

MINUTES

HOUSING AND HUMAN SERVICES COMMITTEE

September 20, 2006

Council Chamber, 8th floor

RECONVENE: 9:11 a.m.

PRESENT: Councilmember Danny A. Mateo, Chair
Councilmember Joseph Pontanilla, Vice Chair
Councilmember G. Riki Hokama, Member (Out 3:09 p.m.)
Councilmember Jo Anne Johnson, Member
Councilmember Charmaine Tavares, Member

STAFF: Gayle Revels, Legislative Analyst
Clarita Balala, Substitute Committee Secretary

ADMIN.: Alice Lee, Director, Department of Housing and Human Concerns (In 1:54 p.m.)
Herman Andaya, Deputy Director, Department of Housing and Human
Concerns (Out 2:00 p.m.; In 2:35 p.m.)
Jesse Souki, Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS: Gwen Hiraga
Susan Moikeha
Warren Suzuki
DeGray Vanderbilt
Tom Blackburn-Rodriguez
Rory Frampton
Additional attendees (4)

PRESS: Akaku: Maui Community Television, Inc.
Ilima Loomis, *The Maui News*

HHS-4 COUNTY HOUSING POLICY (C.C. No. 05-132)

CHAIR MATEO: . . .(*gavel*). . . Housing and Human Services Committee Meeting for September 20, 2006 will reconvene. For the record, the Members present with us this morning, Vice-Chair of the Committee, Member Pontanilla; Committee Members, Charmaine Tavares, Jo Anne Johnson, and Council Chair Riki Hokama. From the Administration with us this morning, Corporation Counsel Jesse K. Souki; and from the Department of Housing and Human Concerns, we have the Deputy with us this, this morning. Thank you very much for, for being here. And the Committee Staff, we have our Committee Analyst, Gayle Revels, and our Secretary this morning, Clarita Balala.

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Members, just one item on our agenda, HHS-4, the County Housing Policy. This morning, Members, we have the . . . what we'll be doing this morning is there is a few items that the Chair would like the Committee to have discussion on and then when that discussion is over, we will be able today to start our walk through the policy. I need to make it clear at this particular point that we have the option of an all day meeting. The Members. . . I am not aware of losing quorum at any time so as long as we're able to maintain quorum, the Committee will continue its process. We do have access in utilizing the Chambers tomorrow, Thursday, up until 12 noon as well. So with that being said, Members, I do know that you all have a clean copy of the bill that's been provided for you and there's, there's a few areas that I'd like to start the discussion with this morning.

And the first area, you would find it on Page 4. . . Page 4 of your. . . of your policy and it is 2.96.030 on Applicability. At our last meeting, Member Johnson had a recommendation that she presented to us and it had to do with specifics in excluding or not being part of a condominium property regime and she had since worked out language with Staff and that language appears on the screen on the wall. The inclusion reads. . . well, I going read the whole. . . the whole section, Number 1, Five or more dwelling units, excluded. . . excluding an accessory dwelling, farm labor dwelling, or a second farm dwelling as defined in section 19.04.040, Maui County Code, or in full compliance with HRS 205 and provided such farm dwelling is not part of a condominium property regime.

Member Johnson.

COUNCILMEMBER JOHNSON: Yes. Mr. Chair, and there is an additional language that we had been visiting with Staff about because rather than defining condominium property regime I believe Staff did have additional wording that was suggested to further clarify what condominium property regime is referred to under HRS. So I would just defer to Staff because I believe they have the wording in front of them.

CHAIR MATEO: Okay. Thank you, Member Johnson. That additional verbiage right after property regime would read, as set forth in Chapter 514A, HRS. That clarifies the condominium property regime.

COUNCILMEMBER JOHNSON: Yes. Mr. Chair, and I offer that because of some of the situations that are arising specifically on ag land. I realize that condominium property regime overall is not really a problem as such, but because individuals who are not in compliance under HRS 205, they are doing activities that are not condoned under the law. They are not permitted or they're simply not doing agriculture. The secondary dwelling is not being used for farm workers and that is, to me, a concern. So that's why I felt if we're gonna put the language in at some point in time, we should be very clear at least that it be consistent with the law. Now, again, the issue of enforcement is gonna come up

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but at least it's there in my view and I would ask the consideration by the other Members of this particular amendment.

CHAIR MATEO: Thank you. Members, any, any questions or concerns regarding the inclusion of the language being recommended? If there's no questions, if we can get consensus on the language, we'll continue to move on.

VICE-CHAIR PONTANILLA: Agree.

CHAIR MATEO: Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. I have no problem with the language. I think that helps to clarify what we're looking for. You know, I would ask the Members to kind of consider and I'm just looking at this now in this kind of detail, was on the excluding an accessory dwelling, farm labor dwellings, or a second farm dwelling as defined. I would ask us to consider taking that out because what we can exclude is an accessory building, which means that if somebody builds a barn or a storage area or garage for their equipment, that wouldn't count. But a labor farm dwelling and a second farm dwelling which is supposed to be for labor would be an affordable house or should be an affordable dwelling. And perhaps, you know, we can consider taking that out because, you know, I'm seeing a lot of second dwellings on ag land that are not labor occupied. So it should be part of the mix. You know, I'm just thinking, you know, as I sit here but I think that we can perhaps look at that and see if maybe we could consider taking that part out and changing accessory dwelling to accessory building.

CHAIR MATEO: Members, comments? So Ms. Tavares, can you. . .can you read the area that we would be omitting and adding that--

COUNCILMEMBER TAVARES: Yeah.

CHAIR MATEO: --the word "building".

COUNCILMEMBER TAVARES: Okay. In the first sentence, you would change the last word to "building" and that's it. And then delete farm labor dwellings or second farm dwelling as defined in Maui County Code and then continue with the . . .

CHAIR MATEO: Provided that?

COUNCILMEMBER TAVARES: I lost it but leave the stuff that Ms. Johnson was just putting in regarding the condominium property regime. Leave that part in.

CHAIR MATEO: Okay. Questions, Members?

COUNCILMEMBER HOKAMA: A quick--

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CHAIR MATEO: Mr. Hokama.

COUNCILMEMBER HOKAMA: --question. Well, this is obviously a different way to approach the same concern, Chairman, and so for me whatever it is makes it clearer I can support so that there's no again need to interpret. My only comment would be if this is the policy we really want, then we should follow through and make it so that everybody knows that this is our policy. So things like conditional permit shouldn't be used to circumvent this if this is really our policy. I mean . . .*(inaudible)*. . . the legislation is what we need. You cannot apply for a State special use permit, you cannot apply for a conditional use permit, you cannot go to the Board of Variance because that is not permissible. It's either in the zoning category as it relates to ag or it doesn't and there's no other way to get around it if that's what we want our policy to be. Because we do all this hard work and next thing I'm gonna see is a conditional use request to allow what we asking to prohibit in this language. So why go through that frustration, Chairman?

CHAIR MATEO: So Mr. Hokama, you'd like to . . .

COUNCILMEMBER HOKAMA: My point, Chairman, is if we really want this policy, then we need to make it clear and those other things that can circumvent it will not be allowed as another entitlement or another permitted use vehicle. So this is our policy. I'm gonna support it but I don't want to see conditional use permits being used. I don't want to see special use permits. You either come for rezoning or nothing.

CHAIR MATEO: Okay. And Mr. Hokama, should we add specific language as such so it is consistent from the beginning?

COUNCILMEMBER HOKAMA: I think we're gonna need comment from Corporation Counsel on how to possibly achieve what we want because I think we're gonna impact other sections of the Code if we're going to disallow certain premise to be utilized to grant non-permitted uses.

CHAIR MATEO: Okay.

COUNCILMEMBER HOKAMA: I'm not sure.

CHAIR MATEO: Okay. Thank you. Mr. Souki, would you be able to comment on Mr. Hokama's comments?

MR. SOUKI: I have been listening but I'm not very clear exactly what you're trying to do. Could you maybe pose the question differently?

COUNCILMEMBER HOKAMA: This is something like adjusting the zoning, yeah, what we're going to allow in agriculture land. This specific example that Ms. Tavares and

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Ms. Johnson has, I understand the intent. I can support it and make that a supported Council . . . County policy that this is how we're gonna look and view ag land regarding accessory buildings, okay. I'm saying if we're gonna to codify this and we're working hard . . . *(inaudible due to someone coughing)*. . . from this Committee, if it's truly our policy, my position is then take away all of the other options that allow someone to circumvent this policy which is a conditional use permit from the County and the State special use permit from the State which ask for an exemption or a variance from the permitted use list. So what we saying no to comes around through a conditional use permit/special use permit and if we say yes, this is meaningless because you're gonna have a variance through a conditional permit. So my thing is eliminate those vehicles, too. You want to change the policy, rewrite the law, but you won't come through the County for conditional use permit.

MR. SOUKI: So you thinking of including language that would prevent a party or developer from using a conditional use permit or special use permit specifically in the language of this bill. Is that what you're proposing?

COUNCILMEMBER HOKAMA: I'm asking you is that permiss. . . can that be permissible through this legislation?

MR. SOUKI: I'm not sure that. . . well first, I'm not sure that a special use permit would apply to what you are trying to achieve in this bill. Or in other words, to say that I don't think you could use the special use permit to get around this bill, but that would be something to further explore in more detail. The conditional use permit or conditional zoning, you know, that comes before the Council ultimately and so the Council would need to approve or deny any type of language that would circumvent this. . . attempt to circumvent this law.

COUNCILMEMBER HOKAMA: But the Commissions take up special use permit on behalf of the State – our Planning Commissions. That's why I'm saying. We would end up with the conditional use permit request to reverse this proposed language and usually what's attached is a special use permit approved by the Planning Commission with conditions to accept that change, but to accept the permitted request through that special use.

MR. SOUKI: If, if this . . .

COUNCILMEMBER HOKAMA: So comes. . . what comes before us is an attachment to a conditional permit,--

MR. SOUKI: I see what . . .

COUNCILMEMBER HOKAMA: --a State special use as approved by the Planning Commission.

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MR. SOUKI: I see what you're saying. So just to keep the two separate, the conditional use is ultimately approved by Council. I mean the Commissions can make recommendations, but ultimately approval. . .the special use permit, some of 'em are approved by the Commissions and some of them go through State but there are special. . .there are enumerated items in the Code and in State law, enumerated uses that require special use permits, and if you have a policy like this, an applicant could not come in and get around this requirement in our Code through a special use permit. It's not. . .it's not meant to work that way.

COUNCILMEMBER HOKAMA: So is this the place we would put the appropriate language, Corporation Counsel?

MR. SOUKI: I think having that language in there would be unnecessary because it would already not be permitted by the language of this bill. So you, I. . .so what you're thinking of doing is saying that, you know, an applicant cannot use a conditional permit or special use permit to circumvent this law, and I think that without saying that that is already implied because this is the law. And the special use permit talks about permitting certain enumerated uses within a certain area for the special use permit and the conditional use permit may have various conditions attached to it, but ultimately the Council approves or denies that and you still wouldn't be able to include items in your conditional use permit that would circumvent the Code, for example, this policy.

COUNCILMEMBER HOKAMA: I hear what you're saying, Corporation Counsel, and in my experience I can tell you, you know, we deal with a lot that still comes in that goes against County and State laws because that's what they're asking for. They asking to be exempted based on blah, blah, blah, blah reasons and at times we've granted it and at times we haven't.

MR. SOUKI: Perhaps if . . .

COUNCILMEMBER HOKAMA: I'm just saying that, you know, if we are going to be serious about working this type of language in and protecting, particularly this one is agriculture zoned lands, that I don't want to see a conditional permit on ag land for vacation rentals. I don't want to see it for businesses. You want it, come in and ask for the appropriate zoning then. That's what I'm, I'm suggesting.

MR. SOUKI: Perhaps if you propose some language that we can . . .

COUNCILMEMBER HOKAMA: I won't hold up the. . .I'm sorry to hold up the meeting.

CHAIR MATEO: No, not at all.

COUNCILMEMBER HOKAMA: I just wanted to express my, my thoughts that if this is where we're gonna go, then I would hope we would look at shutting down the legal loopholes

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we allow to exactly around what we're trying to accomplish this morning, Chairman. That's all. Thank you.

CHAIR MATEO: Thank you, Mr. Hokama. Ms. Johnson.

COUNCILMEMBER JOHNSON: With regard to Mr. Hokama's concerns, too, I know and I believe that it's still in Ms. Tavares Committee, the ag subdivision ordinance, because originally I had proposed some concerns about some of the loopholes that Mr. Hokama's speaking about. So I think that might be another area where at least we could try to be consistent and also the definition of agriculture will be coming up in my Parks and Economic Development Committee. So I think that that discussion would be appropriate. Mr. Chair, my one. . .I guess my. . .the one way that I would see this working as five or more dwelling units excluding an accessory building and then I would just skip over to or say or a second farm labor dwelling as defined in Section 19.04.040, Maui County Code. And the reason I say that is because the second farm dwelling is supposedly for farm labor. It's not for rental. It's not for vacation rental. It's specifically under HRS 205, basically, is for farm labor. So that is the way that I would propose to change it taking into account that it should exclude accessory buildings because when you have appurtenant structures that are used in the course of the agricultural operation, we wouldn't anticipate that that would result in a requirement. But I think this way if at least this is stated in some form, I think the concerns that have been expressed by Chair Hokama are really important because it's gonna frame how we really review a lot of our policies, and that to me is a much bigger issue than the one we're looking at. But I think we're getting to that point where irrespective of anything else we want to do, until HRS 205 changes, it's very specific about what can or cannot take place on ag lands, and particularly with certain land soil classifications. So I just. . .I offer that as my thoughts and also just for a little bit different language in what's being stated by Ms. Tavares. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Corp. Counsel, the word "accessory building" I guess because a definition already exists in identifying what it is, in terms of fitting that language into this particular section of the policy I guess with Member Johnson's recommendation that becomes even more specific in terms of understanding what is not allowed, yeah. Because according to County Code definition, accessory building or structure, it's specific in its use. However, it also indicates "and not used for human habitation". So we're taking out any references to turning it into a vacation rental or other uses. So would, would Member Johnson's recommendation in adding that a second farm labor dwelling verbiage, would that be even more specific in clearing up perhaps interpretation of the word "accessory building"?

MR. SOUKI: The more specific you get, the better it is as far as interpretation by the Department's goal. You should be sure that the words you are using they have meaning, and be sure that they actually are there in that section that you reference, and I'm sure that Staff has already verified that so.

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CHAIR MATEO: Okay. Thank you. Members, any, any. . .yeah, Ms. Tavares, go ahead

COUNCILMEMBER TAVARES: Yeah. Thank you. I mean I noticed that it starts out by saying five or more dwelling units so an accessory building is not a dwelling unit anyway or should not be and that's like you're saying is defined. So it may not be necessary to even be here. You know, the point that Ms. Johnson is bringing up about the farm labor dwelling not being counted as, as part of the requirement I think it. . .no, I don't know, if you leave off farm labor dwelling and it is a farm labor dwelling, then it becomes a credit or is counted toward the affordable requirement. So by excluding it, it doesn't count or by exempting it here, it would not count. So I , you know, I'm just wondering what the goal. . .if the goal is for us to make sure that whatever dwellings are there, you know, that, that people that are farm workers are usually in the group that are looking for affordable housing anyway. But if we want it to be specific to farm laborers, then I'd say leave it in, and I guess that's the direction that I think we're going in. And this is. . .this is not under an area that's specific to agricultural zoning so maybe we have to be specific in referencing farm labor dwellings in agricultural zoned districts or something like that.

CHAIR MATEO: Yeah, I think . . .

COUNCILMEMBER TAVARES: Or the other way is to look at, well, that will open up a whole can of worms if I say the other thing so lets just stay on this topic. . . .*(laughter)*. . .

CHAIR MATEO: Okay. Okay. So at this pass then we have no objections in doing the adjustments in 1, deleting the word "dwelling" and adding the word "building" as Ms. Tavares mentioned, and then the deletion of "farm labor dwellings" on the next line, and to insert Ms. Johnson's language, "or a second farm labor dwelling as defined in 19.04.040, Maui County Code".

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Yes.

COUNCILMEMBER TAVARES: I noticed that our Staff person has put in "dwelling building units" instead of dwelling. . .instead of "dwelling units". So I don't know if that makes it more weird or not, but I think that we could just strike out "excluding an accessory building" because that's already defined in the appropriate zoning what an accessory building is.

CHAIR MATEO: So Ms. Tavares, it would read, "five or more dwelling units or a second farm labor dwelling as defined" and then goes into the rest of the change?

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COUNCILMEMBER TAVARES: Well, I think what, yeah, what Ms. Johnson is bringing up and I think I could see the reasoning for that. So it would be “excluding a second farm labor dwelling as defined in section” whatever.

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: So I don’t have a problem with doing it that way because I know what, what we’re trying to get at is that second dwelling. . .that second unit is supposed to be for farm labor.

CHAIR MATEO: Labor.

COUNCILMEMBER JOHNSON: That’s right.

COUNCILMEMBER TAVARES: And. . .but I think we have to also make a reference. . .oh, you did already?

COUNCILMEMBER JOHNSON: Yes.

COUNCILMEMBER TAVARES: Section 19.04.040, and that is the agriculture zoning?

COUNCILMEMBER JOHNSON: Uh-huh.

COUNCILMEMBER TAVARES: Yes. Thank you, Ms. Revels. That would. . .that would satisfy it for me.

CHAIR MATEO: Thank you.

COUNCILMEMBER TAVARES: I think that’s workable. Thank you.

CHAIR MATEO: Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, and that’s why we did make reference to that section which is specifically rated. . .related to ag, but I think that the objective here is this is in the applicability section so you don’t want to say that somebody’s required to provide affordable housing when essentially when they’re providing farm labor housing. That to me is already affordable because many of the people that are living there do so either at a reduced rent or for no rent just in exchange for their labor on the farm. So I think the closer we can get to consistency with the law, the better off we are. Thank you, Mr. Chair.

CHAIR MATEO: Thank you. Members, any additional comments? Ms. Tavares.

MS. REVELS: Ms. . . .

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COUNCILMEMBER TAVARES: Yeah. Thank you. Oh, I'm sorry. The point I was gonna make here was that for the developer, the landowner, who happens to be on ag land that's doing farming and he has dwelling units for his labor at. . .where does he get credit for doing that in this formula? Shouldn't there be one or should there not be that he receives credit for an affordable unit?

CHAIR MATEO: Try look in the credits. . .uh, yeah. Hang on, Ms. Tavares. I think. . .I think it's cited in the section on credits.

MS. REVELS: Mr. Chair, the credit that you're referencing is new and hasn't been discussed by the Committee yet.

COUNCILMEMBER TAVARES: Mr. Chair, you can erase my comment. We can talk about it when we get to the credit part. Thank you.

CHAIR MATEO: Thank you. I'm sorry. Go ahead. Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: No, and that's fine. The language, the way it is right now, I think it, it at least gets to the heart of what we're trying to do in addressing affordable housing and the applicability. Thank you, Mr. Chair.

CHAIR MATEO: Okay. We're gonna. . .if there's no additional comments, we're gonna. . .and there's consensus with this language in this section, we're gonna move on.

COUNCILMEMBER TAVARES: Okay.

VICE-CHAIR PONTANILLA: Okay.

CHAIR MATEO: Thank you. Next section is on. . .still on Page 4, Number 7, under Exemptions, "A development by a qualified housing provider pursuant to section 2.96.150". Members, we had. . .we had this discussion at the last meeting and at the last meeting it was. . .it was recommended that we delete this language. And the reason for deleting or the consideration of deleting the language was simply. . .if you look at Number 6, Number 6 addresses the similar issues and the understanding that the exemption would also include the non-profit agencies, other private and public organizations, or entities that's authorized and designated by the department as well. So we're expanding the list of exemptions. So. . .and by virtue of the qualified housing provider itself, they will be provided. . .they'll be providing 40 percent affordables and that would make them exempt anyway. So the question is, you know, whether we still need to leave this verbiage in and that's. . .we had a real brief discussion at the first. . .at our last meeting. So this is the follow-up to that discussion to see whether the body feels we should keep it in or omit it altogether. Floor is open for comments.

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COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Ms. Tavares, thank you.

COUNCILMEMBER TAVARES: Yeah. If we're gonna delete 6, why wouldn't we delete. . . I mean delete 7, why wouldn't we delete 6? Because both of those processes with their guidelines I believe they're. . . well, the 201H I think is the higher percentage than we have right now in our bill.

CHAIR MATEO: Yeah. The Number 6 just is real specific in identifying those more or less project requirements that would be exempt and it is just a listing of, of those entities and because the qualified housing provider would, would fall under the department being able to recognize this particular entity, Number 7 was just redundant.

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: So the Chair's recommendation was to delete Number 7.

COUNCILMEMBER TAVARES: Okay. I don't have a problem with that. . . *(change tape, start 1B)*. . .

VICE-CHAIR PONTANILLA: Can we get comments from the Housing area in regards to deleting Number 7?

CHAIR MATEO: Thank you, and the Chair was remiss. I recognized earlier. . . at the beginning of the meeting I recognized the Deputy being here and I never even recognized him by name. Please excuse me – Deputy Herman Andaya.

MR. ANDAYA: Thank you, Mr. Chair. The Department really has no comment regarding whether eliminating 6 or 7. It's really up to the Council.

CHAIR MATEO: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Yeah. I think the discussion on Number 7 would be part of the requirements for the Department is to address item Number 7 as part of their policy I guess for compliance.

CHAIR MATEO: Okay. Mr. Andaya, would you like to comment?

MR. ANDAYA: Mr. Chair. Council Member, if you could I guess further expound on what your . . .

VICE-CHAIR PONTANILLA: Yeah. If we removed this thing here, it will be part of the responsibility of the Department to ensure that whoever the qualified housing provider,

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you know, abides by your rules in regards to this particular policy that we trying to draft out this morning.

MR. ANDAYA: Okay. Well . . .

VICE-CHAIR PONTANILLA: And I think there's several section that, you know, also address different areas that would be the responsible of the Department.

MR. ANDAYA: Uh-huh. In this case, Council Member, we would need to have more, more man. . .personnel to, to enforce these requirements if need be. So that's where I, I think we would need more help on. Right now we have one person, the Housing Administrator, Ed Okubo, and his staff, and right now they're overworked as it is, and so if, if this requires further. . .more enforcement, then we would need more personnel.

VICE-CHAIR PONTANILLA: Yeah. I would kind of agree once this policy is agreed upon then, you know, for me the Department should take a really good look at the policy that we're drafting out and if it does require more manpower, then that thing can be addressed later on. Thank you, Chair.

CHAIR MATEO: Thank you, Mr. Pontanilla. Ms. Johnson.

COUNCILMEMBER JOHNSON: I was just curious because I know we have so much stuff in our binder, but do we have a copy of the most recent legislation, the 201H-H. Is that in our binder?

