

MINUTES

PLANNING COMMITTEE

May 2, 2007

A meeting of the Planning Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember JoAnn A. Yukimura, Chair, at the Historic County Building, Room 201, Lihu'e, Kaua'i, on Wednesday, May 2, 2007, at 9:04 a.m., after which the following members answered the call of the roll:

Honorable Jay Furfaro
Honorable Shaylene Iseri-Carvalho
Honorable Ron Kouchi
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Bill "Kaipo" Asing, Ex-Officio Member
Honorable Tim Bynum, Ex-Officio Member

There being no objections, the Committee recessed at 9:07 a.m.

The meeting was called back to order at 10:30 a.m., and proceeded as follows:

Minutes of the March 21, 2007 and April 4, 2007 Planning Committee Meetings. **[These items were deferred.]**

Upon motion duly made by Councilmember Kouchi, seconded by Councilmember Iseri-Carvalho, Minutes of the March 21, 2007 and April 4, 2007 Planning Committee Minutes were deferred.

The Committee proceeded on its agenda items as shown in the following Committee Reports which are incorporated herein by reference.

Bill No. 2203 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (Superstores)
[This item was deferred.]

JOANN A. YUKIMURA, PLANNING COMMITTEE CHAIR: As I mentioned earlier, it is the intention of the Chair to ask for a deferral on this matter, so we will not be taking action on this Superstores bill, but I do want to open it up for testimony from anyone who wishes to testify.

RON KOUCHI: Before you suspend the rules, I had a discussion point Madam Chair.

Ms. Yukimura: Certainly.

Mr. Kouchi: I just wanted to briefly say because there has been some reference to the public hearing testimony that was submitted last week. You know, clearly by the amount of people who attended and from those who attended, those who chose to speak that there was great interest in Bill No. 2203. But some of the testimony, especially some letters, etc. that have been generated after last week's hearing, gives the impression or seems to imply that that is the only method by which we receive testimony and is the sole manner in which we render decisions on subjects that are before the Council. I just wanted to say both on 2203 as well as 2204, the comments are germane to both issues. By e-mail and written correspondence, I have received at least three (3) or four (4) times more testimony in that method than by the method that was presented at the public hearing last week. The public hearing testimony, I have reviewed the tapes and watched the meetings because I was absent from the hearing is equally as important as the e-mails that I have received, the letters that I have received and I have already lost track of the people who have stopped me as I go about just my various daily task. You know, I did want to reiterate that we do receive testimony in many different ways, many different manners and including personal appointments so on and so forth. I haven't found that one is way more valuable than the other, but anybody who takes the time to either come to the meeting, send an e-mail, write a letter, pick up the phone or stop and talk, clearly feels that it is an important matter and I just want to convey to each and every person who has contacted me that I have read through each and every communication that I have had no matter what form or shape it is in and tried to give each item that I have reviewed the respect and attention that it desires because people took the time to make the communication. Thank you.

Ms. Yukimura: Thank you. Is there any other comments?

TIM BYNUM, EX-OFFICIO COMMITTEE MEMBER: I just want to thank again Councilman Kouchi for his... it is kind of exactly what I am thinking that, you know, I am a fairly new Councilperson and these two (2) bills that were mentioned have generated a huge volume of correspondence, phone calls, faxes, public testimony. You know, there are... I think there would be, easily, and I am not exaggerating, a stack of paper this high and I have spent a lot of time, so I would add that, you know, I thought when I got here, I would respond to every piece of communication that came here. You know, I want to put out the apology that I haven't responded to each and every one of those, but I have read everyone of those and people have different comfort levels about the way they bring testimony before the Council. There is a cultural difference about how people bring testimony. Coming from a culture that is maybe more verbal, I would be likely to come here and speak my mind, but other people are going to communicate in more subtle forms and/or more personal and more private and there is a volume of testimony, so I did have a concern when I read... oh, a certain percentage testified this way and a certain percentage testified that way because there are real differences. But the testimony is real important every single piece of it. In fact, some of the written testimony is particular helpful because it gets detailed and I want to thank

everybody in the community that has given their communication and my final comment about that is that these two (2) bills are very important and have generated a lot of energy.

We also have a housing bill that is going through Council right now and we have had two (2) workshops chaired by Iseri-Carvalho. It is a critical piece and maybe one of the most important things that the Council is addressing this year and I haven't seen the volume of testimony on that. We have had public hearings and had only a handful of people from the public, so I encourage those who are listening to pay attention to the housing policy bill that is, you know, part of our debate this year.

SHAYLENE ISERI-CARVALHO: Point of order please. We have a full house of gathered people waiting here. The housing policy is not even on the agenda. Can we proceed to Bill No. 2203? I think people are busy.

Mr. Bynum: And I am pau.

Ms. Yukimura: Thank you. Yes, we can proceed, but I do have one thing that I want to say. First of all, I apologize for not being at the public hearing. I have listened to all of the five (5) or six (6) hours of the public hearing on video tape. I also believe it was Robert Lanier who, at last week's public hearing questioned whether I had a conflict of interest and I would like to respond and clear that up. I have no financial interest in Koa Trading which is the wholesale business owned by my cousin Peter Yukimura and members of his branch of the family which is the rich Yukimuras. My father's side is the poor Yukimuras. I say this with all great due respect. We all have a good relationship, but, anyway, I do not stand to gain or lose financially by the fortunes of Koa Trading, so I don't see that I have any conflict of interest. Furthermore, Koa Trading is a current supplier of WalMart and stands to gain from the WalMart expansion. So the bill that would prohibit big box stores is not a gain for Koa Trading even if I had an interest in them, but I don't. So I just wanted to clear that up. With that, I will suspend the rules now and ask for anyone who wishes to testify on Bill No. 2203.

There being no objections, the rules were suspended.

Ms. Yukimura: Please state your name for the record and then you can proceed.

RICH HEPNER: My name is Rich Hepner. For those of you who know me, I have been involved in the Superferry issue for the past 10 to 11 months. The big box issue, I see a parallel with the Superferry. I couldn't see any reason for not having environmental impacts study on the Superferry. The Superferry could still come in. We weren't against the Superferry, we were for an environmental impact statement on the Superferry. I haven't had time to study this bill on the big box issue, but what I have heard is it limits the size to 75,000 foot of floor space, is that correct?

Ms. Yukimura: Yes.

Mr. Hepner: Okay, I have been here all day listening to what goes on and maybe what the Council should do is hire John F. Layman. Here is a guy that got a \$140 million from the Federal government, he got \$40 million from the State, he got the Superferry going without an environmental impact statement. He could do wonders on your shearwater issue. He could do wonders getting money for the Council. I say that with tongue and cheek. However, one thing I have heard is security for the parks.

Ms. Yukimura: Mr. Hepner, we are talking about Bill No. 2203, so can you confine your remarks to that bill?

Mr. Hepner: As far as the big box, I have heard people talking about not being able to get good prices because WalMart couldn't have a grocery store. It is not restricting WalMart from having a grocery store. Are you aware that the biggest facility in the State for a grocery store is 60,000 square feet? Currently, Foodland is one of the biggest here with 52,000. Big Save has 21,000 and they could still build a grocery store. It could be a win/win for everybody by passing this bill. Limiting it to 75,000 square feet is not restricting WalMart from having a grocery store. People could still have their WalMart grocery store, but it has to be less than 75,000 square feet. I have talked to people that say that WalMart has had enormous stores on the mainland and then they decide that they can't operate because there is not enough people. If you don't pass this and they build a 200,000 square foot store, you better figure out what you are going to do with that property when they decide that there is not enough people on this island to support that size store and shut down and leave.

Ms. Yukimura: Thank you Mr. Hepner. Your three (3) minutes is up. Are you pretty much done?

Mr. Hepner: Thank you very much.

Ms. Yukimura: Any questions? If not, thank you very much. The next speaker.

ELAINE DUNBAR: Elaine Dunbar. Kane Pa had to leave and he asked me to read his testimony and then I just have a couple things to point out for my own afterwards if that is alright. Alright, this is testimony from Kekane Pa. Points and support of the bill to limit the size of retail big box developments. Number 1, this is not about one retailer. This is about putting a limit on all future retail developments on Kaua'i. This is about businesses that come to Kaua'i fitting into Kaua'i and not growing so large that they damage the quality of life of the residents. Number 2, all of the mom and pop businesses that would be driven out of business employ family members and other Kaua'i residents. They depend on their businesses and jobs to pay for house notes and college tuition and expenses for their

families here on Kaua'i. If nothing but big retail is able to operate here, all of our money leaves Kaua'i and we are left with nothing, but minimum wage jobs barely making enough to shop at the big box retailers who employ them. Number 3, if nothing is left but one or two (2) retailers, what keeps them running their prices back up to more than we are paying right now with multiple competitors. Number 4, ordinances that are similar to this one have been introduced all over Hawai'i. Why are they coming to Kaua'i first? Do they want to run over Kaua'i and set an example for the rest of Hawai'i? We should set an example for Hawai'i that businesses are welcome, but not on their terms, on ours.

Ms. Yukimura: Thank you.

Ms. Dunbar: Now I will get to the additional points that I want to bring up about the big box. I am assuming that all of you have researched everything that is out there for other States regarding the big boxes.

Ms. Yukimura: It is just...

Ms. Dunbar: It is just about. How about the calculation of the square footage?

Ms. Yukimura: Can you just make your points please?

Ms. Dunbar: That is my point and I made it at my last testimony. I asked about the square footage and how you came to that number and I still haven't heard any response about that. There are two (2) states, Michigan and Georgia, these size limits... this is for... this is one from Georgia from the land use clinic. These size limits can apply to either overall square footage or to the so-called footprint of a store. The limitations on store footprints often allow large retail stores to be built larger by adding another story to the structure, so it is important to stick with the square footage that is in the bill. It is also important to note that the retail cap should be based on local planning efforts and should not simply be copied from another jurisdiction. What square footage works in another area isn't necessarily the unique island of Kaua'i. While many of these caps have been set under 100,000 square feet, caps range from 30,000 to 80,000 square feet and more. The conclusion on this one study, the rise of big box retail presents a number of serious challenges that can be addressed by local governments. The use of big box control devices in Georgia should be expected to continue especially as many cities are experiencing a problem of big box blight in an increasing number of abandoned and under utilized former big box sites. By the use of planning moratoria and renovation requirements, other tools are emerging to address a wide range of impacts that big box stores can have. They allow each local government to adopt requirements as they are needed depending on the goals and purposes set out by each city. This particular paper... this one is an ongoing student project of the land use clinic supervised by clinical Professor Jamie Baker Roskie.

Ms. Yukimura: Can you make that available to us?

Ms. Dunbar: Yes, I am going to leave these with you. This one is Michigan... a recent report by retail forward, a Columbus Ohio base global management consulting and marketing research firm. The report said that over the next five (5) years, two (2) supermarkets would close their doors for every super center that opens. A loss of 2,000 stores. For example, while the city of Charlevoix just next to the township passed an ordinance banning individual retail stores larger than 45,000 square feet.

Ms. Yukimura: Your three (3) minutes is up now, so can you summarize and can you give us copies of that, we will read those.

Ms. Dunbar: Yes, the numbers vary all over the place and none of those places that are reducing their square footage are as unique as Kaua'i. So I just... I would really hope and pray that the Council considers a different number much lower than 75,000 square feet because the big boxes are already here. Who needs anymore?

Ms. Yukimura: Thank you. I think there is a question.

Ms. Iseri-Carvalho: Yes, you had talked about numbers that were higher than 75,000 or around 75,000 and did your research locate any others that were below 75,000 as...

Ms. Dunbar: Yes, that is what I was just reading.

Ms. Iseri-Carvalho: The ones that you just read, any... based on that, do you have a suggestion as what would be appropriate for Kaua'i?

Ms. Dunbar: Well, my number has always been 30,000. That is the number that I... I don't know, I just came to... judging by the acreage and what is already here and the confined area and the population density that is in Kaua'i. You are talking about great big places on the mainland that are confining their square footage to 30,000 feet. I think 30,000 feet is very generous for Kaua'i especially since they are already here.

Ms. Iseri-Carvalho: So that would be the number that you are looking at?

Ms. Dunbar: Yes, and... this is a 27 page report, but I didn't print all 27 pages.

Ms. Yukimura: Well, if there is a site, we can get it. Thank you very much. Any other questions? There is another question Ms. Dunbar.

