMBER BAISA: --what rate do they get? What is the reward for lasting for ten years?

CHAIR HOKAMA: I believe we were proposing 98 percent reduction.

COUNCILMEMBER BAISA: Ninety-eight percent.

CHAIR HOKAMA: That is correct.

COUNCILMEMBER COCHRAN: So we should write...

CHAIR HOKAMA: Is that...

COUNCILMEMBER COCHRAN: So should we write it in there?

MR. UEOKA: Chair, if I may?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: I believe this current bill we amended it to once you dedicate, you get agricultural use values. The percentage reductions were removed.

COUNCILMEMBER BAISA: So that's the exchange. In exchange for doing ten years, you get ag values.

MR. UEOKA: Ag use values, yes.

COUNCILMEMBER BAISA: Ag use values. So your taxes will be based on ag use, so you'll still pay.

MR. UEOKA: Correct.

COUNCILMEMBER BAISA: Okay. I think that's a really important point.

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COUNCILMEMBER COUCH: Yeah.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: I think that was part of her question. The other part of her questions at least to me and I have the same question is what happens at the end of ten years? They went through this for ten years, now the dedication is over, do they have to rededicate again if they want to continue to get ag use or do they get rewarded for surviving through the dedication?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Couch, there's a process in there for renewal, so you would need to renew your ag dedication.

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR HOKAMA: Questions? Mr. White?

VICE-CHAIR WHITE: Yeah, just a clarification that the ag rate, ag use rate begins at the beginning of the dedication and lasts throughout.

MR. UEOKA: Correct.

CHAIR HOKAMA: That would be correct.

VICE-CHAIR WHITE: Yeah. Not, it doesn't happen just at the end.

CHAIR HOKAMA: That's correct. Questions, Members?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER GUZMAN: Chair?

COUNCILMEMBER COCHRAN: And that ag value, ag use value is stated where --

CHAIR HOKAMA: Mr. Ueoka?

COUNCILMEMBER COCHRAN: --Mr. Ueoka?

MR. UEOKA: Thank you, Chair. If you were to look at Section H --

COUNCILMEMBER BAISA: H.

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MR. UEOKA: --on Page 12, the bottom, and it goes over to Page 13. What we did here was "Classification and assessment of dedicated area." It essentially copies the exact same language that was in I believe 320. Currently ag land that's used in agriculture or used for agriculture gets ag use values, and that language is essentially in the current 3.48.320. This proposal deletes 3.48.320 and it puts in, essentially the exact same language in Section H of 3.48.351(H).

CHAIR HOKAMA: Okay. Read that for everybody's information please.

MR. UEOKA: Section H.

CHAIR HOKAMA: H.

MR. UEOKA: "Classification and assessment of dedicated area. The dedicated area shall be classified as agricultural and shall be assessed for real property tax purposes with consideration given to rent, productivity, nature of...agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of person who may be considered to have special knowledge of land values."

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: Question on this ag use value. You know it's pointed out over and over in testimony that the values we're using are like what 40 or 50 years old, almost as old as me. And are we going to change that or we're going to leave them the same? Because that'll make a big difference in what these people pay.

CHAIR HOKAMA: In the testimony we heard from the lady that I believe represented the Federal agricultural --

COUNCILMEMBER BAISA: Correct.

CHAIR HOKAMA: --department --

COUNCILMEMBER BAISA: USDA.

CHAIR HOKAMA: --my understanding is that she along with Mr. English from the Hawaii State Department of Agriculture have agreed to work on updating agriculture values, and we would be utilizing their updated information as the basis of how we're going to calculate valuations. The County doesn't do ag values, the State and the Federal government does. So my understanding from her testimony on February 29th is that they are going to be presenting us with updated information on ag values for us to utilize.

COUNCILMEMBER BAISA: So a fair assumption is that in the future, taxes are going to be based on updated values, not on what we have now.

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CHAIR HOKAMA: We will...we just use what...we're agreeing to use ag values and we'll use what is the current approved valuations that can be certified and...because that's what we're using now, the current values.

COUNCILMEMBER BAISA: I realize that but the fact that we haven't done it since 1965 tells me that, you know, we're kind of...could of...should of questioned it a long time ago. We lost a lot of money. Thank you.

CHAIR HOKAMA: Thank you. Other questions on this area, Members?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And in regards to the existing, going back to that date, 2019 --

CHAIR HOKAMA: Yes.

COUNCILMEMBER COCHRAN: --January 1st. So we're 2016, it's going to be a few years before you can actually get this official dedication. So what about existing people that have...or is that lost? I mean in the meantime before they get this official date locked in for their dedication, they're going to be taxed highest and best use? Or how is that transition going to work out for existing dedicated lands?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Thank you, Ms. Cochran. The current bill, the way it's worded is it's not going to go into effect for a while also. You might pass it but...I don't know if you're going to pass it or not, but if it passes today, it still won't go into effect for a while so status quo will prevail until this bill goes into effect.

COUNCILMEMBER COCHRAN: Okay.

COUNCILMEMBER VICTORINO: So, Mr. Chair?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Just to make sure that the audience understand, there cannot be any changes to best use and changes of that nature. Whatever exists now will continue to remain so long as they're in active ag.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Yes, Mr. Victorino, active ag is the key term though also.

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COUNCILMEMBER VICTORINO: Well yeah, because I want them to hear this.

MR. UEOKA: Yeah. Yeah.

COUNCILMEMBER VICTORINO: I mean you know let's not pull any fast ones, let's get the facts out. So long as they're in active ag and what they're paying now, unless we change the rates, the valuations will stay the same. Is that correct?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Well, I guess if we're going to be very technical they'll pay about the same, but the valuations may fluctuate, you know, depending if the use valuations move or if we get the new report or something.

COUNCILMEMBER VICTORINO: Yeah, but the new report won't take effect 'til when?

MR. UEOKA: When, I guess when we get it.

COUNCILMEMBER VICTORINO: Well, the law doesn't take effect 'til January 1, 2019.

MR. UEOKA: But the current law takes into account ag use value, so if the ag use values are updated, Real Property...

COUNCILMEMBER VICTORINO: Then they would be penalized or they would have to pay whatever that existing or that new --

MR. UEOKA: They would...

COUNCILMEMBER VICTORINO: --rates, I mean the new valuations?

MR. UEOKA: Yes. If Real Property Tax got a new set of certified ag use values, they'd, they could start using 'em today, 'cause currently under the tax structure it is ag use values that are being used for valuation purposes.

COUNCILMEMBER VICTORINO: Not good. Okay.

CHAIR HOKAMA: Other questions? Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. The previous version of the bill eliminated all dedications that were currently existing. Is that...I don't see it right off the bat, but is it still in there? And if so, what was the rationale for cancelling current or existing dedications? 'Cause it would seem to me that would provide a nice transition period for those who are under dedications currently.

CHAIR HOKAMA: Mr. Ueoka?

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MR. UEOKA: Thank you, Chair. On Item D, “those”...on the I guess it’s the second or third line, “those whose lands have been dedicated prior to January 1, 2019, shall submit a petition.”

VICE-CHAIR WHITE: Sorry, did you say B or D?

MR. UEOKA: D as in...

COUNCILMEMBER VICTORINO: D like in delta.

MR. UEOKA: Yeah.

VICE-CHAIR WHITE: I’m sorry, I’m really tired.

MR. UEOKA: Page 11, Item D.

VICE-CHAIR WHITE: Oh, D, 11.

MR. UEOKA: One...two...three lines.

CHAIR HOKAMA: Read the area please, Mr. Ueoka.

MR. UEOKA: Okay. “D. Petition for dedication. Any owner of land that desires to dedicate land or a portion thereof to a specific agricultural use, including those whose lands have been dedicated prior to January 1, 2019, shall submit a petition, on a form prescribed by the director, by September 1.”

VICE-CHAIR WHITE: How many are we...I guess this would be for Mr. Teruya. Do you know how many dedications we have that are in existence now that would go beyond or well beyond 2019?

CHAIR HOKAMA: Department?

MR. TERUYA: Chairman, there’s very few. I don’t have the list on me but there is very few that are currently in the process of a ten-year dedication. Most of them are year to year.

VICE-CHAIR WHITE: So we no longer have the, any remaining 20-year dedications?

MR. TERUYA: No, none.

VICE-CHAIR WHITE: Okay. Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Baisa?

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COUNCILMEMBER BAISA: Chair, I have a constituent who is asking because apparently has a dedication, and she says cancelling all the dedications will shut her business down and it's a deal breaker. So I think this is a concern.

CHAIR HOKAMA: Mr. Ueoka?

COUNCILMEMBER BAISA: And this is one of Maui's big businesses, I know them. I made a profitable little side business here.

MR. UEOKA: Thank you, Chair. I guess we wouldn't cancel them, it just...they'd need to apply for a new dedication. Just for clarification.

COUNCILMEMBER BAISA: For another ten years?

MR. UEOKA: Correct.

COUNCILMEMBER BAISA: But I thought we said earlier that if you had done six, you could do four more?

COUNCILMEMBER COUCH: Only on a lease.

COUNCILMEMBER BAISA: Only on leases.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Yes, Ms. Baisa, it takes into account leases for that Existing leases section only.

COUNCILMEMBER BAISA: Well I don't think that's going to work then because this is a problem. We don't want to be shutting down businesses, particularly diversified agriculture that are doing well. I cannot support that.

COUNCILMEMBER GUZMAN: Chair?

CHAIR HOKAMA: We understand your comment, Ms. Baisa.

COUNCILMEMBER BAISA: You know we're supposed to be supporting ag and diversifying ag, not killing it. I'm sorry, we gotta be aware of these problems as we make laws, and that's why it's good to have participation of people because they know what's going on. I'm reading papers, they're doing it. Thank you.

CHAIR HOKAMA: Thank you for that. Any other questions, Members? Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. I also would agree with my colleague Ms. Baisa on her statements. I have a question as to what is the petition? I mean so you gotta petition and it's gotta be approved by the Director after you've already dedicated, so you're not getting any credit for the years that you've dedicated the land.

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And then you've gotta re-petition and who, where does the petition go to? What is this petition? What does that entail?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. The word "petition" you can think of it as an application, and yes, there...currently the way the bill is worded is there isn't any, I guess, there's no...you don't get any credit, I guess, for past dedication. And the next section goes over the review of the petition, Section E.

COUNCILMEMBER GUZMAN: Okay. So yeah, Chair, I think I would...not think, I do have an issue as to not getting credit for lands that you've already dedicated, and then you've gotta go through the re-petitioning portion of it. So as this section applies, I cannot support. Thank you.

CHAIR HOKAMA: Thank you. Other questions? Mr. Victorino?

. . . (audience applauding) . . .

COUNCILMEMBER VICTORINO: You know...

CHAIR HOKAMA: *. . . (gavel) . . .* This is a business meeting, okay, we will ask for your cooperation please. Mr. Victorino, your question?

COUNCILMEMBER VICTORINO: Yeah, thank you. So we're willing to give extension or to allow leases that are existing, we're allowing them to run out for dedication purposes. Right? You mentioned that earlier. Right? However, owners of property if they've dedicated and they have four years left on that, they still have to petition and start over again because they're going to lose their dedication as of January 1, 2019.

CHAIR HOKAMA: Mr. Ueoka?

COUNCILMEMBER VICTORINO: Is that correct?

MR. UEOKA: The way it's currently worded, Mr. Victorino, yes, people who own it and have already dedicated need to rededicate so they can get it.

COUNCILMEMBER VICTORINO: Well I cannot see why we can do for leases and cannot do for owners. I cannot support that. Sorry.

VICE-CHAIR WHITE: Yeah.

COUNCILMEMBER VICTORINO: Sorry, Mr. Chair.

CHAIR HOKAMA: No, no, no, no.

COUNCILMEMBER VICTORINO: Cannot.

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CHAIR HOKAMA: That's why we're discussing it, Members.

COUNCILMEMBER VICTORINO: Okay, thank you.

CHAIR HOKAMA: That's why we're discussing the components right now.

COUNCILMEMBER VICTORINO: Because why...

CHAIR HOKAMA: This is the purpose --

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: --of the discussion.

COUNCILMEMBER VICTORINO: Excuse me. Why are we penalizing owners and allowing lessees to have the extension? That doesn't make good sense. You know so it should be fair for all across the board. So I think if we're going to do this, let's do it that way across the board, not just for the lessees but also for the owners of the property.

CHAIR HOKAMA: We appreciate that comment, Mr. Victorino. Other questions? Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. Yeah, I, you know, seeing as though there are not very many dedications remaining, it seems appropriate just to leave the existing dedications in place and just move on --

COUNCILMEMBER BAISA: Yes. Yes.

VICE-CHAIR WHITE: --with new dedications as necessary.

COUNCILMEMBER BAISA: Yes.

CHAIR HOKAMA: Well, this is why we're having this discussion, Members, to talk about the current status and where we would like to see this either go forward or stay status quo or eliminate dedications. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Is this...I mean as we're going through this, is this where you would want any amendments in those areas?

CHAIR HOKAMA: No, I would like us to just --

COUNCILMEMBER COUCH: Or you want to go all the way through --

CHAIR HOKAMA: --finish up --

COUNCILMEMBER COUCH: --then come back?

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CHAIR HOKAMA: --so that...yeah, and then we can deal, 'cause if not, we're going to get sidetracked and we may never finish the review. So, Mr. Ueoka, if you would continue.

