BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

April 17, 2008

Council Chamber, 8th floor

CONVENE: 9:06 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Joseph Pontanilla, Chair
Councilmember G. Riki Hokama, Vice-Chair (in 9:13 a.m.)
Councilmember Gladys C. Baisa
Councilmember Danny A. Mateo (in 9:07 a.m.)
Councilmember Bill Kauakea Medeiros
Councilmember Michael J. Molina
Councilmember Michael P. Victorino

EXCUSED: Councilmember Jo Anne Johnson
Councilmember Michelle Anderson

STAFF: Lance Taguchi, Legislative Analyst
Michael Geers, Legislative Analyst
Gayle Revels, Legislative Analyst
Yvette Bouthillier, Committee Secretary

ADMIN.: Fred Pablo, Budget Director, Office of the Mayor
Kalbert L. Young, Director, Department of Finance
Scott Teruya, Assistant Administrator, Real Property Tax Division, Department of Finance
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:
Agnes Hayashi, Deputy Director, Department of Finance
Tehani Biga, Budget Office, Office of the Mayor

OTHERS: **Item 1:** Rogelio Evangelista, President, Maui County Veterans Council
Others (5)

PRESS: Akaku: Maui Community Television, Inc.

CHAIR PONTANILLA: . . .*(gavel)*. . . The Budget and Finance Committee Meeting for April 17, 2008 is now in session. The time is 9:06. Good morning, Members.

COUNCILMEMBER BAISA: Good morning.

CHAIR PONTANILLA: At this time, your Chair would like to recognize the Members that are present this morning. We do have Member Baisa, Member Medeiros, Member Molina, and Member Victorino.

COUNCILMEMBER VICTORINO: Good morning Chair.

CHAIR PONTANILLA: Morning. Excused at this time are Members Mateo, Anderson, Johnson and our Council Chair, Mr. Hokama. As always supporting the Committee this morning, we do have Lance Taguchi, Gayle Revels and Mike Geers, as well as Yvette Bouthillier, our Committee Secretary. Up front we do have the Budget Director, Mr. Pablo; our First Deputy Corporation Counsel, Traci Fujita Villarosa; and this morning we do have the Finance Director, Mr. Kalbert Young; and from the Real Property Division, Mr. Scott Teruya.

Members, we do have one person that signed up for public testimony this morning, but before we go into public testimony if everyone can turn off their cell phone or put it on the silent mode the Chair would appreciate that. Thank you. If you are testifying this morning, you have three minutes to testify, one minute to conclude. Staff will notify you when your three minutes is up and if you can conclude in that one minute the Chair would appreciate that as well as the Committee. Please give your name and the organization that you represent. The Chair would like to recognize the attendance of Member Mateo.

COUNCILMEMBER MATEO: Thank you, Chair.

CHAIR PONTANILLA: Morning. The only person that signed up for public testimony this morning is Rogelio Evangelista. Mr. Evangelista.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. EVANGELISTA: Mr. Chairman and Members of the County Council, being a veteran, I just thought maybe when do start your meeting you would do the Pledge of Allegiance and all of that but I guess it didn't happen so I just thought I would mention that. I'm here, Rogelio Evangelista, as President of the Maui County Veterans Council, and we're asking for a budget request for Fiscal Year 2008 to 2009 in the amount of $10,000. Currently, the Maui County Veterans Council is very grateful right now to receive from the County of Maui 5,000 for the fiscal year. These funds are used to honor the many veterans who give their lives or dedicated their time to protect our freedom of the United States of America. This, I'm, right now at this time asking for an increase in the yearly funding for the fiscal year for 10,000. This is due to the cost of flags to honor each of these veterans' graves on Memorial Day. They have drastically gone up. And also the memorial services have also risen. And we need to work to keep all our entitlements to these deceased veterans and also to our present veterans that are still living with us, and if you could consider this budget for the next fiscal year from $5,000 to $10,000. Thank you very much.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier this morning? Seeing none, thank you very much, Mr. Evangelista.

MR. EVANGELISTA: Thank you.

CHAIR PONTANILLA: I like your shirt by the way.

MR. EVANGELISTA: Oh, you're...(inaudible)...

CHAIR PONTANILLA: Brings back memories. Is there anyone out there in the public that wanna provide public testimony at this time? Seeing none, without any objections the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

...END OF PUBLIC TESTIMONY...

ITEM NO. 1: PROPOSED BUDGET FOR FISCAL YEAR 2009 FOR THE COUNTY OF MAUI (C.C. Nos. 08-55, 08-56, 08-80, and 08-88)

CHAIR PONTANILLA: Thank you. Again, Members, good morning. We do have Mr. Kalbert Young, the Director of Finance joining the Committee to discuss real property tax and the certified roll. Also with Mr. Young is

Mr. Scott Teruya, the Acting Administrator of the Real Property Tax Division. So, Members, at this time, I would like to have Mr. Young provide us an overview.

MR. YOUNG: Okay, thank you very much, Mr. Chair. Good morning, Members. We...for today is Real Property Tax Certification. It has been delivered to the Clerk's office as of yesterday. So this presentation is a summary of what the certification numbers have been that have been filed. For this presentation, we have two separate handouts that are before you. One is a multi-paged handout and one is a single sheet looks like a computer printout. Certification of real property taxes by Maui County Code is required by April 19th. It's been delivered to the Council early this year and accounts for all of the validated accessed values for every parcel in the County of Maui. There are ten real property tax land classifications in the County Code and each of those classifications are broked [*sic*] up, are broke up in certification and are reflected for the building and land values associated for each individual parcel. For the presentation today, we'll be only going over the summary of all the parcels in each of those land classifications.

I'll begin with the handout, that's the multi-page handout, first page is – is the chart that shows each of the classifications on the left, the next column breaks up the building and land values for each of those classifications. The proposed tax rate is the tax rate that is included in the Mayor's proposed budget for FY '09 and then what the corresponding revenue would be for each of those classifications. For your information, it is broken up by building and land for each of the property classifications. Maui County Code does allow for tax rates for each classification by building and by land so you could have a different tax rate for building or land but right now, in practice, the rate for building or land is the same. And if you look for the total of the projected revenue for certification at the proposed tax rate, the projected real property tax revenue is $221,782,429 and that is before the effect of the circuit breaker tax credit. At that level, 221.8 million is approximately $463,000 more than the Mayor, than the Mayor's FY '09 proposed budget. Similarly, the circuit breaker, tax credit, the deadline to file a circuit breaker, file for the circuit breaker tax credit was on December 31, 2007. The Mayor's proposed budget estimated that the effect of the circuit breaker tax credit for '09 would be 1,300,000. As of certification, the certified effect will actually be $1,231,314. In total, with the effect of the circuit breaker tax credit, the overall real property tax revenue is $220,551,115. And this sheet is straight out of the summary for the real property tax certification document that has been filed with the Clerk's office.

The next nine pages in the handouts, I'm not going to go through every hand…, every one of these pages, but what the next nine pages, they're not included in certification, but these are graphical analysis that the Real Property Tax Division has compiled so we'll go through them just so you can get an indication of what we are looking at.

The first graphical illustration numbered as slide number two shows the change in, in revenue collection for each of the property classifications over the last four years and including what is proposed in '09. So you can see at the bottom level the total in real property tax in FY '05 was 131.9 million. In '09, it's proposed to be 221.8 million but within each of those property classifications you can see the contribution of tax revenue for each of those classes over the last four years, and below that is a graphical presentation of in a bar chart of what that translates or is presented pictorially.

For slide three, this is a slide that I haven't presented in the past because its not, doesn't really mean as much as you may think it does when you look at it. This is a presentation of how much assessed values by each district in the County of Maui and these are community districts not Council districts. I, I don't know if there's any distinction but this is not related to specifically a Council district it's just by community districts. This just shows, you know, where on the pie chart on the left where the majority of the assessed valuations are in terms of overall assessed valuation and what you'll see is the biggest part of the pie charts is in West Maui and Kihei-Makena. That is to be expected because the majority, or a large part of the valuations in those areas are driven by hotel properties so those are higher value properties. Similarly, the pie chart on the right, which shows the distribution of actual real property tax revenues similarly West Maui and Kihei-Makena, have the two bigger parts of the pie chart and that's because again hotel, visitor properties have higher valuations, they have a higher tax rate so they have a larger portion of the contribution of revenues.