Mr. Bynum: I think that is an interesting (inaudible) on where the 75,000 square foot came from and I don't know that I read exactly what the

rationale or if they are similar to other, but what I have heard is that stores like Ross or Office Max or other kind of large retailers, but not superstores fall in that range and that might be one of the rationales. I just want to point out that Councilmember Yukimura has this chart that says, Safeway is 38,000 square feet and that is a pretty big store.

Ms. Dunbar: It is. Kaua'i doesn't need all of them here do we? We can go to O'ahu.

Ms. Yukimura: Thank you Ms. Dunbar. We have to change the tape right now. If everyone will just stay in place, we are going to just take a couple minutes, so we are going to take like a two (2) or three (3) minute recess in place, nobody moves unless you have to go to the bathroom.

There being no objections, the Committee recessed at 4:44 p.m.

The meeting was called back to order at 4:50 p.m., and proceeded as follows:

Ms. Yukimura: Ms. Punohu, can you please state your name?

There being no objections, the rules were suspended.

ANN PUNOHU: Aloha, my name is Ann Punohu. I did testify at the first round, but I found some things in the ordinance that I would like to humbly request you to please amend and that is in Section 8-4.5(e), part 2. It says the Planning Commission may require the dedication of adequate public access ways not less than six (6) feet in width. Do I have to read the whole thing? Well, I just want you guys to amend these two (2) words. I want you to change the two (2) words in there. "May" to the word "shall." I learned this from the public access bill many years ago. Don't let that word "may" slip in there. Make sure you got the "shall" in there.

BILL "KAIPO" ASING, EX-OFFICIO COMMITTEE MEMBER: What page?

Ms. Yukimura: It is on page 2 of the bill. It is not actually related to the big box, it is just part of the...

Ms. Punohu: It is not?

Ms. Yukimura: No. We are adding portions to all the different sections.

Ms. Punohu: Oh, okay, because I thought it was part of it.

Ms. Yukimura: We are adding it. It doesn't apply to big box stores. It applies to commercial areas.

Ms. Punohu: Well, because it is in the bill that is why I thought it was

part of the bill, so if it is going to be part of the bill, can we please put "shall"? If it is not going to be part of the bill, can we put it in the bill, so that we can get it in the bill. How's about that? Does that make sense? And then the other part is I wanted a clarification of item 1 and then I also want to make another personal statement which I didn't get to make the last time. I have two (2) daughters and they are native Hawaiians and their Mom doesn't have much of an education and I have worked at these box offices and it is not the life that I want for my children. I am hoping that my daughters will go on to college and have an education and be professionals and be... my one daughter wants to be a psychologist and my other daughter wants to be a chef, so I did want to say something. Where are you going to get your employees from if you build a lot of box offices here? We have a huge shortage of employees mostly because most of us are leaving or find the work extremely unsatisfactory at big boxes. You will require a lot of employees to staff a big office, a store and I can tell you that I know of several box offices that are now operating in a negative of more than 100 employee short and I am not going to name it, this is not about names. So this is a huge consideration. Are you going to import your labor from Thailand, the Philippines or the mainland? If you do, where are these lovely individuals going to live? In barracks, out back of the store in third world conditions? You are going to truck them out for eight (8) to ten (10) hours a day for them to do their job and then what? So these are serious, heavy considerations where you might have a gut reaction that you think it is a great idea, but you also have to think on the employees side on the minimum wage earner side that... besides that, you've got a bunch of new resorts coming in and we are going to try and grab a need to import a labor force as well and they are going to need housing as well. So that is just what I wanted to add on that one. Thank you for your time. Mahalo.

Ms. Yukimura: Thank you very much. Any questions? If not, thank you. The next speaker is Ivan Kubo.

IVAN KUBO, MANAGER OF ISHIHARA MARKET: Good afternoon Council.

Ms. Yukimura: Good afternoon.

Mr. Kubo: My name is Ivan Kubo. I have been a resident of Kaua'i since 1985. Prior before that, I used to live on Maui and the island of Big Island. I am the store manager of Ishihara Market. People need to be reminded that this bill is about 75,000 square feet, but some people talk about nothing but price or big box. So let's talk about big box and price and how the effect will come to the island of Kaua'i. Common sense, the population is 62,000 roughly. The island economic pie is only so big. Small businesses will eventually downsize or be out of business, therefore, jobs are at stake. Unemployment will rise and how many jobs will these big boxes be made available for the unemployed, not all. With no small businesses in our rural community, where will our community shop? What about our elders, families, locals, tourist? Do all of our residents need to shop at big boxes? I lived on Maui and have seen many small businesses disappear, businesses that made Maui

really unique. Now there is almost none. Is that what Kaua'i wants? Another island like Maui? People speak about how they love Kaua'i and why they move here. 1) it is the beauty. 2) the people. If you think about it, if unemployment is high, many people will have to travel for... to receive goods and services. Traffic will be worse. How long will it be before Kaua'i loses that Kaua'i aloha spirit. I have worked in retail for almost 20 years now. I have seen my share of growth on this island. I have never been afraid of competition, yet I find myself afraid not just for myself, but my store, employees, my community, my island, forever changed. When I work at my store, we don't just provide goods and services, but we support our community by giving donations to non-profits and support community events. Even more so, just a special relationships of our employees we have with our customers and this is beyond customer service. Everyone who lived in our community for generations know everyone by name, Grandpa, Grandma, Aunty, Uncle, etc. So our working environment is nothing but heart and aloha. You cannot pay people to be someone that they are not and that is what makes Kaua'i, Kaua'i aloha. Thank you.

Ms. Yukimura: Thank you Mr. Kubo. Any questions? I have a question. At Ishihara Market, are the majority of your employees people who live on the westside?

Mr. Kubo: That is correct. I would say 95%.

Ms. Yukimura: So if Ishihara had to close down and they had to find jobs elsewhere, they would have to commute where as now they are pretty close to home.

Mr. Kubo: That is correct.

Ms. Yukimura: Any other questions? Council Chair?

Chair Asing: Can we have a copy of your testimony?

Mr. Kubo: No problem.

Ms. Yukimura: Thank you very much Mr. Kubo. The next speaker is Guy Ishihara.

GUY ISHIHARA: Good evening.

Ms. Yukimura: Can you state your name for the captioner?

Mr. Ishihara: My name is Guy Ishihara and I am representing my family, my wife and my son. I would like to touch on...

Ms. Yukimura: Mr. Ishihara, can you just pull the mike a little closer so we can hear you? That is good.

Mr. Ishihara: I would like to touch on two (2) important issues. Like Ivan just said that our economic pie already full. We cannot fit anymore pieces into our pie, pieces meaning big box stores. Kaua'i's population of 62,000 is too small to accommodate another big box store. This will cause and I honestly believe that the small business owners would have to close their doors as Ivan Kubo said and size down dramatically. The impact, unemployment increases not decreases. The way of life changes dramatically. Senior citizens who can only go as far as shopping in their own neighborhood stores will have a very difficult time driving to Lihue. It will cause the seniors major inconvenience and for some of them impossible to shop at all. Residents who are comfortable and work in their own communities would have to look outside for jobs. This will create even worse gridlock on Kaua'i. Kaua'i's highway infrastructure is not ready to accommodate a central shopping area which is going to be in Lihue I guess, right?

My second issue that I want to speak about is tourist who visit our islands or even move here came for a reason. Our island's beauty, Mom and Pop stores who sell island favorites and also tourist get to interact with local employees. Tourist also look for unique local products. For example, local pupus, local beef, locally made cookies and deserts, local style marinated meats, etc. Lastly, the overall cultural and rural lifestyle of the island. This will all change if our economic pie is exceeded. In closing, as responsible County Councilmembers, all the testimonies that were presented to you, I would hope that you make the right decision. The decision to pass the big box bill and keep Kaua'i, Kaua'i. Thank you.

Ms. Yukimura: Thank you Mr. Ishihara. Any questions? If not, thank you. I know it is not usual for you guys to come and speak and we appreciate that you are. The next speaker is Ray Ishihara.

RAY ISHIHARA: My name is Ray Ishihara and I am in favor of the big box bill. In my opinion, the big box stores on Kaua'i would have a negative impact on our island economy by taxing our already strained (inaudible) income available to our island businesses. We would lose the uniqueness of our local businesses, in turn, we would lose the uniqueness of each of our towns that these businesses resides in. We would lose the uniqueness of the atmosphere that each of these towns gives Kaua'i and that is the flavor of Kaua'i that we so much love. We would lose all of these flavors that our visitor industry has, our local people and for Kaua'i as a whole. Currently, Kaua'i represents what Hawai'i was on our outer islands before development overtook their islands natural beauty. Kaua'i may very well be the model of what Hawai'i should be like. Our island is pristine yet and we still have the flavors of Hawai'i and we must protect this. I am sure if the big box bill is passed, it will be for the betterment of our island, our future growth on the island and we must send responsible, controlled and well planned growth. Thank you.

Ms. Yukimura: Thank you. Any questions? If not, thank you very much. The next speaker is Glen Kojima and after that Mr. Mickens.

GLEN KOJIMA: Good afternoon, my name is Glen Kojima from Kapa'a. I would like to submit this piece from the *Garden Island* newspaper which pretty much mirrors my thoughts on the big box bill before you. It basically states that we must control growth to preserve what we love... what we all love about Kaua'i, that the big box bill is not about WalMart, it is about when do we draw the line and make a decision towards controlling growth. I think the time is now. Please don't wait until it is too late. Let's not wait until all that we love about Kaua'i is gone. Let's not turn Kaua'i into a place where we head residents and tourist alike into a few large boxes, so please support the big box bill. Thank you.

Ms. Yukimura: Thank you Mr. Kojima. Any questions? If not, can we take that please?

Mr. Kojima: Thank you.

Ms. Yukimura: Mr. Mickens? That is our last list of speakers. I see one other, so if anybody else wants to speak, you are on afterwards.

GLENN MICKENS: Thank you JoAnn. I know this is being deferred, but I will say it now and I won't come back and say it again, okay?

Ms. Yukimura: Really?

Mr. Mickens: Really. Gee, Kaipo, you are laughing, so, okay. You have a copy of this and I will read it for the record. I will simply repeat one of my statements which I submitted at the public hearing of April 25. At that public hearing of the 53 people who testified, 40 or 75% about were opposed to the bill (Bill No. 2203) and 13, 25% were for the bill. In a free market enterprise, we, the people, have the choice of buying what we want and where we want to buy it. No one, not WalMart, Costco, Home Depot nor any other store including Big Save, Safeway, Kojimas and Longs can make us go into their establishment and buy a product. We basically shop at a store for two (2) reasons, convenience and price. No one wants to spend \$5 on gas to save a \$1 on the product, so they won't go from Waimea all the way down to a big box store to buy something if they are going to use more than that in gas. That makes common sense. If anyone on this island wishes a store to be of a restrictive size, but the store is larger than what they want and all they have to do is stop patronizing that establishment and if that is the wish of the majority of the people, then that store will have to close their doors. It is that simple. However, if the majority choose to patronize that establishment, then it will only emphasize that the people are going to exercise their right of freedom of choice. If WalMart is wrong in calculating that a new produce addition to their store will bring customers in and they don't come, then they won't be able to make it, but the customers in command in what happens, not the store. As a lawyer who testified here and I don't remember his name at the public hearing should this bill pass and it will obviously end up in the courts, this County sure doesn't need to be paying for more fees for outside legal counsel in a suit. Basically, I am just saying that all of you and these people in this Chambers have the right to go where they want.

Again, that store isn't going to control them. If you don't want that store to stay open, don't patronize it. I would say that, what, 99% of the people in WalMart now, they are basically what, they are local people, right? Those people are patronizing the store, so, again, they will be the ones that will suffer and not anybody else. Thank you JoAnn.

Ms. Yukimura: Questions? I think the Council Chair has a...

Chair Asing: I have a question for you Glenn. I guess in your second paragraph, you make reference to free market enterprise, choice of buying what we want, where to buy and shop, etc. If you use this same analogy, maybe your feel should be... we can build more hotels and your analysis is the same, so I hope you are not using this same analysis in building hotels and...

Mr. Mickens: No, you are exactly right.

Chair Asing: You use a different analogy for different things and it is just strange.