MR. UEOKA: Thank you, Chair. Moving onto Item D-5 on Page 11, the middle part. "A transcript of the applicable Federal tax return, including Schedule F, where applicable, documenting a gross farm income greater than or equal to \$2,500, filed in the calendar year immediately preceding the submission of the petition. Any [sic] entity or individual may use a single tax return for multiple parcels, provided that evidence of the [sic] agricultural use by that entity or individual for that parcel is provided." Just for some clarification, this is essentially the income requirement saying that if you want to dedicate, you need to be able to show \$2,500 of gross income. It is not a requirement per TMK that you show \$2,500. The way it's currently worded is if a company has multiple TMKs under its control or an owner has multiple TMKs under his or her control and they, their business needs to just gross \$2,500 total. It doesn't need per TMK. Just so we're all clear on that. And also on this one if you look forward under F-12...or on Page 12, Item F, there is a way that this gross farm income requirement can be waived for certain circumstances: new farms, initial crop harvest is more than one year away, and hardship. And that would go through the Agricultural Dedication Advisory Committee. Continuing on to Item 6 on Page 11.

COUNCILMEMBER COUCH: No wait.

COUNCILMEMBER VICTORINO: Wait. Can I? Can I?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, I want this clear because again, I want the audience to...so if Victorino has a ranch and I get 20 parcels, right, when Victorino settles his tax bill it's on my income tax for the State and Federal, right. The State income tax I said I made \$5,000 for the year. No matter how many parcels I had, \$5,000 is my gross income for the year and that's what it's applied towards? Because it's under Victorino's Ranch, right?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Yes, provided Victorino Ranch has control of each and...or --

COUNCILMEMBER VICTORINO: All those parcels that --

MR. UEOKA: --a lease or some...

COUNCILMEMBER VICTORINO: --I'm reporting under my taxes?

MR. UEOKA: Yes, sir.

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COUNCILMEMBER VICTORINO: Very good. Thank you.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: And I also want it clarified. I know what gross income is but, you know, there are...we've gotten a lot of testimony saying hey I, you know, I can't make 'cause my expenses are so much. But gross income is prior to expenses, it's just the dollars you took in. Is that right?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you. Yes, that is my understanding.

COUNCILMEMBER COUCH: Okay. So they make \$2,500 and they spend 10,000 to make that 2,500, they're down 7,500, you're...still counts because they made 25...they brought in \$2,500.

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you, Chair. Yeah, I believe we should probably say they grossed \$2,500.

COUNCILMEMBER COUCH: Correct.

MR. UEOKA: I don't think they made \$2,500.

COUNCILMEMBER COUCH: Correct.

MR. UEOKA: Yeah.

COUNCILMEMBER COUCH: Sorry, they grossed 25. Okay, thank you.

CHAIR HOKAMA: Other questions, Members?

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I'm so sorry to back up, and if you would rather we do this later it's okay, but I missed something on Page 9, the definition of ag.

CHAIR HOKAMA: Yes, ma'am.

COUNCILMEMBER BAISA: I was asked if horse breeding establishments are considered ag in this bill. Horse breeding establishments. It does mention horses but it doesn't say anything specific.

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CHAIR HOKAMA: Mr. Ueoka, any comment on Ms. Baisa's question?

COUNCILMEMBER BAISA: That's on Page 9, on the bottom.

MR. UEOKA: Thank you, Chair. It doesn't specifically provide for it but the term "horses" is broad so...

COUNCILMEMBER BAISA: Let's leave it broad then.

MR. UEOKA: Yeah. I'd assume...

COUNCILMEMBER VICTORINO: We're not eating horses.

COUNCILMEMBER BAISA: But we better be sure 'cause, you know, I want us to be clear. Maybe we could defer 'til later but it's something to take a look at.

CHAIR HOKAMA: Well, whatever we do on this position, whether we move it forward or it doesn't, part of my request to Staff has always been we write a very good Committee report to explain what we did in Committee during the discussion and review. And so we can highlight those kind of concerns you bring up, Ms. Baisa, within also the Committee report besides the body of the legislation.

COUNCILMEMBER BAISA: Well, I certainly would like an answer because, you know, I'm sure people are very anxious, that's why they're here, you know, it's their livelihood and so they kind of want to know. So the answer that I understand is okay at this point.

CHAIR HOKAMA: That is...yes, that's what we heard.

COUNCILMEMBER BAISA: Okay. Thank you.

CHAIR HOKAMA: Any comments from RPT on this?

MR. TERUYA: No, Chairman. I would comment that that is one of the reasons why we're having this advisory committee.

CHAIR HOKAMA: Okay.

COUNCILMEMBER BAISA: I totally agree, and let's hope that the people we put on that committee can answer these questions. Thank you.

CHAIR HOKAMA: Thank you. Okay, let us...

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Yes, Ms. Cochran?

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COUNCILMEMBER COCHRAN: Just real quick to highlight on Ms. Baisa's comments in regards to horses. She said breeding but boarding? There's quite a few places starting to get active in boarding horses in West Maui. So would that be in your broad horse sense fit in?

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you, Chair. As mister...yeah, I believe so, it says horses. But as Mr. Teruya said, again, that's a definition, and he brought up a very good point that on your petition for dedication, you'll put that in as your agricultural use. So it'll be up to the Agricultural Advisory Dedication Committee to make that call and to say...they'd ultimately be the ones to say, with the Director having final approval rights of whether or not that's ag. Thank you, Chair.

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: Okay, thank you. Ms. Cochran, you're okay? Other questions, Members? Okay, let's continue the review.

MR. UEOKA: Moving on to Item 6, lower part of Page 11. "Evidence that the proposed dedicated area is currently in agricultural use as specified in the petition." "Evidence that the dedicated area will produce farm income prior to the expiration of the dedication period." "For land in the urban state land use district, owner shall present evidence that the proposed dedicated area has been in agricultural use for five years immediately preceding the date of the filing of the petition and that the annual gross income derived from the agricultural use is greater than or equal to \$5,000 per acre during that period, as evidenced by transcripts of the appropriate Federal tax return." I'd like to just clarify that. That's for land in the Urban State Land Use District so it's not ag land necessarily, and that is existing language that is currently in the County Code right now. So we copied that language just to keep the, for the urban part. That's the...or and No. 9 is, you know, "Any other information --

COUNCILMEMBER COUCH: Wait, wait. Whoa, whoa.

MR. UEOKA: --required by the director." Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And I realize that this is in the existing Code already, but as long as we're here and working with the Code, maybe that may be something that we want to consider. Yes, Urban State Land Use District is meant for development, I understand that, but if somebody wants to do ag in there and keep it from being developed, I'm, I don't want to have to penalize them a little extra more because they happen to be in the Urban District. So I have some issues with that even though it is existing in our State law. The whole idea is to incentivize agriculture, none of this bill so far incentivize agriculture, but if we're moving down that line, let's try and get more incentives for agriculture. And this No. 8 is certainly not an incentive

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for doing agriculture, even though it's in the Urban District, I understand that part. 'Cause in my district myself, I mean...and some people have asked me well why does Couch care, his district is in Kihei and there's not a lot of farming going on in Kihei. Well, there are some in the Urban District, some agricultural uses that we just did a Change in Zoning in currently. So it is, it does happen in Urban and I'd rather see that type of...it's a nursery so there's not, you know, obnoxious odors or anything. It's something that would fit perfectly even in an Urban District, and to make them have to do more, I don't know, doesn't seem right. Thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: And, you know, I have similar concern because if you look right up here on the mountain between Kuikahi Highway and Waiolani, we have all of that area which is being pastured and other agricultural uses. They got goats and cattle and horses in there, and so now to penalize them for that purpose because that is Urban, that was changed, and that is part of the urban corridor. You know I agree with Mr. Couch, you know, and we don't agree many times but this is one of 'em we do. That, you know, when you have these areas and then they're going to be put out and changed and being penalized, we're not incentivizing agriculture, and in fact, I agree again, I hate saying I agree with him again but, you know, there's not a lot of incentives here, a lot of punitive actions but not a lot of incentives. So that's another one that if we're going to change I'd like to have it changed now. I agree with him that let's do it now and not wait for later, because my area and I think even Mr. Guzman has some of it in his area, why say you cannot farm if you're farming or you have a tree nursery? And I've got that on Waiale right down here again in that corridor. So I don't feel like we should be penalizing them even though it's in the existing Code right now. Thank you, Chair.

CHAIR HOKAMA: Thank you. Any other questions? Ms. Cochran?

COUNCILMEMBER COCHRAN: And so, Chair, along these lines, we are able to drop that threshold down under our purview although it is stated in law already?

CHAIR HOKAMA: I believe the Committee can make its appropriate revisions to the Code.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair.

CHAIR HOKAMA: And then Mr. Ueoka would check on legality and format, but it's up to this Committee to make, you know, propose the revisions. So --

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: --we will be...I will be open to those requests.

COUNCILMEMBER COCHRAN: Okay. Very good. Thank you, Chair.

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CHAIR HOKAMA: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: I'm sorry but this is moving kind of fast and, you know, you look at it, it looks okay, and then the more you think about it, the more you think of questions you need to ask. But on the No. 7 where we said "Evidence that the dedicated area will produce farm income prior to the expiration of the dedication period." So assuming it's a ten-year dedication and you have to show evidence that you produce farm income, what kind of evidence would you have to have? I'm just curious, what are you guys talking about?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. It came up in discussions earlier that there are certain types of farming activities that may not produce income for 20 or 30 years, so we were hoping to, you know, catch that. And also again the proof would be...again, this is the petition so it'd be --

COUNCILMEMBER BAISA: Yeah.

MR. UEOKA: --going to the Agricultural Dedication Advisory Committee for a review also to see if it's sufficient proof.

COUNCILMEMBER BAISA: So the intent would be to kind of deal with, we have people always wanting to plant trees that going take forever, like 20 years before there's a tree. Is that what this is about?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. That was one example that was brought to us.

COUNCILMEMBER BAISA: I mean I can't think of a whole lot of other stuff that you grow that takes more than ten years. And nowadays a lot of trees grow pretty fast. They seem to grow faster, maybe I'm getting older.

MR. UEOKA: Chair?

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you, Chair. I believe it was just to make sure that, it's another step for active agricultural use on the property.

COUNCILMEMBER BAISA: Right, right. And I understand there's been some abuse, but okay, now I know what this is about. Thank you.

CHAIR HOKAMA: Okay, thank you. Any other questions, Members? Mr. White?

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VICE-CHAIR WHITE: Yeah. Mr. Couch stated that this was in State law, the 5,000, but it's in our County Code, correct?

UNIDENTIFIED SPEAKER: . . .(inaudible). . .

VICE-CHAIR WHITE: Yeah. Yeah.

CHAIR HOKAMA: Mr. Ueoka?

VICE-CHAIR WHITE: Okay. So we can change it.

MR. UEOKA: Thank you, Chair. My understanding is it is in the County Code and with this bill it's repealing the section that goes over this.

VICE-CHAIR WHITE: Yeah.

MR. UEOKA: Thank you.

VICE-CHAIR WHITE: So we could simply strike No. 8 and that would leave all ag on the same footing.

CHAIR HOKAMA: The Committee can definitely...

VICE-CHAIR WHITE: Whether it's Urban or not.

CHAIR HOKAMA: The Committee has definitely purview and authority to --

VICE-CHAIR WHITE: Okay.

CHAIR HOKAMA: --recommend that. Yes.

VICE-CHAIR WHITE: Thank you, Chair.

CHAIR HOKAMA: Okay. Other questions, Members? Mr. Ueoka?

MR. UEOKA: Thank you, Chair. The next section is Section E, "Review of the petition. Upon receipt of the [sic] petition filed under this section, the director shall transmit the petition to the agricultural dedication advisory committee for its review. After the committee completes its review of the petition, it shall transmit its recommendation to approve or deny the petition to the director. Upon receipt of the committee's recommendation, the director shall make a determination as to whether the proposed dedicated area is reasonably well suited for the proposed agricultural use. The determination shall include, and be based upon, the productivity ratings of the proposed dedicated area in those uses for which it is best suited, a study of the land's ownership, the revenue-generating capability, and other criteria as may be appropriate in the director's discretion. The director shall also make a determination...whether the proposed agriculture use is in conflict with the overall development plan of the State.

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If both the determinations are favorable to the owner, the director may approve the petition and declare the proposed dedicated area as dedicated land. Provided, that for lands in urban districts, the director shall also make a determination with respect to the economic feasibility of the intended use of the dedicated area, and in the event that all three determinations are favorable to the owner, the director may approve the petition and declare the proposed dedicated area as dedicated land. In order to place prospective buyers on notice of any potential retroactive application of tax and penalty, the owner shall, within thirty days of notice of approval, record the dedication in accordance with the procedures of the bureau of conveyances or land court, and shall submit to the director a copy of the recorded document within thirty days of recordation.” The idea behind this, Chair, was it goes to the committee, they make a recommendation to the Director. We put in some guidelines for the Director to follow, and also for the committee to generally look at it; however, it would be their decision. That was the idea of it, behind the extra language in the middle. And the bottom part I believe was from existing language regarding Urban dedications. Thank you, Chair.

CHAIR HOKAMA: Okay, thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: So, Mr. Ueoka, that was a mouthful.

UNIDENTIFIED SPEAKER: Yeah it was.

COUNCILMEMBER VICTORINO: If I understand in layman’s term, you send this to the advisory committee, they say yes, this fits agriculture. Right? All right. You send it to Mr. Agsalog and he’s a nice guy, I like him, but he says no, it doesn’t fit what I think, based upon revenue generating and all that. What recourse do they have now?

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you, Chair.

COUNCILMEMBER VICTORINO: And I’m not talking bad about Mr. Agsalog, he just happens to be here. That’s the only one I can see. Thank you, Danny.

MR. UEOKA: Currently yes, your recourse would be, it seems like it would be a valuation-type matter. It’s you could go to the Board of Review.

COUNCILMEMBER VICTORINO: You could go to the Board of Review?

MR. UEOKA: You probably could go to the Board of Review and you can, it’s America, you can go to court also.