The next set of slides, starting on slide four, uh, well, we'll start with slide four. Slide four is a summary of all the valuations similar to the one, to the first slide shows all the valuations for each of the land classifications and the applicable tax rate or the proposed tax rate but this one also shows a comparison of the tax revenue and assessed valuation in the current year.

So you can see in one shot the comparison in the current year versus what is proposed for '09. What other changes that's in the percent change column. It also shows the property parcel counts for each of the classifications. And, again, the thing to note here is the valuation applied to the proposed tax rate, the net taxable value and the corresponding estimated levy or tax collection. And we also have a pie chart that, the pie charts on the bottom, that show the again the assessed valuation and the real property tax revenue distribution across classifications. So for the pie chart on the left by assessed valuation you'll see that homeowner and hotel/resort are the two biggest parts of the pie in the overall assessed valuation for Maui County, but when you look at the pie chart on the right hotel/resort is the single biggest portion of the real property tax revenue collected accounting for in this coming year about 35.6 percent of total real property tax revenue collected.

The next set of slides, slides five through twelve, I'm not going to go over at all but to let you folks know these are the individual districts - the presentation of slide four broken up by individual districts. So, for instance, on slide five we have all the properties in the Hana district, slide six is the Kihei-Makena district, slide seven is the Lanai district, slide eight is the Makawao, Pukalani and Kula districts, slide nine is Molokai, slide ten is Paia-Haiku, slide eleven is Wailuku-Kahului and slide twelve is West Maui. So we present the parcel counts and classifications for each of those districts, the proposed tax rates, the applicable contribution and collection in real property taxes and then how in the pie charts it's again presented what is the majority of properties for assessed valuation in those districts, and the pie chart on the right the presentation of what is the contribution of real property tax revenues in each of those districts.

The second handout that I have for you is again also straight out of the certification document that is filed with the Clerk. It's the single sheet, looks like a computer printout. This is a more raw looking data that's already presented in the presentations I went over, but what is included in this handout is the number of appeals that have been filed. That's the section on the bottom half of the handout, the number of appeals that have been filed for each of the tax classifications and the corresponding amounts that they are appealing or the amount that is in dispute. So when you look at this sheet, for FY '09, there's been 1,436 appeals filed with a valuation in dispute of $1,073,832,667.

With me here today is Mr. Scott Teruya, he is the acting Real Property Tax Administrator, whose division prepared the certification rolls, and if any of the Members have any questions on the technical evaluation of real property tax, Mr. Teruya can answer as long, as well as I. With that, Mr. Chair, we are available for any questions.

CHAIR PONTANILLA: Thank you. I, I just have one fast question. On the hotel/resort I, I noticed that there was a drop in the projection not, yeah, in the projections for '09 from '08 by approximately $1.6 million. And what would be the cause for that?

MR. TERUYA: Mr. Chair and Members, good morning. In the hotel/resort classification there's two things that brought the revenues slightly lower than the last fiscal year in that first of all that you must remember that condominiums can self-declare what the use is, so some of these counts looks like it's going down and it may be going into apartment use. Secondly, the resort areas' valuation has not been as strong as previous years.

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

COUNCILMEMBER VICTORINO: I guess my, my first question was the...big drop in unimproved residence, residential, you know, of all of the drops or all of the decreases that seemed to have been the biggest. What seemed to have caused that because, you know, that seems to be substantial?

MR. TERUYA: Sure. In the unimproved residential area there's two things that would reduce the amount. One is subdivisions. If large tracts of lands are being subdivided, that would decrease the amount of unimproved properties. Secondly, it's a divisional change that what we've done is parcels that are truly vacant are, remain in the unimproved residential category. If large tracts of lands were improved with a house, we are not, no longer splitting partially improved, partially unimproved. Once it has a house it's going to be improved residential.

COUNCILMEMBER VICTORINO: So, so that may be causing the tremendous decrease...(inaudible)...

MR. TERUYA: That, that shows the decrease, yes. And that would change the increase to the improved residential.

COUNCILMEMBER VICTORINO: Okay, and then so that's maybe why partially the improved residential has gone up.

MR. TERUYA: Correct.

COUNCILMEMBER VICTORINO: I also noticed the industrial went way up from previous year.

MR. TERUYA: Uh, huh.

COUNCILMEMBER VICTORINO: What caused that one? I mean…

MR. TERUYA: Industrial and commercial properties throughout Maui County and including Molokai and Lanai, the values have gone tremendously higher than the past years. Molokai will see a slightly bigger spike because of the lack of sales and now what we're using is Maui County sales to establish valuations but Molokai, you know, when it looks like a spike it's hard because when it's a small amount of properties, yeah--

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: --so any increase looks like a large increase.

COUNCILMEMBER VICTORINO: And I guess the last question I have for you and I'll, I'll yield to my colleagues after that is under conservation. Is that due to a lot more land being entrusted into some of the trusts like the Maui Coastal Trust, the Molokai Coastal Trust, these various trusts, is that why conservation land has spiked by 39.68 percent?

MR. TERUYA: Actually, the shoreline increase is directly related to sales. As I mentioned awhile back, shoreline is conservation you gotta remember that a lot of ocean front parcels are split fit, meaning they have two land classifications. They have a, either a hotel, apartment, etcetera, and the shoreline strip is considered conservation so as values go up in the residential areas of shoreline, the conservation lifts as well. Secondly, conservation land is golf courses and golf courses sales have gone up.

COUNCILMEMBER VICTORINO: Oh really?

MR. TERUYA: Yes.

COUNCILMEMBER VICTORINO: Oh, I did not know that. That is something new to me. Okay. I'll give my other, other Members a chance to ask questions and if some of my questions are not asked I'll come back. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Hokama?

VICE-CHAIR HOKAMA: Thank you, Chairman. Mr. Teruya, what is driving the increase in count for the agricultural category, please as...as Real Property Tax Division understands it?

MR. TERUYA: The increase in agriculture count will come from subdivisions. Condos are not really in the agriculture count so an increase of 295 parcels to the agriculture class would be directly related to subdivisions.

VICE-CHAIR HOKAMA: And yet valuation-wise it's only 2.9 percent? Or levy-wise?

MR. TERUYA: That's correct.

VICE-CHAIR HOKAMA: Hearing what the Director mentioned in his opening comments and, and your, your responses to some of the questions does it, is it correct on my part to understand that possibly what I'm hearing is that we need to consider further breaking down hotel/resort and apartment categories to capture a fair valuation and taxations for condo, apartments, luxury condo hotels or that nature? Is the way the industry is redoing its inventory and renaming its product bastardizing the, the integrity of our tax categories?

MR. TERUYA: Chair Hokama, you know, in answering your question, the only thing that I would, I see that is somewhat misleading in the hotel classification is remember the difference between a true hotel, you know, the Kea Lanis, the Grand Waileas versus condominiums or zoned parcels of hotel. Yeah. That's the only difference because the hotel, hotel industry the values have gone up; however, the condominium market of hotel properties have gone down.

MR. YOUNG: Mr. Hokama, I would also add to that, you know as the Committee I know has discussed previously this year and I think every year the Council kind of struggles with it too. There's ten property classifications in Maui, in Maui County and while that may seem like a lot, you know the variety and multitude of different types of property use and ownership far exceeds any general summary of ten property classifications. So even in the hotel/resort as Mr. Teruya points out, there's been an evolution of different types of hotel and resort property and property ownership and whether or not the simple classification that

Maui has for hotel/resort accommodates everything at that tax rate that the Council would want, I, I think what I've seen is that's what the Council struggles with each year is that whether the rate when you decide the hotel/resort rate if Members are thinking that it applies to a typical large resort like Kea Lani or Wailea or are you applying it thinking that it applies to say condominiumized hotels you know, in the, in the, on the west shore basically. So could there be some room to, you know, if you wanted to expand it if that's the intent, you know, I would say that if it's to get to a more clearer clarification of what we're actually what properties we're actually taxing, I, I think that's where Mr. Teruya's Division is gonna -- it would give them a little more clarity to work through and distinguish between different types of hotel properties.