Mr. Micken: WalMart is sitting there in one lot instead of spreading them all over the island, I am not saying that WalMart should have the right to build a store on every location on this island. That wouldn't make sense, but they are in one lot and if you are a Big Save or somebody in a location, you are going to go there. I am not going to stop going to Ace or any other store in Kapa'a where I live. I won't just go to a big box store because it is there, but I feel that I have the right to go where I want. If I happen to be in Lihu'e and I want to shop at wherever, I am going to go there and that is all.

Chair Asing: Okay, thank you.

Ms. Yukimura: Any questions?

MEL RAPOZO: I have a comment.

Ms. Yukimura: Councilmember Rapozo then Kouchi.

Mr. Rapozo: Thank you. Glenn, in your testimony, you mentioned the public hearing where 74% of the people testified against the bill and this is almost a follow on to what Ron said earlier about the amounts of testimony that we get. I have to say and I think we all share the same testimony. I think we all get the same things, I would assume except for what we run outside in the public. I would say that it is pretty close down the middle. This issue has really split the community and we would be left with the task of making the decision, but I just want to caution the numbers. I know the newspaper printed the other day, the headlines, one side was louder than the other and then further down the article in the small print, it said, although the shirts looked the same, the numbers were the same. If you read the headline, it was really one side was louder than the other. If

you took today's testimony, you are the fifth speaker and you are the last registered speaker and four (4) out of five (5) people testified in support of the bill. That is 80%, so I just want to caution the public that, we, as Ron stated, I don't know, we had to have thousands of letters and phone calls and e-mails. I don't know what the percentage is for or against, but I just want to... we can't rely on one public hearing and I know you know that Glenn because you are here every week. But we just need to be aware that there is a lot more testimony out there than what is heard here and that is just echoing what Ron said earlier, so I wanted to bring that up.

Mr. Mickens: I agree Mel.

Mr. Rapozo: Thank you.

Ms. Yukimura: Councilmember Kouchi?

Mr. Kouchi: My question about the 99%... the only statistical information that I have is dated, about five (5) or six (6) years ago when Rick Role was the General Manager of K-Mart happened to have a son play baseball in Lihu'e Baseball League, so I had a chance to talk to him and I was curious if you were aware that... at that time, there was some concern during rough weather, whether or not the cruiseship could dock at Nāwiliwili Harbor. As we were discussing that issue at the Council, he had shared with me at the park one day, when the boat does not dock, K-Mart losses \$23,000 in business that day. I don't know about 99% local or anything else, but five (5) or six (6) years ago, that was the impact that the ship... for one day, so I think that is a little skewed.

Mr. Mickens: It could be skewed, but I would say in a year's time, wouldn't you say that the vast majority of the people have patronized that store are local people. I may be wrong, but, you know, I think you would have to take a poll.

Mr. Kouchi: One ship, \$23,000, five (5) or six (6) years ago.

Mr. Mickens: The days of that boat isn't in here.

Ms. Yukimura: Is there any questions of Mr. Mickens? I just want to reiterate what the Council Chair said. Are you saying because there are people who would come to a hotel that we should just keep building them?

Mr. Mickens: No, no. I am for all kinds of smart growth on this island. I think the Kapa'a corridor that the Planning Department is giving permits and stuff to build across there, that is wrong, that is completely wrong. I am not trying to overbuild this island. I just want to... the ones that are here, they are expanding their store and if you are saying, I don't know where you get the 75,000. You could say 65,000, you can say 25,000, I don't know where that figure actually comes from. Why 75,000 square feet, but they are going to build it on their store, they are not

going to build a height limit place in there, so it is going to be obnoxious or anything, but they are just building on their own property.

Ms. Yukimura: This is not about WalMart. This is about...

Mr. Mickens: Well, WalMart is part of it and they are expanding their store and isn't that what you brought the bill for?

Ms. Yukimura: No. It is about whether we want this to become a place of big box stores.

Mr. Mickens: But what was the reason for doing it just when they wanted to expand.

Ms. Yukimura: Anyway, thank you very much.

Mr. Mickens: You're welcome.

Ms. Yukimura: I believe there is Ms. Sausen. Is there anyone else who wishes to speak?

LOUISE SAUSEN: Aloha, my name is Louise Sausen and, yes, we all shop at WalMart. The store is here, you know, so we do shop at WalMart. 75,000 square feet and if Safeway is 38,000, 75,000, that is big. That is a big box.

Ms. Yukimura: Well, the existing stores are 127,000.

Ms. Sausen: So that was another thing that I was going to say. What are the size of the stores now? What is the size of Costco now?

Ms. Yukimura: Costco is 150,000 square feet.

Ms. Sausen: You know limiting size of the building and we are also saying that we are limiting type of business because, you know, we don't want big box, but we are giving them a size of a building that, to me, is large and it is just pretty confusing. Yes, we all do shop at WalMart. I live on the Northshore and everything is based in Līhu'e, so, yes, I do spend like \$20 just to get to town to do... but what we do is base our life around what business we have to do in town and that is when we go and do all of our business. So coming to these meetings every other week has really been costly because there are things on the list that you need to get, you know. And, yes, WalMart is there, but I really don't see that we need a whole bunch of WalMart or K-Marts or rather big box, you know. It is unique and everything. Already, Kojima's, I go in there and I am blown out because there is nobody at the meat section. They are all put in the coolers, you know, I don't see the meat people. I like seeing the meat people. I like seeing real meat there, you now, but now they are all packaged. Well, that is downsizing on a small business

and if Ishihara closes, what are we going to do when we come from the Northshore to go that side and we don't have our food that we normally go there to go get.

Ms. Yukimura: Especially the local pupus.

Ms. Sausen: And whether you are talking local people as white or local people as brown... I don't know what is local people anymore, you know. I know that I am Hawaiian and I am of the land, but local people is all kinds of colors. You know, if these places close, oh, I would be so sad, my stomach, my ono, oh, my goodness. With controlling the size and types of businesses coming in as far as squeezing out the smaller businesses, that is really important that we have control.

Ms. Yukimura: Thank you. Any other questions? If not, thank you very much. Is there anyone else who wishes to testify on this issue? Please come forward.

SUZANNE KOBAYASHI: Hi, my name is Suzanne Kobayashi. I really like the diversity that the island has. I really like decentralization. I am on the Northshore (change tape).

Ms. Yukimura: Thank you. Any other person wants to speak on this? If not, the meeting will come back to session here.

The meeting was called back to order, and proceeded as follows:

Ms. Yukimura: Are there any comments from the Councilmembers? Committee members? If not, let's see. I think the Chair would entertain a motion to defer which means that this issue will be coming up at our next Committee meeting on the 16th. Councilmember Kouchi?

Mr. Kouchi: I guess, again, I am just going to have my comments relate to both 2203 and 2204. I just want to apologize because I don't have a better answer from a process standpoint, but for those of you and that is most of you who have been here from this morning, you have heard a couple of other items that was before yours deferred to the 16th. And we are anticipating also voting on the County budget and the real property tax rate on the 16th and I just want to say that we are all going to be in for a long day on the 16th, but I don't know how we try to be more polite to say, I kind of think your item will come up at this time to try and be sensitive your schedules because these bills each have a life of their own, but I guess I wanted to just give a caution to be prepared, bring your toothbrush and we will see how it all happens.

Ms. Yukimura: Actually, I appreciate you raising the point Councilmember Kouchi. I actually had it in mind to ask that this item might be first or high up on the agenda because I don't think there will be a lot of complex amendments unlike the vacation rental bill. You know, it may be useful to have an item that a lot of people are interested in that is going to be fairly simple in terms of

action to be upfront. I haven't made that request formally, but it is something that we can maybe think about. We do apologize for the long wait. We just have all these items and we can't take each one of them first.

Mr. Kouchi: And if we do that, I apologize to the TVR people that you won't be first, but somebody will have to...

Ms. Yukimura: Is there a motion to defer then?

Upon motion duly made by Councilmember Rapozo, seconded by Councilmember Furfaro, and unanimously carried, Bill No. 2203 was deferred.

Ms. Yukimura: Thank you all who came on this subject and stayed all day and we will now go to the next item please.

Bill No. 2204 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (Transient Vacation Rental and Bed and Breakfast operations)
[This item was deferred until the May 30, 2007 Planning Committee Meeting.]

Mr. Furfaro: Councilwoman, are we due for any breaks before we start the vacation rental bill?

Ms. Yukimura: Thank you, the question is, are we due for breaks? How much time, half an hour? Okay. Do you want to take a break now? I think there are people that want to testify. We can get through quite a few. So let me just say before we go into the public testimony that our intention... we are scheduled in the Committee of the Whole which is the Committee after this Committee to have an Executive Session with the County Attorney on the legal issues. Out of that, we hope to draft some amendments and have that ready hopefully next week, so that people can look at them before the 16th which is when we will hopefully work and act on the amendments and the bill in Committee. Now, I am going to suspend the rules and have the public testimony. The first speaker to sign up was Guy Croydon and then Koral McCarthy. I know you have been waiting and need to go and Leah Sausen and then Harvest Edmonds and then Lisa Breen. Go ahead Mr. Croydon.

GUY CROYDON: First off, I'd like to recognize the Council for their hard work.

Ms. Yukimura: Can you say your name again?

Mr. Croydon: I am Guy Croydon. Excuse me and I would like to thank you for your hard work because having sat here all day, it is readily apparent that

and from watching your performance over these many months, that you are working really hard to try and preserve Kaua'i. The Kaua'i that we love, the Kaua'i we grew up in and the Kaua'i that we know. Having been able to travel around the islands an awful lot over the 30 years, I watched Maui disappear. The Maui that I knew and loved is no longer there and it is very gratifying to see that you guys are focused on so well on that issue on preserving what is so important to us. That is what is driving a lot of emotions. The big box issues, the vacation rentals, etc., etc., etc. I am not so sure that the vacation rental issue as I've seen it presented in the past will actually have the desired effect in the long run that we really want to achieve. My concerns have to do with the middle class of people. The people who have vacation rentals who are able to hold onto their property and do vacation rentals because... to hold onto their property because they are doing vacation rentals. There is a number of people who are on ag land who, in this day, the rarity are actually doing agriculture on their ag land and only can do it because they can afford the property by doing the vacation rental on the side to subsidize their work. My concern in large is that I know that there has been talk about grandfathering people who are already in business and that is a wonderful concept. But my concern is for the people who are out there that are not currently doing vacation rentals. They may be outside the VDA which is where more locals are than inside the VDA. Locals generally cannot afford to buy inside the VDA. There may be inside areas that are very desirable and they have no inkling that they ever would want to, desire to, or even need to have a vacation rental to be able to maintain their ownership of their property. I am a good example of that. When I purchased my house in Hanalei, I considered, yes, at some point maybe when I retire, I can do a vacation rental or a bed and breakfast, but I had no reason to do it and I was long term renting until the company that I worked for went bankrupt and I was at risk of losing my property. And it was at that time that we agonizingly... may I continue?

Ms. Yukimura: You need to summarize. Your three (3) minutes is up.

Mr. Croydon: In short, what I am saying is, by creating an over encompassing bill, it is kind of like trying to take a splinter out of your finger with an ax. Ten (10) years from now, when economics are different, we don't know what the long term effects of making a sweeping change like this is going to do... to people who, like I said, aren't coming forward because they don't even know that it may affect their lives.

Ms. Yukimura: Alright, thank you. Any questions? So what do you suggest?

Mr. Croydon: Well, I think you guys are headed in the right direction and I feel that there is a way of addressing the issues that are problems without making sweeping...

Ms. Yukimura: And what is that way?

Mr. Croydon: Well, one way would be a licensing process that perhaps in order to get the license, you have to be a member of an association, a vacation rental owner's association... dues are paid in, they are educated as to how to operate a vacation rental, how to properly market it, how to control the people that are in your vacation rental, so that they are not making rubbish on the road and parking on the street and causing trouble.

Ms. Yukimura: And how is that going to stop the proliferation of vacation rentals that cause a neighborhood to turn into a horizontal hotel.

Mr. Croydon: Well, on the one point, I don't believe that every single neighborhood on this island is going to be inclined to go that way. However, if you do need to do some sort of regulation or restriction, perhaps there can be an avenue in terms of deciding what is a quota that is allowable for certain areas outside the VDA's for people to get on a list or a lottery system or some possible avenue for future people to be able to do it.

Ms. Yukimura: And those were the ideas discussed by the stakeholders group, but the intention was to first stop any new vacation rentals, so that we can see what we have. Nobody even knows what is out there and then deal with bed and breakfast and then see what we have and then say, okay, if the consensus of the island is that you want to add more, then you figure out how to do that.