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COUNCILMEMBER VICTORINO: But we had this group of experts and they said this is a great idea, perfect, fits what they feel is agriculture, but then the Director says no, it doesn't based upon I don't think it fits my revenue generating or whatever else he may come up with, or she, he or she, because there's not always going to be a he there. And so at that point in time now they've got to go through another process going to the Board of Variances [sic]. What would they have to do? Or they have to take legal action? What would they...what would determine what they need to do next?

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you, Chair. It'd be up to the individual. We don't make the decisions for them of course, but they could appeal to the Board of Review --

COUNCILMEMBER VICTORINO: Board of Review. I'm sorry --

MR. UEOKA: --that's in Chapter 3.48.

COUNCILMEMBER VICTORINO: --I beg your pardon, I apologize.

MR. UEOKA: They could go to court, you know, that's always someone's right. I guess the idea behind it though is the Charter as mentioned earlier by Mr. Carroll, the Charter provides that, you know, the Director of Finance administers the real property tax function of the County, and this is definitely a part of the real property tax function.

COUNCILMEMBER VICTORINO: Okay.

MR. UEOKA: Thank you, Mr. Victorino, or thank you, Chair.

COUNCILMEMBER VICTORINO: So maybe we need a Charter amendment or something. Okay, thank you very much.

CHAIR HOKAMA: Questions, Members?

COUNCILMEMBER VICTORINO: Sorry, Mr. Agsalog.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, thank you. Yeah, there's a lot going on here in this section. I guess I see Director goes to the review, dedication advisory committee, and then Director will take their comments and then look at is this area suitable for the proposed ag use, is productivity ratings, what are the productivity ratings, study of land's ownership, revenue-generating capability...I mean is it overall...is it in conflict with development plan of the State. I mean the list goes on and on for Mr. Agsalog to make determinations on. It just seems like quite a bit, and I know it's in conjunction with this advisory but it's just a lot. And then the applicant needs to, you know, has the extra burden to file it within 30 days, and I mean this thing just goes on and on and on. It just becomes another huge hurdle and expense and time and energy, and

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they got work to do, and, you know, I just, I don't know, this is a whole lot. This section right here in particular is a lot, and I think it's laying a lot of stuff on Director here also to be...a study and I mean I think he's got a lot on his plate too. So I think going back to Mr. Couch's initial, a tax...agricultural department or ag assessors or whatever it is that solely, you know, devotes their attention to this in particular could be quite helpful rather than toss it into, you know, Mr. Agsalog's lap and purview to be the sole discretion and decision maker along with this committee to vet things through. I mean we know how all that takes time too and what if there's no quorum? I mean who knows? So it's just, Chair, seems quite cumbersome here in my opinion. So I don't...Mr. Agsalog's sitting on the edge of his seat.

CHAIR HOKAMA: Director? Mr. Director?

MR. AGSALOG: Thank you, Mr. Chair and Members of the Committee. I know you guys looking at me as the Director that makes the sole decisions here, but I can assure you our appraisers, they are the expert, I am not. Okay. So when we tell all the audience here today that it will be my sole responsibility and all that, the expert in the assessment sections, they are the one that looking at the assessment. No matter what type of assessment they will do, either ag, hotel, let me tell you, I'm not an expert of a hotel, but I have assessors that know how to value a hotel. Same as the ag, you know, that's what they go for this training as well as certifications that they do. So let me assure the audience that's listening here tonight as well as in their homes that assessment is done not by me but it's by expert assessors, Mr. Chair.

CHAIR HOKAMA: Okay, thank you, Director.

COUNCILMEMBER VICTORINO: So, Chair?

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I understand that assessments are done by assessors. Some of the previous assessments sometimes may not have been quite so expert, so nothing against Mr. Teruya's staff but...

UNIDENTIFIED SPEAKER: They're not . . .*(inaudible)*. . .

COUNCILMEMBER COUCH: Yeah. But what Ms. Cochran said and I thank you for bringing that up, Ms. Cochran, Members, remember, this is just for Real Property Tax, all of this is just for Real Property Tax ag values. Imagine what they have to go through now for Planning to get a second dwelling and oh yeah, the water rates. Just one more plea for the ag, department of ag or office of ag, or whatever you want to call it. Thank you.

CHAIR HOKAMA: Well, we are open to your proposal, Mr. Couch. Other questions, Members?

COUNCILMEMBER VICTORINO: So, Chair?

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VICE-CHAIR WHITE: Chair?

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: Thank you. Mr. Ueoka, is the language in E, is part of that the existing language for dedications, the process? Or are, have we exacerbated it?

MR. UEOKA: My understanding is...oh.

CHAIR HOKAMA: Go ahead, Counselor.

MR. UEOKA: Thank you, Chair. My understanding is a lot of it was taken from the existing dedication portion --

VICE-CHAIR WHITE: Okay, so this is --

MR. UEOKA: --3.4...

VICE-CHAIR WHITE: --the process that people who have current dedications went through other than having it reviewed by the committee?

MR. UEOKA: That is my understanding, Chair.

CHAIR HOKAMA: Okay. RPT is, any comments?

MR. TERUYA: No, that is taken straight out of 350, Chairman.

CHAIR HOKAMA: Okay. Mr. White, it's the current policy.

VICE-CHAIR WHITE: Okay, so it's all existing language. Okay.

CHAIR HOKAMA: Mr. Guzman?

VICE-CHAIR WHITE: It is daunting.

CHAIR HOKAMA: Pardon me?

VICE-CHAIR WHITE: It is a daunting process.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR HOKAMA: I not disagreeing with you folks at all.

COUNCILMEMBER GUZMAN: Yeah, Chair, it is daunting, and I'd hate to like agree with Mr. Couch as well as Mr. Victorino. It's one time in my life that I have to at this point. I do agree with them. My issue with that section, Chair, is it basically gives ultimate

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authority to the Finance Director and literally allows him to make up rules that are not defined in the ordinance itself. So what criteria is he going to use when you're looking at the report or the study of land ownership? What criteria is he going to use for basing the productivity ratings? You know so these are questions that I'm sure that the, you know, the legitimate farmers or constituents are concerned about like 'cause it's really up in the air. Like what, one guy gets to make criteria and nothing to base it off? So I think I understand the, you know, the anxiety over that section. Thank you, Chair.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: You know first of all I want to thank you for at least attempting to make the changes that we heard about, you know, and I have no qualms that at least you've tried to go in the direction from what many of the testifiers brought up. But I really and I hate to say it, you know, I think we're spinning our wheels in the mud. You know I think ag inspectors or ag assessors or ag whatever would probably answer 90 percent of all the problems. And agricultural rates or I should say agricultural assessment probably is the other part of the equation that would be fair. Beyond that, all this really puts a burden on a lot of people to figure out a lot of things, and just this one section not only is it a mouthful, I mean you gotta be an attorney to figure it out. And, you know, the layman not going understand all of this stuff. And no offense to my colleague, you know, I don't mean to make fun of attorneys, you know, there are some nice people that are attorneys. Not many but a few. No offense to you, Mr. Ueoka, either. But, you know, we're spinning our wheels tonight and going through all of this, and I know you've done a lot of work and I'm not arguing the work you've brought forth along with the Committee and the Staff. But I think we get right back to the simple answer, ag inspectors or assessors or whatever you want to call, and agricultural valuations for the true farmers, and all the other parts of here can fit into the true farmers. I don't know if we want to have an ag advisory group unless they're there for adjudication purposes, so if the ag inspector or assessor says no, it's not ag, that they have an outlet, just like they have with the Board of Water Supply. I think we can really simplify this. And, you know, I hate to agree with Mr. Couch but I think we can. I think we can. You know but that's another story. But I know you want to finish this so let's get to the end 'cause we're near the end. But I really feel like you've done a yeoman's job but it really made more in my mind and I think in the people's mind that are out there, they're more concerned because there's more verbiage that they...they don't really understand. And I think that I'm hearing them loud and clear, and I think you're hearing them loud and clear, give us ag inspectors or assessors or whatever you want to call 'em so they know what ag land is. And maybe when we do RPT, we could throw Water and we could throw Planning in there, because if that's a farm, it smells like crap and it's, you've got horses and pigs and everything else there, then it's a farm, you know, and it's very simple. So I leave it up to you, Mr. Chair. But I think I've heard this enough, and although I think you've tried your best and I think the Staff has done a yeoman's job,

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it's just to the point where it's more confusing now than it was with the existing law. So that's my take on that, Mr. Chair. Thank you.

CHAIR HOKAMA: Thank you. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. This doesn't happen very often but I'm going to say that, you know, I was kind of hoping, waiting, I can be patient, I've learned to be patient which is not easy for me. My husband got my dose. But, you know, I thought it'd be a good idea to just go through the whole thing so that we could see what is before us and share it with everybody and, you know, talk about it. And at the end of course, I probably would have said what Mr. Victorino said. And I agree with him, I kind of feel like we're making something very complicated out of something that isn't complicated. You know we've heard over and over and over that the intent of this is to catch the cheaters. Well to me, the only way we're going to catch the cheaters and, you know, we just, it was said earlier today at some other thing I was at that, you know, we always make laws and then people figure out how to break them. Well, that always says that somehow we have to have enforcement with a law, and we're never gonna solve...whatever we come up with, we're still going to have cheaters until we have the inspectors. I see this going the way of the bed and breakfast law. We came up with a perfect law, it was wonderful, we filled all the holes and we had a beautiful enforcement section, and it didn't happen and so we have a problem. Same thing going happen with this, the people that are going to be honest and going to come and dedicate, they're going to do it, and the crooks are going to figure out how to do it. So let's put some money, let's try a pilot program, let's hire some. And, Chair, with all due respect, my husband was a water cop and he didn't care if you were his brother or his uncle. He also was a person that went to bust the cockfights, and he busted his uncle more than once. So, you know, there are people who are honest and do what they have to do. But I really think that we ought to try out the ag inspectors and see how that works, and if it doesn't work, then maybe we have to come up with something like this. But we've been talking about this now, I don't know when we had our first TIG, for a long time, and that was the answer, and we're here trying again. And I feel really bad 'cause I know how hard you've worked on this, and I really I want to say thank you for the response that you tried to get into this bill. Thank you. It means a lot to people when they talk and we listen. But I don't know if we're ever going to solve this problem with this bill. It's kind of really complicated, and a lot of us don't understand it. So how much, how is the public going to understand it? So anyway, I would say let's give it a chance, let's go through the whole thing, and then we can kind of see what's the next step. But I think we ought to at least review the whole bill. There isn't that much left.

CHAIR HOKAMA: There's not much. There's not much. Any other questions or comments at this time? Mr. Ueoka, why don't we just, why don't we finish up?

MR. UEOKA: Thank you, Chair. Let's move along to Item F, lower part of Page 12. "Waiver of gross farm income requirements. ...director may, for new farms, farms where the initial crop harvest is more than one year after establishment of the crop, or for reasons of hardship, upon recommendation by the agricultural dedication advisory

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committee, waive the requirement of the submission of the transcript of the applicable Federal tax return set forth in section D and the requirement of the production of gross farm income greater than or equal to \$2,500 as [sic] set forth in section N.” Section N is the Cancellation section. Should I keep going, Chair?

COUNCILMEMBER GUZMAN: Chair?

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you. Why does it have to be new farms?

CHAIR HOKAMA: Counselor?

MR. UEOKA: Thank you.

COUNCILMEMBER GUZMAN: Why can't it be existing farms that are...I mean sometimes they won't be able to make the gross amount.

MR. UEOKA: If I may, Chair?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you. It's not a new farm requirement, Mr. Guzman. It's new farms or farms where the initial crop harvest is more than one year after establishment of the crop, or for hardship. It's three unique.

COUNCILMEMBER GUZMAN: Okay. Got it.

CHAIR HOKAMA: Further questions, Mr. Guzman?

COUNCILMEMBER GUZMAN: No, I'm okay.

CHAIR HOKAMA: Okay, anyone else?

COUNCILMEMBER CRIVELLO: Yeah, here.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Can you expand on that, why new farms?

CHAIR HOKAMA: Counselor?

COUNCILMEMBER CRIVELLO: So if I'm a, say I grow cacao, take me five years and I'm a new farmer.

UNIDENTIFIED SPEAKER (from the audience): Can't hear her.

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COUNCILMEMBER BAISA: Use your mic please, Stacy, they can't hear.

COUNCILMEMBER CRIVELLO: Okay. Can you explain that more as far as the only for the new farms and how new are considered new farms? I guess that's my question.

MR. UEOKA: Thank you --

CHAIR HOKAMA: Counselor?

MR. UEOKA: --Chair. The intent was also upon recommendation by the Agricultural Advisory Committee, the hope was that the committee would look at it and make the, you know, advise the Director. But the idea was a new farm, it doesn't necessarily have to be a plant farm, it could even be a ranching operation. In the initial year, they may be doing a lot of setup and just getting ready, and there might not be any income because just working the land, you know, doing what you gotta do to actually farm. So that first year there might be no income from it, and that was the intent.

COUNCILMEMBER CRIVELLO: Okay.

MR. UEOKA: And the second part was for the farms where the initial crop harvest is more than one year after establishment of the crops. So your, I don't know what, you said some kind of plant or that one, if it takes five years that would be the --

COUNCILMEMBER CRIVELLO: Okay.

MR. UEOKA: --idea behind it.

COUNCILMEMBER CRIVELLO: Okay, thank you.

MR. UEOKA: Thank you.

CHAIR HOKAMA: Other questions, Members? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. I think this is the first time it's, we're actually using the term "gross farm" 'cause we're doing like ag, ag value, ag use, ag definition, ag everything. But and the only time we use the word "farm" is in tree farm, so just wondering if that ought to be defined more precisely? I mean 'cause like you said, you don't...I mean in farming you're picturing crops and rows and, you know, but...

CHAIR HOKAMA: That's a good question.