VICE-CHAIR HOKAMA: I guess that's one approach right, Director? Or we just…you know State of Hawaii normally is highest and best use. So…is another approach that we just tax by zoning --

MR. YOUNG: That is another approach and actually the County effectively taxes by zoning first and then there's certain types of exclusions, and the exclusions one is homeowner, regardless of zoning if you're a homeowner you get into that homeowner class. And the other is the condominiumized properties. So we're zone, we are taxing effectively by zoning one, but then there's these stated exclusions in the code so…yeah…so…

VICE-CHAIR HOKAMA: --which goes to then from, from zoning, which is an entitlement, and a category to use, which may have no correlation to the zoning?

MR. YOUNG: Correct. Yes.

VICE-CHAIR HOKAMA: And I think that's part of our dilemma or, or complexity in, in trying to find fair taxation rates for each zoning category, because it gets skewed by actual use and what it is then determined to be the adjusted rate for taxation purposes. Would that be a correct understanding on the Committee's part?

MR. YOUNG: That is a correct understanding, yes.

VICE-CHAIR HOKAMA: So the easiest way for Mr. Teruya's Division is to eliminate uses and go by zoning? The simplistic approach. Would that be a very condensed Reader's Digest version of taxation, approaching taxation?

MR. TERUYA: That would be definitely easier, it's the labor hours that we're using right now because of use, yeah, we do a lot of letters, mail-outs, certification forms, but if you went strictly by highest and best use it would be much simpler for the Division definitely.

VICE-CHAIR HOKAMA: Real quickly and it would be my last question for this round. If that was the approach of the County...currently, what would be the net impact on the potential revenue that the Director just reported for certification? Would be higher? Would be the same or would be less? In, in your and I know this is, you haven't done due diligence but in general understanding of your inventory, Department, what would be your best, best estimate?

MR. YOUNG: Well, without even having to do an analysis if you did it purely based on zoning, it would definitely be higher. I mean even at the proposed tax rates you would, it would be definitely higher, how much though that we would need to do an analysis but it would definitely be higher. Because as I mentioned the two exclusions, homeowner and, and condominiumized properties, condominiumized properties are falling into hotel/resort, timeshare, homeowner, improved residential classification. I mean all of those, if you changed all of those to zoning, you'd be moving just in the condominiumized properties alone, you could be we're right now seeing properties that are condominiumized hotel/resort zoned, but since they're condominiumized they could be in a lower value classification. So if you took the classification of use away and just made it based on zoning undoubtedly it would be, it would be, they would be moving back into the highest and best use category which is hotel. They would be, they would be taxed at the higher rate. So undoubtedly it would be the net revenue effect would be greater, yes.

VICE-CHAIR HOKAMA: Thank you for that reconfirmation. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. Member Molina?

COUNCILMEMBER MOLINA: Thank you, Chairman. Good morning. Mr. Young and Mr. Teruya. Just a question on the assessment process. Timeshares now are going to be assessed, the assessment I guess formula will be lower and homeowner assessments will be higher? Can you give me an explanation? Maybe I'm not clear on it but - -

MR. TERUYA: Um…

COUNCILMEMBER MOLINA: --is it still, do you, you're still using the same formula in terms of assessment?

MR. TERUYA: Member Molina, yeah, we haven't changed our assessment process or how we assess timeshares versus homeowners. It's all, it's, it's still the same way using comparable sales of comparable properties.

COUNCILMEMBER MOLINA: Okay, I guess I was, it was brought to my attention that there might have been a change in how these properties were being, or these classifications were being and assessments there was some change to it. Okay, I'll have more questions later, Chair. Thank you.

CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman, and good morning, Director. I just have I think for the start this question regarding the Hana district and because this is a lot to digest it's gonna take awhile, but on Page 5 of your multi-page handout…in the hotel/resort land class and then working all the way to the right under class count, can you tell me what's included in hotel/resort that it increased by 50, the count?

MR. TERUYA: I can't tell you exactly how, where 50 came from. You know lot of times when inventory is added especially condominiumized property remember out in Hana if they condominiumize the property they declare what the use is. Similarly, you have the Hana Hotel and you have the little ___(?) units out there, condominiumized property might have came out of apartment and went into hotel. That could be an increase, but I can't tell you exactly what 50 parcels.

COUNCILMEMBER MEDEIROS: I see. Yeah, because, you know, just kind of knowing the district it's hard to figure out how we increased by 50 but I think I can research that more. But, that's all I have for now, Mr. Chairman. Thank you. Department. *…(end of tape 1A - 9:37 a.m.)…*

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Yes…general question. Mr. Young would you please repeat the difference between income, oh, projected revenue between what is in the Mayor's budget and what it is today? What that total is?

MR. YOUNG: Certainly. The Mayor's FY '09 or proposed FY '09 Budget is at 221,319,000 before the effect of circuit breaker.

COUNCILMEMBER BAISA: Uh huh.

MR. YOUNG: Certification is showing 221,782,429 so that's roughly a $463,000 increase above the Mayor's proposed budget.

COUNCILMEMBER BAISA: Okay now if you take out the circuit breaker the bottom line is?

MR. YOUNG: If you take out the circuit breaker in certification is 1,231,000.

COUNCILMEMBER BAISA: Yep.

MR. YOUNG: In the Mayor's proposed budget it was 1,300,000 so that's an additional 70,000. So the overall net effect is approximately 530,000 increase above the Mayor's proposed budget.

COUNCILMEMBER BAISA: Okay, well that's the magic number that we really need to, to begin a discussion. I have another general question and that is everybody talks about this highest and best use. Can you explain what that means?

MR. YOUNG: Highest and best use is an appraisal or an assessment consideration, and I'll try and put it in layman's terms cause that's the only way I can explain it.

COUNCILMEMBER BAISA: Thank you. We need it--

MR. YOUNG: I'm not an appraiser or an assessor.

COUNCILMEMBER BAISA: --we need it in layman's terms please.

MR. YOUNG: Yeah, okay, basically if you buy any piece of real property, anywhere, Kahu [*sic*] whether it be Kahului, Hana, Honolulu, San Francisco, you own what's called a bundle of rights and that just means you can do anything on that property to the extent the law allows, right. So highest and best use means what is the most the law will allow on that property. So if you buy a house on a piece of property in say Kihei...but that property is zoned hotel, for highest and best use consideration, you must consider that you could build a hotel there even though there's only a house. It's not the fact that just because there's a house there that's all that you can do with it. So that affects value because highest and best use considers what could you be doing with the property, not what you are doing, not only what you are doing with the property it's what could be done there. And if the what could be done there is far greater than what you are currently doing there...I mean, logically and rationally, the value of that property is improved or greater, right. Because if you compare two different properties, say, two different parcels both with single family houses on it but one parcel has the bundle of right where they could build a hotel but the other parcel does not have that bundle of right where they couldn't, they can't build a hotel, obviously the highest and best use the property that could be improved to a hotel would have a highest and best use, therefore a higher attributable value than the other property. I hope that's clear.

COUNCILMEMBER BAISA: It's extremely clear. But that's where I have a problem. And I don't see it as logical. If I own a piece of property and you're saying that logically or whatever highest and best use, I can build sixteen units on it because that's what the law provides. But I'm not able to do that because you cannot provide me with water. What is it worth?

MR. YOUNG: And, and those highest and best use issues when, if you go that highest and best use route that bundle of rights, all of those considerations, you know, what infrastructures are on there, you know, what other, not only if you're entitled to build a hotel but for instance setback requirements or, you know, maybe you don't have enough water delivery or access issues all of those things from an appraisal issue are taken into consideration on this highest and best use. So all of those affect the overall value. But just the fact that you could build it, that alone is one of the bundle of rights that improves the value of a property. So again, you know, it's just another right that when you look at this component of highest and best use it's one of the components that go in there. Yeah.

COUNCILMEMBER BAISA: I understand what the law is, but it isn't very practical when you apply it to a family. I'll get off of that cause that's not going anywhere. I've been arguing that for years.