MS. REVELS: That's not in your binder. It is an 87-page document. I, I do have it on my desk and would be happy to make a copy of that section which is only one page for the Members if they would like it.

COUNCILMEMBER JOHNSON: Oh, okay. But essentially, if, if the Corporation Counsel or you, Ms. Revels, have at least a summary of what the I guess percentage or if there's no percentage contained within that, it's my understanding that there isn't and it's basically left up to the counties and that basically would replace the 201G. Is that correct?

CHAIR MATEO: Correct.

COUNCILMEMBER JOHNSON: So there's no percentage stipulated?

CHAIR MATEO: No.

COUNCILMEMBER JOHNSON: See and that, that for me where they're kind of dumping it, you know, in our lap, that makes our housing policy even more critical and then it raises the other issue of coming up with a policy if it's going to be separate from this or if it's going to be this. And I think that's really important for all of the people that have been

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participating all the way along because with that change that makes a big difference because even Act 15, which was the predecessor of the 201G, that required a 60-40 mix so 60 percent affordable housing. So I think for me anyway, Mr. Chair, it's really important then that we're real careful that we understand this is going to be probably the requirement. And is it also my understanding, either Mr. Chair or Staff, that the 201H, is it going to follow the same process or will it actually utilize the process that's currently in place for the previous 201G and that it would follow a separate track from what we're engaging in right now?

CHAIR MATEO: Yeah. Staff?

MS. REVELS: The new 201H-H language is identical to the existing 201G language. There's no change at all on the language. It's just the section number that changed with the Division of the Housing Authority at the State level. So there is no percentage required in the current 201G and there is still no percentage required in the 201H. That is. . .the percentage the County uses is set by the Department.

COUNCILMEMBER JOHNSON: Okay. Well, in the 201G it was always my understanding that it was 50 percent. Is that an incorrect understanding?

MS. REVELS: That's the percentage set by the Department. There is no percentage set in the State statute.

COUNCILMEMBER JOHNSON: Okay. So that has. . .that's something very interesting because it has always been presented at the State level anyway even going back as far as Act 15, that they basically adopted some type of a percentage because you had both the State process and then you also had the County. So I know we argue about who goes first – whether we go to the State or whether we go through the County. But I think it bears at least having us look at with HCDCH being the State organization, how would a developer proceed if they made a choice then not to come through the County's process first or is that something that also was altered in the law? These are questions that we need to, at least in my view, we should get the answers.

CHAIR MATEO: Well, actually, Ms. Johnson, it is the Chair's recommendation in heading into the next term that the 201H process be again addressed.

COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: Because one of the changes. . .one of the more prominent change with the 201H allows the Councils now the opportunity to adjust, whereas in the past, for us it was just up or down. And now that we have that opportunity we seriously need to take a look at that process in its entirety. And further because there is no designated amount or percentage by law other than the County's determination what is, you know, the number to be used I think, you know, just to throw it out at this particular point we're looking at

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changing it to 100 percent affordable. Otherwise, why go through a fast-track process and come in and ask for all these exemptions that they can get. So it is an action that we will be addressing in the very near future.

COUNCILMEMBER JOHNSON: Thank you very much, Mr. Chair. I think that's helpful for me to frame I guess what we're dealing with here which is then a separate process irrespective of the 201H.

CHAIR MATEO: Yes.

COUNCILMEMBER JOHNSON: So as long as we understand that and the public understands that that is still a separate item that we will be dealing with. I think it's really helpful because many of the people have been asking for the 100 percent affordable on certain categories so I think it's really important. Thank you, Mr. Chair.

CHAIR MATEO: Thank you, Ms. Johnson. Members, . . . Ms. Tavares.

COUNCILMEMBER TAVARES: Mr. Chair, I, I think that we, we should consider, you know, in light of what has just been said about the H. . . 201G/H-H, that it's up to the counties to set the percentage. I think that in the past it has been the Department that sets the percentage and we have to consider whether we're gonna set the percentages or not and I, you know, if we're gonna do a tiered approach, I mean what is a qualified housing provider if they're gonna meet. . . if they're gonna meet the minimum which is now at 40 percent right now? Does that make everyone. . . I mean by adopting this everybody is gonna be a qualified housing provider 'cause we'll have to meet this or do we look at setting a percentage goal, you know, defined as a qualified housing provider shall do x, y, and z as a percentage. Put 100 percent at the 201H-H and maybe at the qualified housing provider is where we might come back to the 80 percent that I talked about earlier. So that there is some other incentives for people to go through a process where they can get some other waivers or get waivers for things or other incentives because I don't see a difference now when I read the, the definition of the qualified housing provider in Section 150.

I don't see that being, you know, there's no percentage tied in there and I think part of the. . . the problem has been in the negotiations without us having an expressed policy like we're trying to develop now. It has put the Department I think in a very scary position, I guess I'll use the term, of what do you negotiate and it's been not. . . as we've seen it's not been negotiated the same, same way. And you know, the policy has kind of been 10 percent and that's not for a qualified housing provider. That's just for a provider or a developer. So I think we can look at a tiered kind of thing or 40 percent you do whatever, then maybe 80 percent you become a qualified provider, 100 percent you become a 201H-H person with a whole lot more waivers. I think we need to develop that tier if we truly want to encourage housing in the affordable ranges.

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CHAIR MATEO: Thank you. Staff, the requirements for qualified housing providers or land trust, is there a specific number attached to the number of units they need to provide?

MS. REVELS: No, there's not at this time.

CHAIR MATEO: Okay. Yeah. Thank you very much, Ms. Tavares. Is there a recommendation to change the verbiage at this point in time?

COUNCILMEMBER TAVARES: Not right now. We're not at 150 yet, but I think that we should think about that.

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: I've got no problem with 201H-H being 100 percent. By our definition that if the . . .the State is leaving the number up to us, then we should state what that number is, and you know, 51 percent or whatever I think that the 201H-H allows for a lot of exemptions and waivers. So they should be able to do a project and perhaps we should look at also expanding the affordability range, too. And you know, it's part of that I think what becomes a complex thing to discuss right at this point, but to look at what kinds of trade-offs we will have in order to encourage the housing that we need which is also the 80 percent and below. And we were focusing on the gap group with this policy, but when I think through our definitions we can address the 80 percent and below group, too.

CHAIR MATEO: Uh-huh. Thank you. Ms. Johnson.

COUNCILMEMBER JOHNSON: My only comment is that I understand where Ms. Tavares is actually going because I think it's really important but I tend to agree with you, Mr. Chair, that in the framework that we've got because this has actually been, for the most part, the document which was reviewed by the Planning Commissions. I don't want to get too far afield otherwise it may be deemed that there's substantial changes that have been made which would always raise the issue of does it have to be now resubmitted which would really not be a good thing at this point. I'd rather stick more closely to at least the framework and then know that there's certain areas that we're going to have to work on, you know, outside of what we're doing right now, and that's why I, I would like to proceed with caution. Thank you, Mr. Chair.

CHAIR MATEO: Thank you, Ms. Johnson. Members, additional, additional comments? Just to bring us back – we're looking at, on Page 4, under Exemptions, Number 7. Members, any additional comment on this particular section?

COUNCILMEMBER TAVARES: No.

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CHAIR MATEO: Okay. Do we. . .so the question would be do we leave it in or do we delete Number 7?

COUNCILMEMBER TAVARES: We're gonna delete.

CHAIR MATEO: Thank you. We got consensus to delete and we'll move on from here. The Chair. . .thank you very much, we'll delete that item. Real quick question for Mr. Souki, also on Page 4 under Waitlist Area, it reads "means Hana, Lanai, Maui (excluding Hana), or Molokai", if we were to add an additional line that would read, "and must be a full-time resident of the area. Comment on constitutional challenges to adding verbiage of that type?

MR. SOUKI: When you start talking about full-time residency, you creating a class and the issue of equal protection under the 14th Amendment of the Constitution comes into play and property ownership. . .well, first of all, the law on the 14th Amendment in the Federal courts are. . .go back and forth. You could say that property ownership is a fundamental right and to restrict that with a residency requirement might raise constitutional challenges. The test that the courts use are the irrational basis test which would say that there needs to be a rational relationship between residency, and. . .well, in this case rational relationship between residency and preserving the workforce in the County, and there needs to be a fair and substantial relationship to the object of the legislation. That's a high. . .high standard to reach. Putting in the full-time residency requirement without making that, that nexus between preserving the workforce in the County would give rise to constitutional challenges under the 14th Amendment equal protection clause and. . .so you should think hard about how you're going to actually have that language presented. It's a tough standard to meet.

CHAIR MATEO: Okay. Thank you very much. Thank you for that response.

VICE-CHAIR PONTANILLA: Chair, I got a question.

CHAIR MATEO: Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: In light. . .in regards to what you just said, if there is no Federal monies involved and the waitlist is administered by who is developing this affordable housing without any monies from Federal, State, or even County, as far as residency in the requirements for the developer, can they do that? You know, having the residents of Maui be the number one priority or the peop. . .no, basically the workers. . .workforce here on Maui be the number one priority.

MR. SOUKI: The thing that one of. . .one of the factors that gets us into this constitutional analysis is State action and the County is a part of the State, as you know. So through these requirements that we having the developers go through, it could be construed as

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State action. And so, even though there isn't any Federal money involved, it still could be perceived as State action and bringing the constitutional analysis to bear.

VICE-CHAIR PONTANILLA: Um . . .

COUNCILMEMBER TAVARES: I don't think he understood your question.

VICE-CHAIR PONTANILLA: What's that?

COUNCILMEMBER TAVARES: I don't think he understood your question.

VICE-CHAIR PONTANILLA: Yeah. Well, the question is that the way I understand it, if there's no government money or subsidies that is provided to create this affordable housing, then as far as the residency requirement, that wouldn't play a part in regards to the unconstitutionality in trying to provide housing for our people here in our community. We've gone through several projects and some of the recommendations that came from Corporation Counsel is that one of the way that we could do it is just what I, you know, told you that the developer would be the one that would, would be the one that administer this affordable housing policy based on, you know, the requirements, not our requirements, the requirements that we set forth, but they do it. That's the way I understand it as far as if there's no government money, you know, involved in trying to create affordable housing and the residency requirements.

MR. SOUKI: I understand your question better now. I apologize. In that case that you're describing, the developer is developing his or her own affordable plan, but in this case we're telling them that the affordable plan needs to have this residency component – full-time resident component – and I think that's a difference.

VICE-CHAIR PONTANILLA: Uh-huh. Okay. Good. Thank you.

CHAIR MATEO: Thank you, Mr. Pontanilla. Members, if you look at Page 5, under 2.96.040(B), Number 2. Yeah, under Number 2, a developer may partner with a nonprofit organization or community land trust on a specific affordable project to either construct new multi-family dwelling units or renovate existing and multi-family dwelling units, paying a minimum of \$60,000 per unit. We . . .there is a new line added and we're throwing this out for discussion at this time. Members, your comments?

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR MATEO: Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: I just want to briefly address the last item because I had my hand up and we were busy. Anyway, with regard to the last item that we discussed, I think the rational nexus is really stated in the purpose of the workforce housing bill

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because that was one of the challenges I believe that Mr. Kushi had stated we really needed to address and so I feel comfortable that we've stated very clearly that the workforce is essential to public health, safety, and welfare. With regard to the particular change, is there any reason. . . I know we had spoken about this before but I would just like to understand what the basic end result would be if we eliminate the 60,000 per unit and you just say 50 percent of the average construction cost of a multi-family dwelling unit as determined by the Director. So are we changing this because of the range of different housing that would be constructed rather than coming up with a one-size fits all? Is that the reasoning?

CHAIR MATEO: Let me start by, by recognizing how we actually came out with the \$60,000 to begin with. That 60,000 was an actual – it's an actual cost that was provided to us from or by Lokahi Pacific.

COUNCILMEMBER JOHNSON: Oh, okay.

CHAIR MATEO: And Lokahi Pacific advised us that in their plans, the cost for construction for a unit was \$200,000. So at the time we're using the 30 percent figure. So 30 percent of the 200,000 came out to \$60,000 which was at that time, a year and a half ago, an actual. So by us moving it up 50 percent and if we're still using the \$200,000 figure, move that figure up to \$100,000, 60 percent goes up to 125, 70 percent goes up to 140, and et cetera, et cetera.

COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: The, the whole, you know, the consideration for this particular increase is during the last number of rounds of testimonies that we have heard. I think it became real clear to us when several individuals came up and said in order to not have to provide monies for the dwelling, I'll just give you the lesser and the lesser was to work with a nonprofit and be done with their dwelling responsibility. So the consideration on the floor is, you know, is, you know, do we need to change the number? And is 50 percent, you know, the number is 60, is 70, you know, the right number? So that's where we're at at this point.

COUNCILMEMBER JOHNSON: And I really appreciate that explanation because I think that when you deal with the percentage, it takes into consideration over time that the cost may vary,--

CHAIR MATEO: Yes.

COUNCILMEMBER JOHNSON: --and also even the construction costs may be higher, they may be lower, and the type of dwelling unit that's being provided. So I think it's fair to say that if the construction costs are kept lower because I guess material costs are going down or labor costs are going down, then I think the percentage is more equitable. Thank

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you. I, I appreciate you adding as a percentage as opposed to a fixed dollar amount. Thank you.

CHAIR MATEO: Thank you. And Ms. Johnson, just a comment on that percentage, is that an appropriate percentage in your . . .

COUNCILMEMBER JOHNSON: I would think that because what you're trying to do is you're trying to achieve some equity at least. . .equality I guess, if you will, to say well, you don't want to make it so attractive that they always only want to give us money. You, you want to be able to provide the opportunity to actually get the houses built or to give that to a nonprofit. So I. . .for me, I think it's fair, and if it isn't I'm sure we'll hear from the people that are building the units. Thank you.

CHAIR MATEO: Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you for providing this change. Sixty thousand dollars seems a little low. Question that I have in regards to Lokahi Pacific. I know previously we had a testifier that provided us with actual numbers in regards to the building of those homes in Lahaina and the average cost wasn't \$200,000. It was even more because of the subsidy they received from developers in Lahaina. And I was wondering without the, uh . . .with the subsidy and the 30 percent figure, you know, what that number would have been?

CHAIR MATEO: Okay. I wouldn't. . .I wouldn't know. I wouldn't know at this time.

VICE-CHAIR PONTANILLA: Okay. Maybe that's a number that we should be taking a look at. I know it was almost upwards of 350,000 and if you do that. . .do the math, 30 percent would be almost like \$100,000.

CHAIR MATEO: Yeah. I believe that cost was set for single-family dwelling.

VICE-CHAIR PONTANILLA: Yeah.

CHAIR MATEO: What we're looking at here would be multi-family units so the cost would not be as high as the single-family cost. So. . .but, but to be, you know, I don't have that number that, you know, Lokahi Pacific actually. . .the actual cost of the construction of their project.

VICE-CHAIR PONTANILLA: Yeah. In most cases, they would receive subsidies in building even a single-family, as well as multi-family. So just a comment.

CHAIR MATEO: Thank you.

VICE-CHAIR PONTANILLA: Thank you.

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CHAIR MATEO: Members, additional comments on this area here? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, I think I like the percentage better also. My question would be would it be appropriate or permissible for us to put in. . .add in there, as determined by the Director and approved by the County Council as an insurance that then it would be up to the Department to make their justification for what number they're using for this cost? You know, either that or we can say as a. . .as indicated in Appendix B of the budget. But, you know, if we put it in here that the Council would have to approve whatever that number is, I think that gives us a little better check and balance on what's going on between Administration and Legislation.

CHAIR MATEO: Thank you, Ms. Tavares. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, just couple points I wish to share. I don't have a problem with Ms. Tavares' suggestion regarding the Council participate. My first preference is I prefer not and that is based on if we write the legislation clear enough that it is very specific what we expect out of the Department to administer, hopefully, then the Council would not need to get involved one more time. Because I'm hoping part of the things we can deliver is something that people who are putting together proposals would know when they can get answers and when they can expect a decision one way or another. Coming to Council you always take a chance unless we're going to earmark it for action within 30 days or 60 days. I don't want, again, the burden of executing put back on the Council. It isn't supposed to be us that executes the policy, Chairman.

So one, I'm gonna say the 60,000 for me is too low unless it is this Committee's intention to drive proposals to use that in-lieu for rental purposes to build up this rental pot of money. So if that's the purpose, then I can see why we would go with this number, which I still think is too low, as the basis of how to accomplish potentially that goal of beefing up a financial pot of resources. Other than that if that's not the issue, Mr. Chairman, and we want again a more broader mix of affordable units to be presented, then I would say we might want to look at the percentage unless we can come up with a dollar amount that makes sense to most of us. My only other comment with this (B)(2), Chairman, is that at this time I prefer not to have the money go directly from the developer to the qualified housing provider, as I read it, to the nonprofit. I am more comfortable with the money being received by the County and then the County officially doles it out. I think we've had enough bad experiences to make sure we find an accountable way of administering and being able to audit those funds and I prefer it going through the County's bank books first or hands first. So that will be my comments, Mr. Chair, regarding Section 040(B)(2) at this time. Thank you.

CHAIR MATEO: Thank you, Mr. Hokama. Members, . . .(change tape, start 2A). . . additional comments? Ms. Tavares.

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COUNCILMEMBER TAVARES: Yeah. Mr. Chair, I can appreciate what Mr. Hokama is saying about the approve by the County Council. I think that, you know, this, this ordinance is gonna drive administrative rules and what I think in the administrative rules if the Department comes up with the formula that they're gonna use to determine this number, then I'm a lot more comfortable with it. I think that to a certain extent, approval by the County Council is a way for us to check it, but if it's included in their administrative rules, which I see they would have to, then I, you know, I don't have a problem with that just being determined by the Director. I just don't like putting Directors in positions where they're making arbitrary and capricious decisions not being uniform throughout. And if they're gonna make exceptions for certain projects or certain issues, that there be a real good justification for why an exception is being granted so we don't have people in the community whether they're developers or landowners or people gonna get the units feeling like that they somehow didn't get what they should have gotten.

And I believe Mr. Hokama is absolutely correct that the more information a landowner or a developer or a building superintendent or whatever knows upfront what the costs are going to be, the better it is and the risk is reduced on the part of the person trying to do the development. So I have no problem with taking out the, the I mean, you know, not involving the Council in this. I just want to make more work for the next guy that's going to sit here . . . *(laughter)* . . ., but I think that will work and we have to make sure that there is administrative rules that covers all of these particular areas so that it is real clear to everyone or we put in a number now. I mean to me that's more certain we put in a number and to me it was . . .when I talked about the Council approval and I alluded to the budget, it was saying that it would be done once a year, but even once a year is late for what it takes to put development together.

So if we had a firm number established and that number stays or the way you get that 50 percent number, I can live with that. Yeah, I think it's gonna be okay. But I agree 60,000 is too low unless like Mr. Hokama is saying you want people to build this pot for rentals to be built – affordable rentals to be built. If that's our impetus, which I think we need to have a balance between rentals and for sale, because it was I think 50 percent or more than 50 percent of the people in that survey before wanted rentals over home purchase, or you know, dwelling purchases. So we need to accommodate that group and I think the rental group also will accommodate a lot of the folks that want housing that are in the 80 percent and below area. So, you know, I can support, you know, a 50 percent unless we put in a thing where it says, you know, \$100,000 or 50 percent, whichever is greater, kind of thing, but you know, we need to know where we're at or, or people need to know what the number is.

CHAIR MATEO: Okay. Thank you. Thank you, Ms. Tavares. Mr. Hokama, going back to your comments on, on Number 2, your recommendation in terms of who receives the funding, who receives the money, your recommendation was that we recognize the department as an entity that receives the monies?

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COUNCILMEMBER HOKAMA: Mr. Chairman, the way I understand the current language proposed, the appropriate Department Director will make the determination of who the developer, the partner, will pay the in-lieu to the approved nonprofit or community land trust. And again, eight years ago we had difficulties with money being handled that way with another County project. Okay. It went to court. We had problems. We had legal issues. I prefer that the monies be channeled through the County. I don't want a direct transaction between the developer and the land trust or the nonprofit.

CHAIR MATEO: Okay. Thank you.

COUNCILMEMBER HOKAMA: That is my preference, Chairman. I'm just stating, you know, what I . . . I'm more comfortable with.

CHAIR MATEO: Okay. Thank you very much. Additional comments? Ms. Johnson.

COUNCILMEMBER JOHNSON: With regard to the 50 percent, I just am taking a look at the next page on Page 6, where we have our housing units, you know, where you've got a single unit and developable lots and the in-lieu fee is 30 percent. So I just want to find out are we . . . when we look at that and then this being 50 percent, should we be consistent?

CHAIR MATEO: That's the next item on the next--

COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: --page we're going to be getting to.

COUNCILMEMBER JOHNSON: Okay. Thank you. Well, I have no problem with the percentage because I believe that there is a construction cost that is different for different firms and for different entities and I think that the percentage gives that flexibility because I think sometimes if you put in a hard number, the people that have a very narrow margin of profit versus those that have a little bit greater profit margin, it's not really fair. So that's why I'd prefer to put in the percentage because they're gonna actually, in some cases, maybe even get materials that are more reasonable prices and particularly nonprofits if they negotiate as part of a, you know, some kind of a donation. I think that that would also affect the cost of their housing. So I have no problem with the percentage.

CHAIR MATEO: Okay. Thank you. Ms. Tavares, go ahead.

COUNCILMEMBER TAVARES: I got a question for Mr. Hokama.

CHAIR MATEO: Go ahead.

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COUNCILMEMBER TAVARES: When you were talking about it coming through the County, did you envision that going out of the County would be in a form of a grant to a nonprofit? And if, if not, how would we handle the procurement requirements that we have to follow?

COUNCILMEMBER HOKAMA: Chairman, if I . . .if I . . .

CHAIR MATEO: Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: I was looking at it as a . . .the Department, specifically the Housing Department Director, going through a grant agreement between the County of Maui and the qualified provider and it would state the amount of money and what we expect out of that. . .the use of that money. And also, Chairman, you know, some of the my. . .little finer detailsing [*sic*] about an annual independent audit, financial audit shall be done by the provider submitted to the County and we can time it with all of the other audit deadlines. But that would I think be an appropriate way for us to hold accountability of the use of those funds to make sure that we are achieving our stated goals so that. . .that's my preference of how I envision the money to be from the developer to the County to the provider.

COUNCILMEMBER TAVARES: Okay. Thank you for that information.

CHAIR MATEO: Thank you. Ms. Johnson.

