

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BUDGET AND FINANCE COMMITTEE  
Council of the County of Maui

MINUTES

November 15, 2007

Council Chamber, 8th Floor

APPROVED:  
  
Committee Chair

1 CONVENE: 1: 39 p. m.

2 PRESENT: Council member Joseph Pontanilla, Chair  
 3 Council member G. Riki Hokama, Vice-Chair  
 (in 1: 54)  
 4 Council member Michelle Anderson, Member  
 Council member Jo Anne Johnson, Member  
 5 Council member Bill Kauakea Medeiros, Member  
 Council member Michael J. Molina, Member  
 6 Council member Michael P. Victorino, Member  
 (in 1: 42)

7 EXCUSED: Council member Gladys C. Baisa, Member  
 Council member Danny A. Mateo, Member

8 STAFF: Lance Taguchi, Legislative Analyst  
 9 Yvette Bouthillier, Committee Secretary

10 Leinaala Kihm, Executive Assistant to  
 Council member Medeiros

11 ADMIN.: Fred Pablo, Budget Director, Office of the  
 12 Mayor  
 Agnes Hayashi, Deputy Director, Department of  
 13 Finance (BF-69)  
 Scott Teruya, Assistant Administrator, Real  
 14 Property Tax Division, Department of  
 Finance (BF-69)  
 15 Tracy Takamine, Chief, Solid Waste Division,  
 Department of Public Works (BF-71)  
 16 Benjamin M. Acob, Prosecuting Attorney,  
 Department of the Prosecuting Attorney  
 17 (BF-72)  
 Wayne Steel, Administrative Assistant,  
 18 Department of the Prosecuting Attorney  
 (BF-72)  
 19 Adrienne N. Heely, Deputy Corporation  
 Counsel, Department of the Corporation  
 20 Counsel

21 OTHERS: Item 69: Tony Fisher, Vice-Chairman,  
 22 Committee for More Equitable  
 Taxation

23 PRESS: Akaku: Maui Community Television, Inc.

24 . . . . .

25

1 CHAIR PONTANILLA: (Gavel). Good afternoon, Members. The  
2 Budget and Finance Committee meeting is now in  
3 session. Today's November 15th, and the time is  
4 1:39.

5 At this time, the Chair would like to  
6 introduce the Members that are here this afternoon.  
7 We do have Members Anderson, Johnson, Medeiros, and  
8 Molina. Excused are Members Mateo, Baisa, Hokama,  
9 and Victorino.

10 At this time, the Chair would like to  
11 recognize the members of the Administration. We do  
12 have with us Adrienne Heely, Deputy Corporation  
13 Counsel; Agnes Hayashi, Deputy Director of Finance;  
14 Scott Teruya, Acting Administrator for Real Property  
15 Tax; and we do have our Budget Director, Fred Pablo.  
16 Supporting the Committee this afternoon, we do have  
17 Council Staff Lance Taguchi as well as Yvette  
18 Bouthillier.

19 Members, at this time the Chair would like to  
20 receive public testimony.

21 For people that are providing public  
22 testimony, you have three minutes, one minute to  
23 conclude. If you could state your name,  
24 organization that you represent, the Chair would  
25 appreciate that.

1                   And, Members, if you can turn off or put to  
2                   the silent mode your cell phones. Thank you.

3                   Members, at this time we do have one person  
4                   signed up for public testimony. I'd like to call on  
5                   Mr. Fisher. Tony?

6                                   BEGIN PUBLIC TESTIMONY

7   MR. FISHER: Thank you, Chair Pontanilla.

8                   My name is Tony Fisher, and I'm here  
9                   representing COMET. And I saw this item on the  
10                  agenda, and then somebody reminded me that it was  
11                  here, and I just thought I'd give you a little  
12                  history lesson.

13                  Three or four years ago when we began to do  
14                  tax reform, to do particularly the whole concept of  
15                  acquisition based tax reform, we didn't have the  
16                  element that is covered by this particular item.

17                  And a lady called me up one day and said,  
18                  "You know what happened to me this year? I bought a  
19                  house on the 17th of December." I wrote a little  
20                  note to myself. This is how I remember when it was.  
21                  "And as a result of that, it happened so late in the  
22                  year that I was unable to get the homeowner  
23                  exemption through the system, and I had to pay,  
24                  without the homeowner's exemption amount in there,  
25                  an enormously greater. It was almost three times as

1 much money."

2 And I said, "I don't understand. You bought  
3 your house, it closed, it did everything that was  
4 necessary in one year, but because the County could  
5 not get the paperwork through before the end of the  
6 year you had to pay it?"

7 She said, "You're right." She said, "We  
8 actually took it to an appeal, and they just said,  
9 Sorry, guys, that's the way it is."

10 So we added into that bill for an ordinance  
11 which is presently, not this one, but in general,  
12 about acquisition based tax assessment, this  
13 comment.

14 "The new owner shall notify the Director of  
15 Finance within 30 days of the transfer of the  
16 property. This notification will include the  
17 homeowner's certificate, if applicable," because  
18 there's people, obviously, who buy property that  
19 doesn't have it, "so that the homeowner's exemption  
20 may take effect on the effective date of the change  
21 in ownership."

22 And as I understand it, Chair, this is kind  
23 of that concept taken out of here, but put into a  
24 separate ordinance, and I strongly support the idea  
25 because, you know, in many cases the people that are

1 affected by this more than anything else are new  
2 people to the island. And they come in and they  
3 don't know any better, and they go through the  
4 mechanics of this, and along about the time they  
5 receive their tax bill, they have a heart attack and  
6 say, "Whoa, why is it so high?" Well, you didn't do  
7 what you should have done last year. It's not  
8 dissimilar to some of the problems that we've talked  
9 about previously on the, on the circuit breaker.

10 So frankly, I am here to support this  
11 particular bill, and your putting it out as a  
12 separate item, I think is marvelous and a good idea,  
13 et cetera, et cetera. And I hope that it will pass  
14 and we will not have people having to do this.

15 Somebody was just telling me in the hall a  
16 little while ago that this happened to somebody else  
17 recently and that they were complaining about the  
18 same thing. And if there's only one person a year  
19 that has to pay double or triple, even although they  
20 were actually here at the right time, then I think  
21 it's a, it's one of those little cracks that we need  
22 to fill up and fix.

23 MR. TAGUCHI: Three minutes.

24 MR. FISHER: So thank you for allowing me the opportunity  
25 to give you a little bit of the history that I know

1 of and to pass it on to the County Council. Thank  
2 you, sir.

3 CHAIR PONTANILLA: Thank you, Mr. Fisher.

4 Members, any question for the testifier?  
5 Member Johnson.

6 COUNCILMEMBER JOHNSON: Yes, Tony, thanks for your  
7 vigilance. I really appreciate it.

8 The part, I guess, of -- you know, and I'm  
9 not sure if you've read what's in our file, but  
10 we're looking at a possible refund, you know, as a  
11 mechanism for making the adjustment rather than, you  
12 know, adjusting the date, if you will.

13 But if we give the credit, and let's say it  
14 should go with the homeowner, because they were in  
15 residence there, what happens if the person who, I  
16 guess, bought the home comes in and they're not a  
17 permanent, full-time resident, and maybe they're  
18 just buying it as a property as an investment?

19 My understanding is they would get that  
20 homeowner exemption because it was going with the  
21 property. Is that your understanding?

22 MR. FISHER: I don't think so. One of the things I did  
23 before I came in today was I got out my homeowner's  
24 exemption certificate that I signed years ago when I  
25 moved here, because I wanted to see what it said.

1           And specifically it says, I hereby, I think the  
2           words are, affirm that I am a permanent resident. I  
3           am intending to live in this as my residence, et  
4           cetera, et cetera, et cetera.

5                     If somebody has gone through and done that,  
6           then I think they are. If they have not done it,  
7           not because they didn't know about it, but because  
8           they decided to see if they could cheat and come in  
9           later, I think that's an entirely different issue.  
10          But as long as they have made out the proper  
11          paperwork or have not made it out because the escrow  
12          company or whoever --

13                     Because one of the things that we did as a  
14          result is that we went and visited, Bill Tavares and  
15          I went out and visited three different escrow  
16          companies.

17   COUNCILMEMBER JOHNSON: Uh-huh.

18   MR. FISHER: And they said absolutely and positively, we  
19          do this as a matter of course. The problem is not  
20          that it doesn't get done on time. It is the fact  
21          that it doesn't get registered on time. It doesn't  
22          get through the system.

23                     And I think that is, if I'm not mistaken, is  
24          kind of the hole you're trying to plug with this,  
25          and I think that's a perfectly reasonable thing.

1 COUNCILMEMBER JOHNSON: Okay.

2 CHAIR PONTANILLA: Thank you. Thank you --

3 COUNCILMEMBER JOHNSON: Thank you very much.

4 MR. FISHER: Uh-huh.

5 CHAIR PONTANILLA: Members, any more questions for the  
6 testifier? If not, thank you again.

7 MR. FISHER: Thank you, sir.

8 CHAIR PONTANILLA: At this time the Chair would like to  
9 recognize Member Victorino. Good afternoon.

10 COUNCILMEMBER VICTORINO: Thank you, Chair.

11 CHAIR PONTANILLA: Seeing no one other than Tony in the  
12 gallery, the Chair would like to close public  
13 testimony if there's no objections.

14 COUNCIL MEMBERS: No objections.

15 CHAIR PONTANILLA: Thank you. At this time public  
16 testimony is closed.

17 END OF PUBLIC TESTIMONY

18 ITEM NO. 69: IMPROVED RESIDENTIAL OR APARTMENT REAL  
19 PROPERTY TAX REFUND (C.C. No. 07-281)

20 CHAIR PONTANILLA: Again, good afternoon, Members, and  
21 thank you for attending this Budget and Finance  
22 Committee meeting. This afternoon we have three  
23 items on our agenda.

24 Our first item this afternoon is BF-69,  
25 Improved Residential or Apartment Real Property Tax

1 Refund. The Committee is in receipt of County  
2 Communication No. 07-281, transmitting the matter of  
3 real property tax refunds for homeowners who  
4 purchased improved residential or apartment  
5 properties after the filing deadline for the  
6 homeowner exemption.

7 Members, let me begin by having you imagine  
8 two neighbors talking story.

9 Now, Mr. Akamai bought his affordable three  
10 bedroom home in November 2006 for \$300,000, and  
11 Mr. Hard Luck bought his affordable three bedroom  
12 home in January 2007 for the same amount of  
13 \$300,000.