About the hotel rate and following up on Chair Hokama's comment. You know I'm, I've been immersed this year in this issue of vacation rentals, and when I look at our tax categories I feel that we need to come up with something for people like them because they're kind of a hybrid. You know it could be a homeowner that has a B&B in their home and then there's a question about should that be considered like a mini-hotel or you know is it a pure home, homeowner or same thing with the vacation rentals. You know I think we're getting more and more complicated about how we tax. Because I don't think it's fair that if you're using your residential property as a business and I'm not saying that's not a thing we should do, but if you are, then I think we have to have a special tax consideration for that, because it's not the same as you just live in your house because you are deriving income from your house. So I don't know how you would you know differentiate that between commercial or, or hotel and I don't think it's a hotel but it certainly is something and it's not really a straight out home. So that, that's, you know, something that I'm going around in my mind trying to think and then when I think of what Chair Hokama is talking about and we go straight zoning, even though it might give us more revenues I don't know if it's a fair thing to do. So I'm going round and round with that.

And I don't really have a question other than that I think I would like to see us look at our categories and see if they accurately represent what is really going on and are we getting all the revenues that we should be getting. And I also have very strong concerns about this condo thing. I think that that's becoming a bad thing for us. We're losing money and everybody should pay a fair share. That's all, Chair, thank you for now.

CHAIR PONTANILLA: Thank you. Fast question or maybe you can help me . . . definition of improved residential. Can you provide this Committee a quick definition of improved residential?

MR. TERUYA: Other than saying it's everything other than unimproved but it's basically--

CHAIR PONTANILLA: But what pacifies as an improved residential?

MR. TERUYA: --you know, improved residential is basically something, a lot that has been subdivided all the way down to its...its zoning. You know improved residential are parcels that are under one acre in size, they're residential, R-1, R-2, R-3 with whether it's 6,000, 7,500, or 10,000 square feet and improved. Unimproved residential really is large tracts of residential land that's over an acre and vacant. Yeah. It hasn't been subdivided down to its lowest form.

CHAIR PONTANILLA: Thank you. And the reason why I bring up that particular request is that, you know, dovetailing from Member Baisa's question in regards to how do we tax TVRs. How do we tax B&Bs? Uh, I, I note that in the ordinance it says that B&Bs you know are taxed as improved residential so how did that come about?

MR. YOUNG: Mr. Chair, typically improved residential is basically residential property that is not owner occupied. And so that's the difference between, say, improved residential and homeowner. As far as the B&B issue goes, I mentioned previously several meetings ago that the thing about B&B versus the TVR issue is that the Maui County Code specifically and explicitly has a provision that tells the Departments how to handle B&Bs. There isn't any such ordinance like that for TVRs so that's why there's kinda that distinction. I'm not sure why B&Bs in the Code, when that Code was drafted it specifically excluded that, you know, said to exclude them out of the homeowner even though there is a homeowner living there. If I had to guess, it's probably because having a commercial enterprise in your residence is against the other part of the Code related to the homeowner's exemption and the homeowner's rate. That's what I would suspect but I wasn't with the County when that was created.

Now on the TVR side if you're not owner-occupant that's the distinction between the B&B and the TVR you're not owner-occupant in the structure or on the property. That one you know to me is a little bit more clearer that if that was the distinction you would be improved residential. But I understand, you know, Ms. Baisa's comments that are they mini-hotels? Are they more like a hotel than they are residential? You know, that's really kind of a fuzzy, philosophical kind of question that, you know, Real Property Tax Division and the Finance Department really can't really answer it. I guess it's in the burden of Council to make that philosophical decision.

But in terms of for B&B the Code specifically says that they're in that improved residential class and so that's where they are. And I would also finally add though that going back to the bundle of rights issue, B&B and TVRs, you know, when they have to get that Conditional Use Permit, or Special Use Permit or I'm not sure whatever it's called, that basically increases the bundle of rights for that property, because they wouldn't be able to do that type of function were it not for the Council granting that special privilege. So if when Council grants those types of permits it actually increases the bundle of rights for that property and if that permit was no longer there it would diminish the value back to the best use would be whatever is afforded by zoning. So that zoning versus best and . . . highest and best use versus use it, it all of that is into the complex calculation and consideration so the answer is really not that easy or simple, I guess, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very much and Ms. Baisa and, and yourself, Chair, brings up, brings up rather interesting prop, propositions. I guess, as Mr. Young had indicated early on, there's many other class, classifications that we can actually take a look at and would the Department have a listing of the multitude of classifications that we can look at?

MR. YOUNG: Well, Mr. Mateo, actually the Council has the authority, actually only the Council has the authority to create a new tax classification. Um--

COUNCILMEMBER MATEO: I understand.

MR. YOUNG: --yeah, and, and actually Council could create as many classifications as you folks deem necessary or appropriate. I would say that some of the other jurisdictions, even in the State of Hawaii, they actually have more classifications than Maui does. Some have less, Mr. Teruya can probably speak more to that and for instance the one that I always mention is that in the City and County of Honolulu there's really no such thing as a homeowner classification. And similarly the timeshare classification doesn't currently exist anywhere else except in Maui although other jurisdictions are actually looking at that. And similarly in the County of Kauai and the County of, City and County of Honolulu I have heard that their Councils are also deliberating or considering the issue of TVRs, B&Bs whether they should be their own specific rate. So any, any, you know, the Finance Department and Real Property Tax Division, you know, we'd be more than happy to assist the Council if you came up with any general idea about what classifications you would like. We could, you know, do the analysis to kind of break up what properties are available in that area.

COUNCILMEMBER MATEO: Uh huh, uh huh. So, Mr. Young, if we to take a look at, for example, one classification which is agriculture and we could tier if off to what is considered actual agriculture, subsistence agriculture and gentlemen estates then your office would be able to assist us in coming up with some kind of a formula to calculate a potential consideration?

MR. YOUNG: We-we can definitely be involved in that discussion, yes.

COUNCILMEMBER MATEO: Thank you. Finally, Mr., Mr. Young, in the handouts that you gave us, the one that looks like the computer printout this would be the appeals, does, is there a percentage of, of, you know, this $1 billion in limbo that the Department looks as a potential of getting a return on? Because and you know I don't know how long a period one waits for some kind of resolve with the appeal but $1 billion is considerable to be held in limbo at this point.

MR. YOUNG: Yes, that's actually a really good question, Mr. Mateo, because I'll, I'll explain it in two different parts. First, in terms of budgeting for the upcoming budget, 50 percent of this amount that is in dispute is included in the budget as, you know, we, we project and anticipate that we will collect on 50 percent of those appeals or those, 50 percent of those appeals, at least 50 percent will be upheld in the favor of the County. So we budget for an anticipated 50 percent. That's on the budget side.

So, and on the second side is on the Maui County Code taxpayers' side. The County Code requires that even if you file an appeal, you must pay the taxes as due on the date that they are due. If you should win your appeal at some later date after you've paid it, the Code does afford the taxpayer the right to either receive their overpayment in the form of a credit refund, or have that amount applied to a future tax due. So there's really, in terms of whether or not this is not really going to be held in abeyance or we're not going to collect it, because the taxpayer by law is required to pay it in time. So we're not necessarily going to be without the funds or the taxpayer will not get the benefit of not having to pay it, and so that's the, you know, overall I, I wanna assure the Council that it's not that we are not having $1 billion worth of value held in limbo or in question.

COUNCILMEMBER MATEO: Okay, great, thank you. And-and just looking at the hotel/resort classification with that 438 appeals is that, is that a norm? Or is this high?

MR. TERUYA: Member Mateo, 438, let me back up, currently certification notes that there's 1,436 appeals, yeah. Last year we had 2,900. So, you know, it is substantially less than previous years but the amount of appeals in the hotel and timeshare and apartment categories are typically higher than any other and these are the resort areas.

COUNCILMEMBER MATEO: Okay, thank you. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. So, timeshares is included in that one particular area – hotel/resort?

MR. TERUYA: Um, no.

CHAIR PONTANILLA: Oh no, I'm sorry.

MR. TERUYA: Timeshare currently has 82 appeals.

CHAIR PONTANILLA: Yeah. Okay. Member Mateo?

COUNCILMEMBER MATEO: Uh, no.

CHAIR PONTANILLA: Member Victorino, more questions?

COUNCILMEMBER MEDEIROS: Chair, just, just a procedural question, please, before you.

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: Yeah, if the, Members when asking a question could cite the page they're--

CHAIR PONTANILLA: Oh, okay, fine.

COUNCILMEMBER MEDEIROS: --looking at and then when the respondents could they also cite the page. Make it easier to follow.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MEDEIROS: Thank you.

CHAIR PONTANILLA: Member Victorino, more questions?