COUNCILMEMBER JOHNSON: Like everything else, time is money and one of the things that we have in my Committee is basically a ruling on concession laws or request for proposal and when you have to put something out to bid and when you don't have to. So many times what's coming forward is an arrangement. I think we had it with regard to a project that was in Lahaina where I believe it was. . .was it Kaanapali Beach Hotel or one of the others? I think it was either that or maybe it was Mr. White's project I think when we added on to some of the hotel where they had taken over that management responsibility and then they negotiated I believe with Lokahi Pacific. I thought that was perfectly fine because they're coming forward. They've already had negotiations. They've already undertaken some kind of dialogue about how they're going to work in partner together. So for me I think it's really important that if that is being done and it's fine with the Council, or you know, at least with the Director that they're proceeding in that manner. I don't have a problem with that and at least having some kind of. . .even if it's just administrative approval with. . .I believe in that case we did take a look at it, and can't remember if we had to vote on it or not, but I guess because they were coming forward with a permit we did have some say.

My thought though is any time you can expedite the process, any time there's a relationship where the project can actually be moved along at a faster pace, that's pretty

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much taken place. When you take then the public process into an ongoing negotiation, that's where it gets a little scary because now if you go through an RFP and being fair, our grants are, you know, they have to go through a process. I think that it might confuse the issue because now all the negotiations or the relationship between a developer who's working with a nonprofit, where does that stand? It might confuse the issue so I can see Mr. Hokama's point in that you need the accountability but I can also see the other point that just the process alone adds tremendously to the time period which also adds dollars many times to the bottom line of the project. So that's just my thought on the subject, Mr. Chair.

CHAIR MATEO: Yeah. Thank you very much, Ms. Johnson. And I guess in addition to what you, you had just said I think if the money runs through the County, then there's additional time considerations because it will. . .we will require a Council resolution to accept the monies and then we're gonna have. . .the Council will have to take an action to provide the grants or provide, you know, additional action in approving, you know, grants to, to organizations as well. So we've got. . .we've got both issues to address.

COUNCILMEMBER JOHNSON: And, and you bring up a really good point, Mr. Chair, because all of those things and I heard Mr. Hokama say, you know, to expedite and to deliver housing is really an important goal and objective. And I think when Mr. Ridings came forward and he basically said that it was helpful to him because when they needed money to move forward their project, they had a time deadline and basically it was at their bid or the person who had actually agreed to do their construction. He was holding his line on the cost so the time constraint was really important. So if that's a concern, I would almost rather not have everything have to have the County Council's approval necessarily, but just make us aware of what's going on and the minute that things look like they're going awry, then I, I would entertain some kind of a change. But I know Mr. Ridings, you know, he, he really benefited from that because the money was funneled through into his project and he was able to proceed with the next phase.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So that. . .that's my thought. But I understand the other concerns as well. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MATEO: Mr. Hokama.

COUNCILMEMBER HOKAMA: If I remember right, we bailed out one of Mr. Ridings' project because of a question of accountability of how we're gonna pay back funds that shouldn't have been lent out by the County by another administration.

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CHAIR MATEO: Uh-huh.

COUNCILMEMBER HOKAMA: So, you know, for me, Mr. Chairman, we spent hundreds of thousands of dollars we didn't need to, to bail out that project of Mr. Ridings and that's his history. . .historic fact. My thing, Mr. Chairman, is once we set up the accounting we can look at many different ways, okay. We already have revolving funds which with some I have a problem but the language is upon receiving it into the trust accounts it's already appropriated and to be expended by the Department within the parameters set by the ordinance. Okay. And we've got what, 15 revolving funds currently?

CHAIR MATEO: Uh-huh.

COUNCILMEMBER HOKAMA: So I think we can address the need to be expeditious in certain manners but still maintain the requirements so that we can conduct our oversight responsibilities. And I think it's great that every Member is very cognizant of the fact that we're trying to make this within a workable timeframe and I see that as a big advantage that maybe in the past we weren't so sensitive to the amount of time people are going to take to need to get this, this requirements done to get a unit built, Mr. Chairman. So I say that in, in response to how we may want to approach it. But another suggestion, Mr. Chair, you know, and, and I believe we still in part. . .Section 4, Mr. Chairman, of, of that component – 040?

CHAIR MATEO: Yes. Yes.

COUNCILMEMBER HOKAMA: Okay. I've been re-reading it. Is it still your position, Chairman, that you fill 4(a), 4(b) is that's how we want to keep it in or do you want to maybe delete it and let the Department provide some direction in this manner regarding the in-lieu per unit and in-lieu lot?

CHAIR MATEO: Okay. Mr. Hokama, thank you very much. That's. . .we're gonna get there right after we complete Number 2. So if there is consensus with, with the body, the proposed language that has been underlined. . .underscored if it's okay with everybody, no objections, we're gonna. . .we're gonna accept this and move on.

MS. REVELS: Just point of clarification – did the Committee want to have “and approved by the Council” in or out?

COUNCILMEMBER TAVARES: Out.

COUNCILMEMBER JOHNSON: Out.

CHAIR MATEO: Out. Okay.

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VICE-CHAIR PONTANILLA: Chair, I have a comment . . .

CHAIR MATEO: Go ahead. Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: You know, Mr. Hokama brings out a really good point in regards to following the money, yeah,--

CHAIR MATEO: Yeah.

VICE-CHAIR PONTANILLA: --from a to z. If we were to receive the money through some account and the County administers the distribution of the money, I come back to the constitutionality in regards to if we were to receive the money and dole it out to someone . . .some nonprofit organization, how does your residential requirement, since this is a residential workforce policy, how does that play? Do our residents who are in Maui County get the affordable unit first or is it open to anyone?

CHAIR MATEO: Mr. Souki, because that's a legal question, are you. . .can you respond to that?

MR. SOUKI: As I . . .as I said before when I responded to the initial question because the legislation is requiring the developer to offer this to residents, the question about the constitutionality of that provision already is an issue. So having the money come to the County is, is. . .would be similar to that. . .my initial response. It would raise the issue of constitutionality.

VICE-CHAIR PONTANILLA: So in regards to what's written here, a developer may partner with a nonprofit organization going from develop. . .going from developer to the nonprofit, would that present a different picture in regards to taking care of our residents first?

MR. SOUKI: That, that residency requirement is an issue. When . . .

VICE-CHAIR PONTANILLA: Still would be an issue?

MR. SOUKI: Yes. And again, when you asked the question before you said that if the developer develops their own afford. . .residential requirements separately, then would the constitutional question apply and the answer to that would be no. But that is very different from the case here where the legislation is requiring the residential requirement.

VICE-CHAIR PONTANILLA: Thank you for that clarification. And Chair, I don't know about, you know, is it our intention to provide residential workforce housing for our people here on Maui first? And that's something that we need. . .probably need to address.

CHAIR MATEO: Uh-huh. Thank you. That is the whole purpose and intent,--

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VICE-CHAIR PONTANILLA: Yeah.

CHAIR MATEO: --you know, of this particular document to see how exactly we could move forward and provide the units that, that our local people need. We've been met head on early on in our discussion like more than a year ago from Corporation Counsel who provided this same information to us of the legalities of not being able to be specific in recognizing actually who the houses are for in terms of Maui residents, Molokai residents, Lanai residents. We couldn't specifically do it, you know, so we're still bound to it and obviously if a developer is not going to be using any Federal, State, or County monies, then they can do or impose their own requirements. Other than that, virtually because of the right to travel laws, our hands are tied.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR MATEO: Ms. Johnson.

COUNCILMEMBER JOHNSON: I think that's the other reason why, you know, and I totally respect what Council Chair Hokama is saying that I know other projects have not always gone as they might have gone. But if you look at monies that have gone let's say to Hale Mahaolu, if you look at the money that actually was transmitted I think on the . . . couple projects in Lahaina, to me what it does is it takes the County out of that equation. We can have criteria. We can establish the criteria and we can set up an independent oversight, you know, committee or whoever it is, or an entity, whether it's Lokahi or somebody else to ensure that all of the money is accounted for and then have that given back to us in terms of a report. But, to me, as soon as the County gets involved and the money passes through our hands, all of the . . . all of the requirements I think it raises it to a higher level and it makes it a little bit more difficult – contract labor, even the bidding process. Everything gets thrown into that mix. So, you know, it's a trade-off. And for me, Mr. Chair, I'd say well, okay, provide some avenues maybe going, you know, the one way without having all the constraints particularly where there's a nonprofit involved that, you know, is going to do this, and you know, see what happens. If it doesn't work, great! You know, we can always revisit the policy but I understand what Mr. Hokama's concerns are. I just . . . I just know what happens as soon as all of the requirements under law for transparency in everything is required automatically that just really constrains what those monies can be used for. It sets contracts. It sets entire processes in place and that sometimes is what drives up the cost of the housing. Thank you.

CHAIR MATEO: Thank you. Staff, if you could read the language on that has been underscored?

MS. REVELS: The language that has been underscored is deleting the 60,000 per unit. It now reads, "fifty percent of the average construction cost of a multi-family dwelling unit, as determined by the director."

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CHAIR MATEO: Members, if we've got consensus of . . . on that language, we're gonna move forward.

COUNCILMEMBER JOHNSON: Yeah.

COUNCILMEMBER TAVARES: Aye.

COUNCILMEMBER HOKAMA: Chairman, can we move forward because I don't agree.

CHAIR MATEO: Go ahead. Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: I don't agree. I rather have the hammer. We've had too many problems with housing projects, housing monies, but it was done without the County or with the County or with our sister County. The problem was when we didn't take the time to bird-dog the money.

CHAIR MATEO: Okay. So Mr. Hokama, are you able to provide during our break or before we either adjourn or recess this meeting, can you help provide the language so we can look at the addition. . . addition of your language to address the issue? Because your issue is one that, you know, I think we all. . . we all understand and we all feel that there should be a component of it listed. So if you can help come up with the language . . .

COUNCILMEMBER HOKAMA: I'll work with your Staff, Chairman, at your request, definitely.

CHAIR MATEO: Oh, okay. Thank you. So Members, at this particular point I guess we're gonna come back to this item. We do not have consensus on this. . . this item. We'll be returning to this point at, at. . . when we're through with the list of items that we need to get through this morning. It's 10:30 right now, Members. If. . . the Chair is ready to call for a little break. We're kind of progressing really well. So ten minutes we'll be recessing and we'll be back at twenty to. Recess . . . *(gavel)*. . .

RECESS: 10:32 a.m.

RECONVENE: 10:53 a.m.

CHAIR MATEO: . . . *(gavel)*. . . Meeting of the Housing and Human Services Committee will reconvene. Right before. . . and Members, thank you very much for the break. Right before we recessed we were still on Page 5, under 2.96.040, Number 2, towards the bottom of the page. We had added Mr. Hokama's requested language on to that particular section and if Staff could, could read that inclusion. Read all of it that's underscored.

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MS. REVELS: Yes. To read the full sentence, “A developer may partner with a nonprofit organization or community land trust on a specific affordable project to either construct new multi-family dwelling units or renovate existing non-habitable multi-family dwelling units, paying a minimum of fifty percent of the average construction cost of a multi-family dwelling unit, as determined by the director. Moneys shall be paid to the county’s affordable housing fund. Disbursements from the fund may be made, as determined by the director, to the nonprofit organization or community land trust by grant agreement.”

CHAIR MATEO: Mr. Hokama, comments on that inclusion?

COUNCILMEMBER HOKAMA: Well, I’m not a pros expert there, Chairman, so I trust Staff that it’s written in the appropriate legal form. That’s basically my, my request to the Committee Members for consideration of how to try and maintain some degree of responsible accountability and still allow the funds to get to the appropriate provider or, or to the appropriate project. One of the things we, we didn’t discuss and maybe we need to at this point, Chairman, is let’s say we have Project X and we know they take so much money, yet in the fund or what this specific developer is trying to enter into an agreement to, his option of in-lieu provides us a portion of the project requirements. So my first question is why would we then have that provi. . .that partner give direct monies to a nonprofit that may not have sufficient funds to do the project in the first place? I would prefer to see it how we have it proposed in this part where it goes to the fund. . .an acknowledged fund that we agree to and the Director upon making a decision that there’s sufficient funds to move a specific project forward to then move it out through a grant agreement and I see it working it that way, Chairman. And I think it’s reasonable, I think it’s workable, and still provide the oversight I would like to see in, in the ordinance, Chairman.

CHAIR MATEO: Okay. Thank you, Mr. Hokama. And so Mr. Hokama, the proposed language meets your intent?

COUNCILMEMBER HOKAMA: I trust the, the proposal as Staff has worked with us to try and provide the appropriate language, Chairman. Again, eventually Corp. Counsel is going to need to sign off on form and legality so I think it states the basic intent well.

CHAIR MATEO: Okay. Thank you very much, Mr. Hokama. Members, with that inclusion, the Chair would like to move on to the next section. We need to get consensus on this so we can move on to the next section. Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: It was brought up to me by one of the members of the audience when we’re looking at average construction cost, is there some way that we can define what average construction cost is or at least the components that make up average construction cost? Because that was the question that they posed to me and I said good question. So if Staff could just work on some kind of wording perhaps within the

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definitions to at least just state what the components of average construction cost would be, if it's just building materials, labor whatever.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: And with regard to moving this forward, if that's what it's gonna take to move this forward, I'll support it, but as we've learned many times and which Council Chair Hokama had mentioned, so many times you say you don't know if the nonprofit has sufficient monies or sufficient capability to see a project through to completion. That same situation happens to us very frequently here at the County even though we do have oversight of the money simply because of cost overruns because they never know what's gonna happen until they actually go out to bid. So that statement is just as true if the County is looking or whether we're not looking. So for me, I just say for the sake of moving it forward I'm willing to agree to it even though in principle I still think that we can have other ways to actually control the money or at least have oversight. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. And we'll ask Staff to get back to the question on average construction. Okay. Thank you very much. Members, we're gonna move to the next item and that is on Page 6, unless there's anything else on Page 5 the Members want to address? We'll move to Page 6, under 4(a). . .4(a), in-lieu of fee per unit shall be equal to thirty percent of the average projected sales price for the market . . .(change tape, start 2B). . . rate dwelling units and/or undeveloped lots in the development. The question with the 30 percent was a real obvious one at this point. The policy requires 40 percent. Do we make it all consistent? So the request would be not 30, but 40 percent instead. And the way this would work if the average cost of a home is \$600,000 and note I used the word "if", yeah, if it is 600,000, 30 percent would be \$180,000 that they would be required to pay. Moving it up to 40 percent that would end up at 240,000, and 50 percent would be \$300,000. So the Chair just leaves the floor open for discussion. One, do we want to change that percentage, and if we do, what exactly would that percentage be? Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: My concern is, of course, is that amount of money when you do your 600,000, if you did it at 40 percent, 240,000, if it's going to happen. . .that let's say use Lokahi's project, for example, Lokahi Kuhua. That I believe it was somewhere in the neighborhood of 240,000 plus just to deliver those units in real cost. That was even hard for them to keep those costs that low. So what my thought is, you don't want to make it so low that it's going to be very attractive for the people to just say, well, we're gonna pay the in-lieu fee because there's no way we can deliver the unit at that particular cost. Because even if a nonprofit can't do it, how is someone else gonna do it? So my thought would be – is it realistic? And is it actually gonna make it more attractive to pay the fee rather than actually produce the housing unit itself. So whatever that magic number is, that's what I think we have to shoot for. And I don't. . .I don't know because I don't build homes what would be a realistic figure but I think that we've got to have

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some kind of wording in here that really I guess addresses, you know, that issue. And I don't know if it's doing the percentage, if it would be 50 percent or what. Anyway, those are just my thoughts, Mr. Chair.

CHAIR MATEO: Thank you very much. And I believe a little more than a year ago, the discussion on this, and I believe it was Member Pontanilla who brought the issue up, the whole intent and the whole purpose of this exercise was to get the affordable homes built. And it was Member Pontanilla who initially threw out a 50 percent number because, you know, if you want to get the home built, the percentage had to be high enough so that there was no consideration of I'll just give you the money and I won't have to build a house. So throughout the, the continued discussion it evolved to the 30 percent number. So for this particular point in time, the Members you need to address that percentage.

COUNCILMEMBER JOHNSON: Then, Mr. Chair, I would say make it at the 50 percent level because there are gonna be circumstances where the percentage will be lower in certain market. I think because we have the step up because we have that sliding scale, if you will, based on the housing. If it's over a million or under a million, I think it went from 40 to 50 percent. I would say just do it at 50 percent or higher. Thank you.

CHAIR MATEO: Thank you. Members, questions or comments? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Mr. Chair, I would hope that we would. . .we would consider another way to look at this thing is using it part of as. . .part of the incentive package tied to the percentage of affordable homes and that say that if they are doing the minimum, which is the 40 percent affordable at this point in time, that we actually have a dollar figure in there. Because a lot of times people don't know what the prices of the homes are gonna be until they know what all their costs are gonna be and this is one of the costs. So if they know upfront what those costs are, then they can plan accordingly. So, you know, perhaps I can work on something in a little bit but it's the whole thing that if somebody is doing the affordable at 40 percent which is the requirement of this, the in-lieu fee should amount to like, you know, \$250,000. And then as they build more affordable homes, you know, or whatever that. . .or they're not building, they're doing an in-lieu, but there's got to be something else in here. I'm sorry, but my table is for something else. I'm sorry. . . .(chuckles). . .

CHAIR MATEO: Thank you.

COUNCILMEMBER TAVARES: But, yeah, the in-lieu fee should. . .I don't think it should be tied to a projected sales because that's an unknown at the time that a developer is trying to put together their financing package. They need to know what all the costs are more upfront. The more upfront they know what's going on, the better they can develop their project. And I think we should be tying it to a flat fee right now and make the fee such that if we look at the average. . .oh, that's where it came in, the average of the cost in the median, if we took it, our thing and looked at the spread of where we start with the 80

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percent and above, you know, you take that low number and then take the high number. So it would be 144,000 to 403,000. You know, take the average of that and that becomes the in-lieu fee and tie it to the HUD family of four thing every year. Then they kind of know what the reference point is gonna be. I don't know. Maybe that's too simplistic and perhaps. . .but I think that's more workable as far as getting some certainty and reducing risk on the developers part.

CHAIR MATEO: Okay. So at this. . .at this time, Ms. Tavares, you would wish to provide the language to change this particular section?

COUNCILMEMBER TAVARES: Yeah. I'd like to change it to a fee, period, with a dollar amount rather than a percentage.

CHAIR MATEO: And that, that fee amount?

COUNCILMEMBER TAVARES: And I'll get that fee to you in about two minutes because I'm . . .

CHAIR MATEO: . . .(laughter) . . .

COUNCILMEMBER TAVARES: The chart I have is for someplace else not here. Sorry.

CHAIR MATEO: Thank you, Ms. Tavares. Members, additional comments? I need two minutes. Additional comments? . . .(laughter) . . .

COUNCILMEMBER HOKAMA: We can return to this, Chair.

COUNCILMEMBER TAVARES: Yeah.

CHAIR MATEO: Okay. While, while she's working on the number we can come back. . .we can come back to it. Additional comments on the rest of Item 4 of Number 4 on Page 6? Mr. Hokama, was this the area that you had wanted to do comments on?

COUNCILMEMBER HOKAMA: Chairman, the other end of the spectrum regarding Number 4 would be deleting (a) and (b), the other end of the spectrum from, from, from approaching this residential workforce in-lieu provisions. And again, you know, it depends the approach the Committee would like to take. You know, I heard the comments from Ms. Johnson, as well as Ms. Tavares, so that's another way of approaching it, but to me that's a different end of the spectrum. So I just bring that up that, you know, we still have an opportunity to decide which is the best route we would like to take in this time. . .space of time as it regards to this ability to provide housing for our workforce specifically. I just bring it up, Chairman. I'm not, you know, hardheaded about which option to take but I just know that we have choices before the Committee. Thank you.

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CHAIR MATEO: Yeah. So Mr. Hokama, if I . . .if, if I may, then I guess going back to what I just said a little bit ago where the priority was to get the homes built.

COUNCILMEMBER HOKAMA: Uh-huh.

CHAIR MATEO: So by your consideration of deleting (a) and (b) we do not offer an alternative. It's either build. . .just build a house and we're not looking at in-lieu whatever. . .in-lieu contributions?

COUNCILMEMBER HOKAMA: That's one way to approach it, Chair.

CHAIR MATEO: Okay, okay.

COUNCILMEMBER HOKAMA: That's one way to approach it.

CHAIR MATEO: Okay. Great. Members, comments on. . .yeah, Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: I think that that was a comment that Molokai had made. They don't want the in-lieu. They want the units. So I guess my question would be is if you eliminate this section, then with regard to monies that would come in to a housing fund, there would be no housing fund because you wouldn't be accepting any in-lieu contributions. So then that's gonna dramatically change the ordinance.

CHAIR MATEO: Yeah.

COUNCILMEMBER JOHNSON: I mean that's just. . .to me I think all things being equal there's some entities that are perfectly capable of building the units themselves. There are other projects where they would not want to, you know, they're like a developer but they're just developing the property. If you look at Maui Lani, you know, they have other people in there that are actually constructing the units. They're not building them themselves, they're just developing the property. So if you look at it in that context, there may be times when they just feel or we feel. . .just like our park assessments sometimes it's better to take money. Other times it's better to take land. Other times it's better to have a combination of both. So to me I think it provides some flexibility and there may be times when maybe your project is so tight or you want 10,000 square feet so that results in a lesser number of units that could be built. Maybe it's gonna be better then for us to actually have that money coming in. So I don't know. To me this section provides flexibility and it would be the number that I would be concerned about. And even, even if you had, as Ms. Tavares is trying to come up with specific numbers, just do a sliding scale because again not all developers or not all projects are created equal. They have different levels of or margin of profit.

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CHAIR MATEO: Thank you. Corp. Counsel, Mr. Souki, could you comment on Ms. Johnson's comments regarding the,--

COUNCILMEMBER JOHNSON: In-lieu.

CHAIR MATEO: --yeah, the in-lieu fees.

MR. SOUKI: Could you just restate your question for me, please?

COUNCILMEMBER JOHNSON: Well, it's not really a question. It's more a statement that if we eliminate this section entirely and say we absolutely don't want any in-lieu fees, then if there's no mechanism and this is the main mechanism by which we would be establishing our fund, if you will, then no need for the fund because there's no money coming into it.

MR. SOUKI: That. . .I don't think that is necessarily a legal question. It might be a policy issue for the Committee to decide on. I don't think I see a legal issue in regard specifically to taking it out and how it will affect the fund.

COUNCILMEMBER JOHNSON: Well, monies I suppose could come in through donation irrespective of anything else. But if you're looking at the establishment of a fund as it's included within this bill, as it's been referenced, my question would be a legal question then. If there's no mechanism to put monies into a fund through the in-lieu fee, then would it be appropriate to take out the verbiage that's related to a fund into which no money is going?

MR. SOUKI: Is your question about whether that would be a substantial change to the language of the bill?