14 In August 2007, Hard Luck was at his  
15 homeowners association meeting with Akamai, and  
16 takes out his Fiscal Year 2008 real property tax  
17 bill and says, "Hey, Mr. Akamai, how we going to pay  
18 \$1,455 for real property tax?"

19 And Mr. Akamai says to Mr. Hard Luck, "I  
20 don't know about you, but I only got to pay 60  
21 bucks. You some hard luck."

22 Members, by now, I think you realize the  
23 intent of the Chairman this afternoon in regards to  
24 the homeowner exemption classification for Fiscal  
25 Year 2008.

1           Because he was able to file homeowner  
2           application before December 31st, you know, 2006,  
3           Mr. Hard Luck actually purchased his home after the  
4           deadline, and that's the reason why for, to me, the  
5           matter of fairness in regards to homeowner's  
6           exemption.

7           Members, as we move forward with our effort  
8           towards providing affordable work force housing --  
9           and I say this because some of the people that are  
10          qualified to purchase affordable housing is also  
11          involved in this particular situation. I did have  
12          some calls from members of our community that bought  
13          homes at Waikapu Gardens that fell into the same  
14          quandary.

15          Again, Members, you know, for this Chairman  
16          bringing up this matter, it's just a matter of  
17          fairness.

18          Let me provide you with some background in  
19          regards to this item.

20          Unlike the net income tax, real property tax  
21          is not a durational tax that is based on  
22          transactions occurring during a fiscal year. The  
23          basis of County's real property tax is an assessed  
24          valuation and classification established on January  
25          1st preceding the fiscal year, multiplied by a rate

1           which is subsequently established in the fiscal  
2           year's budget.

3           The driving force behind the deadlines  
4           established for real property tax exemptions,  
5           credits, and certified assessment list is the  
6           County's need for accurate estimates for the  
7           development of the County's budget, which is passed  
8           before May 31st of the preceding fiscal year.

9           After researching the requirements relating  
10          to the real property tax, I'm recommending that the  
11          simplest way to rectify this inequity is to  
12          establish a procedure that allows for the refund of  
13          taxes to families like Mr. Hard Luck, which will  
14          result in their paying the same real property tax as  
15          if they did qualify for the homeowner's exemption  
16          and rate.

17          Other alternatives would require major  
18          amendments to Chapter 3.48 of the Maui County Code,  
19          and could not be implemented in time for the  
20          upcoming fiscal year beginning July 1st, 2008.

21          To implement this refund program, the Real  
22          Property Tax Division, Department of Finance, will  
23          probably require additional resources to administer  
24          the refund program. And we're looking at \$1.4  
25          million as an appropriation that would be required

1 for Fiscal Year 2009.

2 So, Members, that's a brief synopsis as far  
3 as the Chair, you know, trying to move this thing  
4 forward.

5 At this time, the Chair would like to call on  
6 the Finance Department to provide some comments.

7 MS. HAYASHI: Thank you, Honorable Budget and Finance  
8 Committee Chair Pontanilla and Members of the Budget  
9 and Finance Committee. I appreciate the opportunity  
10 to comment on this matter.

11 What I would like to say is the Department of  
12 Finance recognizes that the objective that is being,  
13 that is attempted to achieve through this is  
14 laudable.

15 At this time, however, the Administration  
16 reserves its position and final comments on this  
17 matter until the proposed ordinance is crafted and  
18 can be examined in detail. And that is because we  
19 do have some concerns, which I will highlight,  
20 because it is important to understand the process  
21 that we follow with the real property tax system and  
22 the ramifications of certification.

23 So as well intended and desirous as it may  
24 be, we see that there would be some issue of  
25 concern, many of which Chair Pontanilla has already

1 brought to light in his letter of October 12th,  
2 2007.

3 And if I may, these issues are, one, it only  
4 attempts to help specific property transactions that  
5 occur in the early half of the calendar year, prior  
6 to the start of the fiscal year, as in the example  
7 that is provided, and only for the two specific  
8 classifications mentioned; improved residential and  
9 apartment. There may be other classifications for  
10 which this same situation may occur.

11 Secondly, additional personnel besides  
12 resources for refunds will be needed to  
13 operationally and effectively deploy this type of  
14 refund program.

15 Thirdly, how this program will legally fit in  
16 the existing deadlines and requirements specified in  
17 the Maui County Code.

18 Fourth, the ramifications on the integrity of  
19 the certification process, as the methodology is  
20 reliant on property values and property  
21 classification. Measures such as these, which  
22 involve refunds, results in changes to the basic  
23 structure and may severely diminish the integrity of  
24 the real property tax system.

25 Importantly, and fifthly, the impact on

1 Council's ability to budget for the succeeding  
2 fiscal year.

3 As Chair Pontanilla noted in his letter, the  
4 driving force behind the deadlines established for  
5 real property tax exemptions, credits, and certified  
6 assessment list is the County's need for accurate  
7 estimates to develop the County's budget, which is  
8 passed on or before May 31st of the preceding fiscal  
9 year. So these deadlines serve a very important  
10 factor.

11 Sixth, in attempting to address specific  
12 classifications, we may -- we need to be cognizant  
13 that it may inadvertently create further inequities.

14 Conceptually speaking, a matter of fairness  
15 is what we all recognize as being important. And  
16 the most equitable method is where each individual  
17 taxpayer has the ability to change his  
18 classification as it occurs, at any point in time  
19 and at any time throughout the fiscal year.

20 But we also know and understand that this is  
21 not practical and operationally feasible, and does  
22 not follow the basic structure of our County's real  
23 property tax system, and therefore poses challenges  
24 to achieving a credible certification. As such, the  
25 County's existing real property tax system focuses,

1 or to the extent possible and practical, to create  
2 equity for the vast majority of the people.

3 Our real property taxation utilizes a  
4 methodology that is straightforward to impose and  
5 collect. It is imposed on a value taken at a  
6 specific point in time, and the classification that  
7 it has at that point in time.

8 We must realize that when we begin to deviate  
9 from this basic system structure and its simplicity  
10 in administering, then we need to be cognizant that  
11 by attempting to address each specific situation  
12 perceived to be inequitable, we then, maybe  
13 inadvertently, be creating inequities for other  
14 taxpayers and further complications in administering  
15 real property tax. Thank you.

16 CHAIR PONTANILLA: Thank you.

17 Members, any questions for the  
18 Administration? Member Johnson?

19 COUNCILMEMBER JOHNSON: Yes, thank you very much.

20 And I totally understand your concerns, and I  
21 guess where I'm coming from also is that when you  
22 certify a particular parcel or particular property,  
23 improved or otherwise, when that determination is  
24 made, and let's say a property falls into that  
25 homeowner classification, does that property stay in

1           that homeowner classification for that entire cycle,  
2           for the whole year then?

3   MS. HAYASHI:   Yes, it does.

4   COUNCILMEMBER JOHNSON:   Okay, so --

5   MS. HAYASHI:   Once it's filed.

6   COUNCILMEMBER JOHNSON:   What happens if the property is  
7           sold?

8           The example that I gave Mr. Fisher.   Let's  
9           say that the property is actually sold during that  
10          period of time.   Does that have any impact  
11          whatsoever on what your classification is?

12          Let's say somebody got the homeowner  
13          exemption.   They filed it.   It was assigned to that  
14          particular property.   Then in, let's say June, the  
15          property is sold to someone who is not a permanent  
16          resident.   They don't intend to live in the house,  
17          and they're buying it for an investment purpose, and  
18          perhaps as a short-term rental.

19          What happens to that classification?   Are  
20          they required to notify you, and then do you adjust  
21          that midyear, or do you adjust it in the next cycle?

22   MS. HAYASHI:   I will defer to the Real Property Tax  
23           Administrator.

24   COUNCILMEMBER JOHNSON:   Thank you.

25   MR. TERUYA:   Good afternoon, Members.

1 COUNCILMEMBER JOHNSON: Thank you.

2 MR. TERUYA: Certification is a snapshot of December 31st,  
3 as of January 1st, ultimately when we assess. So in  
4 your example, if an existing home exemption was in  
5 place, it's going to remain there for the entire  
6 calendar year, yes. It does not change at that  
7 point.

8 COUNCILMEMBER JOHNSON: Okay, and so in essence, what  
9 Mr. Fisher, and of course what Chair Pontanilla is  
10 saying, is that when you talk about fairness or  
11 equity, we would be, I guess because of the snapshot  
12 that you're looking at, giving in some situations a  
13 benefit that was not really -- it should not be  
14 entitled to be given to that individual that's  
15 occupying that home, because it goes with the  
16 property.

17 So in other jurisdictions what has happened,  
18 I guess, to produce -- and this is not new  
19 properties. I'm talking about resale of existing  
20 properties, because I think there's a different  
21 situation where you're looking at a new home that  
22 you're just buying for the first time, that is newly  
23 constructed.

24 But what has been explained to me, for  
25 example, in other areas, it's the realtor's

1 involvement; that what they would do is they would  
2 notify the person who is purchasing the home that  
3 there are no -- that they are not entitled to the  
4 homeowner exemption.

5 And what they do is they do a fiscal  
6 transaction that actually takes out that benefit,  
7 and they do the calculation at the point in time at  
8 which the property sold, so that -- let's say the  
9 person that is selling the home is turning around  
10 and buying another property. They would, in  
11 essence, be getting a refund, assuming that they're  
12 still in the homeowner category, they would be  
13 getting a refund or a credit on the property that  
14 they just sold, because the person buying it is not  
15 entitled to the homeowner exemption.

16 And in that way, the person who is a realtor,  
17 who explained this to me, said the burden is not on  
18 the Tax Department, but it's on the realtor for  
19 making that fiscal adjustment where somebody is not  
20 entitled to a benefit that would ordinarily go to  
21 the existing property owner. And then they collect  
22 whatever monies would be due on that property, and  
23 they remit it to the Tax Department, saying that  
24 midyear this person is no longer entitled to that  
25 benefit.

1                   So that was the scenario that was explained  
2                   to me as how it's dealt with in other jurisdictions  
3                   who have similar kind of benefits.

4                   Is there any possibility that that kind of a  
5                   system could be implemented here in Maui County?

6 CHAIR PONTANILLA: Department?

7 MS. HAYASHI: From what I understand you explained, it  
8                   is -- it would not follow the existing Code, so if  
9                   it's something that, to be considered, it would, it  
10                  would have to be a change to the Code for real  
11                  property tax administration.