COUNCILMEMBER VICTORINO: We've gone the gamut and we've brought up some, you know, Councilmember Mateo and Baisa and others have brought up some interesting ideas so I'd like to research it a little bit more.

I think we are at a crossroads to make some decisions that would have a long-term effect on our County and knowing the shortfalls that we've had and may have in the future I'd like us to look at some of those suggestions. But at this time I'll yield to my colleagues and if I have another question I will ask for another opportunity. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Hokama?

VICE-CHAIR HOKAMA: Thank you. Department, I'm just trying to get a good, good understanding. Under Lanai…I'm trying to understand the reduction in the count for hotel/resort for Lanai. The count change has gone by 42 under hotel/resort. Do you have a, a explanation for this reduction as you understand it for the island please?

MR. TERUYA: Chair Hokama, we go back to the question on condominiums, it's a self-declaration. If you look at the amount going down of 42 from 53 to 11,--

VICE-CHAIR HOKAMA: Yes.

MR. TERUYA: --it's kinda amazing to see that apartment went from 77 to 119 that same 42 units, so it could be that condominiums that were short term are not short term anymore.

VICE-CHAIR HOKAMA: And I, I'm just trying, do you, would you have the ability to work with my office to tell me where this parcels or unit counts are located?

MR. TERUYA: I can tell you the exact parcels, yes.

VICE-CHAIR HOKAMA: Okay. I won't intrude on the Committee's time. I think this is something that my office can work with yours on this. Regarding the apartment component, though, since it matches up, I'm assuming this is mostly the multi-families that's either in the Koele or Manele project districts. Would that be a good assumption or understanding of where the adjustments were made, were declared?

MR. TERUYA: It would most likely be in those areas, yes.

VICE-CHAIR HOKAMA: Okay. And I can get it by property owner also?

MR. TERUYA: Yes, we can get you that information.

VICE-CHAIR HOKAMA: Okay, because I still, well, no, I take that back. Chairman, thank you for, at this, at this, oh, one question, I'm sorry, I have another question for the Department and Division. Overall, when we look at your general summary sheet and, and your breakdown you know that last year we had at least considered to make an adjustment under agricultural tax rate. Mr. Teruya, and again there's a lot of legislation at the Capital. I was just down there yesterday trying to get a better assessment of the changes regarding important ag lands. House and Senate is still not sure what they want to do with the potential legislation that is still alive and before them. So let's say nothing happens at the State level, I'm wondering whether or not we are in the Division's or Department's perspective. Have we looked at the agricultural taxation category the way it needs to in 2008? We have had traditional views for years of various categories, whether it be homeowners, or conservation, or hotel, or ag, and we know there's changes in agricultural activities. Maui Pine is doing different things besides pineapple. Dole, Castle & Cooke is doing different things. Is this a potential tax category that needs further scrutiny to see whether or not we are getting our fair amount of revenues?

MR. TERUYA: Well, Chair Hokama, in the Agricultural District, you know, this includes dedications and ag use, the Division currently, in order to get a lower rate, you put your property into either a dedication if you're not in the Agricultural District, like rural, you would have to dedicate to get agriculture.

VICE-CHAIR HOKAMA: Right, and--

MR. TERUYA: If you're . . .

VICE-CHAIR HOKAMA: --is the minimum still seven-year dedication?

MR. TERUYA: It's ten.

VICE-CHAIR HOKAMA: Ten-year dedication?

MR. TERUYA: Yeah, ten-year dedication. If you are in the agriculture land use district you do not have to dedicate. You can just simply have the ag use. Now if you looking into that side you can also have the ability to make everyone dedicate a use.

VICE-CHAIR HOKAMA: So, in plain language for Councilors, if you're doing true ag in agriculture it should not be one issue?

MR. TERUYA: It would not affect you, right. If you currently getting ag use, and you are doing a corn farm, etcetera, and you were to make them everyone dedicate, they would still get the same benefit. It's just that they would dedicate and at least attest what is the use that they are doing.

VICE-CHAIR HOKAMA: And nothing has changed in the formula of how we've calculated the taxation with valuation and rates? Remember last year we went through the step for the Committee to understand how we arrive at valuations and taxations revenue amounts. Any further comments, Department?

MR. YOUNG: I think what Mr. Teruya is trying to relay is that the traditional sense of agriculture that just basically that you are actually using your property for agricultural purposes, you know, they're in this category, but there might also be some properties that are in the Agricultural District but they are, you know, they have the flexibility again to use their properties maybe for some non-agricultural use and that's not necessarily included in this classification. So, the definition of agriculture right now is really generally considered based on zoning for the Real Property Tax Division or by dedicated use.

VICE-CHAIR HOKAMA: Thank you for that, Director. I'm sure we'll be coming up with some potential options of how we're going to approach each category so we'll be looking forward to your comments during those considerations. Thank you, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Molina?

COUNCILMEMBER MOLINA: Thank you, Chair. Just a lot of numbers to absorb, I'll just save my questions for laters and, you know, think I'm for myself I'm looking at some adjustments in some of the categories. Thank you.

CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Department, on the multi-page handout, Page 5, for Hana, what causes count changes most of the time? Like let's say improved residential, it went down by one so how does it go from improved residential to something else? Is it mainly zoning, re-zoning?

MR. TERUYA: Well, Mr. Medeiros, improved residential when something was to go down it could be a consolidation of parcels, you know, somebody owns two parcels and they consolidate it to one. That could be one change. The other way could be an improved property with two homes on it decides to condominiumize and they would come out of improved residential and, therefore, they would go into one of the five classifications you're allowed by condominiumizing a property. Those are ways that things can come in and out, also subdivision, yeah.

COUNCILMEMBER MEDEIROS: I see. And so would that also be true for agriculture where we have, you know, a minus nine count?

MR. YOUNG: Well, I'll also add to what Mr. Teruya just said 'cause it also referred to your question too. The more simpler expectation could be somebody who was previously renting their property out so they're improved residential because they're not owner occupant. Maybe they moved back home or they sold it to somebody else who became owner-occupant who was owner-occupant. So that's why they, that property is no longer in improved residential. It's now homeowner and that's why, you know, there's a homeowner increase. Similarly, you could have property that was say, in agriculture, agriculturally zoned, not owner-occupant, but maybe they moved onto there, they're living there, and even if they're farming, suddenly they're now homeowner. So that's why there's an increase in the, again, I'm not a real property tax person, but just looking at purely at the number changes here, the increase in homeowners by eight overall would indicate to me that there's people moving from other non-homeowner, they were previously non-homeowners and they migrated their properties into the homeowner's class. So that's, that's what I would look at this.

COUNCILMEMBER MEDEIROS: Yeah. Thank you for that information. So who determines when the land class changes? Is it the Department? Or does the property owner have to apply and say, you know, I'm doing something different now?

MR. YOUNG: Land class changes would more likely only occur to that homeowner's class or moving out of the homeowner's class. And that is by action of the property owner. You have to, so, 'cause as we all know to get into the homeowner's class you must self, you must be proactive and go down to the Real Property Tax Division or mail to the Real Property Tax Division dedication or indication that you are a homeowner and ask for the homeowner's --

COUNCILMEMBER MEDEIROS: I see.

MR. YOUNG: --exemption, right. So when that happens whatever your property was classed before, it is now in the homeowner's class. Similarly, when you sell property, if you were previously a homeowner and you sell it, unless somebody, unless the person you sell it to also proactively comes in and says I am now going to be homeowner if that doesn't occur your property will revert to the zoning application or you know if it's condominiumized whatever the use is, you know, whatever. So that will move the chain.

The other one which is far less likely, is when property is subdivided... *(end of tape 1B - 10:07 a.m.)*...right from say, an agricultural subdivision that is subdivided to smaller lots or has different zoning, a zoning change. When that occurs, there's a protocol, procedural protocol between departments to notify of that zoning change.

COUNCILMEMBER MEDEIROS: Okay, thank you, Department. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Member Baisa?

COUNCILMEMBER BAISA: Okay. Mr. Teruya, when you were here a few weeks ago, you know time flies I think it was weeks--we talked a little bit about the idea of collapsing improved residential, unimproved residential and I don't know if it was apartment into one category and that we kinda talked about it. Can you refresh my memory about why we might wanna do that?