COUNCILMEMBER JOHNSON: Well, that's part of it but also, you know, if we remove this section, do you see any other means where monies would be coming into a fund that would be appropriate to keep the language in regarding a specific fund?

MR. SOUKI: That, that is a really broad question. I wouldn't be able to say at this point what kind of monies would go into that fund unless the Committee has language that would say where that money is coming from.

COUNCILMEMBER JOHNSON: I guess I would ask the Chair then, where we're getting our money at least as being referenced in this section because I know we have our housing fund that we're gonna be putting forward for Charter amendment. If money is gonna be coming in from that means, then, yeah, by all means still continue that language. But if this is only of the fund where the in-lieu fees are actually going to be channeled, then I guess my question would be if there's no other source of that money coming into the fund, then, yeah, we do need to address it. I mean it is, Jesse's right, it is a policy call,

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but I just want to know because if there's other sources, if it's coming from potential sources or donations, then I have no problem. But I still think, in my personal view, I would like to provide flexibility.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So I prefer to keep the in-lieu in.

CHAIR MATEO: Okay. We'll have the Department respond to your question on other funds but I'd like to continue on on the same question that you were just asking Corp. Counsel. And Mr. Souki, then if we provide no flexibility for the developer, then would question of takings be applied?

MR. SOUKI: So the bill would be saying that there would be no in-lieu fee, you would need to build,--

CHAIR MATEO: Uh-huh.

MR. SOUKI: --and would that be a taking?

CHAIR MATEO: Uh-huh.

MR. SOUKI: You know, that, that is a question I would probably want to think more about than to just give here at the Committee because it brings into play a lot of different issues, if that's alright?

CHAIR MATEO: Okay. Thank you. Thank you very much. Ms. Johnson we'll wait for his additional research. And maybe for Mr. Andaya with the Department, Ms. Johnson's question is about what other funds might be available for affordable housing projects.

MR. ANDAYA: Mr. Chair, I don't know of any other funds that could be used for this. The only ones that I could think of is the home funds but that's very restricted and wouldn't be able to. . .wouldn't fit into this type of funds. So, yeah, I don't believe there's any other funds that we could. . .that could be used.

CHAIR MATEO: Does the Department apply for additional affordable housing fund monies for the specific development of these special projects?

MR. ANDAYA: The only funds that we could apply for are Federal funds and a lot of times that comes with a lot of. . .a lot of restrictions so not so much those types of funds. I know that we apply time and time again for Section 8 funds. . .Section 8 monies, but even, even that because the Federal Government has been cutting back a lot, it's been very hard to get new funds, you know, it's been very difficult.

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CHAIR MATEO: Okay. So the short answer is no,--

MR. ANDAYA: No.

CHAIR MATEO: --there's really no funds.

MR. ANDAYA: There's no funds.

CHAIR MATEO: Thank you. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I'm happy to hear the discussion but I would say if we choose from this Committee to send up before the Council, we can currently readjust two revolving funds that has housing money in it. I think we have a rental revolving fund, as well as a home--

CHAIR MATEO: Buyers.

COUNCILMEMBER HOKAMA: --first time. . . I don't know home but a first time buyer, but I know we have another revolving fund that we could by legislation redirect or restate the permitted uses or expenditures from those funds and we can plug it into this program if we so choose. So there's other ways to do it. And I don't know if CDBG, if we construct our grant proposals within certain parameters, whether or not we would qualify for those type of funds, too, Mr. Chairman. So I would say to Ms. Johnson's comment that she brought up, there's ways to get monies into the fund that doesn't come from this proposed ordinance. But I just bring up the subject of the other end of the spectrum, Chairman, because I wanted to know whether or not in regards to Ms. Johnson's comments that it's not a one size fits all. They may be a five-unit, ten-unit subdivision because the scale and other factors, the money makes sense than the actual unit delivered. I don't see that as being a common, common, common, common end result but I can see it being a result. And maybe the in-lieu is geared more for those on smaller scales but we would utilize the funds to build up the fund to do a reasonable size project where we can have the scale, the critical mass components to drive certain cost factors to more of our advantage. So I can see it working that way, Mr. Chairman. And, and I again, will say that if it makes sense, I don't have a problem. If Ms. Tavares has a nice magic bullet number for me, I'm happy to consider that too. But I just wanted to share that, Chairman, that again, for the big large-scale developments I would rather have the units. That's my preference.

CHAIR MATEO: Okay. Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. As far as deleting (a) and (b) I, you know, I was taking a look at this thing here and I'll wait for Ms. Tavares number in regards to dollars. I think that (a) and (b) should be left in because (a) will identify dollars for the in-lieu fee that will be utilized for residential workforce housing and (b) is developable lots. So

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when you. . .and both of them gotta work hand in hand. In other words, they give us lots, how are we going to provide the housing? So I think the in-lieu fee is kind of critical in regards to this one area. The other thing is that when you look at (b) and (c), (b) identify residential workforce housing resource centers for the homeless, day care center for seniors, or other use projects that address the housing needs of income-qualified households and special housing target groups. And then the definition for (c), you know, it says that to create housing for special need group. . .target groups. It doesn't mention the rest. Should (b) and (c) be consistent in regards to the definition such that we eliminate (c) to make it more identifiable – who we're trying to address?

CHAIR MATEO: Uh-huh. So (c). . .you recognize (c) as being redundant in terms of. . .in part being recognized in (b) and if we do in fact eliminate (c), we should be as specific as possible with recognizing those . . .

VICE-CHAIR PONTANILLA: Yeah, because (b) you recognize almost, you know, all of the special need. . .housing target groups and (c) you don't. It should be consistent.

CHAIR MATEO: Okay. Thank you.

VICE-CHAIR PONTANILLA: Thank you, Chair.

CHAIR MATEO: Thank you, yeah. Ms. Tavares.

COUNCILMEMBER TAVARES: Well, I'll throw out the magic number – \$150,000 – and it's not been done totally scientifically but it's a guesstimate. I think that what we need to look at in this is that we want to. . .while we want to encourage the building of the actual housing, we do have to take into account those smaller subdivisions that, you know, we need to provide a way for those folks to, to survive the bill. But you know, I can work with Staff more on coming up with a number to justify this number because this is like a . . .like I said a rough estimate but it's based upon the amount of subsidy for homes in each of the categories. So it's not just the cost of building the house itself because that's the construction cost like we were talking about the other one, it has to do with all of the time and all of it. . .all that's. . .the time and the expense to put a project together and I believe that when we spoke with Lokahi Pacific regarding their project in Lahaina, that they said the overall project cost with all of the things included was about \$225,000 per unit. So you know, if somebody else comes forward with some of those kind of numbers, like what their overall project cost is, maybe we can get some of those figures from some other projects that have been built either by Lokahi or any other housing. And perhaps the Department of Housing and Human Concerns might know what that is because they're working with grantees or people who are receiving funds from the County or through the County. Thank you.

CHAIR MATEO: Okay. Members, comments on Ms. Tavares' silver bullet?

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VICE-CHAIR PONTANILLA: Just a comment.

CHAIR MATEO: Go ahead.

VICE-CHAIR PONTANILLA: Once we set the fee and if it's \$150,000, you know, that we go along with, then at least we have two years to look at that number, and you know, as we had indicated that we're gonna revisit this policy or ordinance in two years and make adjustments. So that will give us that opportunity to do the changes.

CHAIR MATEO: Thank you, Mr. Pontanilla. Ms. Johnson, did you have any comments?

COUNCILMEMBER JOHNSON: No. I think it kind of goes back to the conversations we had earlier about rezoning versus somebody that's bought land that's already zoned because the profitability of course and the ability to pay is always going to be tied to what the cost is for the basis. I would be looking at this and saying, well, 150,000 if you got your land and it was through rezone and that value you're going to be okay probably paying that amount, but if you're purchasing the land at a higher cost that's already been zoned, your margin is so much narrower there so it may be harder for you to pay the 150,000. So I would. . .one thing I would like to do is actually and I know we haven't done this, Mr. Chair, but at some point when this. . .even if it comes before the Council because just have real life examples of if you work through the numbers within the ordinance, if you work through and do real life examples, how would it work with two very different developers and with. . .whether the land has been actually zoned or whether it's something that's being developed on land that has just been rezoned. Because you're. . .I don't know, and I again, am not a developer so I'd say, fine, go with the 150,000 as a ballpark figure throwing it out, but I have no idea how that is going to actually compare to different developers and also how it's gonna compare either favorably or not favorably to actually delivering a unit. However it plays out, I would just want to see those numbers in real life examples, and then I'll feel more comfortable. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Members, additional, additional comments? If I may, the 150 it just at this time sounds, sounds a little low and I do realize as Ms. Tavares says that it's the amount of the subsidy also that needs to be taken into consideration. But for us it's like getting away from the original intent. The original intent was to get the homes built and though this can be looked at as punitive in nature, you know, in essence it was because the whole purpose and the intent was to build affordable homes. So you know, because we don't know what the actual. . .the right number is, if we looking at 150, will we get \$150 [*sic*]? Is this \$1,000 [*sic*] per required unit? You know, do they get away that way by giving us, you know, 150 each? Or do we make it higher so that the options are not that varied? You either build the unit or you save a few bucks and you give us the in-lieu. You know, so those are just kind of like my own considerations and Member Tavares also referenced this being considered as, you know, as a potential incentive so that we can actually get the funds to build the kinds of units that we think appropriate. So, myself, I am also more so at the edge. I don't know specifically what

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that right number is and I leave it up to the Committee to either come up with a number right now or a percentage so we can. . .we can move on and we could come back at another time. Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: Mr. Chair, I would say that we could probably ask Lokahi basically and those are small little units. Because again, the amount of money that we get, what is. . .what is that going to substitute for? Is that a 10,000 square foot lot with a, you know, 2,400 square foot house? We're talking about these things and yet we're not talking about, well, what are we going to be able to do with that. So it's all relative and what I would. . .the reason I still like the percentage, going back to the percentage, is because of the type of housing that you're actually looking at. If you're looking at a really modest house, yeah, that number might work. But if you're looking at something, if you look at the Spencer Project, for example, you know, really all things considered what those homes were priced at and you're looking at the square footage, the construction cost, well, you know, I mean that and then you compare it to maybe what Mr. Kim was going to build. Two different things, but you know, that's why I like the percentage because then are we also dictating what kind of housing is going to be built because if we look at setting a fixed number, well, maybe that's only going to produce cracker boxes. I just don't know. So, for me, I'm more agreeable to the percentage because I think it takes into account each project and the costs that are associated with it. That's why I like a percentage as opposed to a one size fits all fixed number. That's just my thought. Thank you.

CHAIR MATEO: Thank you. To just. . .

VICE-CHAIR PONTANILLA: Chair?

CHAIR MATEO: Yeah, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Just a comment.

CHAIR MATEO: Go ahead.

VICE-CHAIR PONTANILLA: I took a look at . . .(*change tape, start 3A*). . . at the lands being developed by Hawaiian Homelands. These are lands that are leased land. You pay \$1 a year for 100 years or whatever. And the developer that's doing that affordable housing for the Hawaiian community does so in regards to having a net profit of probably 1 to 2 percent. And even at 1 to 2 percent, you know, you looking at homes being built for approximately 100, probably 140, \$150,000 and these are good sized homes, probably 13, 1,400 square foot with two-car garage. So what I'm trying to get at is that if the in-lieu fee is \$150 [*sic*] or whatever we agree to . . .

COUNCILMEMBER TAVARES: One hundred fifty thousand.

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VICE-CHAIR PONTANILLA: Oh, 150,000, thank you. . . .*(laughter)*. . . And, and you know in such. . .and such that if developers would provide, you know, according to this policy here, the draft, developable lands, you know, we looking at lands, you know, you have your road infrastructure, your underground, or overhead utility structures already in place, you know, that amount to a great deal, and you add this \$150,000 to that, you know, you looking at a home probably three, \$400,000. So I think, you know, the \$150,000, you know, seems reasonable to me because we looking at the construction of the unit and if a developer can develop the units at a margin of 1 to 2 percent profit margin, then you know, I think what Member Tavares presented is a good number.

CHAIR MATEO: Okay. Thank you. I mean especially considering what we get now.

VICE-CHAIR PONTANILLA: Yeah. If you want units, you make it too high, then you know, we going get developable lands, and you know, we'll just have to wait every year when, if and when the Charter is approved this coming November about the 2 percent monies that gonna be set, set aside for affordable housing, you know, it's going to be providing housing based on what we receive on the 2 percent from the Charter Amendment.

CHAIR MATEO: Okay. Thank you.

VICE-CHAIR PONTANILLA: The other thing, you know, coming back to the definition, you know, I would kind of propose that, you know, we make it more specific on the (c) or just eliminate (c) and the definition that's on (b) addresses all of the areas that we want to address as far as the residential affordable housing policy for this particular group. Thanks.

CHAIR MATEO: Thank you, Mr. Pontanilla. Members, additional comments? We've got . . . we've got two considerations. One is to--

COUNCILMEMBER TAVARES: Chair?

CHAIR MATEO: --on Item 4(b). . .uh, 4(a) that 30 percent would, would go away and we're looking at \$150,000--

COUNCILMEMBER TAVARES: Could you use your mike?

CHAIR MATEO: --and we're looking at \$150,000 set fee. The other consideration is the elimination of (a) and (b). Members?

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead.

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COUNCILMEMBER TAVARES: Yeah. I don't support the elimination of (a) and (b) because I think we need some flexibility in the plan and this just gives more flexibility. It's up to us to tune this up so that it makes sense for the direction that we want to, to go in. That's my feeling. I think we do need some work on (b) but we're not quite there yet.

CHAIR MATEO: Thank you. Ms. Johnson.

COUNCILMEMBER JOHNSON: I think the third consideration that I threw out was instead of it being 30 percent that we do 50 percent.

CHAIR MATEO: Fifty percent. Thank you, Ms. Johnson.

COUNCILMEMBER JOHNSON: So that and, and personally, I would rather go with the percentage for the reasons I already stated.

CHAIR MATEO: Thank you. So the three proposals, Members, we need your input so we can move off of. . .move off of the proposal. Mr. Pontanilla, did I hear you earlier that you, you thought (a) and (b) should stay and we just should define--

VICE-CHAIR PONTANILLA: Yes.

CHAIR MATEO: --more, more finely (b)?

VICE-CHAIR PONTANILLA: Yes,--

CHAIR MATEO: Okay.

VICE-CHAIR PONTANILLA: --and the elimination of (c).

CHAIR MATEO: Okay. Thank you. Members, additional, additional comments? We're going to. . .what about the, the. . .anyone interested in supporting the 50 percent percentage number that Ms. Johnson is suggesting. . .suggesting. . .(*chuckles*). . . DeGray – no.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Yes.

COUNCILMEMBER TAVARES: You know, I can't support any kind of percentage because the percentage creates an unknown factor and because of some other interest that I have I'm very much aware of all the unknowns and what it does to trying to come up with a budget for a project. So the more unknowns there are, the harder it is to commit the higher the risk and this makes sense whether you got a small little project or not. And I don't think a percentage works because it comes. . .it comes at a point where it can be changed at the final subdivision and by then it's too late because they've already worked

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out what their projected construction costs are – all of those things. So I don't like a percentage in here. I would like to see a flat fee and that flat fee gets adjusted in light of whatever the economy is at the time or whatever information we get, but I do believe it should be a designated fee so people know what they're up against and what they can weigh as far as a benefit. We can't make it too low because then everybody will just write checks unless that's what we want them to do. But it can't be too high to ice out the other people and make it impossible for them to even subdivide their own lands and I think that's what, you know, we're caring about too. We've got two, and you know, maybe one size doesn't fit all but I think we can get to a median that works.

CHAIR MATEO: Uh-huh. Thank you. Ms. Johnson.

COUNCILMEMBER JOHNSON: What, what I would say because in another part of the ordinance we do the over one million, less than one million, I think maybe looking at this section with a sliding scale similar to that or something that at least takes into consideration what housing is being produced, then you could maybe have Ms. Tavares 150,000 at the one level, then step it up if it's over a certain amount or maybe even have three categories and say, you know, if it's between 500 and one million, then it's 250,000, and if it's over one million for your market price housing, then do 350 or 400,000. So that in other words what you're doing is you're at least providing some flexibility in there based on the type of housing that's probably gonna be delivered. 'Cause some people will. . .if everybody is held to the one standard of 150,000, I can guarantee you the guys that have a higher profit margin built in, you know, to their projects, you know, they're gonna go with the 150,000. So, you know, and I can understand Mr. Vanderbilt's point too is like on Molokai, give me the house, I don't want the money at all. They need housing units. So, and that's a whole other subject with regard to Molokai, Lanai, and perhaps Hana, is because their comments, you know, are a little bit different. They want to be excluded in some areas. That I think is really important for us to discuss at some point, too, is how are we going to treat them because their view of this housing policy overall may not be workable for their communities. Thank you.

CHAIR MATEO: Thank you. Members, additional comments? We have no consensus at this . . . in this particular area, Page 6, Number 4, (a), (b), and (c). We have no consensus. I'm gonna try for the last time so we can make a last ditch effort before moving on to the next so we don't have to return to this item again. We've got three proposals. Ms. Johnson's is the 50 percent. . .percent number to be included, included in this and perhaps look at breaking it down in different classifications like expressed in another part of the ordinance.

COUNCILMEMBER JOHNSON: Well, I would be eliminating the percentage then in regard to what Ms. Tavares is saying. If she wants a hard cost so that you would be able to know when you're doing your business plan what is your hard cost, if you know those upfront

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costs, if you know what it is going in, my suggestion would then be if you're gonna use fixed numbers, then use the sliding scale – use tiers.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So, and, and they could be two tiers right now basically following your over million or under million. If you even use that simplistically and just made, you know, basically this fee is coming out of nowhere anyway so I guess we could plug anything in for purposes of just moving this forward. But I say at least provide those two opportunities and it could mirror the other component which we have which is under a million and over a million.

CHAIR MATEO: Okay. Thank you. Members, the other recommendation was to eliminate (a) and (b).

COUNCILMEMBER TAVARES: No.

COUNCILMEMBER JOHNSON: No.

CHAIR MATEO: Okay. Thank you. That, that, that is. . .that is no longer on the table. The other recommendation was to establish a flat fee of \$150,000. Okay, discussion on that . . .on that recommendation? No discussion. Members, I need. . .I need some kind of a recognition from you guys . . .

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: I think it's fine that you're trying to get consensus on all these things before we move forward but we're gonna keep rehashing it over and over again. You know, I just say we put it to a vote and move on and when it gets to full Council, or you know, later on when we go through it again we can make another effort to try to come to a compromise. But at this point in time, I don't think you need a 100 percent consensus. Let's just . . .

CHAIR MATEO: Move on.

COUNCILMEMBER TAVARES: You know, you've got three or four out of five, three out of five, or four out of five that that's consensus enough to move it on.

CHAIR MATEO: Okay. Thank you. Members, we're gonna call for the vote on the first proposal by Member Johnson. All in favor? Go ahead, Ms. Johnson.

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COUNCILMEMBER JOHNSON: Well, basically, just so that people understand my proposal then I'll make it in a hard number--

CHAIR MATEO: Go ahead.

COUNCILMEMBER JOHNSON: --would be that it would at the first tier of under \$1 million, it would be 150,000 and using the over one million, it would be double that, 250,000. Those would be the fees.

CHAIR MATEO: Thank you, Ms. Johnson. Okay. Understood, Members? All those in . . .

COUNCILMEMBER TAVARES: Mr. Chair, I don't think there's a motion on the floor for one.

CHAIR MATEO: It's anticipation. . . .*(laughter)*. . .

COUNCILMEMBER TAVARES: Yeah, I know,--

CHAIR MATEO: Make a motion, Ms. Johnson?

COUNCILMEMBER TAVARES: --unless you want to wait until there is a motion on the . . .

COUNCILMEMBER JOHNSON: Yeah.

CHAIR MATEO: Go ahead.

COUNCILMEMBER JOHNSON: I move that in this particular section the in-lieu fee be separated into two tiers. The first tier would be for all of the market rate dwellings that are priced at less. . . the average price is less than \$1 million, the fee would be 150,000. For all of the units where the average market rate dwelling price would be in excess of one million, the rate would be 250,000 for the in-lieu fee and that's on 4(a).

CHAIR MATEO: Thank you. We got a motion. Any second?

COUNCILMEMBER HOKAMA: Second.

CHAIR MATEO: We got a second from Mr. Hokama. Members, call for the vote. All those. . . go ahead.

COUNCILMEMBER TAVARES: If we can have discussion first? . . .*(laughter)*. . .

CHAIR MATEO: Please. Go ahead.

COUNCILMEMBER TAVARES: Mr. Chair, you know, I can understand where Ms. Johnson is going and actually when we get to the part about the one million over and one million

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under thing I was gonna, gonna go into a description or a discussion about that. It's not workable because all the developers need to do is figure out enough to get their average at 999,999 and who knows. . .I mean they might have an idea what they want to sell things for. So what if they pay the fee for the average price at being over a million? The market dictates they can't get that price, we have to refund them the money now because their actual sales were "x"? I don't think this is workable. I mean we have to think about the administration of this, too. So I think that, you know, the simpler we can make it, the better. The fact that, that homes are going to be \$1 million doesn't create a bigger affordable house on the other end, but we need to have the fees in such a way that we will be able to accomplish what the County needs to accomplish in getting affordable housing out. And we can't tie this to the number of lots either, by the way, because if somebody builds a five-lot. . .they have a five-lot subdivision and it's all on the coastline and all those houses are \$3 and \$4 million a piece. That doesn't make sense either. So, you know, there's so many of these exceptions or unknowns, but basically if we stick to one number and maybe the number is not that 150,000, I think we're gonna be okay because it will accomplish what we need to do with the money. So I will not be supporting the motion on the floor, Mr. Chair. Thank you.

CHAIR MATEO: Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair. I'd just like to add a new twist. You know, our affordable housing policy, you know, you take into consideration, you know, between 80 percent and 160 percent?

COUNCILMEMBER TAVARES: Uh-huh.

VICE-CHAIR PONTANILLA: But based on what a nonprofit organization is looking at, especially a community land trust, in order for them to be in compliance with Federal Government, you know, their Charter, not Charter, but they are required to stay between 80 percent and 120 percent medium [*sic*] income. So my suggestion is that if you're going to create affordable housing for 80 percent to 120 percent medium [*sic*] income, then I can go along with the \$150,000. But if you gonna add the other income level, 121 percent to 160 percent, maybe \$225,000 would be the in-lieu fee, you know, based on what I see as far as the unit cost as provided to us by you, Chair.

CHAIR MATEO: So your recommendation would be reconsider the number if we're looking at . . .

VICE-CHAIR PONTANILLA: Reconsider the number or if we looking at one specific number, you take the average of both.