12                  Do you have any -- would you like to add any  
13                  comments?

14 MR. TERUYA: The only concern I would have is currently  
15                  the homeowner resident, you know, the homeowner  
16                  property doesn't have a duration. It just says you  
17                  need to occupy as of January 1st.

18                  So in your scenario, to roll back or take it  
19                  away from somebody, they were actually a homeowner,  
20                  according to our current ordinance. So I'm not  
21                  sure. That goes back into the duration aspect  
22                  again, and I'm not sure if you guys want to get into  
23                  that.

24 COUNCILMEMBER JOHNSON: But you kind of understand what  
25                  I'm saying, that in --

1           When you're talking about fairness through  
2           equity or you're even talking about balancing the  
3           County's budget, if the net result ends up where it  
4           doesn't really alter, you know, your certification,  
5           and in some situations it may even be of greater  
6           benefit to the County.

7           I guess I'm just looking for a way that we  
8           could, either through a refund or some type of  
9           credit, which the Chair of the Committee is  
10          referring to, not look at the integrity or not  
11          question the integrity of the tax system or the  
12          valuation system, but come up with a method whereby  
13          we would still produce the revenue that was  
14          anticipated, but not have it be the responsibility  
15          of the County to actually be doing the collections,  
16          because it's actually a fiscal transaction.

17          So, and I don't expect you to have an  
18          immediate answer.

19          But, Mr. Chair, I think that the scenario  
20          that I just repeated is something that has been  
21          explained to me by realtors who do business in other  
22          jurisdictions, who have similar situations on real  
23          property certification.

24   CHAIR PONTANILLA: Thank you. Mr. Teruya?

25   MR. TERUYA: Ms. Johnson, would you happen to know the

1           jurisdictions, an example?

2   COUNCILMEMBER JOHNSON: I believe it's in California, but  
3           I can check with the individual. Thank you.

4   CHAIR PONTANILLA: Thank you, Member Johnson.

5           Member Molina?

6   COUNCILMEMBER MOLINA: Thank you, Mr. Chairman, and before  
7           I ask my questions of Ms. Hayashi and Mr. Teruya, I  
8           want to really thank you for that really good story  
9           to lead into this item. I always appreciate a good  
10          story after lunch. Reminded me of school time. You  
11          know, after lunch the teacher reads you a story.

12          But all kidding aside, good afternoon,  
13          Ms. Hayashi and Mr. Teruya. You know, thank you for  
14          sharing with us the potential consequences that  
15          could occur with giving back refunds in this  
16          particular case, but I think there's some good  
17          arguments on both sides to this.

18          Have you any number or any idea of how many  
19          hypothetical situations like Mr. Hard Luck and  
20          Mr. Akamai exist out there? I would guess there may  
21          be a number of them. Otherwise, we wouldn't be  
22          discussing this topic here today. Do you have any  
23          idea at this point, and is this problem also in some  
24          of our other counties as well, Big Island County,  
25          Oahu County, Kauai? Have they received this type of

1 concern as well?

2 MS. HAYASHI: Councilmember Molina, I understand that your  
3 question is the potential ramification of refunds in  
4 this specific or this particular case that's cited  
5 in this communication of October 12th, is that  
6 correct?

7 COUNCILMEMBER MOLINA: Right, and I --

8 MS. HAYASHI: Okay.

9 COUNCILMEMBER MOLINA: Yeah, I wanted to thank you for  
10 sharing with us what could occur.

11 MS. HAYASHI: Okay.

12 COUNCILMEMBER MOLINA: My question is more like do you  
13 have any numbers out there, how many potential --

14 MS. HAYASHI: Yeah.

15 COUNCILMEMBER MOLINA: -- situations we have and what  
16 exists as far as what our sister counties, if this  
17 same type of problem exists for them as well?

18 MS. HAYASHI: What we, what we have looked at for our  
19 county is that -- Scott did run some numbers, and  
20 we're looking at approximately, had this occurred in  
21 2006 assessment, the impact on the certification  
22 would have been about a reduction in revenues of 5  
23 million, 5.1 million, and for 2007, 4.9 million.

24 In terms of other counties, I will defer to  
25 Mr. Teruya, if he has comments.

1 MR. TERUYA: Mr. Molina, just to clarify Ms. Hayashi's,  
2 that's the total for the year. So the six month  
3 projection, assuming that half occur before and half  
4 occur after, I would guess 2.5 million would be a  
5 good estimate in refunds. As far as our sister  
6 counties, only the Big Island has a half year  
7 exemption.

8 I haven't had too much feedback. It's only  
9 been a year now. I know the cost to modify our  
10 system was in excess of \$50,000 to upgrade it, and  
11 they're still having, kind of bugs, because it's  
12 like -- the system doesn't allow for two different  
13 tax rates. So what's happening is they're giving  
14 them a half exemption and a different rate.

15 So it's kind of problematic, because  
16 you're -- the system is for a fiscal year, and what  
17 you're having is maybe a hotel for the first half  
18 and homeowner for the second half.

19 So certification, it doesn't jive for  
20 certification purposes. So the certification has  
21 some, some problems with that.

22 COUNCILMEMBER MOLINA: Thank you. You know, it does, you  
23 know, merit discussion, and I think, you know, at  
24 this point the Department's taking a position of  
25 just wait and see, if I'm correct.

1 MR. TERUYA: Just for the year.

2 COUNCILMEMBER MOLINA: To see what will be presented in  
3 terms of an ordinance, so, you know.

4 Mr. Chair, I appreciate you bringing this  
5 matter out, that at least we look at both sides of  
6 the issue and the consequences. I don't know if the  
7 intention is to create some type of overhaul, but  
8 I'm sure we'll get some interesting discussion along  
9 the way. So thank you for now.

10 CHAIR PONTANILLA: Thank you, Mr. Molina.

11 Comments? No?

12 Basically, as far as the Chair is concerned,  
13 you know, I do receive calls in regards to real  
14 property tax, basically those that didn't qualify  
15 because of the year ending December 31st. You know,  
16 we do have a lot of homeowners.

17 In fact, you know, there was an article by  
18 one of the homeowners here that bought an affordable  
19 house in Waikapu that really was taken aback,  
20 because she didn't realize that because she moved in  
21 her home after January 1st, she was hit with this  
22 enormous property tax.

23 You can imagine, you know, new, young  
24 families. It's not only people coming from ashore,  
25 but here in Maui County, you know, it does affect

1           our people.

2                       So, yeah, as we move forward, we will create  
3           an ordinance that, you know, hopefully can be a  
4           win-win situation for not only the County, but for  
5           the people out there that are buying new homes  
6           between January 1st and June 30th.

7   COUNCILMEMBER MOLINA:   Mr. Chair, if I could just follow  
8           up on your comments?

9   CHAIR PONTANILLA:    Sure.

10   COUNCILMEMBER MOLINA:   I think it's unfortunate when  
11           coming to buying, when it comes to buying a home,  
12           there's some things you cannot control when the sale  
13           actually occurs, you know, so it almost -- you  
14           become a -- it's like the purchaser becomes a victim  
15           of circumstance.   And depending on when the sale  
16           occurs, it's just a matter of coincidence; that you,  
17           either you get on the boat or you miss the boat, so.

18   CHAIR PONTANILLA:    Yeah.

19   COUNCILMEMBER MOLINA:   Yeah, thank you.

20   CHAIR PONTANILLA:    You're exactly right, Mr. Molina.

21                       Member Johnson?

22   COUNCILMEMBER JOHNSON:   Yes.   What happens, Ms. Hayashi,  
23           when, let's say in the example that I believe either  
24           the Chair or, you know, others have given, where the  
25           homeowner -- you have to file by December 31st, but

1           Let's say you're purchasing a new home that wasn't  
2           even on the tax rolls at all, and the home is maybe  
3           constructed and completed in February.

4                    What happens? Because if it wasn't on the  
5           tax rolls, what happens between February and  
6           December 31st? What do you collect in taxes?

7   MS. HAYASHI: It would just have a land value. It would  
8           be classified, not as residential, it would be  
9           classified as land value.

10   COUNCILMEMBER JOHNSON: So that person that's coming into  
11           the new home would not get a, obviously, unless --

12                    What if they had, what if they had been  
13           living in another home and had a homeowner  
14           exemption? That would stay with that property, is  
15           that correct?

16   MS. HAYASHI: It would stay with the homeowner.

17   COUNCILMEMBER JOHNSON: Okay, so it would stay with the  
18           real property tax bill on that TMK.

19                    So now the new guy coming in, his  
20           predevelopment value then would be just -- what  
21           would the classification? Just land alone,  
22           unimproved?

23   MR. TERUYA: Ms. Johnson, it would still be -- the land  
24           classification is pretty set, based by zoning, yeah.

25   COUNCILMEMBER JOHNSON: Uh-huh.

1 MR. TERUYA: But the value would be the value that the  
2 property, the property's state that it was in as of  
3 December 31st. So whatever was there, whether it's  
4 improved or unimproved or partially completed. If  
5 it was 50 percent complete, it would be a 50 percent  
6 building value. Yeah, that's how it would be  
7 assessed.

8 And it's basically, like I told you, it's  
9 just a snapshot. It doesn't change. It's for the  
10 entire assessment year as of your property stated on  
11 December 31st.

12 COUNCILMEMBER JOHNSON: Okay, so in that case, because  
13 they -- and I'm just assuming that that value is in  
14 most cases substantially less than if the home were  
15 fully completed and occupied. Is that correct?

16 MR. TERUYA: Not necessarily. When our exemption was  
17 50,000, yes.

18 COUNCILMEMBER JOHNSON: Uh-huh.

19 MR. TERUYA: But when the exemption is now 300,000,  
20 sometimes it benefits you that the house is  
21 completed.

22 COUNCILMEMBER JOHNSON: Uh-huh.

23 MR. TERUYA: But just for myself, when I lived up in  
24 Country Estates, I mean, that's the example. I  
25 mean, I was better off with a home exemption. If my

1 house was completed, I probably would have got  
2 bigger relief.

3 COUNCILMEMBER JOHNSON: Okay, because --

4 MR. TERUYA: Because the home exemption has gotten so  
5 large and the tax rate has gone so low.

6 COUNCILMEMBER JOHNSON: I understand --

7 MR. TERUYA: Yeah.

8 COUNCILMEMBER JOHNSON: -- what you're saying. So that in  
9 other words, the \$300,000 exemption may basically  
10 take care of the majority of your property tax, and  
11 you might end up paying a minimum tax even if the  
12 home were fully completed and occupied, and you had  
13 the ability to have that exemption.