MR. TERUYA: The other Counties, Oahu, for instance, what they did was because apartment is primarily homeowners for Oahu and maybe not so much Maui but for Oahu, they consider improved residential, unimproved residential and apartment all the same thing. So what they did was they collapsed it and just called it residential. In Kauai County they got rid of unimproved residential as well, they just call it residential. I think that's been the norm recently that what they've done was just try to simplify the categories because they ...(inaudible)... residential zoning. So you either homeowner or you get into the residential so that's what they did in those cases.

MR. YOUNG: But in the City example, though, you gotta remember they don't have a homeowner's class. So everybody is deemed effectively residential, and they afford if you are a homeowner, you can declare and get a homeowner's exemption but you're getting it on that residential, you're getting an exemption on an established residential class. So there's no, there's no distinction in the tax rate for homeowner versus residential.

COUNCILMEMBER BAISA: Okay, now I'm trying to think of the financial impact. If we were to do that, what would that do to our revenues?

MR. YOUNG: It . . .

COUNCILMEMBER BAISA: If we were to collapse those three classes into one and kind of average it. What would happen?

MR. YOUNG: It would largely depend on what the proposed rate would be because that would be a weighted average, right, because each of those classifications contribute a different amount of assessed valuation. They each have differing tax rates. So whatever the tax, I mean if the simple math all you have to do is really is total up all the assessed valuations for each of those classes but then decide what the tax rate would be for each of those.

COUNCILMEMBER BAISA: If you took say an average of the-the-the far end and the cheapest, is there enough to make it worthwhile? What I'm trying to think of is obviously we need the revenue so we gotta be careful what we do.

MR. YOUNG: Well, looking at the improved residential tax rate is $4.85, the apartment tax rate is $4.55, and the homeowner rate is $2.00. The homeowner classification by and large has the largest contribution of assessed valuation. So if you took, if you just did the average between $4.85 which is the highest and $2.00 that would take you to somewhere around three dollars and sixty or eighty cents, something in that neighborhood. That's a bigger increase from the homeowner rate than it is a decrease from the improved residential rate. So, I would say if that was the scenario, the revenue increase would be more substantial because you're getting a bigger taxation from the bigger group. But if you, again, if you moved it the other way, if you, if you just did the simple waiting based on assessed valuation to get to the tax rate the revenue could be neutral because you know you're weighting it. It's the weighted average between the three. So, it can, if you wanted to do that from a revenue perspective, it can be anything you want based on what you set the rate as, yeah.

COUNCILMEMBER BAISA: The reason why I'm interested in these variations is you know quick and dirty when you try to look at what we have and what we'd like to do, obviously we don't have enough money. And if we leave the rates at the way they are, we're gonna have a really tough time. We're gonna be knocking things out of the budget that we really would like to fund. So then the question becomes how do you adjust the rate so that you have enough money to do what you have to do? And that's of course the tricky thing and you need a lot of information in order to do that so that's why the questions. Thank you. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Member Mateo?

COUNCILMEMBER MATEO: Chairman, thank you. Mr. Young, with the softening of the real estate market now and the down-spiraling of values of homes in terms of sales, as they start to go down, the valuation of the property likewise, likewise go down. What kind of impact does that have on a projection that is based on a higher valuation standard?

MR. YOUNG: Yes, that's also a very good question. Certification is as of December 31 '07, that's basically already three and a half months or four months stale, right, so we all know what the real estate market has been like the last four months. What we have a harder time remembering is what the real estate market was four months ago counting back four months because the certification, in my opinion, reflects property values at a time in '07 where values have effectively leveled off at a crest. Since then they've declined and depending what articles you read, the projection for the next several years is they'll further decline and the rate of the decline is the only thing that's in dispute.

We are predicting or anticipating that assessed valuations will likely decline significantly in '08. So for Fiscal Year '09 they'll, they're based on the '07 valuations to be kinda flat. They'll likely further decline so by the time that we're talking about the FY '10 Budget, if property tax rates were to remain the same, we should be prepared that we'll see revenue decreases in real property tax. Could be as much as 5 to 10 percent and that some people might even say I'm optimistic by throwing out 5 to 10 percent. So, with real property tax contributing as much as 40 percent of the overall County revenue, a 5 or 10 percent decrease in real property tax has an exponential effect on the overall budget. But I think again, the only thing that everybody is in agreement is that plan on less revenue; plan on decreased assessed valuations for the coming years.

COUNCILMEMBER MATEO: Thank you, Mr. Young. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. If we see a decrease in valuation, it kinda behooves us to keep the home exemption at 300,000. You know rather than 300,000, maybe go down to 250,000. Well, what would that cause?

MR. YOUNG: Yes, the---

CHAIR PONTANILLA: Tax rates the same.

MR. YOUNG: --it's primarily affected in the homeowner class. I mean it's only affected in the homeowner class. The 300,000 exemption, with the $300,000 exemption in place and tax rates currently at $2.00 for homeowners, that sets the, that means that a homeowner property would have to be valued in excess of 300 and I think it's 350-something thousand in order to beat the minimum tax. In other words, currently the minimum tax in Maui County is $60, right. So, if you have a…I think it's 300 and it would be let's say $360,000 valued property you would already have a 300,000 reduction in their homeowner's exemption so that's basically what your taxable value is only $60,000 and at two dollars per every thousand that means your tax is 120 so you'd only be paying $120. So, with that math that means that if your property is $330,000, you basically are paying the minimum tax whether you pay the rate or the tax, okay. So when you ask should you increase the homeowner's exemption with declining property values that would mean that likely more people are going to fall into that threshold of the minimum tax so right now I think Mr. Teruya will report that there is about 3,400?

MR. TERUYA: There's currently about 3350 parcels that are receiving the minimum or get their minimum tax of $60.

MR. YOUNG: So with declining property values I would expect that if you kept the tax rate the same and you kept the homeowner's exemption the same you'll see an increase in the number of properties in the minimum tax. So…

VICE-CHAIR HOKAMA: Which is less revenue.

MR. YOUNG: Which is less revenue, yes.

CHAIR PONTANILLA: Thank you. Question. In regards to Kahului, on Page 11, the apartment category, we saw a change of, a positive change of 143 unit counts, I guess, and a decrease in the estimated levy. What could have caused the estimated levy differ from '08?

MR. TERUYA: ...(inaudible)... Chair Pontanilla, in the Wailuku district when I'm looking at what you're saying in the apartment, let me just generally state that in the Wailuku area there's a lot of new condominiums, Iliahi, etcetera, Kehalani, all those areas are increased counts, but if values decrease it's going the opposite way, right? I mean you can have more inventory but if sales values going down, then it's you going get less revenues, yeah.

CHAIR PONTANILLA: Okay. Members, any more questions for the Department? Member Victorino?

COUNCILMEMBER VICTORINO: Okay. And I think you bring up an interesting dilemma and I was going to ask along the same lines as Chair Pontanilla. What I wanted to know as far as same thing with the Wailuku-Kahului district, the tremendous decrease of 200-of 50 hotel/resorts in the central area and I, you know, and again it's Kahului-Wailuku so I understand you gotta figure out the two areas but, because it's lumped into one, what caused that tremendous downturn?

MR. TERUYA: The decrease in the Wailuku-Kahului area in the hotel/resort area was primarily because of an administrative decision that a non-response to a condo survey would be in hotel. And, obviously, you know, our Harbor Lights is not used as a hotel, Iao Parkside, etcetera. So that's the change of why it would go down in hotel and it would be an increase in apartment.

COUNCILMEMBER VICTORINO: Okay.

MR. TERUYA: So the 50...

MR. YOUNG: Mr. Victorino, to be clear--

COUNCILMEMBER VICTORINO: Yeah.

MR. YOUNG: --previously, again this goes back to the condominium use issue, when properties are sold as condominiums, and there's a lot of 'em right in Wailuku-Kahului, the owners are required to or they're supposed to respond to a survey for the use, the intended use. Previously, if there was no response on the use then it was administratively presumed that the property was in the highest and best use for that condominium use which would be hotel. Since then, in the last year though we've made an administrative revision that basically we're not going strictly on the highest and best use, we do an evaluation of appropriate maximum highest and best use. So for instance the Harbor Lights example that you that Mr. Teruya gave a non-response in the condominiumized Harbor Lights development we wouldn't automatically presume it to be hotel/resort. We would look at other issues such as, you know, condominium restrictions, you know, CC&Rs of that development and so they may not be in the hotel/resort anymore, they'll be in say apartment or improved residential or whatever the case may be.