CHAIR MATEO: Uh-huh. But if we're not able to look at one specific number because the numbers we're looking at because of the policy requirement, 80 to the 160,--

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VICE-CHAIR PONTANILLA: Yeah.

CHAIR MATEO: --so we're going to have to look at it in general. So . . .

VICE-CHAIR PONTANILLA: So if you're looking in general, then you take both.

CHAIR MATEO: So your recommendation would be a higher number?

VICE-CHAIR PONTANILLA: A higher number, yeah.

CHAIR MATEO: And that, that number would be?

VICE-CHAIR PONTANILLA: If I look at the combination of both, would be around \$200,000.

CHAIR MATEO: Okay. Thank you. Yeah, Ms. Johnson.

COUNCILMEMBER JOHNSON: Mr. Chair, I can withdraw my motion. I have no problem doing that if Mr. Pontanilla wants to make a motion and you want to have the one number. So at this time if there's no objections, I will withdraw my motion.

CHAIR MATEO: Thank you, thank you. Okay, Ms. Johnson, withdraw the motion. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Okay. I would amend that instead of \$150,000, we look at \$250,000 [*sic*] as the in-lieu fee.

CHAIR MATEO: Yeah. That would be your motion?

VICE-CHAIR PONTANILLA: Yeah. That would be my motion.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: Second.

CHAIR MATEO: Okay. Been moved by Mr. Pontanilla, second by Ms. Johnson. Members, discussion? Ms. Johnson.

COUNCILMEMBER JOHNSON: The only thing that I would suggest putting in so that it addresses the other concern that I had which is capability of paying that fee, we may want to insert language that would at least allow the Council to either amend or to have some kind of appeal that if the entity has a circumstance that that number doesn't work that there is some kind of an appeal mechanism whereby and I, I think Gayle might. . .if we have that somewhere else in the ordinance, I'm perfectly happy with that. Because at least that would give the flexibility--

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CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: --to somebody coming forward and having the ability to appeal--

CHAIR MATEO: Staff, you. . .

COUNCILMEMBER JOHNSON: --if they couldn't pay that and I'm thinking more specifically nonprofits,--

CHAIR MATEO: Okay. Thank . . .

COUNCILMEMBER JOHNSON: --not for profit companies.

CHAIR MATEO: Staff?

MS. REVELS: There is an appeals process under adjustments in 2.96.030, Applicability, and the title "Adjustment" is on the bottom of Page 4, but the actual appeal process is the top of Page 5 of the current draft.

COUNCILMEMBER JOHNSON: Okay. Thank you, Mr. Chair.

CHAIR MATEO: Thank you. Members, any additional discussion before we call for the vote? Members, all those in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR MATEO: Opposed? Thank you very much. It is using the flat fee of \$200 [sic] in this,--

COUNCILMEMBER JOHNSON: Two hundred fifty thousand.

CHAIR MATEO: --\$250,000,--

COUNCILMEMBER TAVARES: Two hundred thousand.

CHAIR MATEO: --\$200,000 in this.

COUNCILMEMBER JOHNSON: This proposal was 250,000.

CHAIR MATEO: Two hundred thousand.

COUNCILMEMBER TAVARES: Two hundred.

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COUNCILMEMBER HOKAMA: Double check.

CHAIR MATEO: Okay. Mr. Pontanilla, can you verify the number you proposed?

VICE-CHAIR PONTANILLA: Two hundred thousand.

CHAIR MATEO: Two hundred thousand. Okay. Thank you.

VOTE:	AYES:	<i>Councilmember Hokama, Johnson, Tavares, and Vice-Chair Pontanilla, and Chair Mateo.</i>
	NOES:	<i>None.</i>
	ABSTAIN:	<i>None.</i>
	ABSENT:	<i>None.</i>
	EXC.:	<i>None.</i>

MOTION CARRIED.

ACTION: \$200,000 as the in-lieu fee.

CHAIR MATEO: Members, we're gonna move on to Page . . .

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Yes.

COUNCILMEMBER TAVARES: Before you. . .we're gonna do anything with (b)?

CHAIR MATEO: Recommendation, Ms. Tavares?

COUNCILMEMBER TAVARES: Yeah. On, on the lots I would like to see us tie into a minimum lot. . .minimum lot size or an average of the size of the lots in the subdivision because a developable lot is a wide range of square footage so I think it would be appropriate for us to look at an average of the lot sizes within the subdivision as an acceptable in-lieu developable lot.

CHAIR MATEO: Thank you. Do you have a recommendation of what that lot. . .average lot size might be?

COUNCILMEMBER TAVARES: No. I just say it would be an average of the lot sizes within that subdivision.

CHAIR MATEO: Okay. Oh, I see.

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COUNCILMEMBER TAVARES: So if you've got 7,000 square foot lots for something and 10,000 and 15,000 for another, then you take an average of that and that would be the minimum developable lot that they could contribute. And I don't want to throw a monkey wrench in here but the other way to do it is by square foot of something like park assessment. But I think it's easier to do it this way because it's very specific to the area and if it is a subdivision that is made up of different size lots, then you get an average. And if it's a subdivision that's the same size lots, the average is the same. So I think the average part works and I believe Staff could probably figure out the verbiage for that.

CHAIR MATEO: Okay. Thank you. Members, additional comments on the recommendation?
Ms. Johnson.

COUNCILMEMBER JOHNSON: I think that because, you know, you've got our zero lot line, you've got 5,000, sometimes you have 10,000 square foot lots, I think though that if what we're trying to achieve is. . .even if it was let's say two \$5,000. . .5,000 square foot lots, I think again for the same reason that we plugged in a number in (a), we should maybe stick with at least a square footage and say what it is and if, if that's possible. I don't know. That's just my thought because then it's fixed and everybody's treating. . .being treated equally. Because I mean the guy that's doing little manini lots, well, you know, he gets off with, I don't know, I guess. . .I guess overall he would be getting off more cheaply in terms of the actual square footage that he's providing. So that's why I say if you look at it from the other perspective just like you applied the same principle to (a), do the same thing for (b), and however they satisfy it, just make it a square footage.

CHAIR MATEO: Okay. Members, additional comments?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MATEO: Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: At a minimum, I would be happy to support R-1 standards of 6,000 square foot lots. And I bring that point up, Mr. Chairman, basically because when you hear of some proposals, you hear about 10,000 square feet lots and whatnot, you talking about R-3. Then we've heard comments, wow, would be great to have density bonuses. Well, if you doing 10,000 square foot lots and you already know you got R-1 zoning, you can increase your density quickly and legally without going through another exercise because R-1 is 6,000 square foot lots so, so much for the density bonus issue. . . concern. I would like to make people know that that's what we look at affordables, take here are the R-1 standards which we've, through enactment of ordinance, has stated that's our policy for the lowest residential lot size, R-1. And I think if people would design and plan accordingly for the affordables under R-1, we should be getting better numbers and guys coming to us with 10,000 square foot lots and saying I only can do this much for affordables because it doesn't fit with my plan for the remaining lots on my market

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project. Well, that argument is out the door with me so when you talking affordables, Chair.

And I bring up my other point that if the Charter proposal passes, then as taxpayers, including myself, I have a hard time subsidizing things that have 40 percent more than me. So just for my, my. . .if we want to put numbers, Mr. Chairman, I would think the Committee. . .I would ask that a reasonable minimums would be R-1 standards, unnecessary all the whoops and hollers and the jingles, but lot size 6,000 square feet. Work with the setbacks, the existing setbacks. That's the biggest you can build with one building on your lot with the current setbacks for front, rear, and sides. And I think we allow enough flexibility after those parameters for somebody to be thoughtful in what kind of model to present, where to site it, degree of expansion, and renovation. I think that will help, Chairman. I don't have a problem with doing it that way.

CHAIR MATEO: Thank you, Mr. Hokama. Members, questions? Comments, Ms. Tavares?

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, I don't have a problem with what Mr. Hokama is talking about as far as requiring an R-1 standard that gives a specific. . . specificity. I was perhaps thinking about the far end of this by looking at some of the agricultural subdivisions and where they got two-acre and five-acre lots and the hope, you know, was hoping that through this process we might be able to get some of our local people on affordable land and a house to be able to do some farming. So that's kind of what that little twist that I was coming from but I think that's probably an exception and we can probably tie or maybe we can't yet, but we will eventually get to where we can have a little more determination on what happens with these ag subdivisions. So I'll be happy to support Mr. Hokama's R-1 because I think that gives everybody a known factor again. That's fine – the R-1 standard at 6,000 square foot--

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: --lots.

CHAIR MATEO: Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Yeah. I can support the R-1 designation. When you look at the affordable housing project that's now being constructed in Waikapu, I've been on the property and some of the lots are 4,500 square feet and what I see is that the houses between the neighbors are such that the proximity is too close – very little backyard space although the front yard is pretty well okay as far as I'm concerned. But in order for, especially a family that has small children, 6,000 square feet is a pretty good sized lot and I can go along with that.

CHAIR MATEO: Okay. Thank you.

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MR. SOUKI: Chairman Mateo, if I might comment?

CHAIR MATEO: Go ahead.

MR. SOUKI: On this particular issue here it looks like what you're talking about is rezoning property without going to the zoning process under Title 19. Because you're saying that irregardless of what the property is zoned, you can have a lot on there that's 6,000 square feet. Is that what I'm hearing?

COUNCILMEMBER TAVARES: No.

MR. SOUKI: And, and to make another comment, some of the affordable housing projects where the property is not following zoning for that project and it's less than 6,000 square feet, say 5,000 square feet, that's because they. . .some of those projects they went through the 201G process which permits these properties, through State law, not to follow the County zoning. So just, just those two comments.

CHAIR MATEO: Yeah. Thank, thank you very much, Mr. Souki. Ms. Johnson.

COUNCILMEMBER JOHNSON: The way that I'm really reading this is that if you did a calculation that if you use the actual instead of I guess a 10,000, whatever the figure is, if you did a multiplier, that's what I'm looking at and if it's like 2½ lots or whatever it is, it's not that we would be saying that they would be exempt from that zoning process, but it's saying it's like a formula. That's the way I'm viewing it and that that would be the formula that you would use to calculate what the total square footage would be of what you'd have to give, you know, in order to satisfy a requirement. It might not. . .I mean in the way that I'm looking it doesn't have to be in your project. Maybe there's land nearby that's on a totally different project or you've got land that is going to just calculate out to that amount. That's the way I'm viewing it. Now, if I'm wrong, correct me, but that's the way I'm looking at it, just the calculation of the total square footage using that 6,000 square feet minimum calculation. It could be more. I mean if somebody has land that, you know, is greater in size . . .(*change tape, start 3B*). . . that would be the minimum standard but that's to me what you'll be using to calculate, not to rezone.

CHAIR MATEO: Thank you.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MATEO: Members, we have one, well, we have two proposals that we need to consider. One is that recommended by Member Hokama to look at the R-1 standard. And Ms. Johnson, you're still with the square footage formula?

COUNCILMEMBER JOHNSON: Well, that's the way I'm viewing so even if we just go through and if they said, you know, such developable lots shall I guess achieve an

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equivalent in square footage of this end product. That's the way I'm looking at it. And I don't know, maybe it's the wrong way to look at it, but I'm just looking at a formula as opposed to the actual lot itself.

CHAIR MATEO: Okay. Would you be able to. . .after we. . .when we start walking through the policy if you can prepare something because I think right now if we call for the vote, we've got four who will go with the R-1. So instead of like going that route if you can, when we start to walk through the policy, be able to give us a little. . .something a little more tangible--

COUNCILMEMBER JOHNSON: Yeah.

CHAIR MATEO: --so we can look.

COUNCILMEMBER JOHNSON: I have no problem with that, Mr. Chair, but I do think that if we're sticking with this, then Mr. Souki's point is well taken because it may not be appropriate to come out and say if it's zoned differently. You know, that may not work. So I don't know. Unless Mr. Hokama has a different way of looking at this or he can explain more about what it is that he's trying to achieve, I just basically am looking at it as a calculation.

CHAIR MATEO: Thank you.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MATEO: Thank you. Yeah, Ms. Tavares, go ahead.

COUNCILMEMBER TAVARES: Mr. Chair, maybe we could word it so that it's the R-1 or not even say R-1, but say 6,000 square feet or whatever is the minimum lot size allowed in that zoning district whichever, you know. I think that would cover it.

CHAIR MATEO: Okay. Mr. Souki, would that take care of your. . .would that address your concern?

MR. SOUKI: This will be reviewed again by Corp. Counsel,--

CHAIR MATEO: Yeah.

MR. SOUKI: --but I think at this point that might be okay.

CHAIR MATEO: Okay.

MR. SOUKI: Because you're not rezoning the property,--

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COUNCILMEMBER TAVARES: Right.

CHAIR MATEO: Yes.

MR. SOUKI: --you're merely saying this. . .these are the minimal sizes we want that would fit in the zoned area.

COUNCILMEMBER TAVARES: Right.

CHAIR MATEO: Yeah. Okay. You see, I don't even remember. Do I have a motion on the floor? I don't have a motion on the floor. Maybe if. . .Ms. Tavares, if you can restate?

COUNCILMEMBER TAVARES: Perhaps Mr. Hokama--

CHAIR MATEO: Mr. Hokama.

COUNCILMEMBER TAVARES: --since he brought up the R-1 developable. . .I mean the R-1 6,000 square foot.

COUNCILMEMBER HOKAMA: Chairman, I don't have a problem with the proposed language and I think, you know, everyone is trying to work together on this to keep this moving, Chairman. So, again, I bring it up my concern because I have a sense at times when I. . .when I hear testimony and whatnot that people are asking us for an affordable house that's really a market house, okay.

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: Uh-huh.

COUNCILMEMBER HOKAMA: I don't have a problem supporting the affordable and if this helps define what affordable units are and what we really envisioning and makes it clear, I don't have a problem with that. I'm very supportive and that's what I'm trying to do now, it's to bring some reality of what is this affordable unit all about and what are we talking about with potential lot sizes and whatnot. Because one portion we're reading about a desire to have us consider giving density bonuses, it disturbs me because all our infrastructure is geared to follow certain standards already which is for us, R-1 Zoning, R-2 Zoning, R-3 in the urban areas, apartments, and we scoped our infrastructure accordingly or what we need to upgrade, we take that into consideration. So if we're not going to follow some of our existing things which is the lot sizes that we allow in certain categories, the buildable density of that lot that we have already in our standards, and people want to throw at us density bonuses, then who's gonna pay for the upgrade to allow those density bonuses if the sewer is not sized right, if the waterline is not sized right? Who's gonna pay for that – the County? Again? To make it back to the developer really again throws it then, is it an affordable project? And they're gonna argue with us

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that no way even if we gave 'em only 1 percent is it going to be affordable 'cause now they're gonna have to upgrade all this infrastructure. So I think by placing this type of language it makes it a lot clearer on what we see as the affordable unit and lot, Mr. Chairman, and that's all I ask the Members to consider with this one. That's all. Thank you.

CHAIR MATEO: So Mr. Hokama, the motion. . .your motion would be?

COUNCILMEMBER HOKAMA: To take this current recommendation and move it forward--

COUNCILMEMBER TAVARES: Second.

COUNCILMEMBER HOKAMA: --and again, Chairman,--

COUNCILMEMBER TAVARES: Oh. I'm sorry.

COUNCILMEMBER HOKAMA: No, no.

COUNCILMEMBER TAVARES: Second.

COUNCILMEMBER HOKAMA: --with consensus we can work on it.

COUNCILMEMBER JOHNSON: Consensus.

CHAIR MATEO: Ms. Johnson, consensus?

COUNCILMEMBER JOHNSON: Consensus.

CHAIR MATEO: Thank you. Thank you very much. We'll go ahead and move on.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Members, it's after twelve right now. We can take our lunch break. I know Ms. Tavares needs to leave by four. Ms. Tavares, 4:00 today?

COUNCILMEMBER TAVARES: Uh-huh, four.

CHAIR MATEO: Are there any other Members that have time restrictions that they need to. . . Mr. Pontanilla?

COUNCILMEMBER HOKAMA: Four is fine, Chairman.

COUNCILMEMBER JOHNSON: Four is fine.

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VICE-CHAIR PONTANILLA: Yeah. Four is fine with me. Longer than that, I have a problem.

CHAIR MATEO: Okay. So it would be okay to reconvene at 1:30?

COUNCILMEMBER TAVARES: Yes.

VICE-CHAIR PONTANILLA: Yes.

CHAIR MATEO: Members, any problems?

VICE-CHAIR PONTANILLA: No.

CHAIR MATEO: Yeah. Housing and Human Services Committee . . .

VICE-CHAIR PONTANILLA: Chair, one, one more thing.

CHAIR MATEO: Go ahead.

VICE-CHAIR PONTANILLA: When we come back, we're still gonna be under this section?

CHAIR MATEO: Yes.

VICE-CHAIR PONTANILLA: Okay. Fine. Thank you.

CHAIR MATEO: Thank you very much. Meeting is in recess. . . .(*gavel*). . .

RECESS: 12:07 p.m.

RECONVENE: 1:44 p.m.

CHAIR MATEO: . . .(*change tape, start 4A*). . .(*gavel*). . . Meeting of the Housing and Human Services Committee for September 20 will reconvene. Members, at the . . .at our lunch break we . . .starting point is Page 6. We are in Page 6, Number 4. We were discussing items (a), (b), (c). Okay. Floor open, Members.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead, Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah, on. . .in Section (b) in Number 4, the in-lieu developable lot section,--

CHAIR MATEO: Yes.

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COUNCILMEMBER TAVARES: --I wanted to have an explanation of why the sentence that says the appraised value of the developable lot shall not be less than three quarters, et cetera.

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: So what. . .what's the thought behind having that in the section?

CHAIR MATEO: Thank you. Staff, can you?

MS. REVELS: The rationale for doing this was back when the in-lieu was considered to be very high and so the department, I believe, recommended that we have the land portion be slightly less than the cash portion if we wanted to encourage the giving of land.

CHAIR MATEO: So it made it lower.

COUNCILMEMBER TAVARES: Oh, so. . .yeah, I'm trying to see why it's even necessary to have that in there because we are interested in the lots to develop. So the value of the lots to me doesn't make sense as long. . .the key is that it's developable lots, and hopefully, this is also gonna be in the same community plan region. So I don't really see a need for it but if there's a case for putting it in there, then fine. But I don't. . .personally don't particularly, particularly feel that it's critical to the section.

CHAIR MATEO: Okay. So Ms. Tavares, your, your request would be then for us to consider removing that reference to--

COUNCILMEMBER TAVARES: Yeah, the appraised value.

CHAIR MATEO: --three quarters of the in-lieu?

COUNCILMEMBER TAVARES: Yes.

CHAIR MATEO: So the. . .that whole sentence?

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: Yeah, starting with "The appraised value", ending with "under this chapter".

CHAIR MATEO: Okay. Members, any. . .any comments? Ms. Johnson.

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COUNCILMEMBER JOHNSON: I guess my question would be because there is going to be a review by the Council on this one, also? Because are we gonna get a chance to say whether they're appropriate lots? 'Cause I mean you could have lots that are right next to a really swampy flooded area that they're going to be giving for land that granted they could be developable but they might not be really easy to develop particularly when you're looking at drainage issues. So I guess I just want to know that is this section covered also by some type of analysis or review by the Council because I don't want to do what we do with some of our parks where we take drainage basins as we have in the past.

CHAIR MATEO: Yeah. Staff, correct me if I'm wrong, but I believe that this is the Department who will be dealing with the transfer or the receiving of the properties. So it would not be this body, it would be the Department.

COUNCILMEMBER JOHNSON: Yeah, and I can understand why the valuation then, but I guess it's just a question of what kind of standard are we gonna have. I'm assuming that the Administration is not gonna want to take land that is really fraught with a lot of problems because I've seen other areas where there's burials on the land. It might be developable but at what expense? And look at in SMA areas, there's a lot of costs associated with that. So I don't know I. . .I guess at some point we're just gonna have to put our faith and trust that whatever is negotiated is going to be the best possible arrangement for the general public who would be using these lots for some kind of building. So I have no problem taking out that section,--

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: --but you know, I, I. . .the only area I would say is that if there are others costs that are associated with development of those, perhaps we should make some statement that if the cost that are associated with developing are so onerous as to make it a problem, that in that case the Administration should basically stay away from that kind of a lot. Even though it might be developable – at what cost? That would be my concern.

MS. REVELS: Mr. Chair, there is a definition of developable lot on Page 2 and if that isn't sufficient, maybe we could add to it.

COUNCILMEMBER JOHNSON: Yeah, Mr. Chair, and that basically doesn't. . .it just says projects. It's "a lot on which one or more dwelling units or public use projects may be erected in conformity with state and county zoning laws and building permit requirements". I guess that's where. . .everything is so subjective so to me I guess my caveat to that would be at a realistic cost because to me, well, I gather that the Department's not going to want them either. So at this point I'm not going to quibble about it. I'll just say that the appraised value comes out and at least the Administration

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knows that we're not wanting to have lots that are going to really be problematic, and not only for us, but for the people that will be living there. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Additional comments, Chair, uh. . .Members, the Chair has no problem with the removal of that, that entire sentence. Comments, Members?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MATEO: Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: I can support your recommendation or your position. I think it's healthy we brought up the issue of developable lot, especially if part of the in-lieu would be to maybe have the County assist or initiate building a developable project. For me, it was my envisionment [*sic*] that a developable lot is one ready to have a house or a unit constructed upon it, which means the water is there, the sewer line is there for connection, the power is there for connection. It's not a lot that is what I guess we would call unimproved in our taxation categories, but an improved lot ready for a dwelling once they get the building permit of the specifics of the home or multi-family that they could move to construction. That's what I had envisioned a developable lot to be. Not where they would start from scratch and they would need to do grading, they would need to do subsurface engineering, they would need to put in street lights, and all of those requirements. That was what I had envisioned, Mr. Chair. I don't know if the other Members saw it in the same light but we might want to. . .if that's what we, we understand it to be, then that's what we might want to have in our definition of what developable lot. So thank you for letting me share some comments.

CHAIR MATEO: Thank you, Mr. Hokama, and I agree. I think we should be real specific so we know exactly what the definition means in terms of getting a better understanding from the get go, yeah, from the start. Yeah. Okay, I agree. Would that be something that the Members would allow the Chair and Staff to work with and come back with an appropriate definition?

COUNCILMEMBER TAVARES: Yeah.

CHAIR MATEO: Thank you. Thank you, Members.

VICE-CHAIR PONTANILLA: Chair?

CHAIR MATEO: Going back to Page 6 and that . . .

VICE-CHAIR PONTANILLA: Chair, one fast one?

CHAIR MATEO: Go ahead.