14 MR. TERUYA: That's right, because the 300,000 exemption,  
15 whether your building goes up to 300,000, is  
16 basically, it offsets it.

17 COUNCILMEMBER JOHNSON: Yeah, and I --

18 MR. TERUYA: And then you get a lower tax rate.

19 COUNCILMEMBER JOHNSON: And I guess also because of the  
20 high land values in most situations, even if it was  
21 just raw land and they put up a prefab house in one  
22 month.

23 I understand what you're saying.

24 Thank you, Mr. Chair.

25 CHAIR PONTANILLA: Thank you, Member Johnson.

1 Members -- Member Anderson?

2 COUNCILMEMBER ANDERSON: Thank you, Chair. I just have  
3 one quick question.

4 When Ms. Hayashi was giving us the concerns  
5 from the Administration, the first one was that the  
6 proposal only attempts to help specific properties,  
7 the two classes mentioned. What other classes would  
8 qualify for homeowner exemption?

9 MR. TERUYA: Member Anderson, you can get a home exemption  
10 on any land classification. Oceanfront, Makena,  
11 could be hotel zoned. There's homes over there that  
12 have home exemptions.

13 COUNCILMEMBER ANDERSON: Oh. Oh, I see. It's a single  
14 family home on hotel zoned property.

15 MR. TERUYA: Right, right. And also condominiums are on  
16 all different kinds of land. Iao Parkside's on  
17 industrial land. Harbor Lights is on hotel zoned  
18 land.

19 COUNCILMEMBER ANDERSON: So isn't there a way that we  
20 could change this from zoning categories to actually  
21 the use?

22 MR. TERUYA: Could you clarify the use? The old use?

23 COUNCILMEMBER ANDERSON: No. Instead of, you know, basing  
24 it on the zoning category of -- you know, the way we  
25 have this listed in this review that was done for

1 homeowners purchasing improved residential or  
2 apartment properties, you know, approved  
3 residential, improved residential and apartment are  
4 zoning classifications, right?

5 MR. TERUYA: Correct.

6 COUNCILMEMBER ANDERSON: But it's broken down as far as  
7 the amount of dollars by single family properties  
8 and condominiums.

9 So that's what I'm getting at. Isn't there a  
10 way that we could attack this by the actual use of  
11 the property? Say, like you said in your example,  
12 the property's hotel zoned, but it's really a single  
13 family use. So that it's not discriminatory against  
14 those who are not in that particular zoning  
15 classification, but are actually homeowners.

16 I know it would probably be a more  
17 complicated thing to do, but we're trying to be  
18 equitable.

19 MR. TERUYA: I mean, if you're trying to help any  
20 homeowner, it should come from any classification,  
21 yeah. Because the underlying zoning doesn't mean  
22 what's actually being built on the property. So I  
23 would say that if you want fairness for all  
24 homeowners that it would come from any land  
25 classification.

1 I'm not sure if it's just homeowners or  
2 homeowners within an ability to pay level. I'm not  
3 sure what the purpose is.

4 CHAIR PONTANILLA: The intent is for homeowner's  
5 exemption.

6 COUNCILMEMBER ANDERSON: Thank you, Chair.

7 CHAIR PONTANILLA: Thank you.

8 Members, any more questions for  
9 Administration? If not, at this time I'd like to  
10 call on Mr. Taguchi to kind of explain how he came  
11 with \$1.4 million as an estimate for refund.

12 Mr. Taguchi?

13 MR. TAGUCHI: Thank you, Chair Pontanilla.

14 In your binders you have a memo from the  
15 Budget and Finance Chair dated October 12th.  
16 Attached to that letter is a worksheet.

17 To be brief, the estimate is based upon  
18 numbers provided by the realtors, and it makes  
19 certain assumptions. And I think the reason why the  
20 Department's estimate and the estimate by this  
21 schedule is different is primarily that \$2.5 million  
22 that was referred to represents total land sales  
23 between the period from January 1st to June 30th, I  
24 believe.

25 Not all of those sales moved from an improved

1 residential apartment to a homeowner classification.  
2 Some of those sales are selling properties already  
3 in a homeowner classification and will be continued  
4 use as a homeowner classification. Therefore all of  
5 those types of transactions would not cause, be  
6 cause for refund.

7 Therefore, because we're just estimating, we  
8 took a 50 percent of -- we assumed 50 percent of  
9 those homes were in that type of situation.  
10 Therefore, the 2.5 million was brought down to about  
11 1.4 million.

12 Once again, these are very broad estimates.  
13 When doing the estimates, we did not account for  
14 hotel property going into homeowner, so that would  
15 be something else that would have to be adjusted as  
16 this item moves forward.

17 CHAIR PONTANILLA: Thank you, Mr. Taguchi.

18 Members, any questions? Member Johnson?

19 COUNCILMEMBER JOHNSON: Yes, Lance. Also because, you  
20 know, when I look at your calculation that you've  
21 done here, not everyone would necessarily file for  
22 the refund. Is that also a further assumption?

23 MR. TAGUCHI: That is a good assumption. However, at this  
24 point we wanted to be conservative, so we did not  
25 try and anticipate how many people would, for

1           whatever reason, not file. But that would make this  
2           estimate a little more conservative.

3   COUNCILMEMBER JOHNSON: Yeah, and, Mr. Chair, I think that  
4           because we have people right now that do not take  
5           advantage of the homeowner exemption, or the circuit  
6           breaker, or other benefits that are available to  
7           them, either by choice or just simply because  
8           they're not familiar with that particular benefit, I  
9           think that that also makes this perhaps a more  
10          realistic figure than the other one.

11                   And, I mean, I'm just looking at it as  
12          realistically as I can, and I appreciate that you're  
13          bringing it forward, but if our internal workings of  
14          government is not capable at this point in time of  
15          addressing that because of our certification, then I  
16          would really like to take a look at the method and  
17          work with the Realtors Association, and have them do  
18          a transaction where it's a refund and a credit to  
19          the people that are buying and selling, because, you  
20          know, to me, it just seems very unfair for somebody  
21          to have filed for that exemption and then someone  
22          else gets the benefit of it who is not in that same  
23          classification.

24                   So even if we fix it on the one part and  
25          they're not able to do the remaining remittance for

1 the tax adjustment here in the County, I think it's  
2 only fair where there's a property resale that that  
3 benefit really be going to the proper party. And I  
4 think that's one of the ways that we may be able to  
5 address it, is with the assistance of the Realtors  
6 Association, to do a transaction in that regard.

7 And then it's still not going to solve the  
8 problem that was outlined with brand-new properties.

9 CHAIR PONTANILLA: Uh-huh.

10 COUNCILMEMBER JOHNSON: Some of them may be paying a lower  
11 amount than they should be paying, but as Mr. Teruya  
12 said, some of them, yeah, they would like the  
13 homeowner's exemption, too, but, you know, they  
14 haven't filed for it.

15 So that, again, might be an adjustment,  
16 though, with whoever the developer is that's selling  
17 that particular property. If they're going to have  
18 a policy where they would actually give the credit  
19 because a person would be a homeowner, they can call  
20 it a rebate or whatever they want to, but with home  
21 sales kind of, I guess on the mainland anyway,  
22 headed south, that may be something that we could  
23 actually help to resolve this problem and look for  
24 private sector relief, and perhaps not look so much  
25 at government. Thank you.

1 CHAIR PONTANILLA: Thank you.

2 Members, any more questions?

3 MS. HAYASHI: If I --

4 CHAIR PONTANILLA: Department?

5 MS. HAYASHI: Excuse me, Council Chair. If I may just  
6 make a point of clarification to Council member  
7 Johnson.

8 It wasn't my intent to represent the  
9 Administration saying that we can't do it, but we  
10 are administering the real property tax according to  
11 the Code, and the way the Code is written limits us  
12 from back taxing.

13 So I just wanted to make that clarification.  
14 We are following the system as it is established in  
15 the Code. If there are changes that are desirable to  
16 the Council, then it would be something where the  
17 Code needs to be revised.

18 And again, that's why our final, I'd like to  
19 reiterate that our final comment, we'd like to  
20 reserve for when the ordinance is actually crafted  
21 and we can examine it in detail, because at this  
22 point all we're talking about is generalities.

23 And we're exploring the fact that we are tied  
24 to the basic structure, which is that it's property  
25 classifications and values at, given at a specific

1 point in time, December 31st, because that is how  
2 the Code requires us to do this. It's established  
3 in the Code. Thank you.

4 CHAIR PONTANILLA: Thank you.

5 Member Johnson?

6 COUNCILMEMBER JOHNSON: Yes, and I appreciate that, and I  
7 don't mean to say that, you know, you're having  
8 difficulty.

9 Yes, you could manage, but I think for the  
10 other reasons that you outlined; the actual, you  
11 know, staffing, some of the, I guess real life  
12 situations that you're faced with, and even doing,  
13 as Mr. Teruya was pointing out, doing like a half  
14 credit. It gets a little bit more complicated when  
15 we're going to look at any point in time and we're  
16 going to have to certify. So pick a number, pick a  
17 date. This problem could occur at anytime for  
18 anyone.

19 So, Mr. Chair, I think that for me anyway,  
20 rather than look at dumping more on the Tax  
21 Department, because we have a lot of other problems  
22 that we can fix, and not knowing a total number of  
23 people that this has impacted, I would actually like  
24 to hear, perhaps at a future meeting or perhaps if  
25 you can meet, I can certainly give you the name of

1 the individual or, you know, the contact that I had  
2 with the person, the realtor from California, and  
3 perhaps they might be able to assist.

4 But right now, if there's a way that we can  
5 legitimately correct an inequity and do it on an  
6 expeditious basis, where you're not treating people  
7 unfairly, and particularly where the person may have  
8 already had a homeowner's exemption and then, you  
9 know, buys another new property and loses it, that  
10 just does not seem fair.

11 So I'd be happy to look at that, maybe before  
12 going the ordinance route, and trying to amend that.

13 Thank you.

14 CHAIR PONTANILLA: Thank you, Member Johnson.

15 Members, any more questions?

16 COUNCILMEMBER VICTORINO: One more from me.

17 CHAIR PONTANILLA: Member Victorino?

18 COUNCILMEMBER VICTORINO: Yeah. For Mr. Teruya, I guess  
19 the question I have, and I understand what you guys  
20 are saying as far as the timeliness and all that,  
21 but if someone -- and I guess the new home, I go  
22 back to that new home situation, right? Because  
23 I've seen timing and when I bought a new home.