COUNCILMEMBER VICTORINO: Okay, so what you're saying is basic part of the increase in the apartment usage part and in the same area beyond the new ones being built is the conversion or that general best practice--

MR. YOUNG: Likely, yes, likely.

COUNCILMEMBER VICTORINO: --that, that revision administratively.

MR. YOUNG: Yes, correct.

COUNCILMEMBER VICTORINO: Okay. And the other question I had for Central Maui is the big increase in homeowners in -- I think, I think most of us can see that by just driving -- between Maui Lani and Kehalani and all this areas. Is that also attributed to the decrease in agricultural count? Because I saw that went down by 38. Would that be considered the change from agriculture to improved residential?

MR. YOUNG: I would--

COUNCILMEMBER VICTORINO: ...(inaudible)...

MR. YOUNG: --I would say it could be. It could be. And it likely is a contributing factor. The bigger issue here I would say is to look at the total parcel increase on the very bottom line--

COUNCILMEMBER VICTORINO: Yes.

MR. YOUNG: --where, you know in '08 it was 14,516 parcels but in '09 it's now 15,222 for a difference of 706 new parcels created in the Kahului-Wailuku district. I would say that this is likely due to, you know, subdivision, development, basically developing larger tracts of previously a single parcel subdividing into multi-parcels and that's increasing the counts. So I would probably say that the homeowner increase is so dramatic there, 401 increase that it's largely new due to new development.

COUNCILMEMBER VICTORINO: That's been completed up here in Kehalani and Maui Lani, --

MR. YOUNG: Yes, yeah.

COUNCILMEMBER VICTORINO: --'cause that's more than 60 percent of what you see here in the central area, yeah.

MR. YOUNG: Yeah. I think the most telling there is the overall large increase in the overall parcel count.

COUNCILMEMBER VICTORINO: Right, right, right. Okay. Thank you, Chair, I appreciate that.

CHAIR PONTANILLA: Thank you. Members, anymore questions? Seeing none. I want to thank Mr. Young as well as Mr. Teruya for providing the Committee with the Certification this morning. If you have any more questions, you know, if you can give Mr. Young or Mr. Teruya a call to clarify some of your questions.

MR. YOUNG: Mr. Chair?

CHAIR PONTANILLA: Mr. Young.

MR. YOUNG: The Department has sent your Committee Staff the electronic version of the file that's on slide number four, that multi-one. So if the Members should decide or would like to consider amending the rates, you know, it's a simple plug it in see what the number comes out. So your Committee Staff has that. Also, I will be here on Monday morning as part of for the Committee deliberation, and if any of the Members at that time have questions that they thought of I'll be more than happy to try and respond at that time. In the interest of expediting any, you know if you send written responses down to my office there's always some lag time and if I can answer 'em on the floor I know it would be more expeditious and beneficial to the Committee.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR PONTANILLA: Thank you. Thank you for that information. Member Victorino?

COUNCILMEMBER VICTORINO: I can confirm that Ms. Revels has forwarded to us because I have it on my e-mail already. Thank you very much, the chart did come to us already.

CHAIR PONTANILLA: Thank you. I guess Mr. Young beat my final comments--

MR. TAGUCHI: Chair?

CHAIR PONTANILLA: --in regards to what we're gonna be doing the next couple of days here.

MR. TAGUCHI: Chair Pontanilla?

CHAIR PONTANILLA: Mr. Taguchi?

MR. TAGUCHI: The, the worksheet that was sent to the individual Member's office is actually a worksheet created by staff. We incorporate the information from the Finance Director's worksheet into that worksheet, but that worksheet is formulated so that you can see the overall revenue increase or decrease for budgetary purpose. That provides some information for you as you go through your revisions for additions and deletions. And it also has a calculator for increases and decreases to homeowner exemptions as well as rates. So it's a little bit different of a form than was transmitted by the Director of Finance; however, we incorporated the information provided by the Director of Finance in it.

CHAIR PONTANILLA: Thank you. Members, any questions?

COUNCILMEMBER BAISA: One last one.

CHAIR PONTANILLA: Member Baisa?

COUNCILMEMBER BAISA: I have one last question before we all let them go. Homeowners, how many people apply for that? It might be somewhere in this, this pile but I haven't had a chance to review what you gave us.

MR. YOUNG: Yes, Ms. Baisa, the easiest look is on slide number four, of the multi-page handout.

COUNCILMEMBER BAISA: Okay.

MR. YOUNG: In the homeowner line, in '08 it was 24,920 homeowners. In '09, there's now 25,863 for a net change of 943. So we've had at least that many applications for homeowners.

COUNCILMEMBER BAISA: Okay. The reason I wanted that information is and thank you for pointing it out. We're gonna have to look at this to figure out what's where and be familiar with it -- was, if we were trying to compute a special kind of rate for vacation rentals that might be useful information. Thank you.

CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Just one last question also. Thank you, Chair. Your assessment year is a calendar year, is that correct? 2008 assessment year.

MR. YOUNG: Correct.

COUNCILMEMBER MEDEIROS: Okay, and then your projected revenue is for a fiscal year?

MR. YOUNG: Correct.

COUNCILMEMBER MEDEIROS: Okay, thank you, Department. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions? If not, just a final comment…you know this concludes the review portion of our deliberation process and I wanna thank Mr. Young and Mr. Teruya for giving us the opportunity to meet with them, and you know if any one of us have any question in regards to the real property tax area. Again, today and the rest of tomorrow I guess after the Council meeting if you

Members can provide the Chair at the end of the work there--day your proposal to assist the Committee in formulating a proposal this weekend. But then I just wanna stress to all of that you know if you're gonna be adding things that, you know, somehow in this deliberations that we gonna do next week that you provide whatever cuts that you gonna be making or whatever additions you gonna be making in real property tax. This will give the Committee a real good indication as far as, you know, each Member's proposal. Again, Members you have 'till tomorrow, end of work day, to provide your information to the Chair and the Chair and the Staff will be working over this weekend to come out with a proposed budget from the Chairman based on your proposals. I understand that the Staff will make themselves available if you do have any questions so feel free to call each of 'em, you know, today, tomorrow, Saturday or Sunday and they'll be happy to assist all of us in this budget proposal. Again, Members, I just wanna stress that the proposed budget as presented by the Mayor for '09 is a balanced budget so we should come out with a balanced budget also with your proposal. But before we adjourn, we received a correspondence from the Mayor on April 14, 2008 and I just wanna have the Budget Director go over the correspondence that we received in regards to the Fiscal Year 2009 Budget. Mr. Pablo?

MR. PABLO: Thank you, Chair Pontanilla and good morning, Members. Before you or probably yesterday you should have received a letter from the Mayor dated April 14, 2008. Let me give a little background on how this occurred. But perhaps I could give a little background on how the, how the budget is put together. The Mayor's Budget was transmitted to the Budget and Finance Committee on March 14th, but those actual numbers take awhile to get to March 14th. The Departments submit their information to the Mayor and the Budget Office really in the second quarter of the fiscal year, which is between October and December of 2007. Consequently, significant events which occur after January 1, 2008 may not be considered in the preparation of the budget. As you know, the budget has doubled in size in five years so we have to get an early start and that's why Departments are requested to submit your information in the second quarter.

The major adjustments were in events which occurred in March. The major one was mentioned by Tracy Takamine, Cheryl Okuma, while they were here for the Department of Environmental Management's budget, and that was a negotiation of the Hana Scrapmetal Landfill. It still has not been concluded but I spoke with Cheryl Okuma about a week ago and said that it looks favorable that they'll be able to close this project in Fiscal

Year ‘08 and that will free up funding of a 1,500,000 for Fiscal Year ’09 which wasn’t in the Mayor’s budget. Because of that, the Mayor has sent down for your consideration, we realize it’s your budget, there’s certain items we would like you to consider.

One item is a Salary Commission. They did not conclude their recommendations until the later part of March after the Budget went down to you and the Salary Commission we try to project as much as possible what it might be based on last year, but for some Departments it was greater as you notice from the results from the Salary Commission. What has happened is there’s five Departments where their budgets were not sufficient to cover their Directors and Deputy Directors salaries so we proposed increases there and there were two Departments where we over-projected so we’re recommending decreases in their salaries. So that’s one.