COUNCILMEMBER COCHRAN: So yeah, I just...it just kind of crossed my mind. I know it's late but just trying to figure out --

CHAIR HOKAMA: No, good question.

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COUNCILMEMBER COCHRAN: --farm income, gross farm income. It could be a --

CHAIR HOKAMA: Counselor?

COUNCILMEMBER COCHRAN: --nursery, it could be a horse stable.

MR. UEOKA: Thank you, Chair. It's just gross farm income. I believe that's what Schedule F is about, that's how we got the language for just use gross farm income. It wasn't meant to try to define farm versus ranch versus boarding, it was just gross farm income as for tax purposes. This is the money side of it, the gross farm income. It...

COUNCILMEMBER CRIVELLO: . . .*(inaudible)*. . .

MR. UEOKA: Yeah.

COUNCILMEMBER COCHRAN: Oh, okay.

MR. UEOKA: Just for farm income.

COUNCILMEMBER COCHRAN: Okay. I mean as long as it's understood what that is. Just, you know, like I said, I mean now is boarding a horse, farming?

MR. UEOKA: Yeah.

COUNCILMEMBER COCHRAN: Is...so anyways.

MR. UEOKA: It's a separate discussion --

COUNCILMEMBER COCHRAN: Yeah, okay.

MR. UEOKA: --for those ones. Thank you.

COUNCILMEMBER COCHRAN: All right.

CHAIR HOKAMA: Other questions, Members? Proceed, Mr. Ueoka.

MR. UEOKA: Thank you. Under "G. Transmittal of agricultural use plan to the department of planning." Basically once it's approved we ask that the Department of Finance transmit a copy to the Department of Planning. I believe Mr. Victorino had mentioned to me earlier that it should also be transmitted to the Department of Water. Thank you, Chair.

CHAIR HOKAMA: Questions?

COUNCILMEMBER VICTORINO: Real quick.

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CHAIR HOKAMA: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: I think if we can do that we cover all the three bases and it's done. If RPT says it's a farm then Water should be able to say it's a farm and Planning should say it's a farm. I don't see any difference at that point in time. Thank you.

CHAIR HOKAMA: No, I think we have consensus on that.

COUNCILMEMBER VICTORINO: Okay.

COUNCILMEMBER BAISA: Yeah.

CHAIR HOKAMA: Any other questions? Proceed.

MR. UEOKA: Thank you, Mr. Chair. I would prefer not read to Section H again, we read it earlier. It's the "Classification and assessment of dedicated area."

CHAIR HOKAMA: Okay.

MR. UEOKA: It essentially is saying for dedicated land you will be, you will get the ag use valuation --

CHAIR HOKAMA: Okay.

MR. UEOKA: --for Real Property Tax purposes.

CHAIR HOKAMA: Next.

MR. UEOKA: Thank you, Chair. Section I "Homesite. For those parcels of real property which contain a dedicated area that have a dwelling unit or dwelling units on the parcel, there shall be a homesite identified on the agricultural plan. The area of the homesite shall be subject to director approval. The homesite shall be a minimum of six thousand square feet in area and shall include those portions of the parcel exclusive of: (a) the dedicated area, and (b) the portion that is unusable or unsuitable land for agricultural use. Notwithstanding the foregoing, the homesite shall be classified in accordance with section 3.48.305 of this chapter and shall be valued and assessed independently from the dedicated area. The fair market value of the homesite shall be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the County." I know that's another mouthful. That is also currently in the Code as to how properties are valued. That's in Section 3.48.290. Essentially the purpose of this homesite is for the parts that aren't being...I won't say farmed under agricultural use, those areas will be carved out and be a homesite. They'll be classified, valued, and assessed independently from the remainder of the farm. It was, the purpose behind it was

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essentially the parity on, for all homesite areas. So the ag use area would still get ag use valuation, the homesite area would be according to fair-market value and those types of things. Thank you, Chair.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Again, I think a lot of people had testified about the homesite and I got no problem with that. But what about those parcels that have for example, some of the ranches and some of the other have what they call dwellings out in the _____, in the boonies that they don't use very often.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

COUNCILMEMBER VICTORINO: You can go figure out the wording, that's not a problem. It means something that's way away from everything and not usable on a daily basis. Okay. So I gotta make sure that the reporters understand what I'm trying to say. But those like little ranch houses that maybe sometimes when they're herding cattle in, they can't get everything in so the ranch hands they sleep there one night or two nights, or whatever it might be. But they're not in use consistently but they're a dwelling that shows up on the TMK. Now are we going to consider that a homeowner...a homesite because kind of like this is what it's saying? Or is it considered auxiliary use or ancillary use or accessory use? I don't know, I mean that's the question I have in regards to that portion. I got the homesite, I got no problem. You got it, give me the answer.

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Victorino, as mentioned earlier to...this will be, the homesite will be carved on the agricultural use plan. That plan will be reviewed by the Agricultural Dedication Advisory Committee. Probably if it's like you said, they use it, I'm not quite sure the term you used but once in a while, very rarely, far in between, and it's part of like you said whatever farming activity, it would probably be a farm use. So that committee would probably make the determination that no, that little dwelling or shack or whatever you want to call it is part of the farm, it's part of the farm use. So but it would be up to the committee of course to make the recommendation to the Director. Thank you, Chair.

COUNCILMEMBER VICTORINO: If we have a committee, if we don't have ag inspectors who can do the same thing or an ag assessor that could do the exact same thing and not go through a whole gamut of meetings. But anyhow, we'll wait and see how that works out, Mr. Chair. Thank you.

CHAIR HOKAMA: Okay, thank you. Ms. Crivello?

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COUNCILMEMBER CRIVELLO: Thank you, Chair. Mr. Ueoka or Mr. Teruya, can you tell me what, how it's applied today and why do we see a disparity or as it's kind of claimed that we're seeing the difference?

CHAIR HOKAMA: Department? Mr. Ueoka or Mr. Teruya or Director Agsalog?

MR. UEOKA: Thank you, Chair. I'll take a stab at it and Mr. Teruya will correct me if I'm wrong. But he did put up that picture at the last meeting of, you know, the house on one giant parcel and across the street, directly across the street was a house on a smaller parcel. And they look pretty much exactly the same and the one on the bigger parcel was valued at way less than the one on the smaller parcel, and they're the exact same house and they both had a homesite. I think the homesite on the bigger parcel was even bigger, but it was valued at less than the smaller parcel. It essentially goes to the current practice where the homesite area, whatever percentage it is of the larger whole parcel, it's given that percentage of the fair-market valuation. So if you have a homesite, exact same homesite on a bigger parcel, it'll be a smaller percentage value than a homesite on a smaller parcel. I hope that makes some kind of sense.

COUNCILMEMBER CRIVELLO: When you say the larger parcel, it's because it's ag value and that homesite is in accordance to that assessment of the property itself?

MR. UEOKA: Actually it doesn't touch the agricultural use value, it's just the fair-market value of that 10-acre lot...let's say a 10-acre lot and the homesite is one acre, the homesite would be 1/10 of the whole 10-acre lot. That would be the value for Real Property Tax purposes right now. Now let's say you had the exact same homesite, a 1-acre homesite on a 2-acre lot, it would be 1/2 of the value of the 2-acre lot. And my understanding is as these big lots get bigger, the value doesn't go up exponentially. It doesn't...a 2-acre lot isn't worth half as much as a 4-acre lot. A 2-acre lot may be worth, you know, 90 percent of what a 4-acre lot is worth, but I'm not a tax assessor, that's just my understanding in the examples I've seen used in the past.

COUNCILMEMBER CRIVELLO: So if someone is having these, the present assessments we're expecting, so if I have an elderly woman who has a homesite and she's been designated Ag and have her whatever, lease the property to raise the cattle. So that...her taxes will definitely go up? It would...in today's, in this explanation of what we want for the homesite and maybe living there for over 50 years and been having these rates. So now we're saying to this elderly woman and I'm talking about like on Molokai, sorry, we're going to change all this for your homesite.

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Chairman, I kind of want to back up a little and remind this Committee again, let's talk about assessments versus taxes, because taxes can only be done after rates are established. So although their assessments will be changed to be more uniform like other non-dedicated properties, to state that taxes will go up is not, is kind of premature. Because if your assessments double and your rate goes down 200 percent, your taxes don't go up, so the crux or the portion of this bill of homesite is to

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address the inequalities. I mentioned several times that this bill, this is current language, and but the reason why we bring it up is that if we administratively change the process overnight, you'll get more than this amount of people in the gallery. So the purpose of this bill was to bring it up and be clear that we're trying to achieve uniformity. So although somebody's assessment may go up, the question to you is, is the current process fair or not? And we're trying to apply the Code the correct way to be uniform so that everyone is on a leveling playing field. And that is why we're bringing this portion up. So that example that I gave you folks or the example over time and time again. So it's hard to say do you want things fair or not, and I think everybody would you say you would want it done fairly. So passing this would not change existing ordinance other than to bring up the fact that we will be trying to make assessments for all properties on the homesite uniform. Thank you, Chairman.

COUNCILMEMBER CRIVELLO: Thank you. Thank you.

CHAIR HOKAMA: Ms. Crivello? Mr. Couch?

COUNCILMEMBER COUCH: Yeah, he...so, Mr. Teruya, just you're saying that "I" is already in the language somewhere and it's just not being applied at this point?

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Thank you, Chairman. Yes, it is existing language in there. The current practice of how we're assessing homesites predates my existence with the County. But as I mentioned, if I just literally take this language and apply it as I see fit, the entire agriculture community will see a difference without it becoming public, and that is the downfall that happened on the Big Island. This was addressed to Honolulu and they passed their own measure. And similarly we're just bringing this before the public and the Council so we're very clear what is going to happen in the future.

COUNCILMEMBER COUCH: Okay. That was my...I have another question. The 6,000 square feet, I have some heartburn with. I know somebody who has a 2-acre lot, for a while that was not used at all for farming, and this person is a farmer, is a very well-known farmer, but now for the last four or five years, the place has been...he moved his bananas and a few other things there. And pretty much all around his house right up almost to his house is farm and he sells those bananas and he sells the produce that he makes right there. So to say his homesite is a minimum of 6,000 square feet I have concerns about that.

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Chairman, we...that doesn't kill the bill, whatever number you put. We just tried to put 6,000 square feet because that is a general urban residential-sized lot that we can identify as a homesite. If this body chooses it to be as whatever he wants it to be, we are not opposed to it, we're just trying to start somewhere.

CHAIR HOKAMA: Mr. Couch?

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COUNCILMEMBER COUCH: No, thank you.

CHAIR HOKAMA: Okay. So, Mr. Guzman?

COUNCILMEMBER GUZMAN: So, Chair, is it my understanding that if it's less than 6,000 square feet, it's not a homesite? 'Cause it has to be a minimum, shall be a minimum.

CHAIR HOKAMA: As I understand the proposal, it's a starting discussion point, Mr. Guzman.

COUNCILMEMBER GUZMAN: Okay. Yeah.

CHAIR HOKAMA: And that's the response to Mr. Couch.

COUNCILMEMBER GUZMAN: All right. I mean the way it's worded right now, it's...

CHAIR HOKAMA: The Committee is, you know, open to recommending another number or a range of numbers, whatever you folks feel is appropriate. Okay, any other questions on this? Mr. White?

VICE-CHAIR WHITE: Yeah. I'd just like to point out that the current system is totally inconsistent from one property to the next, because the size of the property, it really has a lot to do with the amount that you're going to get taxed. If you've got a 2-acre parcel and half of it is homesite, you're likely to be taxed on a value of somewhere in the neighborhood of 150,000 to \$200,000. But if you have a property that is 10-acres and you have a smaller homesite or a homesite that's a quarter of an acre, you're only going to be taxed on 2½ percent of your total valuation. So that could be something as low as 25,000 to \$30,000. So there's just no consistency in the way it's being calculated now, and I think in some situations changing to the homesite valuation may lead to a reduction in the amount of the assessment. But I think it, I think Mr. Teruya is correct that probably in most cases it'll lead to a slight increase, and I recall the last time that we discussed this, Mr. Teruya, you had come up with an average valuation or an average assessed value increase, and I don't recall what that was but do you recall?

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: I don't really recall offhand other than I would advise this Committee we mentioned before whether or not you wanted to create a separate classification just for dedicated ag and for them to have their own rate. So if the concern is a rise in taxes, you folks all control the rate. So if that's the concern, you still have another mechanism of creating another classification which I'm not encouraging or not...whatever you want to do is whatever you want to do. But I mean if that is the concern, you have all the means of controlling taxes. I'm just trying to give you fair assessments so that we are all equal in that field. But as far as taxes, that is not our

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recommendation, it is really the body to decide how you want to tax the values that I give you.

VICE-CHAIR WHITE: Yeah, thank you. Thank you, Chair.

CHAIR HOKAMA: Other questions, Members? Mr. Guzman?

COUNCILMEMBER GUZMAN: So the Homeowners Exemption does apply in this homesite.

CHAIR HOKAMA: That is correct.

COUNCILMEMBER GUZMAN: So in addition to the homesite valuation, you can apply for a Homeowners Exemption.

CHAIR HOKAMA: Including Circuit Breaker.

COUNCILMEMBER GUZMAN: And then a Circuit Breaker would apply for those --

CHAIR HOKAMA: Will apply.

COUNCILMEMBER GUZMAN: --who are elderly as well.

CHAIR HOKAMA: That is correct.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Okay, other questions? Mr. Carroll? Yeah, okay. We'll take a ten-minute recess for people's personal needs. . . .(gavel). . .

RECESS: 6:57 p.m.
RECONVENE: 7:12 p.m.

CHAIR HOKAMA: . . .(gavel). . . We shall bring this meeting back to order. So what we'll do is we'll finish up the review of the bill. So, Mr. Ueoka, why don't we finish up the last components of the bill please?