24 They collected taxes and all these variables,  
25 real property tax, up front. That's all calculated

1 in the final statement. Am I not -- in the final  
2 settlement statement. Am I not correct?

3 So if something of this nature, whether it's  
4 an exemption or not, was to be given or taken away,  
5 it all can be done at the point of the transaction  
6 itself, like we do covenants taxes, like there's  
7 other things that are done there at the point of  
8 sale. In other words, when they close, when they go  
9 in for recording.

10 So again, I see your challenge as far as  
11 figuring out when this is occurring, except in my  
12 mind it's a very simple thing. And again, maybe we  
13 need to change the ordinance, and I'll agree with  
14 that part, you know, changing dates and all that.

15 But at point of sale should be when the tax  
16 established, is established for that particular  
17 property.

18 And with the number of sales you show here, I  
19 show six -- 1,000 and -- according to this, 1,230  
20 for six months. Now, this is from Chair Pontanilla,  
21 and this is based on sales from January 1st to June  
22 30th. Okay? So for 1,230 sales, again, I tend to  
23 lean with Council Chair Hokama. Maybe a million,  
24 maybe? I'm not sure.

25 But again, the ins and outs and who buys a

1 house to rent and who buys a house to live in, I  
2 think only time will tell.

3 But I think that's what would be the fairest  
4 way, at point of sale establishing that homeowner's  
5 exemption or relinquishing that homeowner's  
6 exemption. And whatever taxes are collected at that  
7 point, isn't that remitted to us in the first place?

8 At this time, right now, our system, when you  
9 buy a house you pay estimated real, real property  
10 tax. It's all part of that closing. Is that not  
11 correct?

12 MR. TERUYA: Well, escrow takes that into account.

13 COUNCILMEMBER VICTORINO: Yeah, escrow does that. Yeah,  
14 okay.

15 MR. TERUYA: They're going based on the best information  
16 that they have available.

17 COUNCILMEMBER VICTORINO: Okay.

18 MR. TERUYA: Yeah, so they, they should know what the  
19 projected amount is for the year.

20 COUNCILMEMBER VICTORINO: Yeah, and then they remit it to  
21 you folks.

22 MR. TERUYA: No.

23 COUNCILMEMBER VICTORINO: They don't?

24 MR. TERUYA: It would be the mortgage company or the  
25 homeowner, whoever is responsible to pay the tax.

1 Escrow doesn't remit anything to us. It would be  
2 the mortgage company or the individual, the owner.

3 COUNCILMEMBER VICTORINO: Oh, yeah, yeah. I know in the  
4 closing you pay that settlement, that whatever that  
5 is --

6 MR. TERUYA: They'll figure out the amount.

7 COUNCILMEMBER VICTORINO: Right.

8 MR. TERUYA: But I would say that the mortgage company  
9 would be responsible for the payment, yeah.

10 COUNCILMEMBER VICTORINO: No, the way it works is  
11 actually, the real world, I paid it in that closing.

12 MR. TERUYA: Right.

13 COUNCILMEMBER VICTORINO: And they in turn remit it to  
14 you.

15 MR. TERUYA: Correct.

16 COUNCILMEMBER VICTORINO: That's the real world we work  
17 in.

18 MR. TERUYA: Yes.

19 COUNCILMEMBER VICTORINO: Because they do that for  
20 insurance and everything else, because I've done  
21 this for many years.

22 MR. TERUYA: Yes.

23 COUNCILMEMBER VICTORINO: So that, I understand.

24 So in essence, I, the homeowner, pays it or  
25 the person buying the property, for whatever reason,

1           pays the tax based upon that closing. And yes, the  
2           tax is paid by me to you, the mortgage company, and  
3           you in turn pay the County and whatever other  
4           responsible parties or items that need to be taken  
5           care of.

6                        So again, going back to what I said in the  
7           beginning. Could that not be done? Because again,  
8           at that point of purchase, I think Council member  
9           Johnson mentioned the same thing, whether it's the  
10          realtor or the escrow company, they figure it out  
11          anyhow. Why not do it at that point?

12                      And I don't think we'd have a -- not with  
13          1,230 sales, and this, I think this part yet, we're  
14          still looking at a pretty high, steady pace of sales  
15          at this point.

16                      You think that's possible? Knowing that we  
17          got to change ordinance and all that, and change  
18          whatever dates, but is that possible?

19   MR. TERUYA: I wouldn't say that it's not possible.

20   COUNCIL MEMBER VICTORINO: Okay.

21   MR. TERUYA: Anything is possible. It just takes a little  
22          bit more you need to modify your system. You still  
23          need to, before you credit an account, you still  
24          need to change the ownership to the account first.

25   COUNCIL MEMBER VICTORINO: Yeah.

1 MR. TERUYA: So there still needs to be a recording from  
2 the Bureau, and that lag time for the recorder, the  
3 Bureau of Conveyances to us, is already two months.

4 So, you know, it's not a snap of the fingers,  
5 but it's not, like it's not, it cannot be done, but  
6 it does take time.

7 Yeah, ownership is not something that is just  
8 easily transferred for our department. There is  
9 still lag time and some challenges with  
10 subdivisions, new, creation of new condominiums, tax  
11 key numbers. So there's multiple facets involved.  
12 It's not just a matter of going through escrow, this  
13 is the amount, this is what you pay, and it's done.  
14 I'd like to think it was that simple, but it's not  
15 like it couldn't be done, though.

16 COUNCILMEMBER VICTORINO: Well, and again, I know there's  
17 always some -- and I agree with the lag time. You  
18 know, that's always been an issue, and I don't think  
19 that will ever change in the near future. But even  
20 with that lag time, with the proper coding and the  
21 escrow company already collecting up front, that way  
22 that person is ensured that they get that  
23 homeowner's exemption at the point of sale.

24 Now, two, three months, whatever time it  
25 takes to collect the money part, now, that becomes

1           between you guys and the escrow company, mortgage  
2           company, whoever sends the money out. But I  
3           believe, because they do it for other, other types,  
4           you know, for insurance and all these other things,  
5           and so it can be done.

6                     And again, I think Member Johnson mentioned  
7           that, that it would be at the point of sale, the  
8           escrow, realtor, whoever is responsible, but it gets  
9           done at that timely point, and then distribute it  
10          somewhat, a few months later, if that's what it  
11          comes out.

12                    But I think that's the fair way, because we  
13          are doing it at the point of purchase instead of  
14          waiting. If the guy buys it on January 5th, that's  
15          when they close, they've got a whole year before  
16          they don't, they don't qualify for the thing.

17                    So I just wanted to try see if that was  
18          another method, and we can talk some more. Again,  
19          we're just throwing ideas at this point. Thank you.

20   CHAIR PONTANILLA: Thank you, Member Victorino.

21                    Member Hokama?

22   VICE-CHAIR HOKAMA: Chairman, I would say that I've been  
23          listening to some very good comments from the  
24          Members as well as our Department and our Division.

25                    I would suggest maybe, which option you want

1           to choose, I think it would be easier if we had a  
2           draft legislation that we could refer to so we can  
3           understand a approach to a specific issue that  
4           you've brought up regarding improved residential  
5           apartments and possible refund considerations. That  
6           might be a better way so we can kind of focus in on  
7           what we're trying to accomplish.

8                     But before we do that, though, Chairman, I  
9           would think that it would be helpful -- and I'll use  
10          my old balloon illustration. Obviously, we're  
11          squeezing the balloon at another portion of impact  
12          to provide relief for what some would believe an  
13          inequity. So obviously, where we are now going to  
14          squeeze, there's going to be a bulge someplace else  
15          on the balloon, which is going to make up that  
16          refund in our discussions this afternoon.

17                    So the question is then, from what components  
18          of the property tax stream would that bulge impact,  
19          and is that a fair addition to whatever percentage  
20          or burden we ask them to provide in revenues.

21                    And I'm like Mr. Teruya. I wish taxation was  
22          so simple.

23   MR. TERUYA: It's not.

24   VICE-CHAIR HOKAMA: Okay. There's so many items involved,  
25          and that's why we've invested a lot of money to get

1           our own system to be able to adjust properly. I  
2           think before we can adjust properly a specific area  
3           of the program, there needs to be a good  
4           understanding of the whole program, and why we have,  
5           by Code, specifically set in a system to provide, in  
6           my consideration, overall general fairness to any  
7           property owner regardless of zoning category.

8                   And isn't that what we're trying to  
9           accomplish? Fairness on real property overall. Not  
10          just for homeowners, not just for hotel resorts, not  
11          just for agriculture, but for all land  
12          classifications, and then what is fair. We already  
13          know that homeowners can go over every single zoning  
14          category, as long as someone will verify.

15                   I think maybe it comes time that we might  
16          want to consider legally a durational component to  
17          qualify for homeowners.

18                   Because while we're trying to give relief on  
19          a perceived inequity, from what I gathered from my  
20          colleague from West Maui, Ms. Johnson, on those that  
21          maybe unintentionally get a benefit that doesn't  
22          deserve the benefit, are we going to tell them, you  
23          now have to pay additional taxes because you were  
24          undertaxed and you got a homeowner's exemption when  
25          you should have had just improved residential rate?

1                   But then the question also comes down to, in  
2                   your example, Chairman, the \$574 versus 2,847. One,  
3                   of course, is what we're asking people to pay fair  
4                   for what they receive back from the County. And I  
5                   think anybody that is paying the \$574 is going to  
6                   say it is more than fair.

7                   UNIDENTIFIED SPEAKER: Yeah.

8                   VICE-CHAIR HOKAMA: And isn't that one of the reasons that  
9                   we have people trying to come to Maui County,  
10                  because of this, not perceive, because of this low  
11                  tax rate? Okay?

12                  We know that our counterparts in Austin,  
13                  Texas, five years ago, homeowners paid \$6,000 a year  
14                  for this, and that was only for City needs, not  
15                  school district needs, not water district area  
16                  needs. That was all in addition to that \$6,000 they  
17                  paid. Okay?

18                  So, Chairman, you know, I think it's timely,  
19                  but I would ask that we keep our parameters a little  
20                  broader so that we, in adjusting a portion of the  
21                  system, we know what we're doing to the rest of the  
22                  system.