Mr. Croydon: I think that is a fair way to go. My concern is just to simply (inaudible) say, that they can never have vacation rentals outside because I understand that the taking is illegal and there is a precedent for the taking of property rights and...

Ms. Yukimura: There is no taking in this bill.

Mr. Croydon: In the case of people who purchase their property prior to any passage of an amendment to the ordinance, the ordinance don't specify the type of utilization in pertaining whether you rent a house outside the VDA for a week or a year.

Ms. Yukimura: Yes, and there is no rights unless they vest and there is no vesting and this bill applies to just rights that haven't vested.

Mr. Croydon: So up until this point, anybody who wants to, could have a vacation rental prior to any change of ordinance?

Ms. Yukimura: Right now, that is what the law says.

Mr. Croydon: So we are taking a portion of their property.

Ms. Yukimura: No, we aren't because the law says you can prohibit an activity, so long as it is not vested and it is not vested.

Mr. Croydon: I understand that is considered a taking and that is legal.

Ms. Yukimura: No, that is not taking. That is not a taking.

Mr. Croydon: But I understand it is legal as well, but whether it is right to do so in the picture of what you guys are trying to achieve is my question.

Ms. Yukimura: Okay, thank you very much.

Mr. Croydon: Thank you.

Ms. Yukimura: Ms. McCarthy?

KORAL McCARTHY: Aloha, my name is Koral McCarthy and I was part of the stakeholders group when we discussed this for many, many hours and I was kind of sad to see that he is here and it is still not figured out. But one thing when I read over some of the amendments and some of the things that I would like to enforce that I think is very important now that we have some new comments. First, agricultural land one is just... we laughed at that. We didn't think it would become an issue, but the fact that we are considering tourist animals or whatnot to be able to not... not in that sense, but on agricultural land to make money off of vacation rentals just seems silly to me and I know that it is an issue that we have to discuss. My mother has agricultural land and they definitely do not need that to support it, but they could in a sense have vacation rentals and maybe have a few extra tools at hand, but they are able to get by with what they have and the other one that I think is real important is the... I don't know if it is possible, but ending it at point of sale. It is important to me because when me and Leah mapped out Hā'ena and there are cul-de-sacs that you have maybe two (2) residents on and the rest are vacation rentals, so if there is not way to go back from that... like, say, make it more of a residential area, the only way we consider that even possible is that it ended... maybe grandfather them in and then you end it at some point and that could be at point of sale or we could figure out another way to do it, but I think it is really important to consider that because although he said there is some places that won't happen, there are already is places that it has happened ('Anini Beach for example). If we grandfather all of them, then that it is all of them and that is about 90% vacation rentals at 'Anini Beach and that is a residential area. So I think it is important to consider the idea of ending it at point of sale or, if not, have some sort of way to bring back our community in Hā'ena for the local people and that is what I think a lot of people tend to forget is that it is not all about the money and tourism and this. It is about the people and the community and the land that should be here when he is big enough to live out there hopefully. Otherwise, I think it is important that we get this figured out because it has been almost two (2) years since we brought this issue up and in that two (2) years, someone could have paid taxes for a year and get grandfathered in when the faster we get this finished with, the less we can hopefully have to deal with in the future. Thank you.

Ms. Yukimura: Thank you. Any questions? If not, thank you very much. Leah Sausen and then Harvest Edmonds.

LEAH SAUSEN: Aloha, my name is Leah Sausen and I am born and raised on Kaua'i. I have been a resident of the Northshore of Kaua'i for 23 years and I am also very thankful that you are addressing this issue of the TVR's on Kaua'i. I support Bill No. 2204 with its amendments and I also believe that we should keep residential zoned areas for residents and visitor destination areas for visitor use and agricultural lands for agriculture use. I just want... when you make your decision, I want you to keep in mind the next generation and Kaua'i is the oldest island of all the Hawaiian islands and there are people here whose roots tie for generations and generations and those ties are deeply rooted in the earth, the mana of our land and the sea. This is what we call in many aspects, culture and if you are not of this culture, then this is where our miscommunication with each begins. For these issues are not a matter of business and our interest are not on behalf of an industry. This is a matter of our people's ties to the land that we love and these are things that you cannot buy and sell. What it represents to us as a culture has lasting results on our history as people throughout generations in the making here in Hawai'i on Kaua'i. This is so much more than a matter of dollars or money. Believe me, I wish with all my heart that this was more than... to all of you who are against Bill No. 2204. We cannot buyback our right to the land the way it was. We are sincerely concerned with our life here with our families and children to come and that having influence on us as Kaua'i families. So I just hope that you keep us in mind, the next generation, and coming from Hā'ena, I have seen the changes with vacation rentals. Like Koral said, we did research, we made a map and I hope that you act upon this bill as soon as possible and that is all that I have to say.

Ms. Yukimura: Thank you. Are there any questions for Ms. Sausen? Councilmember Furfaro?

Mr. Furfaro: Ms. Sausen, thank you for your testimony. Do you have a copy of the map that you are going to submit to us or...

Chair Asing: Let me respond to that. Excuse me, I did receive a copy and I am in the process of working with the IT people to do an actual demonstration of what is in the Hā'ena area. There are lots of additional work that we are doing to pick up some additional information, so I want to thank you for sharing the map.

Mr. Furfaro: So I guess what I want to say is, I am aware of the map now because I have seen Chairman Asing working on it and I didn't know its source, so thank you.

Ms. Yukimura: Was the map ever included in the report? Probably not, yes?

Ms. Sausen: No.

Ms. Yukimura: In the stakeholders group, okay. I know, you had it on the wall and thank you. It was a great...

Ms. Sausen: It is a great visual.

Ms. Yukimura: That was really good research. Thank you very much.

Mr. Kouchi: Madam Chair, not so much a question. You know, I thought the day would be sooner and I have a meeting at Kaua'i High School involving one of my sons (not a bad meeting), but a meeting. I did want to say that with the opinion coming in and the drafting of some amendments, it may be prudent to have this deferred for two (2) meetings and perhaps have this up and to the extent possible if draft amendments were ready by the 16th, then we could have given the people affected here adequate time to look at what we would be considering in two (2) meetings, so that we would be prepared to testify and you could try to get them up and try to, I guess, show some courtesy to both groups who have been here for numerous meetings and for quite an extended period of time. Just on the ag thing, I thought maybe we would get into session, I could say it under comments, but all I would mention because of Leah's testimony about the... not going into the ag and Guy is saying, well, they may need that for ag. We actually had someone submit in writing with their signature that they own a piece of agriculture property, they have signed a farm dwelling agreement that prohibits the commercial use of that, but nobody listens to that law, so we are disregarding it anyway and vacation renting this building. And as people who are supposed to uphold the law, you know, I don't see how any of us can advocate that that is correct. I feel badly for people who said, I didn't know I wasn't supposed to be doing it, but that is still no excuse when you are going to spend hundreds of thousands or more than a million dollars to buy a property not to have had better due diligence as to the permitted and non-permitted uses on your property, but when you come out and admit in your own hand that you have signed the document that you knew what was happening and you are willfully and consciously disobeying the law. How can you permit that? But I think that the opinion that is there is an honest opinion because neither side is going to be happy with what is there. I hope we can get most of it to the public, you know, but there is going to be a lot of guidance in the opinion as to what we can and can't do, so, anyway, those are my suggestions and I apologize for having to leave.

Ms. Yukimura: Thank you Councilman Kouchi. We need a caption break in 10 minutes. Let's finish with Ms. Sausen. Councilmember Bynum?

Mr. Bynum: (Inaudible) I appreciate your participation in the stakeholders group and sticking with this. I saw the maps, you know, that is a lot of work that went into that and it is a visually pretty stunning kind of presentation. I just want to say thank you for your ongoing involvement in this issue.

Ms. Sausen: Thank you.

Ms. Yukimura: Any other questions? If not, thank you for coming. Next speaker is Harvest Edmonds and then Lisa Breen and then Louise Sausen. If you would state your name before you start and the previous comments notwithstanding, I invite you to give your thoughts (inaudible).

HARVEST EDMONDS: My name is Harvest Edmonds and my husband and I and our three (3) sons have lived on Kaua'i since 1985. In 1990, we bought a piece of property, ag land, out in Kilauea and have lived there since then and have done some farming, very slight, but we have lots of bananas, we sell at the fruit stands and other fruit trees have been (inaudible), but our sons take care of. We have been doing vacation rentals since 1992, 1993 and have paid our taxes diligently (general excise and transient taxes). The last couple years, my husband and I have moved to the Big Island for some work we are doing over there and we are trying to and want to desperately hold onto our property here because our move to the Big Island is not a long time permanent move. Right now, we found out that the only way that we can really hold onto that property because of property taxes and maintenance and all that is by doing vacation rentals. So if we are not going to be allowed to do that, then there is a possibility that we may have to sell our property and we know that with property values right now on Kaua'i that it may be impossible that we ever are able to buy on the island again or it would be to a much lesser extent.

Let's see. And we also... a lot of this is just testimony that you have heard from many other people. We have many friends who work in the vacation rental business by cleaning windows and everything and they will be really dramatically affected if this vacation rental law goes through the extent that it is up right now. I think that is about it. Thank you.

Ms. Yukimura: Thank you. Any questions for Ms. Edmonds? I have a question. The issue of real property taxes is a big one for those of you who are not owner occupants. That is you are not living on the land. For those who are owner/occupants, the Council has a cap of 2% on the taxes, so that there is no... the taxes cannot go up more than 2% no matter what the assessment is and that is a real value. I mean, you can sell it at a very high price, but your taxes are not based on that high value, but those of you who are not owner occupants, there is an issue and I have been feeling that we really needed to address that. In fact, I introduced a bill that was dedication bill that if you said you would not sell your land for 10 or 20 years, you could get a lower tax... your taxes would be lowered closer, but not the same as the owner occupant tax. So what I am saying is that part of your problem is the fact that we haven't addressed that issue for those who are absentee owners and there are many. There are families who have lived forever on Kaua'i, but are away for work or college or whatever and they want to hold onto their land and they are having a hard time because of that. So sometimes the solutions are in other aspects and then the other one is, you are aware, I hope, that this law is not making your vacation rental illegal (this proposed bill). It is already technically illegal under the farm dwelling agreement.

Ms. Edmonds: I understand that and I haven't done a huge amount of study on that, but I understand from a lot of other people that there are a lot of questions about that also.

Ms. Yukimura: I think people are not wanting to recognize that, but I believe and part of it hinges on the County Attorney's opinion, but the farm dwelling agreement, the farm requirements are part of State law regarding ag land. So it is not this bill that is making them illegal, it is just grandfathering is only of things that are legal prior to a bill passing and because they are violating State law, they are not legal. I mean, we would be saying, yes, you are legal in one hand and the State law is saying, you are not legal and we would be violating State law to do that. People are wanting us to give some legitimacy to a violation of State law that we don't even have power... State law is supreme to County law, so I just wanted to explain that... something we have been trying to explain to people and it has been hard for them to either accept or understand, but this bill is not changing the status of vacation rentals on ag presently because they are not allowed on ag land by State law. Now there is a way to change that by changing State law, but the question is then, what do you... when you can have higher value for ag land than just growing crops, the farmer cannot buy land for growing crops.

Ms. Edmonds: The farmer can't buy land right now for growing crops on this island.

Ms. Yukimura: That is correct and that is one of the issues we need to address... desperately need to address to prepare for the coming peak oil issues and all of that.

Ms. Edmonds: I don't think the property value on this island will ever get back to the place where the farmer will be able to buy land.

Ms. Yukimura: It will and it did in Moloa'a where the density or the dwelling units were taken off the land and then all of a sudden, the only use for the land was for growing crops and that is the issue. You put more density in, you put more value on and it becomes totally unreachable for farmers. There are some farmers who are able to do it now because they got in very early in Kilauea with the ag subdivision in the 80's.

Mr. Furfaro: Madam Chair, I think we need to break.

Ms. Edmonds: Can I say one more thing? Just one more comment and that it if there are many farmers that are farming right now that also will not be able to farm and will have to sell their land if they can't do vacation rentals.

Ms. Yukimura: That is correct. Thank you. Okay, we need to take a caption break, so we will take a 10 minute break.

There being no objections, the Committee recessed at 5:47 p.m.

The meeting was called back to order at 6:02 p.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Yukimura: We have our next speaker Lisa Breen. If you might state your name for the record and then proceed.