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VICE-CHAIR PONTANILLA: I agree with Member Hokama in regards to the definition for developable lots. I envision that this lot will be, you know, something you got the money and you just go ahead and build the units on 'em. In regards to I guess the last sentence, you know, coming back to (c). . .oh, okay. When we come to (c), we may have to add some wording to (b). Okay, fine. Thank you.

CHAIR MATEO: Okay. . . .*(laughter)*. . . Thank you. Any additional. . .do we have consensus to omit that one sentence off from item (b)?

COUNCILMEMBER HOKAMA: Yes.

COUNCILMEMBER TAVARES: Yes.

CHAIR MATEO: Thank you. We're gonna move to the next sect . . .

COUNCILMEMBER TAVARES: Oh, wait.

COUNCILMEMBER JOHNSON: We gotta add in the other.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead. Go ahead, Member Tavares.

COUNCILMEMBER TAVARES: May I suggest that the next sentence where it says such developable lots may be used by the County or others, et cetera, but maybe we can insert in there, "such developable lots shall be acceptable to the department and may be used by the county or state," to give it a little more that they just can't give it to us whether we like it or not kind of thing.

CHAIR MATEO: Can you kinda run that again?

COUNCILMEMBER TAVARES: Yeah. I think she put it up there. She's so swift. Such developable lots shall have a minimum. . .oh, no, no, we're on the next one. I think whatever I ate for lunch--

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: --made my vision go crazy. . . .*(laughter)*. . .

CHAIR MATEO: Staff . . .

COUNCILMEMBER TAVARES: Can you bold that part?

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MS. REVELS: The new sentence reads, “such developable lots shall be acceptable to the department and may be used by the county or others acceptable to the county to develop residential workforce housing,” et cetera.

COUNCILMEMBER TAVARES: Yeah. That. . .that’s what it is. Thank you.

CHAIR MATEO: Thank you. Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: I just have one question. When we use the term “shall be acceptable,” does that mean subject to acceptance or that automatically if they meet that criteria, they’re okay?

CHAIR MATEO: If they meet the criteria, they should be okay.

COUNCILMEMBER JOHNSON: Okay. So there’s. . .alright. I just wanted to understand that, you know, it’s not being subject to the acceptance because my standard may be a little bit different. Because I don’t. . .I don’t want to put the Administration in a bind where if they meet that criteria, I guess, they automatically have to take it. Is that what that’s implying?

COUNCILMEMBER TAVARES: No.

CHAIR MATEO: Staff, go ahead.

MS. REVELS: It would be subject to interpretation. It might be better to ask Ms. Lee--

CHAIR MATEO: Director.

MS. REVELS: --what her interpretation of that language would be.

CHAIR MATEO: Director Lee, welcome. Thank you for joining us, and Mr. Andaya – either one of you, if you’d like to respond.

MS. LEE: Could you repeat the question, please?

COUNCILMEMBER JOHNSON: My question would be, Alice, that do we mean where we’ve got the wording “such developable lots shall be acceptable to the department” where it’s implying that it’s an automatic kind of thing, my question is such developable lots shall be subject to the acceptance by the County. In other words, you’re gonna look at it and say, yeah, that’s a great lot, you know, we’re gonna take that, whereas, the other way I’m kind of reading it differently.

CHAIR MATEO: Ms. Lee.

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MS. LEE: Well, we have no problem if you changed it to subject to.

CHAIR MATEO: Doesn't, doesn't it come out to the same thing because like it's really subjected to what you think? Either they fit the criteria and the property is acceptable or you need to do some kind of a view of the lot before determining it's. . .it qualifies or it's acceptable?

MS. LEE: Must be acceptable and subject to being acceptable to us would be almost the same thing because--

COUNCILMEMBER JOHNSON: Okay.

MS. LEE: --when you have there must be acceptable, if we don't accept it then . . .

COUNCILMEMBER JOHNSON: Okay. See, and that Mr. Chair, the way that it reads right now, it's essentially what I'm saying. But that wording is better because the other way it implied that Administration had to accept it whether they agreed with it or not. It was that they were ordered you shall do this. That's the way I read shall. So this is much better wording and I have no problem with it.

CHAIR MATEO: Okay. Thank you. Additional. . .Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. I envisioned this thing being reviewed by Planning, as well as Public Works, and once the review is completed, I would hope that, you know, both departments would look at the subdivision itself, and you know, no sense make one subdivision and all the lots not developable, yeah. And you know, the responsibility should be put on those departments in regards to developable lots.

CHAIR MATEO: Uh-huh. Agree. Thank you, Mr. Pontanilla. Members, additional questions or comments? We have a recommendation on the floor starting with the very next sentence that we eliminate starting with the words "such developable lots". Do we have consensus in accepting that language that was provided to us?

COUNCILMEMBER TAVARES: Yes.

CHAIR MATEO: Members, thank you. Anything else in (b)?

COUNCILMEMBER TAVARES: Mr. Chair, yes.

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: Now that that sentence is in there, would you consider further on after this amendment that we say used by the county or others approved to the or approved by the county to develop residential workforce housing. Because I think

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approved they all require some kind of agreements with Housing and Human Concerns so we don't have acceptable in there so many times and others approved by instead of accepted to.

CHAIR MATEO: Yeah. The Chair would have no problem with that because that will ensure the ability to work with groups like the land trust and the other nonprofit organizations that can also build, unless the Director has any specific comments regarding it.

MS. LEE: Does this mean that after the main project is approved that when lots are identified and accepted by the Administration, then the Council also has to approve?

COUNCILMEMBER TAVARES: No.

CHAIR MATEO: No.

COUNCILMEMBER TAVARES: No.

MS. LEE: Okay.

COUNCILMEMBER TAVARES: You – approved you or the Department.

MS. LEE: Okay. I'm sorry. I thought you said approved by the Council.

COUNCILMEMBER TAVARES: No, no, no.

MS. LEE: Just by the County? Okay.

COUNCILMEMBER TAVARES: Yeah, by the County.

CHAIR MATEO: No problem with that?

MS. LEE: No problem.

CHAIR MATEO: Thank you. Members, any discussion on that additional change? Do we have consensus to accept that change and move on?

COUNCILMEMBER TAVARES: Yes.

CHAIR MATEO: Anything else in item (b)?

COUNCILMEMBER TAVARES: No.

CHAIR MATEO: Going on to item (c). Mr. Pontanilla.

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COUNCILMEMBER TAVARES: Can we delete item (c)?

VICE-CHAIR PONTANILLA: Yeah. If we could delete item (c) because of redundancy with item (b)?

COUNCILMEMBER TAVARES: Yeah.

CHAIR MATEO: Okay.

COUNCILMEMBER TAVARES: I thought we did already.

CHAIR MATEO: Okay. The recommendation is to delete item (c).

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR MATEO: Okay. Thank you. Consensus on that item. Members, we're gonna move. The next section is also on Page 6, 2.96.050, Residential workforce housing credits. If we take a look at your Number 1, there was a minor change on Number 1. Members, any comments? Move to Number 3. Number 3 is an addition. Number 3 references a housing credit that will be given for every two residential workforce housing units constructed by an employer for its employees. Any questions or comments on Number 3?

COUNCILMEMBER TAVARES: Could we. . .Mr. Chair?

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: Could we have a further explanation of that?

CHAIR MATEO: Thank you. A lot of the discussion we've had did focus on the need for employee housing units and part of that discussion led to us taking a look at the providing of credits. Right now as it work, you know, it started off with a one for one.

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: With this particular item, Number 3, if the developer is going to be providing employee housing for their employees, instead of the one for one, it is two for one. So for every two housing. . .employee housing you provide, you will get that one, one additional credit.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead.

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COUNCILMEMBER TAVARES: Isn't the logic behind this that you have a pool of people that need affordable housing and let's say that pool consists of 100 families or whatever and someone comes along and builds and they want to afford housing. . .affordable housing, well, we're talking about affordable housing, right, to their employees, that will lessen the pool of people that need affordable housing if we allow the employers to build the housing. So I guess that's, that's a policy call by us but I see it as we're reducing the number of people we're serving, people in the pool, whether it's by that employer, to me, shouldn't penalize the employer. So, you know, I have a little hesitation about that portion of it.

CHAIR MATEO: Yeah. I don't. . .I don't see it as, you know, a penalty and such. I think. . .I think, one, the discussion that, that we engaged in a long time ago was if an employer wanted to, you know, we encourage them build your employee housing units. Their employees are also our people on--

COUNCILMEMBER TAVARES: Right.

CHAIR MATEO: --this long list of waiting for homes. So if they were able to develop and build their own homes, they would be doing twofold, addressing the need of their employees and helping the County in reaching the affordable housing, you know, needs as well. So it's really addressing the need of the same group of people. So by us providing the employer to build their needed employee housing, the advantage would be that you still would get the additional credit. But for our purposes so that we do get these units built instead of a one for one, it's for every two that you construct, you get the one credit.

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: So, an idea.

COUNCILMEMBER TAVARES: Oh, okay.

CHAIR MATEO: No. I mean this is good. This is good to have the discussion. It was just a means of taking a look and encouraging the developer or the employer.

COUNCILMEMBER TAVARES: Yeah. So if the developer wanted to build let's say 40 units and he's gonna give half of them to his employees, 20 units, so then he would have ten credits.

CHAIR MATEO: Ten credits.

COUNCILMEMBER TAVARES: So the other 20 that would have been for affordable, he only has to build ten?

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CHAIR MATEO: Yes.

COUNCILMEMBER TAVARES: That's, that's the picture.

CHAIR MATEO: But it's still affordable because it's still our same people.

COUNCILMEMBER TAVARES: Yeah, yeah. But doesn't that lessen the number of total affordable units rather than just saying that if you're building an affordable unit. . . affordable homes, limit say 50 percent of the homes can be for your employees. Then we get the full. . .we'll get 40. . .we'll get 20 actually. It's a gain of ten without using this. So unless you mean it to be an incentive to get employers to build housing, then that's a, you know, depending on what our goal is here I guess is what I'm . . .

CHAIR MATEO: No. That was how it started, yeah. That was how it started with the employee. . .with the employers telling us, you know, the need for them to, to meet their employee housing needs--

COUNCILMEMBER TAVARES: Okay.

CHAIR MATEO: --because the discussion was we losing all these people.

COUNCILMEMBER TAVARES: Well, that being the goal then, then I have no problems.

CHAIR MATEO: It would have been. . .it was designed really to be an incentive and them provide and meet their needs as well as meeting our need with providing the houses because as I said again their employees are also the people--

COUNCILMEMBER TAVARES: Okay.

CHAIR MATEO: --on everybody's waitlist.

COUNCILMEMBER TAVARES: Oh, well, thank you for the explanation.

CHAIR MATEO: No. Thank you. Thank you. Yeah, go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: Are the credits transferable?

CHAIR MATEO: We haven't gotten that far, but hopefully, not. Hopefully, not.

COUNCILMEMBER JOHNSON: Okay. Because would it be the transferability is not in this section or are you going to add it in?

CHAIR MATEO: We'll have to add it in.

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COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: Add it in.

COUNCILMEMBER JOHNSON: Yeah.

CHAIR MATEO: First, I wanted, you know, to float it to see whether or not this will be something that we could consider.

COUNCILMEMBER JOHNSON: Yeah, and, and the only comment I have, Mr. Chair, is along the lines of there's two components that we deal with. One is, yes, residential workforce where you've got employees and you want to put them close to where they work.

CHAIR MATEO: Yeah.

COUNCILMEMBER JOHNSON: So that's ideal. But you also depending on the impact on the community, you don't want to end up actually having a way that this is gonna lessen the number of units. That's my feeling and you don't think this will lessen the number of units? 'Cause there are two problems, are both there's an affordable component and there's the component of employees. And many times just particularly in resort communities when you have resorts move in, what will end up happening is there's two different sets of problems. One is providing housing for the people that will be working at your facility to mitigate traffic and other concerns. The secondary consideration is also because a lot of times the people that are coming in, and you know, they're impacting the overall cost of housing. The secondary wave is when you get the bump on your increase of whatever units are available in a particular price range. So that's why I suggested the other day – I said you have two problems. One is providing for your workforce but the other one is an affordable component, and you know, if we want to just address one component and not address the other one. Because we've had employers that said they wanted to give preferential treatment to their employees, and yet, some of them basically, some of their employees are not necessarily in the affordable income bracket. So just because you have an employee doesn't necessarily mean that they're gonna be falling into one category or the other. So I think we have to be a little bit careful about this particular section. So those are my concerns. It's producing the housing, but also taking into account the overall needs of the community and the impact that any large development, particularly resort, has on the community overall.

CHAIR MATEO: Okay. Thank you. Thank you. Members, additional comments? Okay, Mr. Hokama, go ahead.

COUNCILMEMBER HOKAMA: Chairman, I think this is very good healthy discussion that we need to definitely go through. My one comment. . .question would be, Chairman, is if you had an idea whether or not we should put a clock on how long you can hold on to a

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credit before it expires? I'm trying. . .I was trying to recollect whether or not we, we even talked about expiring credits and whether or not it should be considered.

Well, let's take a potential scenario, Chairman, using credits, okay. We have one of our big companies that built in Kahului a housing project, okay. The term of the project is gonna be done or has been done. . .their commitment of time so they're gonna ask for housing credits, okay. They have another entitlement which they have to provide "x" amount of units per "x" units for a hotel. So they're gonna say we satisfied those affordable units or workforce units because we still have credit from something we built years ago and has not expired and now we have so much credits left. So the bottom line is we get no new units built because they using credits. So how does that help us in this County?

I just bring that up because I just need to know how we want to look at credits, Mr. Chairman. Credits make sense in certain areas but if the credit doesn't assist us in getting additional units for those that don't have a home, don't have a rental, how good is the credit? Not to the person that needs the house or the roof – means nothing to them. It may help the business or the entity that doesn't want to build and has credits to utilize. So I just bring up that point, Mr. Chairman, that it may be something we want to deal with and if we do give credits to make sure it makes sense and I don't have a. . .putting a expiration of the credit. Because if they're not going to use it or they're not going to help us build more units, then my question to my peers this afternoon is what good is the credit? Sounds good but doesn't alleviate the degree of the problem, Chairman.

CHAIR MATEO: Thank you. Additional comments, Members? At this particular point in time, you know, the Chair threw this particular item Number 3, as well as Number 4. It's both out to float because I thought it was issues that was presented to us. . .Number 4 was presented to us on Page 7 time and time again, yeah. And this was started a year ago and we had the financial institution groups that was before us and we heard from all of them that kept saying that our people who are in the lower economic brackets they need the financial training. They need to know how to balance their budgets. They need to know how to pay. . .make ends meets. And the discussion was at the time we were rather supportive of the idea that it was necessary that our people be able to handle their finances. Otherwise, they're gonna continue to have problems in paying the note on their house as well as the rest of their bills. The thought was they need. . .they need to know that you cannot buy the Humvee, you know, at this particular point in time if you want to be able to have monies to afford, afford a home. So the idea on Page 7, Number 4, was to do exactly that. To provide "x" amount of homeowners the opportunity to go through a financial literacy curriculum and if "x" amount went through it, then the, the developer of this particular project would receive a credit. And again, an incentive-type of program that would benefit both the developer as well as the homeowner, and it was an idea up for float, up for discussion. Members?

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COUNCILMEMBER JOHNSON: I guess my question, Mr. Chair, would also be because I'm trying to think of the applicability. Many times you'll get a nonprofit that's coming in. Do they really care about the credits? Because if. . .number one, if they're . . .*(change tape, start 4B)*. . . gonna be involved, then they're gonna be pretty much affordable and they're gonna cover the entire spectrum. In fact, some may even be below our range. So they would be over what the normal requirement would be anyway underneath this policy. So if you think about how is that credit going to be applied to that particular type of project, I guess that's where I'm trying to think it through and say, well, you know, it's just only where it's just an employer that's building for their employees irrespective of a nonprofit. And that would be one area where what kind of question, well, what's the worth of the credit, and you know, in that case should there be transferability of that credit. If it's. . .if it could be sold, for example, on the part of the nonprofit, then I could say, yeah. If you could bank the credits, and then basically use them as your own capital, if you could sell that. . .if it was a nonprofit. But otherwise, I don't really know if the credits are gonna work in all circumstances. Do you follow what I'm saying?

CHAIR MATEO: Uh-huh.

COUNCILMEMBER JOHNSON: So. . .I don't know. I just. . .it's kind of hard to conceive how this is going to be working with all the different spectrum of who's building what and who the partners are. Because in some cases this would be great but in other cases it's going to be meaningless. So anyway--

CHAIR MATEO: Okay. Thank you.

COUNCILMEMBER JOHNSON: --that's my thought.

CHAIR MATEO: Okay. Members, additional, additional comments?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR MATEO: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: For the people that's, you know, going to be applying for any residential workforce housing I would think that for pre-qualification that the financial institution will be doing the I guess educational part in regards to their finances. I would think that they would be the focus rather than the developer. That's my comments.

CHAIR MATEO: Okay. Thank you. Additional comments? Members, at this point if you look at Page 6, Number 3, we will omit Number 3, and on Page 7, we will omit Number 4. Okay. Move on to . . .

COUNCILMEMBER JOHNSON: Mr. Chair?

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CHAIR MATEO: Go ahead.

COUNCILMEMBER JOHNSON: I just had a suggestion from the audience and one of the things with regard to the financial literacy, one of the suggestions that was made was that actually when we're having a waitlist that one of the criteria in order to get on to this waitlist might be to have completed a financial literacy course. So that's another way that you could approach it from the perspective that Mr. Pontanilla's talking about because then it really, education-wise, it benefits the person who you want it to benefit.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So that, that would be. . .I think it's a fairly good suggestion because whether it would be in this section or in another qualification section, I think we'd have to look at that, but that I thought was something to consider.

CHAIR MATEO: Okay. Thank you. Members, Page 7, Number F, change. . .the addition of that on that item was the addition of "a future development". It would read, "The credit may be used for a future development or the development in which the credit is earned, but may not be used for an affordable housing or residential workforce housing unit owed at the same time the credit is given". We just adding in to be specific that they're not able to use that credit in the same project that they got it from but to be used in an additional or some other project in the future. Comments?

COUNCILMEMBER JOHNSON: Mr. Chair, again, if it's transferable or not transferable, because that's gonna be key to this one, and also with regard to the timeline or expiration of these credits.

CHAIR MATEO: Uh-huh.

COUNCILMEMBER JOHNSON: That might be where we could put some kind of a time constraint. Say that if they're not, you know, either use it or lose it. And if it's going to be transferable, then stipulate what the terms are. But--

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: --that would be my suggestion in this area.

CHAIR MATEO: Thank you. Additional questions, Members? If there's no objections, then I will. . .go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: I would find it helpful if maybe this afternoon Director Lee can give us some comment about how she currently is looking at credits. . .housing credits, Mr. Chairman. Because she may give us some input on how we might want to

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retain certain things that makes sense that she currently does on a day-to-day basis or recommend ways we can change the way we look at credits--

CHAIR MATEO: Thank you.

COUNCILMEMBER HOKAMA: --to make it more applicable to what we're trying to achieve.

CHAIR MATEO: Thank you. Ms. Lee, are you able to comment?

MS. LEE: Thank you, Mr. Chair. Before I make general comments, I was wondering I may have missed. . .did you delete. . .looks like you did or maybe you didn't, on F. . .on F. . . back to F.

CHAIR MATEO: Go ahead.

MS. LEE: The credit may be used for a future development or the devel. . .or the development in which the credit is earned. I thought earlier I heard you say you were gonna delete "or the development in which the credit is earned".

CHAIR MATEO: Yes. Yeah, we need to take that out.

MS. LEE: Okay, because that was one. . .gonna be one of my questions. So if you delete that, then there's no question.

CHAIR MATEO: Staff got it?

MS. LEE: I think Mr. Hokama brings up many. . .several very good points. I think you need to have a life set for the credit whether it be five years or ten years, you know, something like that. I think that's important. Right now when we talk about credits, we always advise the applicant that these are. . .if we have any, these are administrative credits and they may not be accepted by the Council. So that's. . .that's one issue that we try to make very, very clear to all applicants. But we have very few credits anyway, but if that. . .if that comes up. I think that it's important to have some kind of credit procedure or credits available in general as an incentive. I haven't really thought out this completely as far as what happens to the credits in the sense that there are very. . .there's just a finite number of applicants who would have use for credits. The average applicant will probably just do one or two projects in their lifetime – probably won't need credits at all. But it's the developer who will have multiple projects who would see this as a possible incentive. But I like the idea. I like the idea of having the one resident. . .Number 2, the one residential workforce housing credit for every ten market units that contain a deed restriction. I think that's good incentive. I'm sort of glad you took out Number 3 because it would be. . .it would have been hard to enforce, especially 3, and the sentence. . .the phrase "in the same development". Now, that would have been a little hard to enforce that. Because what would happen is instead of expecting the 30 affordable units

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you thought you had required, you'd probably. . .you might end up with ten or 15, you know. So that's, that's good. It's a good change.

CHAIR MATEO: Okay.

MS. LEE: Other than that, Mr. Chair, I don't have anything else to say. Those are just my. . . those are my comments.

CHAIR MATEO: Okay. Thank you. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, how about if we consider something wild and crazy . . .*(laughter)*. . . and say that if we put a time. . .stop, drop-dead time on the credits, then that. . .those credits then become the property of the Department or the County of Maui and the County may sell those credits to another developer, and this in turn would be able to build up a fund also for other projects that the County would be helping either through a grant or through directly doing a project. That way I think we could allow people who are needing this credit to use it and those who don't necessarily need the credit, you know, they know it's going to some good use. So perhaps that's, you know, it's like a commodity I'm buying and selling.

'Cause I see the same sort of thing happen with park credits when a developer provided park space in over and above the requirement by the park assessment subdivision provisions and they were then allowed, well, this is the same developer, but they are then allowed to use that park credit for another park in the district but only up to a certain percentage. So you couldn't just say this park for this subdivision is totally credit so there is no park. They can only do I think it was 50 percent or something like that as credited to their next park. There are people that are building bigger parks just because they feel their subdivision needs it and we have caveats or we have conditions in their park dedication that says no park credit shall be created by this particular thing. So I was thinking if we can think along maybe those lines and use our. . .these housing credits as a commodity and a way for, like I said, the Department to be able to sell those up to a certain percentage, I mean we can figure that out, too, to anyone else who needs those credits.

And I think one example I can think of where it wasn't really credits, it was obligation. That there were obligations by certain developers, before we did the concurrency thing, where they built out projects, they did the markets, said the affordables are gonna come later, and then the affordables didn't come but they were still owed, then the company went away, dissolved, so then nobody's responsible and we still have the units. Because I remember when I think it was Piilani Gardens in Kihei when they were trying to build, they came. . .I was still Parks Director at that time, yeah, I was, and I asked them or I told them, I said, you know, there are people out there that owe housing. . .housing units so perhaps you can get them to participate with you in order to fulfill their obligation in order to help you build your 100 percent affordable rental project I think is what it is out

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there. And I don't know what became of that but I think in that case, you know, it could have worked. Sort of like a credit but that somebody else could use it to help with their affordable project. So I could see this being used almost the same way. So I don't know. I just throw it out there and see.