23                  Because I'm not -- and we need -- the  
24                  Department and the Division appreciate your  
25                  diplomacy. You need to be candid and

1 straightforward with us. If you believe it is not  
2 to our advantage and it's a detriment, you need to  
3 say so. Because we want to make the best decision  
4 possible, and we need straightforward, candid  
5 responses, you know. You can leave diplomacy to the  
6 ninth floor and us. But what we need from you is  
7 straightforward responses to our difficult questions  
8 we're going to bring forward.

9 And again, Chairman, you are well aware, as  
10 part of this component to provide relief and impact  
11 on revenues, we still need to tackle those big  
12 gorillas. We made an attempt on a portion of  
13 unfunded liability. We've still got 300,000,000  
14 hanging on that OPEB portion. Then we've got to  
15 deal with the retirement section of the liability.

16 You know, so I'd just ask the Members to keep  
17 in mind the demands of our revenues, including the  
18 need for us to move large tag CIP projects in  
19 various districts, whether it be Molokai, South  
20 Maui, East Maui, Central. We will be dealing with  
21 huge CIP project request numbers, and we're going to  
22 find, have to find ways to deal with how we're going  
23 to fund those cash payments or how we're going to  
24 deal with debt service through our borrowing.

25 And so I appreciate you letting me share my

1 concerns with this item you have brought forward.  
2 And, Chairman, I wish at this time I could give you  
3 a specific option, but I'd be happy to work with  
4 anyone that -- I think what will, definitely could  
5 be of benefit is some type of draft legislation so  
6 that we can focus and provide even better comment.  
7 Thank you.

8 CHAIR PONTANILLA: Thank you, Chairman Hokama, and your  
9 words are well taken. I'm aware of the big money  
10 items that's coming forward. I know we have that 3,  
11 \$400 million gorilla that we started to tackle this  
12 year, and those things won't go away.

13 Members, any more questions for  
14 Administration at this time?

15 Member Johnson?

16 COUNCILMEMBER JOHNSON: I have a question, and I'm not  
17 sure if Corporation Counsel or our Tax Department  
18 would be able to handle it, but with regard to the  
19 suggestion that I had made in private sector.

20 Because the realtors, you know, they have  
21 their set of parameters that they deal with, would  
22 that generally, if we said that there has to be  
23 some -- like, in other words, somebody can't get a  
24 benefit that's not entitled to it, and we would not  
25 find that acceptable a practice. Where the burden's

1 not on us, but you're putting burden, of course, on  
2 giving a benefit to private sector, but then having  
3 them address the issue of fairness.

4 Does that have to be done at the State level  
5 with regard to realtor practices or disclosure? Or  
6 is there something that we could put in a County  
7 ordinance?

8 MS. HEELY: Good afternoon, Chair and Committee Members.

9 In regards to your question, it depends on  
10 how it is framed. I would think if you frame it in  
11 terms of taxation, the County is well aware that  
12 exclusive jurisdiction or exclusive duty to tax is  
13 vested to the County based on the State  
14 Constitution.

15 So, I mean, that is a possibility. The Code  
16 is strict in its deadlines, but it also has certain  
17 sections in regards to refunds. Maybe it can be  
18 looked into in terms of recouping monies back for  
19 the County when certain sales are done.

20 COUNCILMEMBER JOHNSON: Uh-huh.

21 MS. HEELY: That's a matter of legislation, so.

22 COUNCILMEMBER JOHNSON: Okay. Mr. Chair, that's an area  
23 that I think we could try and explore, because I  
24 don't want to burden our Tax Department, as I said  
25 earlier.

1           But by the same token, utilizing the very  
2           people that are doing these transactions, whether  
3           it's mortgage company, escrow company, real estate  
4           salespeople, you know what? They're getting the  
5           commissions. They're making the big bucks for doing  
6           this work.

7           And if they feel and if the people that are  
8           purchasing these units feel they're being treated  
9           unfairly, I don't think necessarily it's government  
10          that should go and fix it for them, because the  
11          person that's selling the unit knows that the person  
12          who may be buying it isn't entitled to that benefit.

13          So if we can resolve this in an equitable  
14          way, but utilizing the people that are actually  
15          getting a commission for handling this transaction,  
16          then I think that might be my preference,  
17          personally, to go that way, so.

18          Anyway, that's just my, one person's thought  
19          on the committee. Thank you.

20 CHAIR PONTANILLA: Thank you, Member Johnson.

21           Member Medeiros?

22 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Yeah, you  
23          know, listening to all the ideas, and I can see the  
24          Department's dilemma in that. The ideas coming up  
25          are good for consideration, but unless we're willing

1 to change the ordinance, there's not much they can  
2 do to consider it first.

3 But Member Johnson's, you know, ideas about  
4 going through, like the realtors and so forth, is a  
5 good consideration, except that nowadays, unless the  
6 law has changed, you know, you can sell your  
7 property without going through a realtor. You can  
8 do it owner to buyer, you can do it through a  
9 non-realty company, you can do it through an  
10 attorney. So we would have to incorporate all the  
11 different potential of people that would handle a  
12 sale in order to incorporate that.

13 So I just want that to be, you know,  
14 considered, too. Thank you, Mr. Chairman.

15 CHAIR PONTANILLA: Thank you, Member Medeiros.

16 Members, any more questions? If not, the  
17 Chair would like to make some final comments.

18 Members, you know, I'm a strong advocate of  
19 the basic structure of our real property tax system  
20 here in Maui County, but only if we are able to make  
21 modifications necessary to improve the fairness of  
22 the system.

23 And this afternoon we had pretty good  
24 discussion in regards to some of the concerns of the  
25 Department and some of our concerns as Council

1 Members, and this is the reason why we brought it  
2 forward at this time.

3 And hopefully, with all the comments that we  
4 received this afternoon from the testifier, the  
5 Committee Members, as well as Administration, the  
6 Chair is going to go forward with a draft  
7 legislation to present the Committee as well as the  
8 Administration to review in regards to trying to  
9 provide some relief to some of our homeowners here  
10 in Maui County.

11 Several weeks ago we also approved the  
12 definition for homeowners, and that's a piece tool  
13 that will be supporting the Finance Department in  
14 regards to who is a homeowner here in Maui County.  
15 And I think the definition is well-written, that we  
16 could almost say that it's going to be difficult for  
17 people to say that -- you know, try to cheat the  
18 system, in other words.

19 So I'm sure the more tools we have for the  
20 Finance Department and Real Property Tax, I think  
21 it's going to be helpful for all of us here in Maui  
22 County.

23 So, Members, at this time, without any  
24 objections, the Chair would like to defer this item.

25 COUNCIL MEMBERS: No objections.

1 CHAIR PONTANI LLA: Thank you very much.

2 ACTION: Defer pending further discussion.

3 CHAIR PONTANI LLA: The Chair recognizes the time. We'll  
4 take a ten minute recess at this time and we'll  
5 return at 2:55. This meeting is in recess.

6 RECESS: 2:45 p.m.

7 RECONVENE: 3:02 p.m.

8 ITEM NO. 71: AMENDING FY 2008 BUDGET; INTERGOVERNMENTAL  
9 AGREEMENTS FOR STATE WATER POLLUTION  
10 CONTROL REVOLVING FUND LOANS (CENTRAL MAUI  
11 LANDFILL GAS COLLECTION AND FLARE SYSTEM;  
12 MOLOKAI LANDFILL CELL #3 CONSTRUCTION) (C. C.  
13 No. 07-291)

14 CHAIR PONTANI LLA: (Gavel). The Budget and Finance  
15 Committee meeting is now reconvened. Thank you,  
16 Members, for the recess.

17 The next item on our agenda is BF-71,  
18 Amending Fiscal Year 2008 Budget, Intergovernmental  
19 Agreements for State Water Pollution Control  
20 Revolving Fund Loans. This is for the Central Maui  
21 Landfill Gas Collection and Flare System; Molokai  
22 Landfill Cell #3 Construction. Committee's in  
23 receipt of County Communication No. 07-291 from the  
24 Budget Director, transmitting the following:

25 A proposed bill to authorize the Mayor to

1 enter into an intergovernmental agreement to finance  
2 the Central Maui Landfill Gas Collection and Flare  
3 System. The purpose of the proposed bill is to  
4 authorize the Mayor of the County of Maui to enter  
5 into an intergovernmental agreement in the amount  
6 of, not to exceed \$4.2 million, for a State Water  
7 Pollution Control Revolving Fund Loan to finance the  
8 construction of the Central Maui Landfill Gas  
9 Collection and Flare System.

10 Two, a proposed bill entitled "A BILL FOR AN  
11 ORDINANCE AMENDING THE FISCAL YEAR 2008 BUDGET FOR  
12 THE FISCAL YEAR JULY 1ST, 2007 TO JUNE 30TH, 2008,  
13 COUNTY OF MAUI, AS IT PERTAINS TO ESTIMATED REVENUES  
14 AND CAPITAL IMPROVEMENT PROJECTS, (proposed Budget  
15 bill)."

16 The proposed, purpose of the proposed Budget  
17 is to decrease bond/lapsed bond revenues; increase  
18 other intergovernmental revenues for State Revolving  
19 Fund Loans; decrease the bond-funded projects for  
20 the Central Maui Landfill Gas Collection and Flare  
21 Construction and the Molokai Landfill Cell #3  
22 Construction; and add State Revolving Fund Loan  
23 projects for Central Maui Landfill Gas Collection  
24 and Flare Construction and Molokai Landfill Cell #3  
25 Construction.

1                   And three, a proposed bill entitled "A BILL  
2                   FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY  
3                   OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT  
4                   FOR A STATE WATER POLLUTION CONTROL REVOLVING FUND  
5                   LOAN FOR THE MOLOKAI LANDFILL CELL #3 CONSTRUCTION."

6                   The purpose of the proposed bill is to  
7                   authorize the Mayor to enter into an  
8                   intergovernmental agreement in an amount not to  
9                   exceed \$3.3 million to finance the construction of  
10                  the Molokai Landfill Cell #3 Construction project.

11                  Through further correspondence dated November  
12                  8th, 2007, the Committee is in receipt of the  
13                  following:

14                  First, a revised proposed bill, "A BILL FOR  
15                  AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF  
16                  MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT  
17                  FOR A STATE WATER POLLUTION CONTROL REVOLVING FUND  
18                  LOAN FOR THE CENTRAL MAUI LANDFILL GAS COLLECTION  
19                  AND FLARE CONSTRUCTION." The purpose of the revised  
20                  bill is to correct the project title from the Flare  
21                  System to Flare Construction.