LISA BREEN: Aloha, I am Lisa Breen and thank you for listening. I know it has been a long day. I want to let you know that 26 years ago, my husband purchased a piece of ag land for \$45,000. We spent the last 26 years turning it into a very successful organic farm and nursery. In fact, it was the first certified organic farm on Kaua'i. We did it without a mortgage, we built it up really slowly and at one point, we just finally decided that we needed to have a barn to put our tractor and mower and all of our stuff in and we put a little guest rental on the side of it. I am that culprit that knowingly let somebody come stay in my place when I knew that they shouldn't have. So we pay GET taxes, TAT taxes and we continue to do that to this day. What I would like to say is that because of that, we have a little 500 square foot dwelling that takes up less than 1% of our land and because of that, we really hadn't been able to share it with some wonderful people. We have some long term... big time organic farmers that come from California every year and they love picking fruit off the trees and cracking fresh mac nuts and even dumping their compost in our compost pile because we are really committed to a sustainable lifestyle. The people that come stay at our farm are the sort of people that don't go to five (5) star resorts and I am one of those people. My family, when we visited Italy, we have been lucky enough to stay (inaudible). This is something that the Italian government has wisely decided that as long as a farm is actually a farm and the people that live on it derive more than 50% of their income from their farming, they are allowed to have people come and stay at their farm. I will tell you that it is a wonderful thing to stay in the middle of an olive grove opposed to an inn and even a small town. New Zealand is another place where you can go and they will let you supplement your (inaudible)... they want to keep these lands open, so if I want to go and stay in a little room in their house, that is okay by them too. I know that those are kind of radical ideas. I attended a rural planning workshop last summer and I know that some of you were at and I got really excited when the planner from the State of Washington said, you know, we decided that we are going to let the people that really want to pursue agriculture, we are going to give them a little perk. We are going to say if you really do something agriculturally... let's say you are going to grow food or you are going to have a big nursery, we will let you have a non-agricultural business as long as it is something that is not an eye sore, it is non-congesting, it is not polluting and it allows the residents in the area to continue to enjoy this sort of lifestyle they have.

Well, I got really excited and I thought, oh, maybe they are listening. Maybe they think that perhaps this could be an incentive for the farmers that live here on this island. We are not gentleman farmers. We sell our mac nuts to Canada, we sell our fruit to the fruit stands and markets around. We have a very large nursery.

You know, we are welcome to come and see it. It is a real bonafide farm, so what I am requesting, right now, we are dealing with the fact that KaLoko dam may not be there for us. And we are looking at... you are going to maybe not let us have a vacation rental which is okay, you know, it is not a big part of my income, but it certainly is a way to let me stay home with my husband and let me be at home raising my baby. But, right now, it is kind of the high cost of doing ag business on Kaua'i and that is not going to stop us. We are committed to our land, we love it, it is what we have done for 26 years and it is the life that we love. So we are in it for the long term no matter what happens, but what gets me is it is a true community where we live in Kilauea farms. There are a lot of other farmers there that are not as fortunate as we are, maybe not as resourceful as we are that may have to give up their farms. Lea (inaudible) comes to mind and that is somebody that makes beautiful organic produce that dozens of families pick up every week and she has a little 500 square feet vacation rental on her property that is illegal. So I would just say, really think about ways that we could support farmers here on Kaua'i. It is almost cost prohibitive. We know that if we were to sell our farm, the next people that bought it wouldn't be farming it. It is just the way that it goes, so I am saying, my consideration is, allow those who actually derive their majority of their income from farming to be given a variance that allows them to operate B&B's on their farms. To do so, will place no greater burden nor constitute anything less than the highest and best use of the land that is already been designated with the allowance of guest houses in the first place and what I want to say, does it matter whether Aunty or Uncle come and drive up to my guest house and spend some money with the local businesses or whether a couple from San Francisco does the same thing. In that regard, I feel like I am sharing a part of my vision of sustainability and farming and a way of life that hopefully they go off to wherever they live and they are part of the world and get inspired to think about doing the same things, so thank you very much.

Ms. Yukimura: Thank you. Hold on. Are there any questions?
Councilmember Furfaro?

Mr. Furfaro: I just want to thank you for sharing the fact that, you know, there are places in France and I was just in Italy and I have experienced an accommodation like that in Ragland, New Zealand where there are these incentives for people to actually farm, but because of producing a majority of their revenue from the farming activity, they are given these little incentives and it is something globally that you see in many countries and I just want to thank you for sharing that.

Ms. Edmonds: Thank you.

Ms. Yukimura: I, too, want to thank you. Council Chair?

Chair Asing: Yes, I have a question. Did you say Kilauea Farms?

Ms. Edmonds: Kīlauea Farms, Waikalua Street where the people that are kind of dealing with our ag water situation right now too.

Chair Asing: Okay. Do you advertise on the Internet?

Ms. Edmonds: I advertise on VRBO. There is no signage that says that this is my place. I give people directions to my place and they show up and they go down their own little private driveway and come to my spot. Like I said, I pay TA and GE.

Chair Asing: How many people do you accommodate?

Ms. Edmonds: Oh, gosh, you know, for the last six (6) months, I let this really sweet young family from Israel come and live there and so I haven't even been vacation renting it. I would say that maybe 15 rentals a year, maybe 20 at the most. I leave it open for family and friends. I let yoga teachers come and stay there. I like to think of our farm as kind of like an international meeting place for people that have really progressive ideas about sustainability and want to make the world a better place and that is kind of part of our contribution as well as our dedication to organic and farming in a big way.

Chair Asing: And how many do you accommodate at your rental?

Ms. Edmonds: Two (2).

Chair Asing: Thank you.

Ms. Yukimura: Any other questions? I want to thank you for speaking today. I think you've held up a vision of what is a really good vision and should be a part of Kaua'i's future. I was at the rural ag planning session that you were at. It was sponsored by the State Office of Planning and it brought in wonderful experts who laid out all kinds of ways by which we could regulate and manage our ag lands on the island. Unfortunately, nothing was done as a follow up to that workshop, but the next step and actually not just the next step, but the ag planning process that we have been asking the Planning Department for over two (2) years to begin is what should... is what should happen and should include the kind of workshop we were at, the kind of examples you cited and we need to think about how we could make this happen on our island. It is not going to be done through a vacation rental bill, but it needs to be done in an ag planning process. Even in that ag planning process, it is likely that we'll declare certain places that are ag lands to be either a different category of ag or another category of land use. It might be called rural, it might be called country that would be more flexible, would not have the farm dwelling requirement, but would be separate from the prime ag lands where we need to have real agricultural happening and which (inaudible) exist or co-existent to countries and States because they basically take over in terms of price and everything. The lands are far out of reach of any farmer, so this process... actually, this planning process was mandated by the State Legislature two (2) years ago and

I think in this budget session, we asked the Planning Department... I don't know if we received yet, but we asked them to submit a planning process and a budget and a timetable to have this process happen. And in its highest and best use, that process should include the kinds of scenarios you just brought to us today.

Ms. Breen: Thank you.

Ms. Yukimura: So thank you and what is really interesting is the criteria... more than 50% of income from farming. Once you can show that it is actually a farm operation, you can add on ancillary things without the fear that the ancillary uses will take over and wipe out farming. That is the balance you are having to find and that is what we need to do in our land use regulations with respect to ag lands, so thank you for coming forth.

Ms. Edmonds: Thank you.

Mr. Bynum: Lisa, thank you for telling your story. I am really struggling with this whole situation and I really like your story. I think, though, that your situation is probably exception and not the rule and that there are plenty people out there that are... there are a number of people, I don't know how many, that are doing TVR's on ag land that really aren't doing ag. And that doesn't mean, I think, because I think there are a variety of stories. Councilman Kouchi, you know, there is someone who signed the farm dwelling agreement...

Ms. Breen: I am that person.

Mr. Bynum: Fully understanding that, you know, that there was a prohibition of doing this. There are other people that didn't have a clue until they read the paper in the last four (4) months because the status quo and the norm out there, it has been... it is fair game. You know, go up Kalihiwai Ridge and everyone of those is an ag lot I believe and very few of the people are doing ag at all. Under the same rationale and law, their residences are all illegal.

Ms. Breen: Well, I would invite any of you to come and visit our farm and see what we are up to.

Mr. Bynum: And I'd love to do that some time because your enthusiasm for organics is apparent and I would love to see it. I am just saying that, we are going to be boxed in by the law and the County turns out, I think, has a limited ability to seek justice in this matter because we have to follow the law. It is painful because there are a variety of stories and people that have acted in good faith that didn't know and now... this is their economic reality and where do we get more frightened and scared than in our home and in our economic reality and our love for the island. So, you know, I am really struggling about how we honor those folks reality and... but I have also been very clear that the intent was not to have vacation rentals outside of the VDA and that is what I think we have been trying to do is say, hey, it went down a long way down this path that was not intended and so

we are trying to rectify that. In the process, it... because I am really struggling and I just wanted to share that.

Ms. Breen: Thank you.

Ms. Yukimura: Just so you know. We could all go to the State Legislature and try to change the law, but the question is, how do we want to recommend that the law be changed. We are just going to say, we don't need any farm dwelling requirements on our ag lands and that will apply to all ag lands in the State. I mean, that is the issue. There has been bills to do that at the State Legislature and that is not necessarily best for the destiny of the State either especially with peak oil and the need to grow more food on this land. So that is the... an ag planning process, in my mind, would take us to hopefully a really... it would inform us about all these possibilities and show us the regulations, put us in contact with people who have been creating these regulations and implementing them and showing us what has worked and what hasn't worked. And then we would create what would work for our island and then we could tell the State Legislature, this is what we want because we had an end in mind. We have a vision about how all the pieces would work to preserve our ag lands and maybe to grandfather in places where ag is... ag in the purest sense won't work, but, you know, it is not a matter of just going and saying, change the law, remove the farm dwelling requirement and then what do you have? So, anyway, we are supposed to be asking questions. So anymore questions of Ms. Breen? Thank you very much. The next speaker. Louise Sausen followed by Guy... you already spoke, then Mike Hough and there is Thomas Beebe I am sorry. Go ahead.

LOUISE SAUSEN: Aloha, my name is Louise Sausen and you all know how I feel about this bill, but we had other people that had come, but they had to leave. They are not like troopers. They came and stayed as long as they could.

Ms. Yukimura: You are all troopers here right now.

Ms. Sausen: So I am just going to read what they had written to turn into you. One is: Aloha, my name is Doiron Mahuiki and I am the traditional family of Hā'ena. I was reading that and the Mahuiki family is the traditional families of Hā'ena. I support Bill No. 2204 with its amendments and it is signed by him. The next one is: Aloha, my name is Daisy LaCock. I was born and raised in Hā'ena (change side of tape). I love Kaua'i and I am glad to see this change.

Aloha County Councilmembers. My name is Alison Chuang. I have been a resident here on Kaua'i for 37 years. I am here today to support the big box bill and the amendments made to Bill No. 2204. Please join us in supporting these bills that will ensure that Kaua'i remain an island with island style. The vacation rental problem has grown out of control. Our community is crumbling and local people are finding it hard to buy land or rent a home. Vacation rentals need to be pau. If a vacation rental is grandfathered in, please make it that, if so, it can no longer be one. Most importantly, realize that the time is at hand and these bills need to be

passed soon before too much time and damage happens. Mahalo nui loa for your time, Alison Chuang.

Thank you from me to all of you for your time and for all the people that...

Ms. Yukimura: Thank you. Can you submit these please?

Ms. Sausen: And then I was wondering because if this is going to be deferred to the next meeting and you have so much stuff on the agenda, maybe instead of two (2) weeks, maybe it could be three (3) weeks that we defer this.

Ms. Yukimura: We will look at that and...

Ms. Sausen: Because a lot of us... you know, I...

Ms. Yukimura: It is just that there has also been talk about, please pass this as fast as possible too, so that is...

Ms. Sausen: But I know you have a really busy agenda that next meeting, so it is going to be what, maybe 8:00 p.m. when we get going and stuff. So, you know, up to you guys and if you could let us know ahead of time.

Ms. Yukimura: Yes, we will. Thank you.

Ms. Sausen: Thank you guys so much.

Ms. Yukimura: Thank you Ms. Sausen. The next speaker is Mike Hough followed by Thomas Beebe.