MR. UEOKA: Thank you, Chair. J, second half of Page 13 "Change in [*sic*] agricultural use." It essentially goes over the process. If a person in dedication wants to change to another use, basically it says they will submit an application in writing to the Director showing a new agricultural use plan, explanation of why the dedicated area is better suited for the proposed substitute agricultural use as opposed to the agricultural use initially approved by the Director, and a transition plan. Once a Director receives this, go through the same process for the initial dedication set forth earlier, meaning going through the Agricultural Dedication Advisory Committee. And it goes on to say that it'll be, the changeover will be completed within 36 months, you know, waiver or extensions can be granted. And you'll...once they do this, they'll record the new agricultural use plan. Moving on to K on the top of Page 14, essentially states that...

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COUNCILMEMBER BAISA: Chair?

COUNCILMEMBER CRIVELLO: Chair?

CHAIR HOKAMA: Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. Thank you, Mr. Ueoka. So what we're saying is that at first you submit an ag plan to warrant your, that you're legit, right? And then there's a requirement say if my ag plan is saying I'm growing lettuce and then you know what it's not working out, I have a blight or something and maybe I need to grow something else, maybe tomatoes or whatever. Then that is a requirement for me, I have to come in with a transitional plan?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Chair, if I may? I guess...I'm not a farmer at all but my understanding is what we would ask is when the agricultural use plan is initially submitted, the applicant wouldn't be so specific as to say lettuce, tomato, they would say for instance vegetables or truck crops, that type of thing. So I would hope that it wouldn't be where I go from carrots to eggplants that, you know, you wouldn't do that to yourself to make yourself come in. It would probably be more if you did something like you went from vegetables to ranching, and the idea behind the need for the change in ag use plan would be the inspectors would need to know what you're doing on your land, 'cause no one's telling you what to do on your land, it's what you tell the County you're going to do on your land, and it's already been vetted by the Agricultural Dedication Advisory Committee. So the need for the approval and the re-vetting of the new plan is 'cause if someone were just allowed to change their agricultural use after they get the initial dedication, they could go from 50 acres of vegetables to 1/2 acre of vegetables and, you know, they could just say well I changed my agricultural use, there's no reason that I have to come in for a change of the plan.

COUNCILMEMBER CRIVELLO: But I still utilizing to do ag work. I just find it, you know, I think back of when teachers, they used to have to just concentrate on teaching their students, and then they have all kind compliance and paperwork that they have to do, and then we lose focus of the students. And it's just everything is standardization and, you know, all these paperwork that they end up doing. And before you know it, you have teachers who retire from that field of teaching. So I just see sometimes we're getting so excessive for the farmer who works the land and now have to constantly work the paperwork for the County so that they can do their farming. And I wish we would be able to do other things and stick to the farming, but that's just my concern right now. Thank you, Mr. Ueoka.

CHAIR HOKAMA: Okay. Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. Yeah, I feel like this is kind of a silly section, because I can understand them having to report something if they're going to reduce

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the amount of acres that they're using. But to change from one crop, even a crop type to another, I just don't understand why we need to get involved in that. But...

MR. TERUYA: Chairman, I just...

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Just to let you know that this is just existing language that's carried over from the original that all four counties had.

VICE-CHAIR WHITE: Well then that's another example of silly stuff we've already got in the Code, so.

CHAIR HOKAMA: Okay.

VICE-CHAIR WHITE: Okay. Thank you, Chair.

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, silly.

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Again, you know, if it's in the Code, maybe it's time to get it out. Thank you.

CHAIR HOKAMA: Okay, thank you. Mr. Carroll? Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I kind of agree with silly, but I would use another word. You know what these folks have been dealing with is the fear that, you know, if they... 'cause it isn't, it doesn't explain what you're saying. It looks like it's very broad and it includes any change you want to make, you gotta come ask somebody, and they're saying well, what if I'm planting vegetables and now I want to plant something else like fruit or whatever? Or if I'm raising cattle and I decide that no, I want to do chickens, what, you have to come back? I think this goes a little bit too far. I totally agree with the idea that if you're going reduce, if you have ten acres and all of a sudden, you're going to do one, maybe, maybe. But, you know, this, I think we're getting into too much. Let the farmers farm, they're sick of doing paperwork.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. But I think as I heard...and I agree with the sentiments being said right now, but as I think Mr. Teruya said, this is already existing. So this language is currently on the books right now as we sit here, Mr. Teruya or --

CHAIR HOKAMA: Mr. Teruya?

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COUNCILMEMBER COCHRAN: --Mr. Aagsalog?

MR. TERUYA: Yeah. So whether or not you pass this bill or not, it's still in effect.

COUNCILMEMBER COCHRAN: Right. So, Chair, I, and I think what's happening is that none of us really vetted every single word out in our existing language, and now that we are, we're finding like oh my God, what? But as Mr. Teruya shared with me during our break, it's already in action and we all have been living with it. But I can see where now if someone were to go in and really dissect it and take things out of context or whatever, you can interpret it that way and perhaps another Director could also and so forth. But so it is kind of disturbing too that this is already existing and it's there to be used at whatever discretion, you know, the powers that be can. And as I also understand the item before this, I, the Homesite section is what's pretty much the new insertion into this. Is that kind of encapsulating this right now? 'Cause if I recall back in the day, this was actually called the homesite bill, right, and then throughout the years we've sort of morphed it and involved it into what we have here, talking it, the disparity ag bill and everything else. But it really, I think back in the day, it was looking at that, yeah, inequality in how we taxing the homesite on ag lands. But everything ag in here I guess is currently existing on the books, but it's this Homesite section that I think this, especially I think RPT really wants to hone in on to get that money, you know, that is due to this County from the people who truly shouldn't have it. So Mr. Teruya's waving.

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Chairman, just for the record, we're not here for the money, we're here for fair and equitable assessments. Secondly, in regards to productivity codes, Chairman, it's not so much the fruit-to-fruit kind of thing, it's from sugar to ranching to something else. They have different productivity codes, so your assessments are based on productivity uses. So when the change occurs, we are here to make sure that it's assessed with the accordance of whatever that is pertaining to. So like, you know what I mean, lettuce to corn, the productivity rating may be similar or it may be different, I don't know, but the change in crop dictates the assessed, how it's being assessed for the use tables. So that could be one of the reason. I'm not saying that is but that could be one of the reasons why they had asked it from the State days, because they do, they were based on productivity codes. So I can see that as being one of the reasons why they would ask for you to notify your change so your valuation would change in accordance to whatever your crop is.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Mr. Teruya, there's one set ag value though, so you're assessing different...the different ag uses are, is how you're assessing the different ag values and then they're taxed accordingly?

MR. TERUYA: Yes, there's tables. I mean sugarcane is being assessed different from coffee.

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COUNCILMEMBER COCHRAN: Ranching.

MR. TERUYA: The soil type might be...the varying differences between Makena and Kula. I mean they have all the soil ratings and these are just tables that we're looking up. Hopefully it'll be updated one day and we'll just have updated values based on whatever the study confirms.

COUNCILMEMBER COCHRAN: Okay. And that's the values that people are saying have not been done since the '60s or '50s or something or other?

CHAIR HOKAMA: That's correct.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Baisa, you had a question?

COUNCILMEMBER BAISA: Oh God, this is what happens when you're as old as I am. I had it and it was gone. I'll remember. Sorry, if you let me come back--you've been very gracious--I'll remember. Thank you.

CHAIR HOKAMA: Okay. Other questions, Members? One of the things that I think we need to have more people understand is what is existing law and part of what the Administration through the departments by Code is already authorized to do. They wouldn't have to come before this Committee or Council, they're already authorized to do those administrative adjustments already regarding the ag components. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. I remembered, hallelujah. What I was thinking about was, you know, we had this discussion, this is not the first time we're talking about this, having to report changes or whatever or ask permission to change. I think people don't mind if they were to report the change. But they don't want to have to submit and ask the Director can we change. I think that's the issue. Especially for now that it's clear and if we could put some language in here that it's small stuff doesn't matter. You know they were kind of concerned about the lettuce to beans, right? But this doesn't say that. So when it's a significant change, I can see that they might want to discuss it, but small stuff I think everybody's willing to report but they don't want to have to go to a process to ask. I think that's what causing this angst.

CHAIR HOKAMA: Okay. Well, we appreciate your comment, Ms. Baisa. Thank you for that. Let's proceed.

MR. UEOKA: Thank you, Chair. Under Item K, top of Page 14 "Expiration." This essentially says that upon the expiration of dedication period, unless renewed, the dedication will terminate. Under Section "L. Renewal. An owner of dedicated land that desires to renew the dedication shall apply for renewal in the year immediately preceding

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expiration.” Moving on to Section M, the Right to inspect. Essentially says “The director or the director’s authorized representative shall have the right to conduct inspections of the dedicated area and the surrounding land at reasonable hours during the dedication period, when the director or the director’s authorized representative desires to enter onto the dedicated area, forty-eight hour advance notice of the inspection shall be given to the owner and, where applicable, the lessee. The owner shall ensure that any documents requested by the director or the director’s authorized representative are provided within ten business days of the request; this period may be extended by the director.” Moving on to “N. Cancellation. An owner...” this is essentially when the, it allows an owner to cancel for a portion or the entire dedicated area during the dedication period. And it also goes into if there’s a violation of one of the following, that cancellation will occur. They are, you know, dedicated area has not been used in accordance with the ag plan; land use change which we went over earlier this evening which excludes family subdivisions; condominiumization of the property; property taxes are delinquent; failure to complete the conversion within 36 months for the change of agricultural use; an overt act which makes use of any portion of dedicated area improbable or an impossibility. The example is typically you build a house in the middle of your field, you won’t be farming there anymore most likely. Seven would be failure of the dedicated area to produce the gross farm income, and eight, failure to respond in a timely manner to requests of information for the Director. Moving on to O--this is the penalty provision--“Retroactive application of tax or [sic] penalty.” So if there’s a cancellation, there’ll be a rollback tax. It’ll essentially be the difference between what would have been paid versus what was actually paid with the agricultural use versus fair-market value, and along with a 10 percent per year penalty. They’ll be treated as Real Property Tax’s paramount lien upon the property. Going on to “P, Waiver of tax and penalty.” So if you cancel, there might be a retroactive tax and penalty depending upon whether you fit into one of the items in Item P. The first one is if the State land use classification was not as of, you know, wasn’t petitioned for by the owner. “Death or serious, debilitating, long-term illness or injury, suffered by the owner, in those situations where the owner is the individual actively engaged in the agricultural use of the dedicated area.” Essentially No. 3 is a government taking. No. 4 is a natural disaster. No. 5 is loss of adequate water. So if any of those occur, you can petition the Director to cancel the dedication, and then the, there’ll be a waiver of the retroactive tax and penalty. Moving on to Item Q. There’s a grace period for certain specific reasons such as if a bank takes over a property; if the lessee on the property abandons or terminates the agreement prior to the end of the term and the owner is unable to find a new one, a new lessee; or if the taxes are delinquent, the owner can apply for a grace period. During this grace period, they’ll be assessed at market value; however, they won’t be rolled back or cancelled. At the end of the grace period, they’ll continue to do the ag, follow the ag plan. And the period in, while they were in the grace period won’t count towards the dedication period. So if you’re on year two, you were, grace period for two years, after you’re done, you’ll still be on year two or three at that point. “3. No grace period shall be granted for a parcel within five years following the expiration of a prior grace period.” Moving on to “R. Agricultural dedication advisory committee.” Essentially this is the committee, three members, two alternate members. “All members shall be individuals actively engaged, on a full-time basis, in agricultural activities.” Current language,

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Maui County Farm Bureau submit a list of nine names to the Mayor for nomination to the committee. Each nominee must be approved by the...or the Mayor would nominate and then the Council approves. Staggered terms of five years. Advisory and make recommendations to the Director. Can adopt admin rules. They'll be staffed by the Real Property Tax Assessment Division. And finally on "S. Appeal. Any party aggrieved by a determination of the director may appeal the director's determination to the board of review as provided for by this chapter." That concludes the language. Oh, sorry, Chair, one. Section 12 on Page 17, essentially says the effective date will not be 'til January 1, 2019. Thank you, Chair.

CHAIR HOKAMA: Thank you, Mr. Ueoka. Okay, we'll go through questions and we'll start with Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. In reference to the Maui County Farm Bureau.

CHAIR HOKAMA: Yes, ma'am.

COUNCILMEMBER CRIVELLO: I note here testimony dated February 28, 2016, where the, they're requesting that it be removed from the responsibility of nominating the advisory committee. So does that still leave them in there?

CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: The current language is we...you guys can change it of course.

COUNCILMEMBER CRIVELLO: Okay.

MR. UEOKA: Yeah.

COUNCILMEMBER CRIVELLO: I'm just reading what we received from the Maui Farm Bureau. Yeah.

CHAIR HOKAMA: And again we're open to your recommendations, Members. If you feel other entities or you just change the language to say legal recognized entities that have appropriate tax statuses, something that gives them legitimacy, I'm open to that. One of the reasons that we had originally put Farm Bureau is that our County appropriations funnel through this entity, and from there, they disburse to the various components of the agricultural community. But again, that was the starting point of discussion, so you have other recommendations, we're very open to those. Okay. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. On Page 15, P-2, where it says "Death or serious, debilitating, long-term illness or injury, suffered by the owner, in those situations where the owner is the individual actively engaged in the agricultural use of the dedicated area." What about the other side where you've got somebody who's a lessee and the owner dies and the family says forget it, I'm selling the land? What happens there? And the lessee is kind of stuck out in the cold too.