22                  And second, a proposed bill entitled "A BILL  
23                  FOR AN ORDINANCE AMENDING ORDINANCE NO. 3459 (2007)  
24                  RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS  
25                  OF THE COUNTY OF MAUI."

1           The purpose of the proposed bill is to amend  
2           the Fiscal Year 2008 general obligation bond  
3           authorization ordinance to remove the Central Maui  
4           Landfill Gas Collection and Flare Construction  
5           project in the amount of \$4.2 million and the  
6           Molokai Landfill Cell #3 Construction project in the  
7           amount of \$3,000,000.

8           These two projects will be funded through  
9           State Revolving Fund Loans.

10           Members, you should all be in receipt of  
11           correspondence from the Budget Director dated  
12           November 14th, 2007, transmitting a revised proposed  
13           bill entitled "A BILL FOR AN ORDINANCE AMENDING THE  
14           FISCAL YEAR 2008 BUDGET FOR THE COUNTY OF MAUI AS IT  
15           PERTAINS TO ESTIMATED REVENUES, CAPITAL IMPROVEMENT  
16           PROJECTS, AND TOTAL APPROPRIATIONS." This is for  
17           operating and Capital Improvement Projects.

18           At this time, the Chair would like to call on  
19           the Budget Director, Mr. Pablo, for comments.

20   MR. PABLO: Thank you, Chairman Pontanilla. Good  
21           afternoon, Members. I just have a short comment to  
22           make.

23           The two Capital Improvement Projects which  
24           were described by the Chair were approved in the  
25           Fiscal Year '08 Budget. At the time it went from

1           the Budget office, the Mayor's office to Council, we  
2           had those two projects funded from government bonds.  
3           Since that time, the Environmental Management  
4           Department has been able to get assurance of funding  
5           from SRF Loans, State Revolving Fund Loans. This is  
6           very significant. It's a very favorable rate.

7                     The State Revolving Loan Funds have a rate of  
8           about a half percent a year and a quarter percent  
9           fee for administration. That's the present fee.  
10          The government bond rate at the present time from  
11          the Finance Department, they mention it's running  
12          about 5 percent. So it's quite a significant  
13          savings.

14                    Over the past year, we've found it's been  
15          very difficult to get State Revolving Fund Loans.  
16          Our Wastewater Reclamation Division has applied, and  
17          they're on a very long waiting list. So we could  
18          have a very good opportunity now to convert  
19          government bonds into State Revolving Funds.

20                    The other point I wanted to make is there is  
21          a change in the amount of the Molokai Cell #3. It  
22          has gone up from 3,000,000 to 3,300,000. And I have  
23          Tracy Takamine, the Solid Waste Division Chief, who  
24          will be able to answer any questions which you may  
25          have about that.

1 Thank you very much, Chair.

2 CHAIR PONTANI LLA: Thank you, Mr. Pablo.

3 Members, questions for the Director or  
4 Mr. Takamine at this time?

5 VICE-CHAIR HOKAMA: Mr. Chairman.

6 CHAIR PONTANI LLA: Member Hokama?

7 VICE-CHAIR HOKAMA: First, I think the Committee would be  
8 well served for hearing the change in the  
9 appropriation amount of the Division. That's  
10 regarding the increase, Mr. Takamine.

11 CHAIR PONTANI LLA: Department or Director?

12 MR. TAKAMINE: I'm sorry, what was the question again,  
13 please?

14 VICE-CHAIR HOKAMA: Why do you need \$300,000 more?

15 MR. TAKAMINE: Okay. On the Molokai Cell #3 project, when  
16 we originally projected or estimated our costs, we  
17 used a figure of \$3,000,000. Since that time, we  
18 had a bid open recently, and the bid open, low  
19 bidder was Goodfellow Brothers, came in at \$2.741  
20 million.

21 We've, at that time we had already utilized 2  
22 of that \$3,000,000. We had to use \$219,550 to fund  
23 additional funding for our design consultant to  
24 provide quality assurance, quality control of the  
25 project during construction and post-engineering

1 services. So we had to amend the consultant's  
2 contract in that amount.

3 The total cost so far comes to 296,000 --  
4 wait. \$2,960,950. The additional 300,000 was to  
5 cover that, and also to have a 10 percent  
6 contingency. We always utilize a 10 percent  
7 contingency with change orders, unexpected work  
8 during construction.

9 VICE-CHAIR HOKAMA: So that's not an issue for Corp  
10 Counsel? They took construction money we gave for  
11 construction for additional design?

12 CHAIR PONTANILLA: Corporation Counsel?

13 MS. HEELY: Mahalo, Mr. Chairman, Council member, or Chair  
14 Hokama as well.

15 I believe we did review and approve as to the  
16 form and legality in regards to this, and I remember  
17 that the amendment to the contract just passed my  
18 desk, and I think it's going through.

19 So in regards to -- and I don't have the  
20 Good -- or the specs or the contract of that  
21 particular project in front of me, so I can't really  
22 comment on that, whether or not it's an issue for  
23 me.

24 VICE-CHAIR HOKAMA: Well, what we appropriated was  
25 \$3,000,000 for Cell #3 construction. Not design and

1 construction, just construction, because we gave  
2 them the design money in an earlier appropriation.  
3 So how are you telling this Committee deciding that  
4 we can use specific construction money for design  
5 work? Our language is quite specific in our CIP  
6 ordinance.

7 MR. TAKAMINE: Can I make a comment?

8 MS. HEELY: Please.

9 CHAIR PONTANILLA: Mr. Takamine.

10 MR. TAKAMINE: Yeah. The change that we did for the  
11 design engineer was not actually to do design. This  
12 portion was actually for construction. We did not  
13 have him on board for -- and it was an oversight on  
14 our part, but this portion is strictly for  
15 construction. He will be on site when the liner is  
16 installed.

17 By DOH regulations, we need to have the  
18 engineer, a qualified engineer, licensed, to be  
19 physically on the site. So he is our quality  
20 control, quality inspector in the field during  
21 construction.

22 The actual design and everything else, bid  
23 documents, were already paid for under, under his  
24 original contract, so. I don't know if that makes a  
25 difference, but this is actual construction work

1           that he's doing as a representative for the County.

2   VICE-CHAIR HOKAMA:   So you amended his contract.

3   MR. TAKAMINE:   Correct.

4   VICE-CHAIR HOKAMA:   So did the original procurement ask  
5           for those services?   Because if it did and he didn't  
6           put in what he's telling you now he needs more money  
7           for, I would say too bad, if it was in the original  
8           procurement notice that this is part of your  
9           responsibility to provide the County.

10   MR. TAKAMINE:   So --

11   VICE-CHAIR HOKAMA:   Don't ask me now for \$300,000 more.

12   MR. TAKAMINE:   Okay, no, let me correct that.   It wasn't  
13           in the original scope of work to the consultant.   We  
14           did not have that portion.   His original scope of  
15           work was to provide design documents, or bid  
16           documents.   It did not include the services during  
17           construction and post-engineering services.

18   VICE-CHAIR HOKAMA:   Did the Division ask for some value  
19           engineering to cut back the requests of this  
20           additional funds?

21   MR. TAKAMINE:   No, we did not do any value engineering.

22   VICE-CHAIR HOKAMA:   And the reason was?

23   MR. TAKAMINE:   We don't normally do --

24   VICE-CHAIR HOKAMA:   It's just easier to come and ask us  
25           for 300,000 more?

1 MR. TAKAMINE: Well, he is the, he is the design  
2 consultant that designed the, this, the landfill  
3 liner system, so he is the most knowledgeable to be  
4 on board.

5 We do not have the expertise to do what he  
6 would be doing and signing off on the design  
7 as-built drawings to the Department of Health,  
8 because we have to submit, once this is done, we  
9 have to submit a report to the Department of Health  
10 validating that the liner was installed as per  
11 design specs.

12 VICE-CHAIR HOKAMA: Is this two projects, the Gas  
13 Collection Flare Construction and the Molokai Cell  
14 #3, it's ready to go? You folks are ready to enter  
15 construction phase?

16 MR. TAKAMINE: We're ready to go, and we project to be --  
17 well, we want these, both projects to be completed  
18 by February of next year.

19 VICE-CHAIR HOKAMA: 2008. So we're talking like three  
20 months, Mr. Takamine?

21 MR. TAKAMINE: We are in a short time frame on Molokai  
22 Cell #3 because we're basically out of capacity on  
23 the existing cell. So we're very, on a very short  
24 time frame there.

25 Same with the gas system. We already have

1 purchased, and the flares should be delivered soon,  
2 and we have a time frame of getting that in by the  
3 beginning of next year.

4 VICE-CHAIR HOKAMA: Mr. Pablo, would you know if Finance  
5 has already advanced from the General Fund the  
6 monies for these two projects?

7 MR. PABLO: No, I don't know whether it has been.

8 MR. TAKAMINE: I can answer that. It hasn't. We're  
9 still, we're still in the, getting the contract  
10 signed for the flare system. The construction  
11 contractor, SCS Engineers, has some issues with our  
12 contract, so he hasn't signed that yet.

13 And the Molokai Cell #3, the contract, I  
14 believe has been written, but we haven't given the  
15 notice to proceed yet.

16 VICE-CHAIR HOKAMA: So upon Council passing this, you're  
17 ready to give notice to proceed on the Molokai  
18 project, Mr. Takamine?

19 MR. TAKAMINE: We have an issue there in that because we,  
20 the County doesn't own the property. It's in the  
21 process of being subdivided. So we're kind of hung  
22 up on one last item, which is a left turn lane, and  
23 that the State requires us --

24 VICE-CHAIR HOKAMA: On the State highway portion?

25 MR. TAKAMINE: Yes.

1 VICE-CHAIR HOKAMA: Okay.

2 MR. TAKAMINE: Once that's done, we will obtain ownership.

3 So since we don't own the property, I found  
4 out recently that we cannot spend County Bond Fund  
5 or County monies on that projects unless we get a  
6 license of agreement. So we're in the process of  
7 getting a license of agreement from Cook Land  
8 Company, and once we get that, we can proceed.