CHAIR MATEO: Member Tavares, do you think you'd be able to put your wild and crazy thing in writing so we could try--

COUNCILMEMBER TAVARES: Yeah.

CHAIR MATEO: --to incorporate it?

COUNCILMEMBER TAVARES: I think so 'cause I think I would like to incorporate for sure a sunset on these credits because they just can't go on and on forever and ever and there are a lot of people who, who wouldn't use it.

CHAIR MATEO: Would you also be able to include transferability, as well, whether or not . . .

COUNCILMEMBER TAVARES: Yeah. I could take a stab at that, too.

CHAIR MATEO: Okay, okay. Then if we can . . .

MS. LEE: Can you also include fractions of a credit?

COUNCILMEMBER TAVARES: Yes. Yes, I would. Yeah, similar to the other stuff. . . fractions. So I don't know if maybe Mr. Hokama and I can get together and see if we can write something up.

CHAIR MATEO: Can you? Members, if there's no objections, we're gonna go ahead and move on and we're gonna ask Member Tavares and perhaps Mr. Hokama to also work on the recommendation. . .a new proposal that we can add into the policy in time for us to review it at our next meeting. Mr. Hokama, go ahead.

COUNCILMEMBER HOKAMA: Chairman, thank you. I'm happy to work with Ms. Tavares. And I appreciate the comments from the Director and I glad she made her last comment, Mr. Chair. Because looking at your proposed recommendations and I appreciate you stirring, stirring the pot on this one, Chairman, regarding whether or not we should give credits for those that either provide more than they should. . .that they're required to or not, as well as your financial literacy requirement. I would say if maybe, you know, the Committee has an idea of what we looking at so, you know, one idea that Ms. Johnson and I had discussed earlier was that maybe the credit should be based if we're looking at buyback provisions that a certain length of time is deserving of one full credit. And if you. . .and let's say it's five years, if you have a five-year buyback provision minimum, you can earn one credit. And let's say the person comes in with one three-year and he

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gets a fraction, whatever we deem appropriate, or if let's say they doubled it and go we willing to go ten-years buyback, and we may say, well, that deserves two full credits since you willing to commit to ten years of this buyback provision, if that's what we want. So I just wanted to see if the Members had any idea of what equals a full credit because would make it easier for us to deal with the fractions that Director Lee brought up or whether or not we just start with the lowest and say that is one full credit. As well as if we again talking about expiration dates and we might want to consider a variable. Let's say if you willing to give a ten-year buyback provision that you're gonna get "x" amount of credit potential as well as the length of your credit will be for ten years, as an example. If you willing to commit to only five years, you're gonna get only this much credit and the term of your credit is only good for five years, as an example, Chairman. It might not be workable but I just throw that out because it will help us craft a proposal if we have a sense of which way the Committee might want to go, Chairman.

CHAIR MATEO: Uh-huh.

COUNCILMEMBER HOKAMA: Or if Ms. Lee has a suggestion, I would be happy to hear it, too. Thank you.

CHAIR MATEO: Yeah. Thank you, Mr. Hokama. Yeah, Ms. Lee, because you have the most experience in working with credits can you share information with us?

MS. LEE: I'd really say one credit would have to be a minimum of ten years.

COUNCILMEMBER HOKAMA: Okay. That's helpful, Chairman.

CHAIR MATEO: Thank you. Members, we're gonna go ahead and await that wild and crazy thing that will be providing. . .that will be provided to the Chair and Staff so we can incorporate it into the next draft for us. Any additional comments on 050 before we move on?

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR MATEO: Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: I would say that when you're looking at the transferability component, it should also be subject at the very least to review by the Director because if it's transferable, it might be better then in that case to say that it's transferable only with the approval of the County. Because I can't, you know, if it's gonna come to the County, that's fine. Either that or just make all credits only transferable to the County of Maui so then we, as Ms. Tavares has stated, we would then be able to treat them as some kind of a financial commodity. So, you know, I just would like to try to have some control over the credits or at least give Ms. Lee control over the credits and their use. Because she may find a nonprofit or some other operation that could really use the credits to help

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reduce the overall cost of their particular project and that might be very worthy. So, you know, if the County's got the credits to expend, you know, it might help but that's just a thought. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Members, and additional items for this particular section? Thank you very much. Members, the last item that I had is on Page 15, Item C, "Developments that include onsite residential workforce housing units are entitled to a density bonus". And as you all know, there is nothing in place right now for us to talk about density bonuses. We don't know what that calculation is. We don't know mechanics of setting up the density bonuses. So at this particular point in time because there is no legislation and we would need enabling legislation to come out with calculations and figures, the question would be for Corporation Counsel whether or not it is appropriate to leave such language in recognizing the fact it will be pending legislation or do we just remove it and get rid of whatever questions come up because we're recognizing it and not giving it any stature?

MR. SOUKI: Prac. . .practically leaving it in there would be confusing because it wouldn't have the force of law because there's no enacting or enabling legislation for this provision. Taking it out, you could always add it later when you do come up with the proposed legislation that you have in mind to enable this type of process. So I would leave it up to the discretion of the Committee to decide which route they would want to take. I would think that taking it out would be more concise and present legislation that would be more understandable to the people who need to interpret it.

CHAIR MATEO: Thank you, Mr. Souki. Members, comments? Ms. Johnson.

COUNCILMEMBER JOHNSON: I know that when we did the traffic or years ago in 1988 when the traffic impact fee ordinance was actually placed on the books, it said subject to the crafting or the drafting of legislation that would really enable it. So it's still on the books and we still haven't done it. But my, my only difference or I guess just view in terms of keeping it there would be you could put in a caveat that said subject to, you know, some kind of drafting of enabling legislation because so many times when you look at Councils, you know, in the future, it may not be us that is going to be drafting this. I wouldn't want that to be lost because I think that this works hand in hand with transfer of development rights or purchase of development rights, along those lines, and there may be an opportunity to add that in later on. But if you take it out, sometimes the institutional memory goes and it never gets revisited. So that would be my only reason, Mr. Chair, for wanting to leave it in but put in a caveat that subject to enactment of enabling legislation. Something so that there is implied that there will be some kind of future action by the Council.

CHAIR MATEO: Thank you, Ms. Johnson. Ms. Tavares, go ahead.

COUNCILMEMBER TAVARES: I think Mr. Souki wanted to . . .

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CHAIR MATEO: Mr. Souki, go ahead and comment.

MR. SOUKI: Perhaps in that case, maybe taking out some of the detail here--

COUNCILMEMBER JOHNSON: Uh-huh.

MR. SOUKI: --and, and maybe just saying developments that include onsite residential workforce housing units are entitled to density bonuses as to be prescribed by later legislation or something to that effect. Because when you get into these details that follow that, I think that that might be confusing and also this has many fingers that run into Subdivision Code and Title 19 that might lead to some more confusion.

CHAIR MATEO: Thank you, Mr. Souki. Ms. Tavares.

COUNCILMEMBER TAVARES: I was almost gonna say I forgot I was gonna say but I remembered just now. In the Number 1 example or Number 1 there, "A single family dwelling development may have a density increase of up to twenty percent", could someone run through a scenario that would create a density bonus? Let's say given an acre of land and the current zoning allows for under R-1, 6,000 square foot lots, so you could get "x" number of units built there. Now, if they increased the density, and I think this follows what was. . .what Mr. Souki is saying, if you increase the density to 4,000 square foot lots or less or whatever, then you're up against. . .going against the zoning thing. So I think, you know, certainly in support of what he's saying that if we left that first sentence there and added on to it, I think that would help us really develop this density bonus area in another piece of legislation.

CHAIR MATEO: Yes. So you wouldn't have a problem in adding additional verbiage as recommended by Corp. Counsel?

COUNCILMEMBER TAVARES: No, not at all.

CHAIR MATEO: Deleting 1, 2, 3, 4 and it's all subject to pending legislation or upcoming legislation. Can you. . .can you read it?

MS. REVELS: I don't know if this is correct with Corp. Counsel, but I just added a sentence that says subject to enactment of enabling legislation.

COUNCILMEMBER JOHNSON: Yeah. That's okay.

COUNCILMEMBER TAVARES: Uh-huh.

CHAIR MATEO: Go ahead, Mr. Souki.

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MR. SOUKI: Thank you. That looks okay, but you know, your normal Corp. Counsel. . .well, regular Corp. Counsel. . .we're all normal, he, he may have additional advice to say about that so you should work with him when he gets back. . .*(laughter)*. . .

CHAIR MATEO: Mr. Hokama.

COUNCILMEMBER HOKAMA: Sometimes it helps to have a different Corporation Counsel come to meetings, Chairman. You know, one of the things that I think we might want to consider in our discussion this afternoon is share what we think or I'll share what I was thinking about this increased density, Chairman. I was looking at it from the point of view that if we want to move a density bonus forward and we'll take C-1 as the current example, single-family dwelling development may have an increased. . .density increase of up to 20 percent. In my mind I was looking at 20 percent more housing units. What if we have a single-family housing development proposal that has other components besides housing?

COUNCILMEMBER JOHNSON: Commercial.

COUNCILMEMBER HOKAMA: So there's business space or apartment space. Let's say it's a mixed. . .more than just a single family, would the density increase? Do we want to allow it to be part of the other components of the proposed development or not? I just bring it up because I think we may need to think about it and define it if that's to the policy's advantage to eliminate more interpretation than needed. So I just bring that up, as well as regarding to the 20 percent. Again, my concern. . .maybe Water Department might say we have more than sufficient enough to handle the 20 percent addition, but let's say Public Works go we don't have the sewer capacity and so we're gonna say no to the 20 percent unless someone upgrades and makes an adjustment in the development so as to take care of the 20 percent density you want to provide. So, you know, I just bring it up for what I see is realistic situations and how we might want to think it through before we throw language at it and make sure that we achieve the goal we want to achieve, Chairman. Well, let's say Public Works on the other . . .*(inaudible)*. . . says, 20 percent more, yeah, well, we have some concern about road widths and whatnot. And Fire, let's say Fire comes in and goes, well, hydrant to home ratio, we're not going to be cutting it, you're gonna pay more home insurance, but hey, if that's what you guys want from such and such action, that's you guys choice or whatnot. I would hope we would get all of this information before we make the decision, Chairman, if you want to look at density bonuses so that we can make the best decision possible. So that's my only thing and we be also the similar whether we looking at multi-family density bonuses or not. So I just bring that up and if we have more of what we seem to be getting lately is mixed use proposals. How, how would we want to look at density bonuses in mixed use projects then, Chairman? I just ask the question. I don't have an answer this afternoon.

CHAIR MATEO: Yeah.

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COUNCILMEMBER HOKAMA: Thank you.

CHAIR MATEO: Yeah. Thank you, Mr. Hokama, and questions well received because this is why we looking at the additional language because at this particular point, we don't know how to calculate it, we don't know the, the all of the specifics that will be involved with it. So the next step for us would be then to see that we start to address density bonus and all its. . .all its mechanics so we can deal with the same questions that you have asked and everybody else have asked, yeah. Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: I would also add in to the language that residential workforce housing units may be entitled to a density bonus because we haven't drafted it yet and so it says right now that they are. I think it's better if you said maybe because I can tell you there's some people that would challenge us and say, well, you know, I'm entitled.

CHAIR MATEO: Corp. Counsel, any comments on the. . .on the word changes? No? Thank you very much. Members, any objections with changing are. . .from "are" to "maybe"?

COUNCILMEMBER TAVARES: Yes. No, no objections.

COUNCILMEMBER HOKAMA: No objections.

CHAIR MATEO: No objections? Thank you. Then there's no objections that we keep on Page 15 we keep Item C, that sentence and we're doing the additional language as shown on the wall. . .shown on the screen. Okay, and eliminating 1, 2, 3, 4.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR MATEO: Thank you very much. Members, at this time we have . . .(*change tape, start 5A*). . . covered these items the Chair thought was important enough to spend the time discussing. We are at this point, we've got about another hour before we start to lose our Members and if there's no objections, the Chair would like to start walking through the document. If there's areas that we have consensus on we can, you know, move along that way. If there's areas that we have questions on, I'd like to save that specific area for our next meeting. Okay. So Members, we're gonna start from the very beginning.

COUNCILMEMBER HOKAMA: Chairman? Mr. Chairman?

CHAIR MATEO: Go ahead, go ahead.

COUNCILMEMBER HOKAMA: I'm in support of your proposal of how to move forward. I just wanted to make it clear to you, Mr. Chairman, as well as my fellow Committee Members, that I will be and I'm looking for it – sorry, Chairman – proposing some comments regarding. . .I know it's in the bill, anyway, it's as it regards to Chapter 2.94. Our proposal is asking for it to be deleted and I'd hoped to be better prepared for you this

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afternoon but I will be sending to you and the Members in written form some comments about what I will be recommending for consideration, Mr. Chairman,--

CHAIR MATEO: Thank you.

COUNCILMEMBER HOKAMA: --and I just wanted to share that. Thank you.

CHAIR MATEO: Thank you, Mr. Hokama.

COUNCILMEMBER TAVARES: That's the hotel requirements?

COUNCILMEMBER HOKAMA: That's the hotel requirements. In it, just so that the Members know, I'll be addressing the concerns I have regarding what I consider would qualify.

CHAIR MATEO: Yeah. That would be, Mr. Hokama, on Page 4, under Applicability. Was that the area?

COUNCILMEMBER HOKAMA: Well, I'm gonna be working and asking your Staff for comments, Mr. Chairman, because at the back of the proposal we have--

CHAIR MATEO: A repeal.

COUNCILMEMBER HOKAMA: --a repealing section--

CHAIR MATEO: Yes.

COUNCILMEMBER HOKAMA: --specifically and right now it's being repealed in its entirety.

CHAIR MATEO: Yes.

COUNCILMEMBER HOKAMA: I'm going to be providing the Committee and you, Mr. Chairman, some comments on what I would like our Committee to consider particularly as we address rebuilding of old units, conversions, movement from hotel to timeshare, and what I expect with those conversions out of the affordable policy.

CHAIR MATEO: Okay.

COUNCILMEMBER HOKAMA: A lot of people not going to be happy but I expect new requirements and, and new compliances.

CHAIR MATEO: Okay. Thank you, Mr. Hokama. We'll look forward to receiving that from, from you. Members, from the very beginning, 2.96.010, the Purpose. Any, any major changes. . .any major changes with this area? Seeing none. Members, we'll move on. Okay.

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The next section 2.96.020, Definitions. Just a quest. . .go ahead, Ms. . . ., go ahead.

MS. REVELS: I just wanted clarification on whether you wanted to delete the definition for density bonus?

COUNCILMEMBER JOHNSON: Uh-huh.

CHAIR MATEO: Yeah. And I was just gonna ask the Members because we had just made an adjustment to that Item C, whether or not we still need to leave it in because the language we do have in indicates pending enabling legislation. So it's up to the Members whether we want to leave this item in under Definitions or just delete it at this point. Go ahead.

COUNCILMEMBER JOHNSON: My thought would be to at least make reference so that it's consistent. Eventually, we will have to have some kind of definition so just pay. . .just simply state density bonus would be subject to pending legislation or subject to enactment of legislation.

CHAIR MATEO: Okay. Thank you. Members, any objections to leaving it in with those. . . with the verbiage that Ms. Johnson just recommended?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR MATEO: No objections? Thank you. Any additional items under Definitions you'd like. . .you'd like us to consider at this point?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MATEO: Go ahead.

COUNCILMEMBER HOKAMA: I would just ask that you and Staff review the words. . .the definitions we're using for developable lot. I think we've made it clear what we had envisioned a developable lot to be and I would just say if you would. . .would Staff review and ensure that the Committee's intentions are met?

CHAIR MATEO: Yes.

COUNCILMEMBER HOKAMA: I would be satisfied.

CHAIR MATEO: Yes. We will. Thank you. Can we move on from the definitions, Members? 2.96.030, Applicability, this is I believe the area that Mr. Hokama will be making part of a recommendation from. So at this point I would like to not touch it at this point. Yeah, Ms. Lee, go ahead. Comments?

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MS. LEE: Ms. Revels moved the scrolling a little too quickly. I was wondering if you must have, added the definition for lower gap income residents?

MS. REVELS: The lower gap income category was deleted at the last meeting.

MS. LEE: Oh, okay. Thank you.

CHAIR MATEO: So, Members, 2.96.030, we will pass that at this point and wait until Mr. Hokama's recommendations come forward. 2.96.040, Residential workforce housing requirements.

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR MATEO: Go ahead.

COUNCILMEMBER JOHNSON: I'm sure everyone got Mr. Vanderbilt's memo but this is a specific section that he addresses in his memorandum to us where he is actually making the case about Molokai's recommendations from their Planning Commission. So his statements says it seems that it's appropriate to address Molokai's amendments to 2.96.040(A), that the Planning Commission approved when this was discussed, you know, at their meeting. So, anyway, what I'm . . . what I'm asking for is at least out of respect for the work that the Molokai people did on this and Mr. Vanderbilt, what is the intention of the Committee with respect to Molokai's request and the draft legislation that they sent forward. Because I think just simply it's good to get it on the record to either let the community know we're gonna have to revisit this, they're going to be treated separately, whatever, so that the community at least knows that this is not being ignored.

CHAIR MATEO: Yeah. One, first and foremost, no submission by any Planning Commission is ignored. That is the reason why this Committee chose to send it to the Planning Commissions for their review and comment. This Committee did not have to send it to the Planning Commissions. If there is a Member who wants to include considerations from the Commissions, they're more than welcome to do so. I need to make it real clear that I . . . we did have the opportunity of taking a look at all of the submissions from all of the Commissions and advisory groups. More specifically, a lot of references in the rewrite that we got from Molokai read, except Molokai, exempt Molokai, except Molokai, and if we're gonna start doing an except Molokai, we better be ready to do an exempt Lanai, exempt Hana, and as I mentioned earlier, in my community meetings with the Lahaina group there was a consideration that Lahaina wanted to develop their own housing policy because they didn't want the County of Maui telling them how to run their . . . how to do their housing projects.

So what I'm looking at is a general policy and I think you know because we're not done with it at this particular point. I think the important part was us to lay the foundation and this is what this is and we're all welcome to take a look at everybody's submission and

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start to see whether or not they fit in at this point. So, you know, this is not the last. . .this is not the last. This is, you know, for us we still have couple more meetings to finalize it and anybody's welcome to submit whatever, whatever they want. And for myself, I represent Molokai, and Molokai does have a special interest to me, but they also need to understand that the County ordinance is a County ordinance and it's general and it's across-the-board and it must be fair for, for all the respective districts. But I have not. . .I have not overlooked nor have I ignored. I have just not had the time, you know, to be a little more specific with the Molokai issues and I thank you for . . .

COUNCILMEMBER JOHNSON: No, and I really appreciate that, Mr. Chair, 'cause I, you know, for a lot of people that are watching on Molokai I know that these concerns were brought up and I just don't and no disrespect to you whatsoever because we've all been wrestling with this and I know that we want to continue to move it forward. So if there are components within the existing legislation that, that I can at least, you know, perhaps you have suggestions, too, maybe some key elements even if it's the in-lieu part. If the community of Molokai feels very strongly that they just want the houses, they don't want any in-lieu, then maybe it would be appropriate to say in that particular case. So I will, with I'm sure input from Molokai community, take a look. I think you're right though that if we start excepting or exempting and it becomes a very unmanageable type of ordinance, then you're better off just drafting something specifically for Molokai. And because that is not before us right now I don't want to delay the rest of the bill that's been worked on for such a long time and then just give the community the knowledge and the assurance that at some point we will return to that and perhaps draft a separate component of this ordinance or a subchapter that would address their needs.

CHAIR MATEO: Right.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MATEO: And that next meeting for us. . .the next scheduled meeting is when we're going to continue the walk and this is where each particular section will be able to discuss inclusions or whatever else we might need.

COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: Thank you, Ms. Johnson. Members, additional questions? Thank you. I think we were at 2.96.040, I believe it was. Ms. Tavares, go ahead.

COUNCILMEMBER TAVARES: Mr. Chairman, regarding Numbers 1 and 2, it is my feeling that we should be saying that it's right now it's 40 percent and it should be 40 percent period, and not go into this if certain amount is under \$1 million and certain amount is over \$1 million, then it's a different percentage. We should use the same percentage no matter what the sale prices of the housing and the market unit are going to be and if we want to encourage more affordable, then we need to look at an incentive package for

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those folks to meet. . .oh, for them to receive other kinds of credits, or you know, whatever the incentive package is going to be. So if we leave everybody at 40 percent and this as it stands right now, it's when five or more kick in. So I don't see a distinction between 1 and 2. It should be just 1 at 40 percent.

CHAIR MATEO: Okay. Thank you. Members, comments? Ms. Johnson.

COUNCILMEMBER JOHNSON: Because originally I was conceiving of this area as being a sliding scale with a smaller I guess a smaller range, you know, where you're looking at maybe 500,000, 750,000, and then one million. Mine was a little bit more integrated with let's say four tiers and then gradually going up to a higher percentage. I think that in my mind was sort of a concept that I felt would work but because we also now have the 201H-H where with Ms. Tavares, and of course my concerns about trying to just produce housing that gets the majority of our people in units that are in a realistic price range, I think probably we're not going to achieve it for the reasons that were mentioned earlier that if you price your units at \$999,999, it's that \$1 difference. So it's just going to be playing games if we leave it this way. So I have no problem with doing the 40 percent but I think we really do need to work on our 100 percent affordable housing through the 201H and that's where I think it's really important. I . . .because we also have the component where anybody can lobby or not necessarily lobby, but appeal, if there is an appeal mechanism and somebody can't meet that threshold of 40 percent, you know what, there's that process, too. I'd personally rather have it at 50 percent but as I said earlier it didn't seem to be will. . .the will on the Council to do the 50 percent. So I'm, I'm willing just to move it along at the . . .at the 40 percent. 'Cause right now I guess, you know, it's, it's just gonna result in people playing the numbers game and I don't think it will achieve what we really want to achieve anyway. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Members, additional comments? The Chair would like to just express my own personal opinions regarding Number 3. . .actually Number 2. I think. . .I think when we started talking about affordable housing, the whole question was who we building houses for, and we said our local residents, our, our residents of Maui within this income, income range. Then the next question was who's gonna build the houses? And the question was. . .the answer was, you know, at this particular point in time because the County chose not to build our own homes that we looking at the market end to help build for us. Part of my problem is when you take a look at those development projects that are building million dollar homes. One, it's not for. . .it's not for our people. Two, this community has said enough with the million dollar estates though we cannot dictate that they can't build it anymore. So for me these entities are reaping the benefits of making big money in selling million dollar estates. What is it that we were gonna get back? And you know, I don't know how else to explain it other by using an example. Kapalua Mauka, what did we get in, in turn? We got 123 apartments. Question is, was that fair? You know, I can't tell you, yes it is, or no it's not. I'm just asking, you know, was that a fair return?