MIKE HOUGH: I was going to say good afternoon, but it is almost good evening. My name is Mike Hough and I really wasn't going to talk today because we don't have a bill to really read through and see what the amendments are going to bring. But listening for most of the day, there is a series of common elements that come through. Everyone seemed concerned about costs, cost of living, everyone seems concerned about income, everyone seems concerned about preserving Kaua'i, everyone is looking to the next generations. So I jotted down some notes while I was listening to all the other bills that you are working on. One of the things that Jay said early on was that we see these lower cost accommodations closing and not being replaced. Well, if vacation rentals are closed, that is another lower cost accommodation that is being eliminating. One of the other things that I was thinking was that if you replace all of the vacation rental businesses with farmers, there is a huge difference between the tax base. Vacation rental properties pay 11.4%, farmers pay .5% and that is an 11% difference. For the number of vacation rentals that we are talking about, that could be substantial. Property taxes are very similar. If we want to preserve the rural atmosphere, I don't think we do that with big hotels or big resorts. I think we do it with small properties that have small numbers of accommodation. The last thing was that the comment that JoAnn made

which is right about it is a State law or if it is illegal now, it is illegal now, and, yes, we could get the law changed. But if we have a prohibition, if we have a (inaudible)... if no one is doing business in that year during which time we are trying to change State law, you could change the State law, but they wouldn't be able to resume doing that business. So those are the issues that I was thinking about and listening to during the... (inaudible).

Ms. Yukimura: Any questions? Councilmember Furfaro?

Mr. Furfaro: I do want to summarize my earlier comment. I was specifically talking about the price range for the accommodations. I think one of the things that we have to realize is as the Islander converted, as the Beach Boy converted, the actual inventory, it didn't leave the inventory. I mean, it is still available as an accommodation. What it did is, it has through the sale, it has actually put cosmetic improvements into the facility to make it more marketable and, of course, raises the quality level of the accommodation, but through fractional ownership and other reservation systems if the unit is vacant, so I want to make sure it is clear that it wasn't like the inventory disappeared. What happened is, we missed an opportunity to perhaps ask the State to, you know, we approved it in zoning as a hotel and they have converted into an interval ownership and we might have missed an opportunity to make a conversion tax into some kind of improvement for infrastructure because, you know, the whole idea was to share the debt service on those units.

Mr. Hough: Right.

Mr. Furfaro: But most importantly, I just want to point out. The inventory really didn't leave the current inventory available to visitors and I want to make the point clear. What it (inaudible)... it took the economy and the budget rated inventory. It eliminated it and it brought it to the next level with no debt service being bared by a single owner, but rather debt service being shared amongst 350 owners. The most recent one is, it is not just the economy budgeted facilities. It most recently happened with the Hilton and their interval ownership. So the available inventory didn't disappear and I just wanted to make that point. Thank you Councilwoman.

Ms. Yukimura: Thank you. Councilmember Rapozo?

Mr. Rapozo: So Mr. Hough you mentioned low cost or you referenced vacation rentals as being low cost accommodations?

Mr. Hough: I think in the main, they are.

Mr. Rapozo: What do you mean in the main?

Mr. Hough: In general.

Mr. Rapozo: Do you know what the nightly rate for a vacation rental on Kaua'i is?

Mr. Hough: It depends on whether you are talking about vacation rentals... vacation rentals across the island. Do I know what the average cost is? I haven't done that research.

Mr. Rapozo: So what in your mind is low cost?

Mr. Hough: I would say in the \$100 a night up to \$150 a night, maybe \$200 a night.

Mr. Rapozo: That is low cost in your mind?

Mr. Hough: I would say so.

Mr. Rapozo: Okay. You just have a different definition of low cost, that is all. Thank you.

Mr. Furfaro: Did you have something for just discussion purposes?

Ms. Yukimura: Surely.

Mr. Furfaro: Recently, the average daily rate on Kaua'i was identified for last month at \$152. It was up 2.2% over the previous year, but occupancy was down 2.4%.

Mr. Rapozo: That is hotels or the vacation rentals?

Mr. Furfaro: That is all available inventory in that report.

Mr. Rapozo: And I guess in that number Jay, how do they determine the vacation rentals? How many...

Mr. Furfaro: I don't clearly have an idea, but that is what the average daily...

Mr. Rapozo: Because in my just independent research online when I click on Kaua'i Vacation Rentals and I have done that and it is actually quite high, the rates, the weekly rates, the ones that are on the Internet anyway.

Ms. Yukimura: Those aren't Northshore ones I think.

Mr. Rapozo: No, not necessarily. I have seen them. They are all over. I mean you punch in Kaua'i Vacation Rentals and there are quite a few. Not all on the Northshore, there are some in Kekaha, there is some in Kapa'a and I am just saying that the weekly rate or the nightly rate is not low cost in my mind for Kaua'i

standards.

Mr. Hough: I think if you went to... I think if you go to VRBO and you look to the right there, I think the rates vary, but they all hover around as Jay said at about \$150 a night. Some are \$100, some are \$200.

Ms. Yukimura: Thank you. Any other questions? If not, thank you Mr. Hough. Thomas Beebe?

THOMAS BEEBE: You have been here a long time. Thank you for waiting. Aloha, my name is Thomas Beebe and I live in Kīlauea and I have been caretaking, managing a vacation rental property for seven (7) years now. I had a lot of points that I wanted to talk about this morning, this afternoon, I mean tonight and they have all been addressed. They have really been addressed, so I wanted to come up with some ideas and some thoughts that maybe haven't been considered since we all heard... first of all, I sympathized with the communities that have lost their character because of the vacation rentals that have come in. I am not... I didn't come here today or give up a day's work to plead to keep my job to support my family, rather was, because I think it is really important to consider the type of people that stay in vacation rentals on Kaua'i. They really are different than people who stay in hotels. I think the people who stay in hotels are the ones who do the shopping at K-Mart and buy their food at McDonalds as opposed to Kojimas or Mermaids. I interact with a lot of guests and the people that I interact with are genuinely interested in Kaua'i and generally interested in farming. The disadvantage of the property that I care take is that you can see the ocean from it and that is... the problem that I see with that is that between the extremely high cost of labor on Kaua'i and the extreme value of the land. If the owner stops vacation renting it, I just don't see any feasibility in anyone being able to come in and farm that land. So my belief is that agro tourism is an important aspect to the economy of Kaua'i and to Hawai'i. When I took over this property seven (7) years ago, I became aware of the agro tourism program that the State encourages and because of that and because of my desire to really share my love for Hawai'i and Kaua'i, I have encouraged that aspect to this property and have done more... far more agricultural than was there previously and have seen the results that tourists are affected by that. I tell about the farmer's markets and they go and they are excited about it and they pick fruit on the land and I just feel like there are a lot of farmers who have spoken up that there is going to be a real problem for them. In the long term, perhaps, you know, Councilmember Yukimura's vision of ag land prices going down and us being able to sustainably farm as possible, but in the short term, it seems really difficult to achieve that. All these people that I see that I see at the farmer's market, these farmers who have vacation rentals that supplement their \$15 an hour that they have to pay are going to really have hard time and it would be a shame if we lost that.

To summarize, I would just like to say that I think what you are doing is fantastic. I think that we need regulation. I hope you will consider compromises that both honor those people who have been trying to do a good job of vacation

rentals as well as make Kaua'i a better place for the communities that have been damaged.

Ms. Yukimura: Thank you. Questions of Mr. Beebe? Council Chair?

Chair Asing: I have a question. If I wanted to get some information regarding the vacation rental that you service, how would I get that information?

Mr. Beebe: I would be happy to tell you whatever you like.

Chair Asing: No, is it on the Internet?

Mr. Beebe: Yes, it is.

Chair Asing: What is the where I can get that information?

Mr. Beebe: It is called Kaua'i Vacation Hideaway and that is just www.kauaivacationhideaway.com

Chair Asing: How big is the apartment or the building that you vacation rent?

Mr. Beebe: It is a three (3) acre parcel with a main house and a guest house.

Chair Asing: And how many people do you accommodate on the rental? Is it like two (2) people or is it four (4) or six (6)?

Mr. Beebe: Two (2) people to six (6).

Chair Asing: What would be the maximum number?

Mr. Beebe: I would say that the max ever has been eight (8) on the property.

Mr. Furfaro: And you said on the property, so you meant like six (6) in the main house, two (2) in the cottage?

Mr. Beebe: Correct, and that would be like a family in the main house.

Chair Asing: Oh, you are renting two (2) units? You rent the main house and the cottage?

Ms. Yukimura: He manages that.

Chair Asing: Oh, I thought it was one.

Ms. Yukimura: Single family.

Chair Asing: Thank you.

Ms. Yukimura: Other questions? If not, thank you for coming to speak. We appreciate the information that you have and your perspective and background. You know, I would be more than willing to introduce an ag tourism bill because that is what is triggered under the farm... the agricultural laws of the State, but I would still have to know how to fashion that bill in relationship to agriculture and that is why I am saying that we need an overall planning process. It may be that most of the Northshore ag will be deemed a different agricultural category than an area where the main activity is full-time farming basically, but those are the things that we need to sort out.

Mr. Beebe: Yes.

Ms. Yukimura: And I do believe like you do and like Ms. Breen pointed out, there is a wonderful potential for ag tourism if we can get real agriculture established and that kind of tourism far surpasses most of the timeshare or the kind of commercial tourism. It is about friendships, it is about cultural exchange and, you know, even pilgrimage sometimes.

Mr. Beebe: I agree.

Ms. Yukimura: Okay, thank you.

Chair Asing: I have another question. What type of produce do you raise on that particular property?

Mr. Beebe: We've got 31 citrus trees, papaya trees, banana trees, avocado trees, some different herbs (rosemary)... when people get sunburn, I go and cut aloe for them. That is the bulk of it. I am sorry and mango trees.

Chair Asing: And where do you sell those products?

Mr. Beebe: There is a local health food store in Kilauea that takes some of our products, but the majority, I offer to the guest who are staying there. To be honest, the citrus trees were in horrible shape when I took it over and I am still trying to get so they taste like citrus and not like... but the majority of the fruit, we make available to the guest and share it with the community.

Chair Asing: How often does the owner use the premises? Any rough idea like a month, a year or two (2) months a year?

Mr. Beebe: Two (2) months a year.

Chair Asing: Is it normally one time of the year or several different times?

Mr. Beebe: Several times over the year.

Chair Asing: Thank you.

Ms. Yukimura: Any other questions? If not, thank you very much. Is there anyone else who wishes to testify on this matter? Suzanne Kobayashi?

SUZANNE KOBAYASHI: Hi, Suzanne Kobayashi. Thank you for hearing me again and again. Just a couple things occurred in my mind. In the same way that... I am not really pro big box and I like the compromise that I did that you are coming up with. I think the same thing about vacation rentals. I like diversity. I think VDA is big box and vacation rentals in small communities are more of a local thing, the different flavor. The CZO when it was first come up with 1978, when the VDA lines were drawn, I believe it was for the purpose of keeping time share corralled and probably hotel use too. Vacation rentals were already in existence at that time and I think it was deliberately left out because I think perhaps they weren't perceived as something that needed to be corralled within the VDA, so that is another thought that I had. The last one is, when Leah was testifying about thinking of the coming generations, how can you not be moved by that? You have to be moved by that. I would say this, there are a lot of local people who have vacation rentals who would never come and testify because they would be scared to death for Kaipo to ask them all the questions that he just asked that gentleman who he so nicely gave the answers. But there are so many people, that is not their style to come up and testify, to put their face in front of the camera... my point is that, two (2) things, the last time I talked, Councilmember Shaylene, she said something that really struck me about the demand of the mainland fires wouldn't stop and that it would eventually encroach on inland areas. I think that is totally true and I think there does need to be either a ban on that on local neighborhoods who are making it very, very hard to get a permit to do a vacation rental because I see that as a problem, but the beach areas to me are a totally different situation because they are without the... they are out of the grasp of local people. You still have some local people who own the beach areas and a lot of them have a vacation rental. They have a vacation rental in the back or above the garage or whatever and they have a small sink, so it is cool, so they are not like in a zoning violation. I don't mean that, but they are renting out part of their property as a vacation rental and it helps them pay the taxes and continue to live there. I am afraid that when you take away the ability to have even a new vacation rental in an area like that, you may be strangling a local family that maybe they want to keep that land, so that their grandkids could come there and they can afford to live there, but they can afford to keep it by vacation renting it. I would like to see, like in the earlier version of the bill, you had a provision where you could allow new vacation rentals with the... not the permission, but the acceptance of the surrounding property owners, you had a certain percentage and so many feet away. I would like to see like the areas where the property taxes are so high like the beach areas, I'd

like to see that provision left there because, yes, it may benefit some wealthy person that you really don't want to be promoting them to come and own the island. But by not having a provision like that, you may be forcing a local family in the future five (5) years from now or three (3) years from now or ten (10) years from now to not be able to keep the property in their family hands by that option. Thank you.