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CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. This was designed for if it's injury or death of the person actually farming, 'cause then they're no longer able to farm, so this would be allowed for the waiver of the rollback. I guess it would kind of protect the lessees if you think about it, 'cause they wouldn't, they'd be able to keep their land regardless of the owner passing away. The owner's family might not want to honor the lease, but if it's a recorded lease, again, the terms, I'm not sure of whatever everyone's lease terms are. When I say terms, terms of the lease, not --

COUNCILMEMBER COUCH: Right.

MR. UEOKA: --the length of the lease.

COUNCILMEMBER COUCH: Right.

MR. UEOKA: Thank you, Chair.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR HOKAMA: Okay. Miss...

COUNCILMEMBER COUCH: That was one. If I may, one other on Page 14.

CHAIR HOKAMA: Sure.

COUNCILMEMBER COUCH: Why if the land has become a condominium or part of a condominium property regime under sections 514A or 514B of HRS?

CHAIR HOKAMA: Mr. Ueoka?

COUNCILMEMBER COUCH: Why is that?

MR. UEOKA: Thank you, Chair. Just to make it clear, a land use change also included subdivision, except for family subdivision. The idea behind it is when you condominiumize or you subdivide, the whole parcel kind of disappears in a sense, it becomes two new parcels or units of a parcel. And for tax purposes, we have a hard time taxing a non...or something that's kind of not existing anymore. If you subdivide, the original TMK may disappear so we wouldn't be able to tax the new subdivisions. That's why...are subdivided, the lots, parcels.

COUNCILMEMBER COUCH: Yeah but in condominiumized, the land, generally the land still is owned by both sides or all the members of the condominium property regime, it's just they have certain percentages of land. Maybe some people wanted to all hui up and farm.

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CHAIR HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. And again, you could have condominiumized property dedicated, but once you're in dedication, condominiumization would lead to a cancellation. But in our read of the Tax Code, it states that you should treat each unit on its own, so it'd be harder for a dedicated parcel that gets condominiumized, for us to treat each of the units as part of the whole again. They're supposed to kind of be on their own, so we're trying to follow that as best as we can. It's a ten-year dedication. We were hoping people could do it before or after. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Teruya?

MR. TERUYA: Chairman, ultimately I'll defer to Corporation Counsel. It's not an opinion of mine or anything. It's if it's a deal breaker, it's not hard to ultimately identify within a CPR, what were the dedicated areas from the original parcel with an overlay. Hopefully they could maybe amend the dedication to each CPR for those areas already in dedication. So I don't think it's something that's very hard to change unless Council says it's something that you cannot do per HRS or our County Code. So I don't see it as a major problem but it'd just be additional work.

CHAIR HOKAMA: Okay, thank you for that. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, yeah, actually I had comments in regards on R.

CHAIR HOKAMA: That's fine.

COUNCILMEMBER COCHRAN: What was...is...did we change the verbiage to what you said, something about legally recognized ag whatever groups?

CHAIR HOKAMA: No, I mean I just threw --

COUNCILMEMBER COCHRAN: Or were you... 'cause you said...

CHAIR HOKAMA: --that as part of the discussion, yeah, because, you know, we're not doing any --

COUNCILMEMBER COCHRAN: Okay. So...

CHAIR HOKAMA: --formal motions or anything --

COUNCILMEMBER COCHRAN: Oh okay.

CHAIR HOKAMA: --at this point. We're just --

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COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: --discussing the bill.

COUNCILMEMBER COCHRAN: Okay. And when I had Mr. Teruya and Mr. Ueoka in my office discussing this section, I had recommended not just County Farm Bureau in there but with other entities such as Maui Cattlemen's Association, spoke to them and a few of their members were amenable. Also Hawaii Farmers Union United was also interested. So to have like three entities because there's nine, you know, nine people to submit. So each entity could submit three names, something like that. And if I recall, I asked the question of Mr. Watanabe that day with his testimony, and he did not want to be the sole entity. And he was very, very open to have others be part of. So that's where I wanted to submit those names. But again, you know, if we're not at that point to actually putting in the language officially, that's fine. But those are my comments in regards to this section. And I'm sure the entities that I spoke of are here tonight and if they have further comments about that then they can reach out to myself or to this Committee.

CHAIR HOKAMA: Okay.

COUNCILMEMBER COCHRAN: So thank you, Chair.

CHAIR HOKAMA: There's two ways we can approach this, Members. One is of course consider the language in the ordinance proposal. The other is to give a directive and set parameters for the Department in their promulgation of rules and procedures under the Hawaii Administrative Procedures Act as another way to address what we're discussing currently. So again, depends how you folks would like to move it forward if at all. Ms. Baisa?

COUNCILMEMBER BAISA: Is Ms. Cochran through?

COUNCILMEMBER COCHRAN: Uh-huh.

COUNCILMEMBER BAISA: Okay. Comment on the handing this...handling this in administrative rules. I would much rather see it in the law. I, you know, we don't approve the administrative rules so maybe that's...we do?

CHAIR HOKAMA: You're absolutely correct. No, we don't.

COUNCILMEMBER BAISA: Yeah, and so therefore --

CHAIR HOKAMA: Yeah.

COUNCILMEMBER BAISA: --I'd rather see it in the bill.

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CHAIR HOKAMA: The only thing I can tell you is the departments are required by law to do it similar to what the Council does, so they have to propose it, they have to have a public hearing on it in an open meeting, propose it, make everyone aware of what is the specifics, and then they will do an actual decision on whether or not to adopt the rules.

COUNCILMEMBER BAISA: Thank you. I've been through that process --

CHAIR HOKAMA: Yes. And it's a tedious thing.

COUNCILMEMBER BAISA: --and sometimes you get what you want and sometimes you don't, so I still would prefer to see it, if we're going to do this, I'd rather see it in here.

CHAIR HOKAMA: Understood.

COUNCILMEMBER BAISA: The thing that I'm thinking about as we go through all of this and I gotta ask a question 'cause I don't really know. Are the HC&S lands dedicated?

CHAIR HOKAMA: HC&S?

COUNCILMEMBER BAISA: Yeah.

CHAIR HOKAMA: Yes, they do.

COUNCILMEMBER BAISA: They're all dedicated?

CHAIR HOKAMA: I'm not too sure if all, but I know they went through the State Land Use Commission to dedicate a large chunk under IAL which is the State designation of Important Ag Lands. They have already went through a petition and got approval by the State Land Use Commission for a big chunk in...

COUNCILMEMBER BAISA: The reason I ask the question is we have in this Cancellation section a thing that says failure to convert to the substitute agricultural use within 36 months of approval of the request by the Director. I don't know, maybe I'm a pessimist but I just don't see anything happening that quickly, and that's a major concern because we're talking about a lot of ag land. So I just want to raise that question --

CHAIR HOKAMA: No.

COUNCILMEMBER BAISA: --and I think we need to keep it in mind when we do this.

CHAIR HOKAMA: We appreciate that.

COUNCILMEMBER BAISA: Thank you.

MR. AGSALOG: Mr. Chair?

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CHAIR HOKAMA: Mr. Director?

MR. AGSALOG: Just for the public to know, Mr. Volner already met with me as far as the transition of the use from cane to whatever they're going to use, so we are working with them. I know you say it's daunting task but they're working on it. They know their responsibility as far as informing us of their dedicated properties. But yes, they have come to and met with me already.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: Okay, thank you. Hold on, Mr. Victorino. Ms. Baisa?

COUNCILMEMBER BAISA: I'm willing to make a substantial bet that in 36 months, we're not going to see a new ag use in a lot of that land, and I think most of us know that.

MR. AGSALOG: I think that is true, Mr. Chair; however, they have reached out to us to --

COUNCILMEMBER BAISA: Yes.

MR. AGSALOG: --see how the process. And there is a transition period that we can work with them.

COUNCILMEMBER BAISA: So we need to keep that in mind when we talk about, you know, the rules and the guidelines, that we have a special case going on here, and nobody wants to see that ag land turn into something else. Thank you.

CHAIR HOKAMA: Thank you. Mr. Carroll, any questions? Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. Mr. Teruya, do you have what Mr. Hokama had just mentioned, any idea how many acres of this 36,000 acres was dedicated into IR [sic]?

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Thank you, Chairman. In my...I don't know for certain but I would almost guarantee you that almost all these lands that were dedicated to sugar would have already expired their 20-year dedications, 'cause they would have seeked [sic] the maximum benefit for themselves.

COUNCILMEMBER VICTORINO: Okay.

MR. TERUYA: So with that said, Chairman, I would almost be certain that they are on a year-to-year basis after carrying over their 20-year dedication.

COUNCILMEMBER VICTORINO: Okay. Well, I'd be interested, you know, Mr. Teruya, if you could find that out for fact and so that we would know. Because I want to know how

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many acres was dedicated to Important Ag Land because I don't think all 36,000 was, Mr. Chair.

CHAIR HOKAMA: No, it wasn't.

COUNCILMEMBER VICTORINO: Yeah. So and, so I'd like to know what the number of acreage was, because that also opens Pandora's Box for other acreage that wasn't, what can they do with that land? You know is that applicable for development? Who knows, you know, and again I know Mr. Agsalog said they're working with the Administration, but there's not much transparency so we have no idea what's going on. And I think the focus is right now taking care of the displaced and impacted workers that are being laid off and all of that, and I understand that. But, you know, like Ms. Baisa said, 36 months, that goes by in a flash 'cause 10 years have gone by pretty fast. So, you know, I really want...I think people want to know that or at least want to have a better idea on what's happening. Not conceptual that oh, we're going to plant avocado and maybe put some cattle and put some mango trees. That doesn't sound right. What are and what is the plan, ag park and, you know, kind of give us a conceptual plan that I think the people of Maui County truly deserve. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, I don't really have any comments except for that I know that initially when the bill was presented a few months ago, you had asked the Ag Working Group which was created by the EAR Committee to work on this, and they've dedicated hours and hours of time on it. And so I know that currently they did meet with you which was very helpful, and I have received correspondence that they are still in opposition to the, a few items in here. So I have to stand with my, with the Ag Working Group on their opposition. I do however feel that you've done a yeoman's job in narrowing the issues that, which is multiple issues. I must add that I believe that that one section on homesite seems to be reasonable. Other than that, the rest of the bill currently I can't support because of the, my support with the Ag Working Group, my relationship with them. Thank you.

CHAIR HOKAMA: Thank you. Mr. White, questions?

VICE-CHAIR WHITE: No questions. I think, you know, we've had a very thoughtful review of this, and I agree with Mr. Guzman that you've really done a lot to narrow the issues on the bill. But the, you know, the dedication process remains a very complicated issue and one that, you know, reasonably and understandably, you know, makes people very uncomfortable because the outcomes are not crystal clear. In fact, some of the outcomes are really hard to discern. So I'd like to make a proposal for the Committee's consideration, and basically what my proposal does is it strips out all the dedication language for us to deal with on another day. It leaves in some of the small housekeeping issues in the beginning of the bill, and then it retains the, only the homesite portion of the bill. So without or with your concurrence, I'd like to pass this out to the Members and take a short recess to allow them to review the bill.

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CHAIR HOKAMA: Okay. Staff, if you would assist Mr. White.

COUNCILMEMBER VICTORINO: And, Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: If we're going to receive that then, you know, the public somehow needs to see the same thing, and there are a lot of people that have been here all night. So I'd like to make sure that if copies can be made for them to review also, just to be fair and be transparent.

CHAIR HOKAMA: You know what we'll do, we'll also put it up on the screen.

COUNCILMEMBER VICTORINO: Okay. If we can, yeah, I'd appreciate it.

CHAIR HOKAMA: No, that's, I think that's a reasonable request.

COUNCILMEMBER VICTORINO: Thank you, Chair. And maybe some copies because some people on the far end --

CHAIR HOKAMA: Sure.

COUNCILMEMBER VICTORINO: --of the room and on this end of the room cannot see, because it is virtually impossible to see the screen.

CHAIR HOKAMA: Yeah, we'll do our best to get --

COUNCILMEMBER VICTORINO: Okay.

CHAIR HOKAMA: --information shared.

COUNCILMEMBER VICTORINO: I appreciate, Mr. Chair. Thank you, sir, for your consideration.

CHAIR HOKAMA: Okay. So the Staff is handing out a proposal. I'm going to recess this meeting 'til 8:00 p.m. so you have time to review the documents. And then we'll --

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: --reconvene at 8:00 p.m. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Chair, before we break --

CHAIR HOKAMA: Yes, ma'am.

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COUNCILMEMBER BAISA: --I'd like to say, you know, I'm going to take a look at this and I think we ought to take a look at a lot of things. But I will say that until...no matter what we want to do here and some good things have come up tonight, I think it is imperative that whatever we're going to do we get a clean copy, that we see the whole thing, and that we give the public an opportunity to comment before we make any final decision. I'm sorry but, you know, I represent a lot of these people that are here tonight, as well as Member Guzman who is with the Ag Working Group. I represent Upcountry and my phone and my e-mail is packed, as well as the gallery, and I've got to speak up for them. They want to see what we're going to do before we do it. So thank you.

CHAIR HOKAMA: Thank you. Okay. Members, we shall be in recess 'til 8:00 p.m. . . .(gavel). . .

RECESS: 7:48 p.m.
RECONVENE: 8:05 p.m.

CHAIR HOKAMA: . . .(gavel). . . We shall bring this meeting back to order. The Chair has read the proposal and so this is what I will share with all of you. The proposal as presented to the Committee this evening is basically the original bill with all dedication components eliminated which just leaves the homesite component left, which in testimony on the 29th and as we heard from some Members this evening, it is not an issue. The issue of the dedication, inspections, valuations, ag values versus market value has been the key concern of testimony and my understanding of those present in the gallery this evening. So I have no issue at this meeting this evening to carving out the homesites and making that go forward. It is something we have posted from day one. It's been part of the discussion and that's how I viewing this proposal. It is the bill without dedication and everything else that is part of the original bill. Any questions for the Chair? Any comments on the proposal? Mr. White?