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So they insist, you know, for me being able to add this particular component in was if the development is going to develop the high-end only, the million dollar estates, then their percentage that they should be required to provide to the County should be a little larger number than everybody else's developments. Somebody developing four or \$500,000 homes, they're required to give us 40 percent. Somebody's gonna construct, you know, million dollar estates and they're still required to give us 40 percent. Somehow it just doesn't balance out. It just seems like there is an inequity because the range of profit for both projects differ and that was why I put in the additional percentage and recognized the difference in the million dollar range. Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: You know, I have another thought because I do understand what you're saying, Mr. Chair, and I have the same concern. If you look at one of our proposals in the book, the high-end which would be above moderate gap income, the unit that could be built in that range is just under \$600,000. Maybe instead of putting it at a million dollars, what we should do is set the threshold at that top end of the above moderate gap income and say okay, anything above \$600,000 requires 50 percent or 51 percent. I have no problem with that because, you know, then it's gonna be more creative. They're gonna have to come up with a way to deliver the housing, you know, in that range. So if you . . .if you lower it, I think it might . . .it might achieve. . .I mean, frankly, if you want to do three quarters of a million, that's fine. But to me I think if you just put it . . .if you look at the real demographic and what we're looking at and what was actually proposed at one point, there's not too many people that makes \$131,400 a year. So I'd say if we just went to the 600,000 instead of a million, it might actually work a little bit better. So that's my suggestion.

CHAIR MATEO: Thank you, Ms. Johnson. Members, comments?

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead, Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Thank you. And if you're going to do that, lower that threshold downward to where I guess my proposal you're quoting from on that upper limit I think that's fine. But I think that between the million and the one dollar less than a million is, is too high up there anyway. So if you bring the qualification amount down, you know, then you can leave Number 2 in so that we'll have 50 percent there and 40 percent in Number 1.

CHAIR MATEO: I'm sorry. Number 1 already is 40 percent.

COUNCILMEMBER TAVARES: Yeah, yeah. All I'm saying is leave the 40 percent there and then the 50 percent would change the . . .you don't have to change the--

CHAIR MATEO: Oh, I see.

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COUNCILMEMBER TAVARES: --cost.

CHAIR MATEO: Okay, from the . . .

COUNCILMEMBER TAVARES: In Number 1, I'm sorry, the cost in Number 1.

CHAIR MATEO: Yeah. Okay, from 1. . .

COUNCILMEMBER TAVARES: Would be dropped and raised. . .dropped in both of 'em.

CHAIR MATEO: Okay. Staff, we got the numbers?

MS. REVELS: What number did you want to drop it to?

COUNCILMEMBER JOHNSON: My recommendation would be 600,000 because that's at the top range, if that's alright with the Members.

CHAIR MATEO: Members, discussion/comments?

COUNCILMEMBER TAVARES: That's fine.

CHAIR MATEO: Yeah. Six hundred thousand? Okay. Additional changes? Thank you, Ms. Johnson. Additional changes, Members?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MATEO: Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: Again, I don't have, you know, I was gonna present it with my written comments but I just wanted to let the Members know that I was looking at Number 3.

COUNCILMEMBER JOHNSON: Uh-huh.

COUNCILMEMBER TAVARES: Yeah.

COUNCILMEMBER HOKAMA: I don't have to. . .for me, personally, I don't have to reach the minimum five, five units. To me, two units is good enough 'cause what is 40 percent of two units, it's .8, and haven't we always rounded it off so that's one unit they owe us. I don't have a problem at kicking in that one unit they owe us.

CHAIR MATEO: Okay.

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COUNCILMEMBER HOKAMA: Or you might want to consider the in-lieu if we still retain it and use that for our stated benefit purposes, Chairman.

CHAIR MATEO: Okay. Thank you. Members, 040. . .we're gonna . . .we're gonna pass this item right now because Mr. Hokama will continue, well, will be submitting additional recommendations for this area. So we're gonna move on. . .move out of that area right into the next section 050, unless there's something specific you'd like to comment.

COUNCILMEMBER JOHNSON: Mr. Chair, on Number 2, we also have to I guess amend that where you have 600,000 in 2.96.040(1) and (2). It should be 600,000 in both and I. . .oh, she did already. I didn't see it. You're so quick. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Okay. Members, any additional comments in this specific area, 040, before we move on because additional amendments will be submitted to us. 050, Residential workforce housing credits. This area we're gonna come back again because we have specific work gonna be done on this area and this is where Ms. Tavares' wild and crazy thing is gonna come in. . .*(laughter)*. . . 060, Residential workforce housing restrictions – ownership units. Members, any comments in this particular area at this time? Seeing none. Members, with consensus we'll move on to the next area. Okay. Okay, next area, 070, Residential workforce housing restrictions – rental units. Members, comments on this particular area? Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: Would this be the appropriate area the suggestion made by one of the audience members was talking about financial literacy? Some type of a requirement that in order I guess to. . .or is that on the waitlist? Anyway, at some point,--

CHAIR MATEO: I think it was on the waitlist.

COUNCILMEMBER JOHNSON: --yeah, at some point I just want to add in or at least look at consideration that they should have gone through some kind of financial literacy.

CHAIR MATEO: Yeah. It would be on the waitlist area.

COUNCILMEMBER JOHNSON: Okay.

CHAIR MATEO: Okay. Members, 070, we're gonna move on. 080, Residential workforce housing agreement. Members, comments? Recommendations for change? Considerations? Hearing none. 090, Applicant selection process – ownership units, the waitlist.

COUNCILMEMBER JOHNSON: And this is the one where I guess we would be considering adding in language about getting on the waitlist.

CHAIR MATEO: With the financial training component.

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COUNCILMEMBER JOHNSON: Yes. And I just think it's good that at least they've completed some kind of I guess financial course where they're gonna have a better chance of succeeding and staying in the home if they've completed that. I did have one comment last evening from people who'd been participating in this process right along and their. . .they had two comments. One was with regard to I guess criticism of other private developers of maintenance of list. Because they said that that is still a concern I guess in the community, this perception that you're gonna put your buddies on the list and somehow there's no way to really protect that. Their suggestion was to have an independent or somebody, not the County, but perhaps like a Lokahi or put out. . .I know we have a third-party administration on let's say for our insurance, for example, where there is an outside entity that is not connected to the developer and not connected, you know, in any way to the County government so that we keep ourselves out of it but that continual list are updated. So that was one of the things that this person had requested we look at because there's always people that are going to be suspect of what is going to be maintained. We get it with our water meter list. We get it with every list. So to not subject Ms. Lee, to not subject a developer, I thought it was very. . .a very good consideration so I believe this. . .these sections where there's any maintenance of waitlist should perhaps look at a third party.

CHAIR MATEO: Okay. Thank you, Ms. Johnson. Would you be able to provide us in writing the specific area--

COUNCILMEMBER JOHNSON: I will be happy--

CHAIR MATEO: --for the language?

COUNCILMEMBER JOHNSON: --to take a look at this section but I wanted to get it out there to see if the thinking of the Committee was along those lines or if it's just, you know, paranoia. . . .(chuckles). . .

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: But I'd be happy to do that. And I'm sure the individual that brought up the issue will be happy to work with me.

CHAIR MATEO: Thank you. Thank you. Then we'll look forward to getting that prior, you know, as soon as possible so we can try to incorporate it. Members, additional comments or questions in this area? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Is there any consideration in this section that has to do with the developer of the project being able to sell units. . .sell units to qualified employees? His or her company's own qualified employees?

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CHAIR MATEO: No. There's nothing in this section.

COUNCILMEMBER TAVARES: So if someone wanted to do that, they'd have to build additional units for their employees. Is that what I'm understanding by what we talked about in the credit area?

CHAIR MATEO: Yeah. Yes.

COUNCILMEMBER TAVARES: My feeling, Mr. Chair, is really that if someone is going to build a project and their company is working on it that their qualified employee should have a preference to receiving some of the units. And if we want to limit it by some way by a percentage of the units, I think that's, that's fair. Because that company is the one taking the risk and if they have qualified employees. . .and we're talking about qualified employees, not just any old employees, employees that still have to qualify and all the income brackets that are required. But if we were to say that a certain percentage of those would be available to their employees first, I don't have a problem with that.

CHAIR MATEO: Okay. Thank you. Could you. . .could you add to your wild and crazy thing--

COUNCILMEMBER TAVARES: Sure.

CHAIR MATEO: --and add the language and so we can fit it into this particular category for discussion at our next. . .at our next meeting?

VICE-CHAIR PONTANILLA: Chair?

CHAIR MATEO: Go ahead. Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Just a comment or question maybe to Alice, Housing. In regards to the waitlist, I'm assuming these are the ones that had gone through their pre-qualification and as far as the selection, you know, based on the project in Waikapu, it was a lottery system and it indicates here, you know, it's gonna be a lottery system. I can agree to Member Tavares recommendation in regards to if this developer is going to provide affordable housing. . .a affordable housing project and he wants to reserve, and again, gotta qualify for affordable housing, will the waitlist be the one that will tell you number one through whatever it is where you fall or all of the names going through this lottery system and you just pull?

CHAIR MATEO: Ms. Lee, would you be able to respond?

MS. LEE: Chair, Council Member, we have never been excited about this waitlist process. We don't even know how it would poss. . .it could work. Spencer had over 3,000 applications and I don't know whether Jo Ann Ridao and her secretary can go over 3,000 applications and then audit and track these as the project moves forward. Because even

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though you apply today it doesn't matter. What matters is your . . . *(change tape, start 5B)*. . . qualification status when the project is ready to be built, yeah, when the developer is ready to market the project. And then even though you're on a waitlist, well, interest rates may have changed, you may have gotten a divorce, you may have inherited money, maybe you had a raise. Everything changes so for somebody to have to monitor all of this type of information is gonna be very unwieldy for that person and a very daunting task.

VICE-CHAIR PONTANILLA: Thank you. And if I remember correctly when he announced his project, that the people that went there. . . he had set the time and date for this lottery and whoever had applied were put into a fishbowl and rather than. . . and that's the way they did the lottery system. And, yeah, I can understand the waitlist that maybe an overwhelming concern in regards to how to handle. . . how do you keep track of this thing here.

MS. LEE: Well, Council Member, I had some person call me and say why didn't the County oversee the selection process. It wasn't really on Spencer's. It was another big project. And I said, well, first of all, we don't have the staffing to do that but she expected the County to not only check the waitlist and qualify and verify everyone on the list but expected to. . . the County to check if that name went in the bin before they spun it. You know, so I mean where does it end, yeah? So. . . and, and who's gonna pay for that? It's all gonna be added cost to the housing at some point.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chair.

CHAIR MATEO: Thank you. Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: What I'm gonna do I'm gonna visit with the individual that raised the issue with me because I think in view of the fact that we are going to the lottery system, what difference does it make if you're maintaining a waitlist. I guess when I re-read this because we're going to the lottery system, you know, to me you're gonna want to make sure that your name is in the drum when that's pulled. And for the same reasons that Ms. Lee spoke about it, being on the waitlist is not going to give you any advantage whatsoever. You may have. . . you may be eliminated even though your name gets pulled through the lottery, you may be eliminated because you're over the income criteria or you may be eliminated because you don't live in that community plan area. But you know, there's all different criteria that you could be disqualified for or qualified for. So I will visit with this individual again and perhaps just maybe the elimination entirely of a waitlist and just strictly going by the lottery--

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: --and submitting your application. The only thing that I could see is from the standpoint of pre-qualification. Because if you're gonna have to

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pre-qualify every time you put your name in the drum, if, if that's something that is gonna impose an additional burden financially on a person, then you know, if you put in your name for ten lotteries and you have to pre-qualify every time, the only reason I can see for you having a record somewhere that you are qualified is that you don't have to go through any of that analysis again. And then when you ask to have your name put in the drum perhaps you could certify that nothing has changed substantially since the first time you've been placed on the waitlist. Something so that you put the burden on the individual who's actually asking for the home--

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: --and not on the Department.

CHAIR MATEO: Okay. Members, 090 then, we will move on from this area and wait for additional submissions to be provided to us.

COUNCILMEMBER TAVARES: Mr. Chairman?

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: Mr. Chairman, could we get in touch with someone from Spencer Project that handled their lottery? Because the lottery is not just one fishbowl, I don't think, or maybe it is, and how do you get the people qualified in each of the categories. Because you have, you know, we will have that so many units gonna be in, you know, whatever category it is. So not only do you have to qualify but you have to qualify for a particular type of unit or the cost based on your. . .where you are in the median income range. So, you know, I'm not sure exactly how that is or if they throw everybody in there and number one, you have this chart up there, and number one, you sign up there for whichever category you think you're in, and then what if number one doesn't qualify later on and they have to move up to the next category. So they bump somebody out from that one? Or and what happens to number two who would have liked to have been over there? Or, or number 30 who would have wanted to been over there? So I mean it is a complex issue if you really start to think about it. It's not like a lucky number thing where you get a bag of rice, you know. . . .(laughter). . . It's complicated so I would really like to hear from whoever handles Spencer's or anybody else who has done a lottery out there. And I think Mr. Okubo,--

CHAIR MATEO: Yes.

COUNCILMEMBER TAVARES: --Ms. Lee, he handled the lotteries for the County projects. Maybe he can share some insight with us about those processes because, you know, they were all a little bit complicated. It's one thing if you're building one where it's if you make up to this income, you qualify for anything in this subdivision, and all you have to

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do is pull and then you pull to pick your lot, basically. But I think it's a whole lot more complicated than even we realized.

CHAIR MATEO: We'll contact Mr. Spencer and Ms. Lee, if you could follow up Mr. Okubo, check availability, and we'll try to see where in our meeting slots we can. . .we can get it in here. And most likely the next meeting, and hopefully, we'll be able to keep that segment as short as possible so we can just move on.

COUNCILMEMBER TAVARES: Or even if it can be done outside of the meeting. You know, if Staff could meet with them or Members could meet with, you know, one or two of us meet with somebody which is allowed, then we could get a feeling for what this lottery is.

CHAIR MATEO: Oh, okay. We can try to arrange that.

COUNCILMEMBER TAVARES: Then it won't interfere with, with your conduct of the meeting.

CHAIR MATEO: Okay. Thank you. We'll go ahead and make that. . .make that contacts. Thank you.

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR MATEO: Go ahead.

COUNCILMEMBER JOHNSON: I also think that Mr. Soon, who testified last time, he's a really good resource and I think he may have even done it through DHHL. So if he wasn't involved with them, I think that would be another way because they maintain list continuously and I'm sure they have challenges, too.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So those would be two good resources.

CHAIR MATEO: Okay. Thank you very much. Members, 2,96.100, Applicant . . .

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead.

COUNCILMEMBER TAVARES: I'm sorry.

CHAIR MATEO: Go ahead.

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COUNCILMEMBER TAVARES: Before you leave Page 11, on that Number 5, for the period of three years prior to the submittal of the ownership application, have not had an interest of fifty percent or more in real property in the United States, et cetera. How easy or difficult is it to check on a person to see if they have owned property in the last three years? Does, does anyone have an idea? Is it entering it in the computer and seeing if it shows up on the Bureau of Conveyances? Is it a simple process?

CHAIR MATEO: Yeah, most likely. Corp. Counsel, would you have an idea?

MR. SOUKI: I have some idea. You know, you, you may be recorded in the tax system, the land use tax system for the County. You may not. . .you may own property and not be on the tax map key because you're not paying the taxes, someone else you're leasing the property to is paying it. In that case, you would have to go to the Bureau of Conveyances. There's a land court and the regular system and you could look through those documents. I think title search companies do that type of thing. It's not cheap.

COUNCILMEMBER TAVARES: Yeah. So how onerous is this kind of system? Ms. Lee probably has been through this a lot.

CHAIR MATEO: Go ahead, Ms. Lee.

MS. LEE: You're right, it's onerous, and we don't double check. I mean it's not like we go around through the United States checking all the land records. We ask the person. Hopefully, they'll tell us the truth. The other way might be to check their tax returns. See if there's any indication there. But other than that we don't. . .we don't double. . .we can't. We don't have the resources.

COUNCILMEMBER TAVARES: Okay. Would it be easier if it was like in the current year or at the time of application the person cannot be an owner or 51 or more than 50 percent?

MS. LEE: What we're trying to achieve here is to give preference to the first time home buyer.

COUNCILMEMBER TAVARES: Right.

MS. LEE: So that's why for the last three years, you know, generally, that's just the standard we've been using all, you know, all along.

COUNCILMEMBER TAVARES: Three years?

MS. LEE: Uh-huh.

COUNCILMEMBER TAVARES: Okay. Fine. Thank you.

CHAIR MATEO: Thank you.

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COUNCILMEMBER TAVARES: I will not get wild and crazy on this one. Thank you. . . .
(laughter) . . .

CHAIR MATEO: Okay. Thank you. Members, additional comments on this section? Going move on to the next section, 100, Applicant selection process – rental units. Members, amendments? Go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: That's the same basic issue as the previous one about the maintenance of the waitlist so I will do the same thing and check with the party who brought this issue up. But in regard to the one that we were just speaking about where it's ownership of 50 percent or more in real property in fee or leasehold in the United States, I would just say people who have not had an interest, you know, put some teeth in it and say that people who certify or sign an affidavit. Because when you sign an affidavit, that is a legal representation, then you at least put some teeth in it. So that would be my recommendation to include that wording in that section.

CHAIR MATEO: Okay. Thank you, Ms. Johnson. That you're gonna add in to your submission?

COUNCILMEMBER JOHNSON: Yeah. I can add that in – sure.

CHAIR MATEO: Okay. Thank you. Additional questions or comments on 100? Moving to the next section, 110, the Review requirements. This one we already made a change at our last meeting with Member Pontanilla's recommendations. So that particular change was done from three years to two years in terms of a review. Are there any additional comments or changes that you'd like us to consider at this time? If we can get consensus, we'll move on out of this area.

COUNCILMEMBER TAVARES: Fine.

CHAIR MATEO: Fine? Thank you. 120, the Rules. Any changes, issues, concerns with this particular item? Otherwise, if there is consensus, we'll move to the next item. We're gonna move, 130, Property assessment value. Any comments or changes at this point? We're gonna move to 140, Incentives. Hearing no comments for change. We're gonna move to 150, Qualified housing providers. Comments? Changes? Thank you. Hearing none. The last item on Page 16, Chapter 3.35, Affordable Housing Fund. Any questions or comments regarding this particular section? Seeing none. The Chair had one concern that we recognize that the Director of Finance will establish the fund but we haven't recognized who will manage and approve the expenditures of the fund. So, you know, short of putting her name there, you know, we could say the Department or the Director shall manage and approve the expenditures from the fund. Or is there other verbiage or considerations that we can. . . we can do at this point?

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COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR MATEO: Go ahead, Ms. Tavares.

COUNCILMEMBER TAVARES: If you can just say the Director of Housing and Human Concerns shall administer this fund.

CHAIR MATEO: Okay. Thank you very much. Okay. Members, this is it for today. It's been a long afternoon. Thank you all very much. We need to. . .when we started the meeting, there were considerations for our next meeting date. We had the option of recessing this afternoon's meeting and recessing until tomorrow. We have several Members who will not be available tomorrow, therefore, we do not have a quorum. Our next scheduled meeting, therefore, is October 5th. October 5th, Mr. Hokama, will be the individual that might not be present. He has the HCPO conference on Oahu. So, Members, at that particular meeting, we will again walk through the document. We'll be expecting a lot of the submissions for changes/recommendations to be submitted to us so we can include it in the document for review. Ms. Tavares, go ahead.

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, I though I heard Mr. Hokama say that he perhaps could come back for an afternoon meeting on that Thursday and maybe Ms. Johnson would consider switching and going in the morning and switching places with Housing and Human Concerns [*sic*] if that's possible.

CHAIR MATEO: Would that be an option, Ms. Johnson?

COUNCILMEMBER JOHNSON: In fact, because we just sent out for polling because we have at least two weighty issues. One of them is the definition of agriculture on the next Parks and Economic Development Committee meeting agenda. So that I think is not going to be resolved in one meeting. I'm actually asking if we could recess my meeting. So if we do it in the morning, that is fine with me. I'm flexible because more than likely we're gonna have to either recess or we're gonna have to try to meet if we're going to get through that particular issue between now and the end of term 'cause I'm trying to move forward with that one. So I have no problem with doing that. Mr. Hokama, you may want to check with him. Or if your Committee would check perhaps with one of the other Committees and I don't know what Planning is going to be doing or Budget, but I know that if we could meet again so that we have a long period of time, I think it's helpful if we can do it so that we have continuity and maybe deal with it in one day. So I'm open though to whatever you can arrange.

CHAIR MATEO: Okay. So for . . .

COUNCILMEMBER JOHNSON: I will make my schedule available.

CHAIR MATEO: So for now we'll. . .you and I will be able to swap our--

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COUNCILMEMBER JOHNSON: Right.

CHAIR MATEO: --meeting times?

COUNCILMEMBER JOHNSON: Yeah.

CHAIR MATEO: Okay. So Housing and Human Services Committee meeting will be scheduled for October 5th at 1:30 instead of the morning hours. Okay.

COUNCILMEMBER JOHNSON: Right. Unless you can arrange with another Committee. Let's say there's not. . .maybe only going to be one Committee meeting that day, then perhaps you could take the whole entire day and Mr. Hokama might be able to actually be available for that whole day depending. . .let's say, for example, if it's on a Monday.

CHAIR MATEO: Okay.

COUNCILMEMBER JOHNSON: So. . .but I can't, you know, Staff will let you know. But I have no problem with switching my meeting but provided that works for Councilmember Hokama.

CHAIR MATEO: Okay. Yeah. Any. . .okay. Thank you very much. So, Members, October 5th, 1:30 in the afternoon, our Housing and Human Services Committee meeting. We will again walk through the document and,--

COUNCILMEMBER JOHNSON: Tentatively.

CHAIR MATEO: --and schedule. . .hopefully, we'll be able to get far along and reach consensus with the rest of the document.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR MATEO: Any announcements, Members? Hearing none. Again, thank you all very much. We went through a lot today and we look forward to October 5th and being able to get a little closer at that point of being able to move this. . .move this out of Committee. Members, thank you all very much. Meeting of the Housing and Human Services Committee for September 20, 2006 adjourned. . .*(gavel)*. . .

ADJOURN: 3:35 p.m.

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APPROVED:



DANNY A. MATEO, Chair
Housing and Human Services Committee

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Transcribed by: Clarita Balala