Ms. Yukimura: Thank you. Questions?

Chair Asing: I don't have a question, but I just want to respond a little bit. If I didn't ask some of the kinds of questions that I did ask, I would not be serving the community.

Ms. Kobayashi: I totally understand.

Chair Asing: You know, my job here is to get as much information as can, so I can make some reasonable decisions for, again, giving back to the community.

Ms. Kobayashi: I understand that and you do a good job of that, but it is a little intimidating for some people.

Chair Asing: Thank you.

Ms. Yukimura: Councilmember Bynum?

Mr. Bynum: Suzanne, what you just said about local people who, this is the way they make it and to a large extent, doesn't the grandfathering clause address that?

Ms. Kobayashi: Yes, for the existing ones it does, but my fear is that unless there is some provision and I realize that you don't want it to proliferate and I certainly don't think it should proliferate in inland communities or communities where you still have a continuity of a local neighborhood, but in the beach areas that have already gotten so slammed by wealthy people buying properties, those places will never... they will never... they will not return to the way they were. Stopping a vacation rental will only mean that somebody who doesn't have enough money to hold onto it without a vacation rental will be replaced by somebody who can. We have already been through that, never mind. You got the idea.

Ms. Yukimura: But you are making the assumption that the real property taxes are out of hand and they are not because of the cap. The assessments may be going crazy, and, yes, they can sell them, but there is a 2% cap on owner occupants, so you can't make the assumption that people are being driven out of their homes by rising real property taxes. I mean, that is not true.

Ms. Kobayashi: Well, if you pay over \$10,000 for a one bedroom, one bath house because you don't live in it, but you want to still keep it in your family, that is a lot.

Ms. Yukimura: And I talked about addressing that with other ways. That is an oversight of our real property tax system right now.

Ms. Kobayashi: Large oversight.

Ms. Yukimura: And I have tried to address it. We haven't gotten a consensus about it, but I talked to you before about this dedication bill that would have... you know, people dedicated not to sell and then they would have lower taxes.

Ms. Kobayashi: And it is a great idea, but it is not the reality right now.

Ms. Yukimura: But the solution may be something other than just allowing... do you say that the area around Fuji Beach in Kapa'a Town should just be allowed to go all vacation rental like one of the proponents said, we should make that a VDA?

Ms. Kobayashi: No, as you said in your earlier bill, if you had the consensus of the neighborhood, if you have a neighborhood that mostly got local owners, they can very well choose not to have vacation rentals in their neighborhood.

Ms. Yukimura: They can all choose to say, yes, we can have vacation rentals and then, you know, in a generation or two (2), it might just be gone.

Ms. Kobayashi: Then that would be that local person who is paying the tax burden of being in that spots decision.

Ms. Yukimura: But a majority may be... side and the minority will just be pushed up.

Ms. Kobayashi: I thought you before you said that you had to have... in the bill, you were going to have other people... it had to be majority of those surrounding property owners.

Ms. Yukimura: Within a certain... I mean, you really think that the land use should be determined that way? And also some neighbors that don't like you will then just have the right to say, no, too? Is that really the best way to make those determinations?

Ms. Kobayashi: Maybe it is better than a blanket aye or nay, I don't know.

Ms. Yukimura: Well, in the stakeholders group, we looked at, not very long, but we looked at a percentage of any area and allowing that percentage to be by lottery and only for so many years and then having to move to another... give other people a chance, I mean, we were on the verge of very complex systems for allowing and not allowing and deciding who got to do and keeping it within a controllable percentage.

Ms. Kobayashi: (Inaudible) of course.

Ms. Yukimura: Well, I think we may get to that, but right now, we are just saying, we are going to stop the creation of new vacation rentals, we are going to figure out how many there are out there, we will figure out how to deal with bed and breakfasts and then we will see where we want to go from there. Anyway, that is one approach. Councilmember Bynum?

Mr. Bynum: Thank you for your testimony and, you know, I think part of the grandfather provision was an attempt to deal with the issues that people have been involved for a long time and this is...

Ms. Kobayashi: We appreciate that.

Mr. Bynum: And, also, I think the discussion that JoAnn just had is the complexity of all of this is, how do you carve out a thing that says, okay, this person is worthy of a new vacation rental and this person isn't and it is just really, really difficult to find that balance. I understand Guy's point about, you know, gee, maybe you don't need it today, but somewhere down the line, your circumstances are going to change, but I just don't know how we create an ordinance that deals with all those complexities (inaudible).

Ms. Kobayashi: I don't know either. Whatever you guys do, I hope it is like spot on legal, so we don't have to pay tax dollars to defend ourselves against ourselves.

Mr. Bynum: Yes, I hear you. Thank you very much.

Ms. Kobayashi: You guys do a really good job, so I appreciate it.

Ms. Yukimura: We appreciate your input too. Thank you.

Ms. Kobayashi: Thanks, bye.

Ms. Yukimura: Any other questions? Thank you. Is there anyone else who wishes to testify on this matter? You may. Barbara Elmore. Let's have the people that haven't testified yet for the first time.

CAREN DIAMOND: Good evening, Caren Diamond. I wasn't going to testify and I will be short. During these last years that we have been asking for

vacation rentals to be addressed, it is really clear that it has gone for being a problem to being really big business. I think what is before you is, everyone arguing how they want to continue their business and there are commercial areas and there are residential areas, so I really thank you for restoring our residential areas and the purpose for it. I think the grandfathering aspects of the bill will address some of the hardships that people are saying because if they have been legally doing vacation rental, then the grandfathering should address that, but I did want to talk about a few things and one is on the coast. Vacation on the coast are some of the worst vacation rentals for me and some of the reasons for that is because of the competing uses and the problems that happens. When somebody comes into our neighborhood and they pay \$10,000 to \$14,000 a week to rent a vacation rental and what is our neighborhood and then they are afraid of local people. They are afraid of the fishermen who shows up at 5:00 in the morning, so then the landowners go ahead and fence off the properties and we have this escalating problem of people being afraid of the people in our neighborhood and fencing off properties because their tourist are upset and it is over and over. There are four (4) fences that went up in a month in our area and you hear these landowners talk about it and they do cite that they are vacation rentals and that the people are afraid who stay in these vacation rentals, so the uses are really not residential and they really are problematic. When you have the advertisements on the Internet advertising that you have your own private beach or this is the last part of Hawai'i, you have them selling what is dear to us and they are... it is really unfair, so I ask you really... the coast is not the place for vacation rentals. Last night, Mark Marshall, the Head of Civil Defense, came to Hanalei to our community meeting there and the question was asked about evacuation and what they said was, there is no plan, there is no evacuation and that the only plans for our area will come after the disaster. When asked about vacation rentals, what they said, it is the hoteliers responsibility to provide for evacuation and to provide for the people. And if you translate that to our neighborhood, I don't want to say what will happen to everybody, but what happens when you have visitors who have no clue how to evacuate or where to go and there is no road to take people out, the coast is probably the worst place to have vacation rentals. When we had the tsunami evacuation just in the last couple of months and walking around the beach afterwards talking to the visitors who were staying at the vacation rentals, most of them had no clue that we had tsunami alerts. So I really thank you. I do hope that you guys... it seems like you are restoring our neighborhood and you are going to do the right thing and I really thank you and I think it really is important, it is crucial and thank you.

Ms. Yukimura: Thank you. Any questions of Ms. Diamond? I have a question. I believe it was Ms. Sausen who suggested that we defer it beyond the 16th. Do you have an input about that?

Ms. Diamond: I think what Ms. Sausen was referring to really was not making this wait until the end of the day again, so maybe you could schedule it first instead of last on the next one and then we can have it in two (2) weeks. It really has dragged out so long.

Ms. Yukimura: I have thought about the idea that maybe we could rotate the order of Committee meetings.

Ms. Diamond: Because this has been one of the longest going issues since 1999.

Ms. Yukimura: So you are saying that you would like to see it come up on the agenda on the 16th?

Ms. Diamond: Yes, and I think and I am sure if Aunty was here, she would agree too. It is just not to make it wait until the last... maybe this is the third time that we have waited until the end of the day.

Ms. Yukimura: Thank you for that input. Any other questions? If not, thank you very much. Ms. Elmore and then Harvest.

BARBARA ELMORE: Barbara Elmore. My dream is to be able to sit at this table as long as Lisa Breen or Jonathan Chun. That would be great to have the time that he had, but, anyway, there has been a lot brought up today and I am not organized, so excuse me for just looking down at these notes. But you talked about weighing the testimony and about the number of messages you have gotten and so forth. The thing about that, that bothers me, is that I am guessing that many of those who wrote in or e-mailed or talked to you didn't reveal their vested interest because I have heard a lot of people testify at this table that didn't say, I am a real estate agent or I own a vacation rental or I am married to a realtor or whatever, so when that matter came up about a conflict of interest, it is really interesting to me because those people have a conflict of interest. They are certainly not impartial. I have looked at a lot of listings on the Internet recently and a lot of them say that they are brand new vacation rentals and one of them that I remember was built in 2005, so people are just coming along more and more and thinking that they are abiding by the law, but these are not law abiding operations. I don't see how they can say that they are. I am glad that the year 1978 was brought up because every time I've looked at the CZO, I do not see vacation rental permitted in residential areas or ag land or in open land, so if you are going to grandfather anything, start with 1978 and those people can show you their income tax records from 1978 and prior to that, that they had income from vacation rentals that maybe grandfather them, but all these people that have brand new vacation rentals and built in 2005 and so many people have testified that they came... they built this thing, then they went back to the mainland and they came back to testify. Those sort of people, they are not abiding by the law.

To show you this conflict of interest and people not revealing their true motives. One man wrote a letter to the paper and said he had to have a vacation rental to supplement his social security check. I looked him up and he has his own blog where he brags that money is not a problem for him, that he can never spend all the money he has had (inaudible) he had decades to put away money in the bank

and that he talked about the businesses he had owned on the mainland, the boats and yachts he had owned and, yet, in the paper, he wrote, I have to have this vacation rental to supplement my social security check. In this blog, he has lots of pensions and IRA's, but he didn't mention his social security check in there. So that is the kind of deception. I've been to many, many Planning Commission meetings and sat there and watched people apply to build a one family residence for my family and the plan has seven (7) entrances and eight (8) bathrooms and oh, yes, it is just for me and my family and they know that they are lying and they continue to lie. They have those... they start renting them out and then they come and say, oh, grandfather me in because I didn't know until four (4) months ago that I couldn't do that. Anybody that says they didn't know until four (4) months ago is just pulling your leg. I wish I could...

Ms. Yukimura: Ms. Elmore, I will give you some time to summarize or you can come back for another three (3) minutes. Actually, who else besides Ms. Edmonds...

Ms. Elmore: Could I have my 20 minutes first? I mean because some people have had and time and time again...

Ms. Yukimura: Well, usually, we've been asking questions, so that doesn't count.

Ms. Elmore: You don't choose to ask questions of people like me.

Ms. Yukimura: So would you like to have your additional three (3) minutes now?

Ms. Elmore: We know what is going on too.

Ms. Yukimura: Or you want to come back, either way?

Ms. Elmore: You are the boss and you have to tell me what to do?

Ms. Yukimura: You can continue for another three (3) minutes. That would be fine.