The other thing that occurred, after January 1st, was negotiations, Chair Hokama had done with Lanai Company. The Mayor also had negotiated with them and also the Director of Environmental Management, Cheryl Okuma. And that’s for soil cover for the Lanai landfill. It’s still being negotiated, I don’t wanna go into details, but as part of the negotiations, we’ll be needing equipment to transport topsoil, I mean cover soil for the landfills. And so the Mayor requests your consideration of the request for equipment for a 14-yard Dump Truck, and a 950 Loader for Lanai landfill.

Similarly, when the Department of Public Works Director came before you he had three projects that are ongoing now and he requested, if funding was available, that his request be considered. And that was one of them was the Iao Stream drainage which they’re working on right now. The Army Corps of Engineers has requested certain additional work and with additional funding they could comply with the Army Corps of Engineers. Department Director, Milton Arakawa, also requested for equipment for the Lahaina Baseyard and also increased funding for a CIP project which is a requirement of this Council on the retrofitting of lighting. He projected in Fiscal Year ’09 there will not be sufficient funding. So that’s the additional request.

On CIPs let me again give you a little background on how this works. For Fiscal Year ’09 there is approximately 270 projects proposed. Due to the volume of projects we asked the Departments to submit their proposals in October and of course we do not believe in…it’s a snapshot in time. There are changes from November through now, which may impact on those CIP projections. And as you know, construction cost is going up, fuel cost is going up. So, that's the reason for that. If there's any other questions, I'll be glad to answer them.

CHAIR PONTANILLA: Thank you. Member Hokama?

VICE-CHAIR HOKAMA: Chairman, do you have a copy of that communication that the Budget Director is referencing on?

CHAIR PONTANILLA: Yeah, the Staff can get you a copy.

UNIDENTIFIED SPEAKER: Should be in the book.

VICE-CHAIR HOKAMA: And again, Mr. Pablo, thank you for those comments. With a quick perusal, I am assuming that it was sent down with how to fund the request?

MR. PABLO: Yeah, we, there's several areas which, which provide funding for it. One is the Hana scrap metal project which will conclude in 2008 and that provides 1,500,000 in funding for that, in that area. There's also an adjustment to the Parks and Recreation. We had provided funding for the Lahaina Restoration Foundation. Again, we feel that that will be concluded in this fiscal year. So the 135,000 projected for Fiscal Year '09 will not be needed. There's also areas where the salary adjustments we had over projected for the Salary Commission's proposals. But, so those will be also source of funding for this request.

VICE-CHAIR HOKAMA: Okay, thank you very much, Mr. Pablo. Chairman, thank you.

CHAIR PONTANILLA: Thank you. Member Molina, followed by Member Victorino.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. One quick question to Director Young and Mr. Teruya. With regards to the, I know it's been talked about some Members are considering a separate tax classification rate for vacation rentals should, you know, this whole thing become legalized if that is the choice of this body someday. But currently right now vacation rentals that are in the, I guess the hotel/resort area or in the shoreline areas, they pay the hotel rate or is it improved residential like Bed & Breakfasts?

MR. YOUNG: They're in the hotel classification.

COUNCILMEMBER MOLINA: Okay, and I ask this question because this will help me 'cause I'm like some of my colleagues, I'm considering a separate vacation rental classifications, just to, so we can get a, I guess, a starting point in terms of what would be an appropriate rate.

MR. YOUNG: Your question, Mr. Molina to be clear, were those TVRs in the hotel/resort districts, right?

COUNCILMEMBER MOLINA: Yes.

MR. YOUNG: Okay, yes.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PONTANILLA: Thank you for that information. At this time I'd like to call on Corporation Counsel because we may have an issue in regards to adding in another category. Traci?

MS. FUJITA VILLAROSA: Thank you, Mr. Chair. Before the Council Members spend a lot of time contemplating classifications, I do need to remind you that any changes in classifications won't be taking effect until the next tax year. It's too late to make changes for classifications for this current year that you're considering. Rates can be adjusted, but the classifications have been set. Assessment notices have gone out, the deadline has passed for people to appeal those classifications and the tax revenues have been certified. So any changes that are made, again, will be taking effect for the next fiscal year.

CHAIR PONTANILLA: Thank you. Members, questions? Mr. Victorino?

COUNCILMEMBER VICTORINO: However, if we change any of the rates, that can be done, right? That's not a problem. It's just adding a classification which doesn't exist right now would not be allowed. Is that what you're saying? Just to be clear on that*...(end of tape 2A - 10:38 a.m.)...*

MS. FUJITA VILLAROSA: ...(inaudible)...Among different things that the Council could consider, but yes that is one, adding a new classification that doesn't exist, it wouldn't be able to take effect this current year.

COUNCILMEMBER VICTORINO: Until the 2009--

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER VICTORINO: --2010 year. Okay. I get, and the other question I had, you know, thank you for this, Mr. Pablo and Mr. Young, but the question I had is what is the grand total 'cause I was trying to find looking for a grand total 'cause I was scratching and adding and subtracting but what would be, I guess, the bottom line in this request? Now I know some Departments are you looking up, some you talking decrease. What would be the exact number? Is there a page I can fall onto that tells me?

MR. PABLO: The second part of the spreadsheet which is, which is attached to the letter of April 14th from the Mayor shows a summary and the Staff had breaken [*sic*] this down into the different funds: General Fund, Solid Waste funds, Park Assessments and Highway funds. The net change is shown at the bottom of 247,181 and that's additional revenue.

COUNCILMEMBER VICTORINO: Okay, so that would be the Mayor's…oh it don't have a page number. That's that colorful page with all the…

MR. PABLO: I'll go look, yeah, it's on the second page, the net change to the revenue, the General Fund would be an increase of 247,000.

COUNCILMEMBER VICTORINO: $181.

MR. PABLO: Yes, that's correct.

COUNCILMEMBER VICTORINO: Just so I get, I was trying to find where the net result was and that's what I was looking for. Thank you, Mr. Pablo, for that clarification.

CHAIR PONTANILLA: Thank you.

MR. PABLO: You're very welcome.

CHAIR PONTANILLA: Just one comment from the Chair, remember, Members, this is a Program Budget. When you considering some of the changes that, keep in mind this is a Program Budget, some of the smaller items could be absorbed at this time. Member Baisa?

COUNCILMEMBER BAISA: You kind of answered my question. I'm looking at that page that shows the net changes and it looks like a net increase to the needs out of the General Fund of 247,181 is that how I read this, Mr. Pablo?

MR. PABLO: No, that's, that's the net. After, after the sources, additional sources of revenue included in here and the expenses which the Mayor's asking that--

COUNCILMEMBER BAISA: Right.

MR. PABLO: --that this Committee consider there'll be 247,000 left unspent.

COUNCILMEMBER BAISA: Oh, left unspent? So this is, this . . .

MR. PABLO: From the General Fund.

COUNCILMEMBER BAISA: Okay, so we just found $247,181? Is that what this is?

MR. PABLO: That's correct.

COUNCILMEMBER BAISA: Good, that's good news. Thank you very much.

CHAIR PONTANILLA: Any more questions, Members?

MR. TAGUCHI: Chair Pontanilla?

CHAIR PONTANILLA: Mr. Taguchi?

MR TAGUCHI: Members, I guess, just for clarification, there is a decrease of 100,000 in the Park Assessment fund so the actual net that you get is about 147,000.

MR. PABLO: That's correct.

COUNCILMEMBER BAISA: Now you see it, now you don't. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions? Again, Mr. Young, Mr. Teruya, thank you for being here this morning. Thank you, Traci, for that piece of information regarding Real Property Tax. Without no further ado, Members, have a good time formulating your budget and again you know, Staff will be available as well as Mr. Young on Monday. So this meeting is adjourned. . .*(gavel)*. . .

ACTION: DEFER pending further discussion.

ADJOURN: 10:43 a.m.

APPROVED:

JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf:min:080417:ct

Transcribed by: Carine Theros

<u>CERTIFICATE</u>

I, Carine Theros, 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 April, 2008, in Wailuku, Hawaii

Carine Theros

Carine Theros