VICE-CHAIR WHITE: Chair, there was some discussion about the, a concern that the 6,000 square foot minimum size --

CHAIR HOKAMA: Yes, Mr. Couch brought that up.

VICE-CHAIR WHITE: --was brought up by Mr. Couch. So I think if you'd like to propose a replacement for that...

CHAIR HOKAMA: Mr. Couch, you have some consideration you wanna share?

COUNCILMEMBER COUCH: Just...I'm thinking of just striking that sentence, at least the 6,000 square foot in area. You can still talk about it's exclusive of the portion of, in agricultural use and the portion that is unusable or unsuitable for land for agricultural use, but I don't think there should be a minimum. And if there is, if the Members would like a minimum then it's a minimum with the footprint of the house and any other dwelling unit, ohana unit or something like that.

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CHAIR HOKAMA: Thank you, Mr. Couch. RPT, can you give us some comment about application and ability to --

MR. TERUYA: Chairman...

CHAIR HOKAMA: --one is to enforce this component if the proposal goes forward with no minimums?

MR. TERUYA: Thank you, Chairman. I think even if you were to strike 6,000 and be the footprint of the house, it wouldn't fundamentally be a problem for us. We can value anything that's substandard, et cetera, so it wouldn't be a problem for us. It probably wouldn't be very comparable to any other lot out there, legal lot, but it is something that we can deal with using size adjustments, et cetera. So I would say for the most part, we wouldn't have a fundamental problem, and ultimately it's this body to choose the bill that they want to go forward. So I will leave it at that, Chairman.

CHAIR HOKAMA: Okay, thank you for that comment. Mr. Couch, any other questions or proposals?

COUNCILMEMBER COUCH: Well I'm not sure how you're, where you're going. If there is a motion made and it is seconded...

CHAIR HOKAMA: Well, I just want us to discuss this minimum at this point.

COUNCILMEMBER COUCH: Yeah, yeah.

CHAIR HOKAMA: Yeah. You know so if others have different approaches, you know, we're, I'm open. Any other thoughts about the minimums? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I'd just like to ask RPT --

CHAIR HOKAMA: Sure.

COUNCILMEMBER GUZMAN: --Real Property Division a question. So if we were to change the language in accordance what, with what Mr. Couch is saying and apply a footprint type language instead of the minimum, would that be more flexible for the landowner or more stringent?

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Thank you, Chairman. I mean you can go in depth forever about how much is used really for the homeowner, et cetera. Obviously you gotta walk to it, you don't just fly into your house. You know obviously there's gonna be some kind of pathway or someplace you're going to park your car, et cetera. But, you know, we have never been very stringent and saying that's not reasonable or that's reasonable. We've really have taken the plot plan even though it was pencil drawn, et cetera. Using imagery or site inspection, we already know the footprint of the home. When you get there, it's

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pretty evident that you get there somehow. And we have never really had confrontation as far as defining what would be the homesite area. So I don't see this as a big challenge or a big problem. Obviously if it's 2,000 square feet or 500 square feet, there's very little lots 500 square feet out there that could have a density. You know so that is challenging but there's adjustments and ways that we can handle with it. So the request is not out of the ballpark, but ultimately we will have a determination as to what we determine as being as what we see. So most parcels, larger farm areas, it's rarely really up to the house. There is some defining line or fence, et cetera, used primarily for home use, so I don't see a problem moving forward with the recommendation by Mr. Couch.

COUNCILMEMBER GUZMAN: Okay. Thank you. One more thing, Chair?

CHAIR HOKAMA: Sure.

COUNCILMEMBER GUZMAN: Would the footprint include also the lawn space that's in front of the...and when you're saying footprint, are you saying the house pad? Are you going extended further than that?

MR. TERUYA: Well first of all the owner would need to petition what is that area and we would be there to confirm.

COUNCILMEMBER GUZMAN: Okay.

MR. TERUYA: I would say a yard area space around the home would probably be not agriculture, and that would be a determination. And like I said, I think if there's an argument or a discrepancy, usually there's a due process for that to be reconciled. But I don't think that we would have much discrepancy when we get out there and do the site visit and discuss it with the homeowner.

COUNCILMEMBER GUZMAN: Okay. And then couple more questions, Chair. By applying this, the homeowners would still avail of the Homeowners Exemptions, correct?

CHAIR HOKAMA: Mr. Teruya?

MR. TERUYA: Provided he is the owner-occupant, that's correct.

COUNCILMEMBER GUZMAN: Okay. And if you're...

MR. TERUYA: And applied, yeah.

COUNCILMEMBER GUZMAN: And if you're an elderly, you still can avail of the Circuit Breaker which would not I guess tax them out of their dwelling?

MR. TERUYA: That is correct. However, the Circuit Breaker is available for any owner-occupant, not only elderly.

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COUNCILMEMBER GUZMAN: Any owner-occupant.

MR. TERUYA: Correct.

CHAIR HOKAMA: There's no age, any age requirements.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR HOKAMA: Okay. Other questions or comments? Okay, if not, then the Chair will be open to a motion to move this forward.

VICE-CHAIR WHITE: Chair, I move to pass the proposed bill which is an amended version of the bill we started the evening with, with the modification to remove the minimum square foot size of the homesite which is a portion of the ag parcel. And I'll leave the, leave it to the Staff to remove that appropriately. And so that we can continue to work if the Committee chooses on dedication down the road, well, it's up to you whether you want to file or not file.

CHAIR HOKAMA: Yeah. So, you know, the motion I prefer is just to deal with the homesite component.

VICE-CHAIR WHITE: Okay.

CHAIR HOKAMA: And then once we deal with that, I'm going to tell you that, you know, I'm going to be recommending that the rest be deferred into, and stay into Committee, which means dedication stays in Committee, evaluation will stay in Committee, the ag...

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR HOKAMA: Yeah the remaining parts of the bill, that's right, will not move forward. That's what it basically means, Members.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Okay. You know this was or this is a part of the big bill.

CHAIR HOKAMA: Correct.

COUNCILMEMBER VICTORINO: Okay. You know and this is where the confusing part in my mind comes up. Even though I know that many of my colleagues may agree with this portion, we still are deferring the big bill. So what...

CHAIR HOKAMA: No, the components of the bill.

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COUNCILMEMBER VICTORINO: The components of the big bill.

CHAIR HOKAMA: Yeah. Right. Yeah.

COUNCILMEMBER VICTORINO: So what bill is this now? Because --

CHAIR HOKAMA: The homesite...

COUNCILMEMBER VICTORINO: --you're deferring something, sir, and --

CHAIR HOKAMA: This is the...no.

COUNCILMEMBER VICTORINO: --I'm confused. And please, sorry, I've been here nine-and-a-half years, I still get confused. I apologize.

CHAIR HOKAMA: That is why the Chair is asking for a motion on the homesite component which is the proposal from Mr. White. Once we take action and whatever is the Committee's decision will then impact the balance of the master bill, and that's when I'll give you my recommendations on potential disposition of the remaining components of the initial bill. That's how we've done things.

COUNCILMEMBER VICTORINO: I'm sorry, Chair. It's just, it's not computing and maybe 'cause of the late hour nothing computes real well in my mind. But I've never done it...I don't remember doing a portion of a bill and then deferring all the rest, but maybe I'm mistaken and I apologize.

CHAIR HOKAMA: No apologies necessary, Mr. Victorino. Okay. So...

COUNCILMEMBER GUZMAN: Is there a motion on the floor?

VICE-CHAIR WHITE: Yes.

COUNCILMEMBER GUZMAN: Okay.

CHAIR HOKAMA: Yeah, so we have a motion by Mr. White and no second.

COUNCILMEMBER GUZMAN: I'll second it for discussion.

CHAIR HOKAMA: Okay, thank you. So we have a motion and a second. And the motion that's before you, Members, is the proposal as Mr. White has presented with the revision that we exclude a minimum of 6,000 square feet in area as the qualifying number for the homesite minimum. That has been deleted. So all you have is homesite to be assessed as we assess all other homesites in the County of Maui. That is the proposal. Mr. White, any comments at this time?

VICE-CHAIR WHITE: No, I think you've stated it. Well, I'll make one comment. The question was asked of what the, what not dealing with the dedication would have, would it have

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an impact on HC&S? And basically by not passing all the remaining...all the existing language for dedications remain in effect and that's the dedication process that the, that they have been using over the year so nothing would change for them.

CHAIR HOKAMA: That would be correct, as Mr. Ueoka and Mr. Teruya confirmed this evening. Yes.

VICE-CHAIR WHITE: Okay, thank you.

CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. So we're eliminated--just for clarification--minimum of 6,000 square feet, but understanding that the homesite will be assessed independently from the agriculture use area and basically market value like how you may do in Wailuku or Kahului, and not because you have this homesite on ag land.

CHAIR HOKAMA: Correct.

COUNCILMEMBER CRIVELLO: Okay. I have another...I just want to make a comment. We went through the dedication and then yet we come out that this is entirely different from what was part of the B-70 [sic], and I think some of you have heard me say why didn't we just separate it to begin with so we could have a more thorough discussion on if it's dedication, it's dedication. And I think the...to me when we were working on the BF-70 that was just the main focus, the dedication. And perhaps some of my constituents on Molokai may have overlooked this part on the homesite. But now you have it separated. But to me, it may need more time to have this concentration for our constituents. But that's just my thought for now.

CHAIR HOKAMA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I echo Ms. Crivello's comments. I understand that this a complete change from what was originally introduced. It just includes the portion of the homesite. But we...everything was so huge that everybody had angst over the whole thing. Some people were asked a couple times, homesites okay, but I would like to hear from as many people that want to come back at another time about the homesite bill, because they really haven't had, been able to concentrate on that. So at this point, I can't support it because the public really hasn't had a chance to concentrate on that. That being said, I think the, in my, you know, in the best of procedural things, the best thing would be would be to file BF-70 and reintroduce this as a new item. That would be my suggestion.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Yeah, I'm, I guess I'm confused as in the clarifying what Mr. Couch is, you know, breaking this down to. For me it's like we've...BF...it's almost like there's two BF-70s. I mean we're taking this out and

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moving it, trying to move this portion of BF-70 forward, but you want to keep alive the rest of BF-70. So what is this? If this is an entirely new...I know it's part of existing BF-70, but we're extracting just this portion out. It still is part of not...but we're taking it out and you want to keep the rest alive, and I don't...yeah, it's kind of...it doesn't...I can't comprehend that. I can't comprehend the way we're doing this. So I think for me to clarify, the way Mr. Couch just explained it, it's well and understandable for me and I can kind of get the sense of the community that's here this evening also is just to scrap it, let's discuss this one and move it forward the way it is. But this is the good part that people are okay to discuss and maybe live with and the rest talk about another day in a different form, you know, or something. So I don't know, Chair. At this point, it's quite uncomfortable for me to move it the way it's been presented to us this evening. Thank you, Chair.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. I don't think I want to waste a whole lot of time. I think Mr. Couch and Ms. Cochran have said it very eloquently, and I would like to see us file BF-70 and let's start over. Let's take a bill that deals with dedication and deal with that without messing it up with everything else, and then let's take a bill on homesite and deal with that without messing it up. And I think we can get it through. This gets too big, too complicated, and nobody can follow it, so I just think it's not worth the angst. I know where we want to go, but we gotta go in pieces instead of all together, it just messed up the whole thing. Thank you.

CHAIR HOKAMA: Thank you. Mr. Carroll? Any comments? Questions, Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I concur with the previous speakers.

CHAIR HOKAMA: Okay, thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: And, Chair, I'm glad my colleagues saw what I've been saying is that really putting, trying to piece out something that was all together and now the public has had no opportunity to really comment on the homesite. Yeah some said yes, some said they agree, but it wasn't everyone. And I think it's time we hear from that side just to make sure. I believe this is good and I thank Mr. White for bringing it forward and separating it, but I think we have to have it as a separate bill. And BF-70 can still be the dedication part and the ag valuations and et cetera, et cetera. But we need to separate and give the public a chance to comment on this, Mr. Chair. Thank you.

CHAIR HOKAMA: Thank you. Mr. Guzman, any further comments?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. Yeah, my only concern is whether this actually would be in compliance with our Sunshine rules because did we give the public enough notice when we introduced this bill? So if this is an amendment to BF-70, is it the same bill as BF-70? So if we adopt this, does BF-70 then go away? Is this an amendment to BF-70?

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CHAIR HOKAMA: It depends what type of action the Committee would like to take, Mr. Guzman.

COUNCILMEMBER GUZMAN: Because...yeah. And that's where my confusion is, is that is this an amendment stripping, striking all other sections of BF-70 and this is what we're left with is BF-70 right here? So if we pass this out, the rest of the sections of BF-70 die and this is BF-70. Is that correct? Is that what's going on?

CHAIR HOKAMA: That is one of the things that can happen, you're absolutely right. Depends, again it depends on the decision of the Committee. The Committee can choose to just revise the bill where only homesites go forward, and that would be the revised bill.

COUNCILMEMBER GUZMAN: So the...

CHAIR HOKAMA: And only that would go forward, everything else would be deleted from the consideration.

COUNCILMEMBER GUZMAN: Okay.

CHAIR HOKAMA: Or we could pass out a component like this and keep the remaining subjects within the Committee for further Committee work. That can be done also. Or we can do what Mr. Couch says is file it and come up with multiple new bills for consideration as another way to approach it. It depends on which approach the Committee prefers to go, but there's more than one way to do anything in government.

COUNCILMEMBER GUZMAN: Okay. Now I'm confused. I'm sorry, Chair.

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: Well, I don't know if this will be seen as anything that's going to clarify the situation for the other Members. But I'd like to point out that what's before you is the original BF-70. There was no dedication, there was none of the other stuff in it. So to say that this has never been heard before is kind of silly, because it's been heard many, many times. I can't remember when it was first introduced, about 2012.