9 VICE-CHAIR HOKAMA: Even if we ran a landfill for years on  
10 the site.

11 MR. TAKAMINE: That's correct.

12 VICE-CHAIR HOKAMA: Inconsistency in our legal perspective  
13 of the same site.

14 Okay, Chairman, thank you very much.

15 CHAIR PONTANILLA: Thank you, Member Hokama. Member  
16 Molina?

17 COUNCILMEMBER MOLINA: Thank you, Chair.

18 If I could have Staff maybe refresh our  
19 memory, what was the prior appropriation that  
20 Chairman Hokama talked about for plan and design,  
21 how much was given. And if, as Staff is looking for  
22 that figure, if Mr. Takamine could elaborate on the  
23 fact that you mentioned that you're at or near  
24 capacity.

25 Are we on thin ice with the Department of

1 Health in this case?

2 I'm just trying to understand the seriousness  
3 of the, and the urgency of getting this matter  
4 resolved. So are we on shaky ground right now  
5 based, being that, you know, according to your  
6 comments, that we're at capacity?

7 MR. TAKAMINE: On Molokai Cell #3, we're not on shaky  
8 ground yet. I mean, if we have to, we could go  
9 higher. We could request to go higher.

10 But the time frame we're looking at to have  
11 it constructed, we should be on schedule, or fairly  
12 there. I think if we don't delay it any further, or  
13 much further, then we should be okay.

14 COUNCILMEMBER MOLINA: Okay, meaning that we could go  
15 higher, meaning that you would have to go through  
16 the Department of Health so we could request an  
17 additional?

18 MR. TAKAMINE: Right, we just go to the Department of  
19 Health. And we've already talked to them about it,  
20 and they don't see a problem or an issue with us  
21 going higher.

22 COUNCILMEMBER MOLINA: Okay, that was my concern. So they  
23 don't seem to have a major concern. Okay, thank  
24 you.

25 Thank you, Chair.

1 CHAIR PONTANILLA: Thank you, Member Molina.

2 Member Medeiros?

3 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I just  
4 wanted to follow up on Member Molina's question.

5 So if it's necessary to go vertically higher  
6 on the lifts, is there a maximum vertical height  
7 that that landfill could go, and where are we now as  
8 far as existing height?

9 MR. TAKAMINE: There is a -- actually we're in the process  
10 of getting, finalizing our permit, operating permit  
11 with the Department of Health. It's going to be  
12 going out for public review.

13 And right now I can't recall what the maximum  
14 height was, but there is a height limit in the  
15 permit, and we are not at that height yet. You  
16 know, the height we're talking about right now is  
17 just our intermediate height.

18 COUNCILMEMBER MEDEIROS: Okay, so we still have some room  
19 to go higher if it's approved by the Department of  
20 Health and if you need to do it.

21 MR. TAKAMINE: That's correct.

22 COUNCILMEMBER MEDEIROS: Okay, thank you.

23 Mahalo, Mr. Chairman.

24 CHAIR PONTANILLA: Thank you.

25 Mr. Taguchi, you got those numbers for Member

1 Molina?

2 MR. TAGUCHI: The Molokai Landfill Cell #3 Construction in  
3 the Fiscal 2008 Budget is for \$3,000,000 bond.

4 Prior to that appropriation, it appears as a \$50,000  
5 cash appropriation in a prior year.

6 I still need to check on whether or not that  
7 50,000 was the only appropriation, because I believe  
8 the Molokai Landfill Cell #3 construction is quite  
9 a, has quite a long history, I believe. So when  
10 looking at the \$50,000, it seems a little low for  
11 design work.

12 COUNCILMEMBER MOLINA: Thank you. How about the  
13 construction dollars of \$3,000,000?

14 MR. TAGUCHI: The \$3,000,000 was appropriated in the  
15 Fiscal 2008 Budget under bond, and is specifically  
16 for Molokai Landfill Cell #3 Construction.

17 CHAIR PONTANILLA: Thank you.

18 COUNCILMEMBER MOLINA: Okay, thank you, Chair.

19 CHAIR PONTANILLA: Okay, Members, any more questions? If  
20 not, the Chair would like to recommend the adoption  
21 of the proposed bills and the filing of the County  
22 Communication.

23 COUNCILMEMBER VICTORINO: So moved.

24 COUNCILMEMBER MEDEIROS: Second.

25 CHAIR PONTANILLA: Moved by Member Victorino, second by

1 Member Medeiros.

2 Members, any more discussion on this matter?

3 MR. TAGUCHI: Chair Pontanilla.

4 CHAIR PONTANILLA: Mr. Taguchi?

5 MR. TAGUCHI: Staff just wants to note that two of those  
6 proposed bills has been revised, so we would be  
7 adopting the revised proposed authorization bill for  
8 Cell #3 and the revised proposed Budget amendment  
9 bill.

10 CHAIR PONTANILLA: Yes, those are the two bills.

11 Members, any more discussion? If not, all in  
12 favor of the motion, please say aye.

13 COUNCIL MEMBERS: Aye.

14 CHAIR PONTANILLA: Any opposed? Seeing none. There are  
15 two -- seven ayes, one excused. Motion is carried,  
16 thank you.

17 UNIDENTIFIED SPEAKER: You said one.

18 CHAIR PONTANILLA: I'm sorry, two excused. Thank you.

19 VOTE:

20 AYES: Council members Anderson, Johnson,  
21 Medeiros, Molina, Victorino,  
22 Vice-Chair Hokama, and Chair  
23 Pontanilla.

24 NOES: None.

25 ABSTAIN: None.

1 ABSENT: None.

2 EXCUSED: Council members Baisa and Mateo.

3 MOTION CARRIED.

4 ACTION: FIRST READING of revised proposed Budget  
5 bill; FIRST READING of proposed bill relating  
6 to intergovernmental agreement to finance the  
7 construction of the Molokai Landfill Cell #3  
8 Construction Project; FIRST READING of  
9 revised proposed bill relating to  
10 intergovernmental agreement to finance the  
11 Central Maui Landfill Gas Collection and  
12 Flare Construction; FIRST READING of proposed  
13 Bond bill; and FILING of the communication.

14 ITEM NO. 72: AMENDING APPENDIX A OF THE FY 2008 BUDGET,  
15 DEPARTMENT OF PROSECUTING ATTORNEY (EDWARD  
16 BYRNE MEMORIAL JUSTICE ASSISTANCE  
17 GRANT) (C. C. No. 07-292)

18 CHAIR PONTANILLA: Okay, Members, our final item for today  
19 is BF-72, Amending Appendix A of the Fiscal Year  
20 2008 Budget, Department of Prosecuting Attorney.  
21 This is the Edward Byrne Memorial Justice Assistance  
22 Grant.

23 The Committee's in receipt of County  
24 Communication No. 07-292 from the Budget Director,  
25 transmitting a proposed bill entitled "A BILL FOR AN

1           ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR  
2           2008 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO  
3           THE DEPARTMENT OF PROSECUTING ATTORNEY."

4                   The purpose of the proposed bill is to add  
5           the Edward Byrne Memorial Justice Assistance Grant  
6           of \$79,891 to Appendix A of the Fiscal Year 2008  
7           Budget. The funds will be used for crime prevention  
8           activities.

9                   At this time, the Chair would like to  
10          recognize Director Pablo for comments.

11   MR. PABLO: Thank you, Chair, Members.

12                   Just a brief comment, is this Edward Byrne  
13          Memorial Justice Assistance Grant is from the U.S.  
14          Federal Government. It's a Federal grant from the  
15          Justice Department. Previously the Administration  
16          had projected grant revenues in '06 and '07 from the  
17          Department of Justice. Unfortunately, there was  
18          none received, and so in the '08 Budget it was not  
19          included.

20                   Fortunately, with the persistence of the  
21          Department of Prosecuting Attorney, they did  
22          approach the Justice Department for this grant, and  
23          we have it approved for an amount of 79,000.

24                   Wayne Steel from the Department of  
25          Prosecuting Attorney is here to answer any of your

1           questions.

2                       Thank you, Chair.

3 CHAIR PONTANI LLA: Thank you, Mr. Pablo.

4                       Again, we do have Mr. Wayne Steel of the  
5           Prosecuting Department. Members, are there any  
6           questions for Administration at this time?

7 UNIDENTIFIED SPEAKER: No.

8 CHAIR PONTANI LLA: Seeing none, the Chair would like to  
9           give his recommendation.

10 COUNCILMEMBER VICTORINO: Recommendation.

11 COUNCILMEMBER MEDEIROS: Recommendation.

12 CHAIR PONTANI LLA: The Chair recommends, recommends that  
13           we adopt the proposed bill and the filing of the  
14           County Communication.

15 COUNCILMEMBER VICTORINO: So moved.

16 COUNCILMEMBER MOLINA: Second.

17 CHAIR PONTANI LLA: Moved by Member Victorino, second by  
18           Member Molina.

19                       Members, any more discussion? Seeing none,  
20           all in favor of the motion, please say aye.

21 COUNCIL MEMBERS: Aye.

22 CHAIR PONTANI LLA: Thank you very much. Motion is  
23           carried. We have seven ayes and two excused.

24 VOTE:

25 AYES:           Council members Anderson, Johnson,

1 Medeiros, Molina, Victorino,  
2 Vice-Chair Hokama, and Chair  
3 Pontanilla.

4 NOES: None.

5 ABSTAIN: None.

6 ABSENT: None.

7 EXCUSED: Council members Baisa and Mateo.

8 MOTION CARRIED.

9 ACTION: FIRST READING of proposed bill; and FILING of  
10 communication.

11 CHAIR PONTANILLA: Members, any --

12 COUNCILMEMBER VICTORINO: You really want to go somewhere  
13 else, huh? (Laughter)

14 CHAIR PONTANILLA: Members, do you have any communications  
15 that you would extend at this time?

16 Seeing none, this concludes our portion of  
17 the business area for Budget and Finance this  
18 afternoon. I just want to thank the Administration  
19 as well as the Council Staff for being here this  
20 afternoon, as well as you Members. This meeting is  
21 adjourned. (Gavel).

22 ADJOURN: 3:25 p.m.

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E .

STATE OF HAWAII        )  
                                  )  
COUNTY OF HAWAII     )

I, Kathy Pearson, CSR, a Notary Public in and for the State of Hawaii, do hereby certify:

That the above proceedings were transcribed by me in machine shorthand and thereafter reduced to print under my supervision; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

DATED: DEC 14, 2007

Kathy Pearson  
Kathy Pearson, CSR No. 313  
Notary Public, State of Hawaii

My commission expires:  
July 12, 2010