CHAIR HOKAMA: Five years ago.

VICE-CHAIR WHITE: Yeah. And after introduction, the agricultural community came and said we really need dedication. So we formed a Temporary Investigative Group with myself, yourself, Ms. Baisa, and Mr. Victorino, and worked with the, with members of the Farm Bureau and Cattlemen's Association and other members of the ag community to come up with the original TIG version which included the homesite and the dedication. Because that's, they felt they had to have the dedication. That was more important to them than the homesite. So this has gone not full circle, this has gone probably five or six circles, as most of our tax-type issues go. So, you know, with

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that, you know, I can count. But I think it's important to remember that this is a fairness issue, and it's been a fairness issue for me all along. I realize that it's asking people who live on agricultural parcels to pay based on the same method of appraisal that is utilized in all other parcels that are non-ag. And the reason I brought this up initially is because on my ten-acre parcel, I'm paying based on a value...my land taxes are based on a value of about \$29,000. If I had the same size homesite down in --

COUNCILMEMBER GUZMAN: Kahului.

VICE-CHAIR WHITE: --Kahului or Lahaina or Kaunakakai or Makawao, I'd be paying significantly more, probably ten times that amount. So I realize that this is, this has an impact on those of us who own and live on ag lands. But essentially it's my way of saying I don't feel I'm more special than the folks that live in Kahului who can't farm 'cause they don't have enough space. They can't run a couple head of cattle in Kahului or anywhere else in a subdivision. And yet they're paying or their assessed values are well, you know, well over ten times what mine is. So, you know, this bill would significantly increase my taxes, because I have a significant size homesite, but I think it's fair because it's saying you want to have that size homesite, then you should pay the same as somebody with a same sized homesite elsewhere. This bill would allow people to have a homesite that is very small. We took out the minimum lot size. So if you want to have your cattle fences come right up to within five feet of your home, you can have a very small homesite and your assessed value is not going to be very significant. As I've said before, my daughter's a full-time rancher on the Big Island, and I looked up her house and she pays...she has 2.8 acres and a small house and yet she pays about 30 percent more in taxes than I pay. So, you know, and we have situations here where we have people who are living on ag properties and doing some ag that are paying a fourth of what she pays as a full-time rancher on the Big Island. So for me this has always been and will always be a, simply a fairness issue. I absolutely support ag in every other way. As far as I'm concerned, you know, I'm comfortable with ag values, I'm comfortable with all the other things we've discussed with respect to, you know, protecting the ability for farmers and ranchers to continue to pay the same level of taxation on their ag, the agricultural use portion of the property. So for me this is just a fairness issue saying if we're fortunate enough to have large acreage and large enough acreage in which to farm or ranch, we're more fortunate than those folks that are living in Kahului. And if we have a homesite that is the same size as somebody in Kahului or somebody in Makawao then our assessed value should be similar to that which is applied to the same size lot elsewhere nearby. So I wouldn't take a Lahaina parcel as a comp for Makawao, it would have to be something in Makawao.

UNIDENTIFIED SPEAKER (from the audience): . . .*(inaudible)*. . .

VICE-CHAIR WHITE: So...

COUNCILMEMBER VICTORINO: Chair?

VICE-CHAIR WHITE: So...

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UNIDENTIFIED SPEAKER (from the audience): . . .*(inaudible)*. . .

VICE-CHAIR WHITE: Yeah.

COUNCILMEMBER VICTORINO: Chair?

VICE-CHAIR WHITE: Yeah, thank you.

CHAIR HOKAMA: Okay, please --

VICE-CHAIR WHITE: Yeah.

CHAIR HOKAMA: --maintain yourself or our finest will help escort you out.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: I thank Mr. White for reminding me how we all started, and he's absolutely correct. He brought the homesite. And if, remember, BF-86 was the dedication that I brought forward --

CHAIR HOKAMA: That is correct.

COUNCILMEMBER VICTORINO: --that still sits in Committee --

CHAIR HOKAMA: That's correct.

COUNCILMEMBER VICTORINO: --which only talked about dedication.

CHAIR HOKAMA: Correct.

COUNCILMEMBER VICTORINO: And it was a generic attempt to do what was needed to do or done I should say by dedication. So BF-86 is really the dedication bill that sits in Committee right now. And Mr. White did bring forward a homesite bill which morphed into all of these other issues which again, Mr. Chair, I appreciate what you and the Staff and others have been trying to do. So if I can have assurances that BF-70 first and foremost will be only homesite and that we will give the public at least one shot. One shot, at least coming to us and saying...taking a look at it and saying hey, yes we agree and we like this, and I can feel comfortable in saying yea, I pass it and eliminate all the other. And take what you've been doing and throw it into BF-86 and then work on BF-86 as the dedication portion and ag rates or I should say ag values. I have no qualms with that, Mr. Chair. But the way it's set up right now, I just don't think the public's been fairly treated, because we give them this big picture and now we're trying to bring it back to where...and again, Mr. White is absolutely correct, where we had originally started for fairness purposes. And I want to see fairness. I really would like

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to see that. And I think these people out here would like the fairness also, but they also want to protect the aspect of ag use. They are the farmers. They are the ones that are bringing us the food that we talk so much about that we don't want to freight in. This is our opportunity for the cattlemen, for the farmers, for the flower growers, all of those that are really doing ag, to help them out. So that's my whole take on this. Either we defer BF-70 as amended and that would be my suggestion or file it and start over again. That's the only two alternatives I can see on the table right now.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I really appreciate the work that has been put into all of this. And then having...I understand where Mr. White is addressing the fairness. What I have a hard time...I wasn't here in, when BF-86 or part of BF-70 came about or what have you. All I'm looking at, what we're addressing and how we're addressing the BF-70 today. So when I look at this for the amendment amending Chapter 3.48, all I see in BF-70 is under the section, and then you have homesite. But it doesn't refer necessarily to Chapter 3.28 or Chapter 3.48.185. So in my just basic fundamental way how I'm trying to understand this, now we're separating this. I'm just looking at processing. And I agree with my colleague, when we're addressing the opportunity for us to address specifically this particular bill if it has to stand alone or how we can define it to how we're taking it out of this BF-70 to come something separately like this particular amendment. So I need to have a better clarification on how we're addressing to make amendment to this BF-70 bill that is before us.

CHAIR HOKAMA: Thank you for your...sharing those thoughts. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I too understand what Mr. White is talking about as far as the fairness thing. The one thing that we have to remember, Members, is that these ag lots, at least in the comparison that Mr. White was talking about are in rural areas or ag areas where we don't have urban services. The lots he's comparing them to are in places that have urban services. Sidewalks, sewer, all that stuff, real quick fire response time --

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER COUCH: --that's why they pay more in there. I personally don't want to put urban services out in the, up, you know, in the farm area. We don't want sidewalks up in the farm area, we don't walk all the stuff that we're paying for if I'm living in Kihei or Makawao or wherever where we do have...well, not so much Makawao but where we do have the sidewalks and the close proximity to the Fire Department, to the Police Department. So that's...I can understand the disparity so therefore I can live with that disparity, so that's why I wouldn't support this as well. Thank you.

CHAIR HOKAMA: Ms. Cochran? Ms. Cochran, any further comments, questions?

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COUNCILMEMBER COCHRAN: No. Just that, you know, as I look back in our old binders with this bill that's been around for a long time back when Mr. Pontanilla I recall and Mr. Mateo were here and we did all those district-wide meetings and, you know, people poured out from every corner of this County to share. And then it evolved and morphed into what we discussed early, you know, the BF-70 that we see. So as Mr. White points out, it's not something new, it's something we've been discussing and that's true. I mean that's like five years ago when...and I recall those times now that I'm kind of rehashing, you know, all that. But it sure turned into something that didn't resemble that. So that's why it was kind of shocking when I referred back to my notes going oh wait a minute, this is the homesite bill and now it's this disparity in ag and every other thing we're talking about. So again, you know, I stand with my comments in regards to if this is to be BF-70 which we spoke about many years ago, then so be it, homesite bill. Dedications on the other stuff, incentives and whatever we want to discuss to perpetuate and protect ag in a whole other, you know, manner, item, whatever. So that's kind of how I'd like to see it separated out, and I believe even Real Property Tax is on board that they want to somehow get some kind of tool in their tool chest to be able to address that disparity that we're all discussing. And they I believe feel this is the key component that can help them, you know, address that, these situations too. So again, just the way it's been presented this evening, not comfortable with it. But at another day, another time with more vetting and community input, yeah, more than happy, you know, more than happy to discuss this and see this through. So those are my comments for this evening. Thank you, Chair.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER GUZMAN: Chair?

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you. Yeah I would also agree with my colleague Ms. Cochran. I actually believe that, you know, this is a fairness issue and being from Kahului and also working with the Ag Working Group I'm kind of torn. You know 'cause we're talking about just basically where you live, your house, you know, versus, you know, what I pay or what people pay in Kahului that work three-four jobs in order to pay their taxes just on the house, just on the house portion versus people who are in agriculture, they're availing of not only the Homeowners Exemption but also the Ag rates. So it's almost like there's...yeah I understand Mr. Couch's point of view but we're one County, remember that. What we have as a Fire Department, what we use at the grocery stores, what the roads that take you into town are all based off of County funding so we're all one County. You know so we have to remember that those who live in Kahului, Makawao, Upcountry, we all have to carry the load, and yeah granted I'm okay with Ag rates. I mean ten acres, yeah fine, Ag rates, but when it comes to the house, I'm a little torn, you know, because, 'cause of the fact that hey, my neighbor is, you know, paying way, ten times more on a house versus one that's in agriculture. That's very difficult coming from Kahului and then being the chair of agriculture. You know I support agriculture 100,000 percent, but there is people that are in the industry that are farming that recognize the disparity. And I think that

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RPT, Real Property Division recognizes it too. So what are we to do? Are we going to continue doing this or are we going to give RPT tools in order for them to go out and make it equal? And so I'm very torn in this position, Chair, and I'm along with Ms. Cochran, you know, if given a breather, maybe we can, you know, revisit this when everybody's at a more, I guess, reasonable time and everybody's had their rest, and the constituency is, our citizens had an opportunity to review this and at least put their input in. Knowing the fact that it has been vetted before, but, you know, I think there's some kind of confusion that has been gone, you know, even I was confused in terms of, you know, saying hey, that homesite section is great and then all of a sudden there's a bill that's on the floor presented. So I was surprised. And given an opportunity to take a breather, yeah, we...I think we owe it to the people and we owe it to our Members to maybe defer both items and come back to it. Or at least...

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

COUNCILMEMBER GUZMAN: Wow, it's either one or the other? We gotta either kill one and let one defer, so.

COUNCILMEMBER BAISA: Chair?

COUNCILMEMBER VICTORINO: Cannot defer because it's all part of BF-70.

COUNCILMEMBER GUZMAN: Right, BF-70.

CHAIR HOKAMA: Yes, Ms. Baisa?

COUNCILMEMBER GUZMAN: Okay. It's up to you, Chair.

COUNCILMEMBER BAISA: Oh, I thought you were going down the row.

CHAIR HOKAMA: Everybody had their opportunity --

COUNCILMEMBER BAISA: No.

CHAIR HOKAMA: --so...you didn't have your opportunity?

COUNCILMEMBER BAISA: I would like the opportunity to speak on the amendment that's on the floor. And I'd like to say that I think we've heard an awful lot of wonderful, heartfelt feelings and I think we should vote. Thank you.

CHAIR HOKAMA: Thank you for that.

COUNCILMEMBER VICTORINO: Ready for the question.

CHAIR HOKAMA: Well...

VICE-CHAIR WHITE: Chair, if you'd like, I'm happy to defer the, this, the proposal.

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CHAIR HOKAMA: Okay, that's fine. As the maker you have the right to withdraw it so that's fine with the Chair. And hearing the discussion, Members, we're not gonna take any action tonight, okay. So I'm gonna defer this and adjourn this meeting. Okay. Mr. Couch?

COUNCILMEMBER COUCH: You know I understand what you're doing, but I think because it's so confusing and I'd be the one to reintroduce this if that's the case. I would think it would be procedurally better to file this and reintroduce Mr. White's amendment as a separate thing.

CHAIR HOKAMA: You can make that motion, Mr. Couch.

COUNCILMEMBER COUCH: Okay, so I move to file County Communication 11-227 and--

COUNCILMEMBER BAISA: I second the motion.

COUNCILMEMBER COUCH: --and the correspondence dated February 16, 2016.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: We have a motion by Mr. Couch, and I believe Ms. Baisa beat you to it tonight.

COUNCILMEMBER VICTORINO: Oh, okay, okay.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR HOKAMA: Any further discussion, Members? All in favor of the motion, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: Motion passes with nine "ayes." Is there anything else you wanna bring up before the Chair at this time?

COUNCILMEMBER BAISA: Chair, no "noes?" You didn't ask.

CHAIR HOKAMA: Oh, any "noes?" Okay, the motion passes with the full Committee's support.

VOTE: AYES: Chair Hokama, Vice-Chair White, and Councilmembers Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino.

NOES: None.

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ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILING of communication by C.R.

CHAIR HOKAMA: So what we'll do, Members, is we'll head into budget session. So again find revenues 'cause there's none, and to the Department, follow the law as it currently stands, that's your instructions. Okay, with no further business, this meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 8:45 p.m.

APPROVED:



RIKI HOKAMA, Chair
Budget and Finance Committee

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Transcribed by: Daniel Schoenbeck

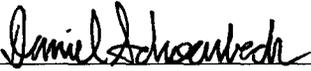
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March 10, 2016

CERTIFICATE

I, Daniel Schoenbeck, 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 30th day of March, 2016, in Kula, Hawaii

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Daniel Schoenbeck