Ms. Elmore: One thing I would like for you to do is scrap this bill, fund two (2) enforcement officers to go back and enforce people who have been violating law since 1978. Pay two (2) full-time people. Either Policemen or full-time whatever enforcement officers you want to call them. Have them go door to door, go through the Internet, weed out these people and say, you are in violation, this is ag land, close down. You are not going to do that on there, but if you really believed in law abiding processes, that is what you do. Maybe you would find two (2) or three (3) that were operating legitimately since the CZO was written down. Show me in the CZO where these people are allowed to do this. You defended the... today, you were defending keeping camping rights for local people and you didn't want the

bikepaths to become a commercial tourist activity, but I wish you could defend our neighborhoods and our ag land and our open land as much as you defend the camping and the bikepath that you talked about. This bill is under the guise that are regulating TVR's, but (inaudible) to solidify the right of real estate investors, speculators and business operators to continue disrupting and destroying neighborhoods and (inaudible)... first to allow them and then to grandfather them in businesses that are not zoned for... it always revert... whenever you ask them, give us an example of the benefit of this business. They always revert back to talking about how much their customers enjoy spending time in the residential neighborhoods. I don't know anybody that has ever come to Kaua'i that didn't enjoy being here, but is that any reason to allow them to just ignore the law? I just... denying people the right to ignore zoning is not a matter of taking. Taking would be, give me the keys to your house, you can no longer have this property and that is what taking would be. And paying taxes doesn't make it okay either. I don't know why they justify it and they threaten the County by saying, well, you lose some of your tax base if you put us out of business. They say that they care about middle class people being able to open vacation rentals. Middle class people have to live in their houses. They can't move out and have other people come in and out every week. They don't own two (2) or three (3) houses in different parts of the world, so they can vacation rental them. I know that my time is up. It is very frustrating not to be able to...

Ms. Yukimura: You still have some more time.

Ms. Elmore: Another logical rule you guys go by (inaudible) this huge loophole and you mentioned it briefly JoAnn, but this is big enough to drive a truck through and that is that crazy 75% rule. If 100% of the people in Hanalei or Kilauea own vacation rentals and you say, how many of you would vote allow vacation rentals, guess what, it is going to pass. That is no way to decide these things. If you ask everybody in Hā'ena in conservation lands... why should we allow vacation rentals in conservation lands... 75% of more would probably go, yes, so that is crazy, that 75% rule should... other than hiring these enforcement officers, you need to do away with that 75% rule needed.

Ms. Yukimura: Your three (3) minutes is now up. If you want to summarize. Thank you very much. Any questions? Thank you Ms. Elmore.
Ms. Edmonds?

Ms. Edmonds: Hi, I am Harvest Edmonds. I just have a few reflections after hearing everybody's testimony and one of the issues that comes to mind not that I am giving up on vacation rentals on ag land, but for various reasons, but one of the things is, if you do pass this ordinance that says you can't do vacation rental on ag lands, does that mean that is effective immediately and, if so, how does that affect the hundreds of people that have vacation rentals on ag lands and the money that they have collected that they are going to have to then turn around and visitors that are going to be extremely unhappy and not have a place to come and lose airline money and all of that, so that is just something to think about. Is there

going to be some kind of a time period where they are going to be able to continue until, so that it doesn't cause so much repercussion to a lot of people.

Ms. Yukimura: Like I said, we are not making it illegal, it is already illegal.

Ms. Edmonds: But I am just saying, they are repercussions.

Ms. Yukimura: But they could be shut down today.

Ms. Edmonds: They could be checked out?

Ms. Yukimura: They could be shut down today.

Ms. Edmonds: Right.

Ms. Yukimura: And, I mean, that is a fact. It is the State law that is determining that they are not...

Ms. Edmonds: But they have been allowed by the County for all this time and there has not been any ordinances until this one coming up, so I am going... all I am saying, it is going to affect a huge amount of people (tourist and residents).

Ms. Yukimura: I understand.

Ms. Edmonds: That is all that I am saying.

Ms. Yukimura: I understand, but you are not understanding what I am saying. The County has not allowed it, but it hasn't been enforcing the law.

Ms. Edmonds: Right, when the County starts enforcing the law...

Ms. Yukimura: They might not even start enforcing the law after we pass the bill. We don't know. That is not in our jurisdiction of the Council. We pass the laws and there is line called the separation of powers and it is the Administration of the Planning Department that enforces the laws. And, so, they haven't been enforcing the law today which is that vacation rentals are not allowed on ag lands. That is not going to... whether it changes or not, whether the enforcement changes or not is not going to be the matter of our law that we passed. It is going to be a matter of their decision when they are going to enforce the law today or after the bill is passed, but either way.

Ms. Edmonds: I understand.

Ms. Yukimura: Either way, they could technically shut down the operations today. I mean, that is how crazy this all is, that is why I say this is a

white elephant. It is like everybody said that the emperor didn't have any clothes until a child said the truth, nobody talked about it and until this bill came to be proposed and then the question of grandfathering came up, it didn't become an issue, but I took some of your time, so I will let you speak another two (2) minutes.

Ms. Edmonds: I also really like the idea of... if you do ag land and you are doing some degree of farming and I guess that will depend on how much farming you did which I don't know if there is any kind of rules to be able to have this eco-agricultural tourism because even people that I know now that are doing farming diligently on their land could not still be able to afford it even if 50% of their income came from farming. That would depend a lot on... if somebody like Breeze who bought... fortunate enough to buy their land when it was \$4,500 are farming and they are a different story, but people that bought their land anytime in the last 10 to 15 years, that would be a different story for them, but I do like the idea of having ag land doing the eco-tourism, certain percentage of the land being farmed and being able to supplement their income with vacation rentals.

Ms. Yukimura: Thank you. There might be questions.

Mr. Rapozo: I guess your comment about within 10 or 15 years... the people that bought these ag parcels. They bought these ag parcels, I would assume, knowing that they could not pay that mortgage by farming. If you came up in the Houselot or this ag parcel was three (3) acres or five (5) acres, as a farmer, I think you would know a right away, my gosh, with that much land, there is no way that I can pay the mortgage by farming. So either they were told, hey, this is a... you can vacation rental this place to generate revenue... the intent may never have been farming and I think what JoAnn talked about earlier. If you take away the density from these ag lots and all of a sudden, the only people that are going to be purchasing these ag lots are true farmers, the values will go down. It will go straight down and all of a sudden, you will see ag parcel at \$40,000, \$50,000 because there is no way they could sell these parcels knowing that all you could do on the parcel was farm. Wouldn't you agree?

Ms. Edmonds: Well, I don't agree that the prices are going to go way down because...

Mr. Rapozo: No farmer, no one is going to come here and purchase a parcel knowing that if they... all they can do on that is farm.

Ms. Yukimura: If I may intervene here. The issue is density. If they can live on it, then it has a different kind of value. They can live on it without...

(INAUDIBLE, EVERYONE TALKING AT THE SAME TIME).

Mr. Rapozo: A residence is an allowable use on an ag parcel if you live in that home.

Ms. Yukimura: Yes.

Mr. Rapozo: That is one thing, but what I am saying is (change tape)... well, I am talking about what she is saying in the last 10 or 15 years is what she referenced and that is what I am referencing. Those, at that point, you know, a farmer couldn't afford to move in those... buy a parcel and expect to pay the mortgage by farming. It is just not...

Ms. Edmonds: Well, a lot of people's life just changes over the years and what they might have been able to afford it before and maybe now they can't, then they have to look at it in a different light.

Mr. Rapozo: And I understand that.

Ms. Yukimura: Thank you. Any other questions? If not, is there anyone else who wishes to testify? Mr. Taylor?

Mr. Taylor: Mr. Chair, Council, my name is Ken Taylor. Sorry I had to run off this afternoon, but I had another meeting over on the other side that is in the process of giving us 46% more income than what you folks pay us. So...

Ms. Yukimura: The Wailua/Kapa'a Advisory Committee?

Mr. Taylor: Right. Anyway, let's get real with this thing. Ag land, if you pay more than \$10,000 to \$15,000 an acre, there is no way in the world that you are going to make a living on that land. You've had people sit here and say, I am a farmer. I grow some papayas and some pineapples. Well, pineapples is about an 18 month crop and on a small acreage, the only possible way you could maybe make it would be to do a heavy duty turnover type activity which would include lettuces and other root vegetables and leaf vegetables and things that turn very quickly to make an income. You can plant plants that are going to take 18 months to mature. I grow a few pineapple, I grow some papayas, I have a few other things. I have been in the ag nursery business for 35 years and I know a little bit about this business and I can guarantee you, it is not an easy process. And, you know, we all like to live on a big piece of land, but we can't all afford it, so you have to look at the realities. If you can't afford just five (5) acres, you don't buy that five (5) acres, you buy something smaller that you can afford and live within the law. That is where I see a lot of this problem is. Well, I can't afford this, but when I came over here, I moved off a 35 years of a four (4) acre lot, I would have liked to have gotten another four (4) acre lot or five (5) acre lot or ten (10) acre lot, but I couldn't afford it. So I had to settle for what I could afford and that is the problem that I see everybody... my neighbor says, I couldn't afford to live here if I didn't sublease all of these units out. So I said, wait a minute, this is a single family neighborhood, but this is what is happening and, well, everybody does it. Everybody does it, so it is alright. It is not alright. Zoning rules and regulations are put in place for a purpose and they need to be enforced and this is what we have said on a number of occasions that this thing has to have some teeth in it for enforcing the law because, as you say, it is just

another rule and regulation that sits on a shelf collecting dust and nothing happens. I am sorry, that is not good enough. This is what has brought up to this point today and we have to make those changes and I get a little excited about this thing because I know what is right, I know what is wrong and most of these people do too and it is all me. If it is good for me, then it is alright and I am sorry that is not the way the world goes.

Ms. Yukimura: Mr. Taylor, thank you. Any questions? If not, thank you very much. Anybody else wishes to testify? Mr. Croydon and anybody else after that?

Mr. Croydon: For the record, Guy Croydon again. Just the one point that I had started to talk about. In order to... I don't know how you say it, control the vacation rentals, I think that there should be an association form, a licensing process... they should be licensed and perhaps, like I say, in order to have the license, you have to be a member of the association, pay dues, be educated on how to run a vacation rental, so your people aren't making all kinds of noise, aren't parking on the street, aren't making a nuisance of themselves. Also, whether your place is appropriate to vacation rental. This could be specifically for the ones you guys are talking about potentially grandfathering in. I think this rule should run across the board, not just for vacation rentals inside the VDA's or outside the VDA's, but also inside. You guys want to get a handle on how many vacation rentals there are, you need to know how much are inside and how much are outside and they all should be licensed and follow the same rules. This association could alleviate the problems of... obviously, we just talked about the County cannot even police our parks. You talk about a high density dwelling, go out to Hā'ena Beach Park and try to spend the night. The association, through the funds, could create a hotline that could field complaints, there could be a board... a board that meets and verifies that the complaints are verifiable and that they are true and it can be addressed through levying fines and then if the person or the entity or the vacation rental that is not staying in compliance with the rules could potentially lose their license. I am just offering this as an idea of one way to be able to police because you guys are going to run into the problem of policing the vacation rentals inside as well as outside and being able to establish what are the parameters you are working with. That is all.

Ms. Yukimura: Any other questions? I just want to let you know that I believe in the amendments, we are requiring registration... actually, a Class I zoning permit of every vacation rental that is inside or outside of VDA for that purpose of at least being able to track how many there are on the island. And the rules of conduct, I believe, are the same inside or outside.

Mr. Croydon: And my concern is how do you police that?

Ms. Yukimura: You know, Lucy Kawaihalau who is here did start an association. Some of the policing of conduct is not a County function. We police zoning, but we don't police behavior and information and all of that.

Mr. Croydon: Part of the problem that is being initiated by the vacation rentals as stated by various parties is the garbage on the street, the noise at odd hours, etc., etc.

Ms. Yukimura: That is why we are requiring that there be an on island 24-hour person for every vacation rental and the other way is HVB which they will probably hate, but that is part of their job too and they do do their job conscientiously.

Mr. Croydon: I keep hearing these huge numbers on rentals. We don't make anywhere near the kind of money that people are saying. You know, this last year, we just finished our taxes on this whole thing and we made \$5,000 out of our vacation rental which did not... that is just the portion that we had to pay taxes on. It did not pay the entirety of our mortgage for the year, so just so that you know and we bought our house cheap right after the hurricane, so not everybody is renting their vacation rental for \$10,000 to \$15,000 a week. It is affordable. You rent the upstairs and you are paying \$250 a night for a three (3) bedroom house with a loft, so, you know, it is not like what you will have to pay if you went to one of the big expensive hotels.

Ms. Yukimura: Thank you very much. Anymore questions? If not, thank you. I am taking this as a sign that we are at the end of the public testimony section and the meeting will come back to order.

The meeting was called back to order, and proceeded as follows:

Ms. Yukimura: Any comments and then the Chair will ask for a motion to defer. Councilmember Bynum?

Mr. Bynum: I would just like to thank you all again for your patience and all of the testimony. I know it is heartfelt and as I said earlier, I am struggling with this because I think there are a lot of different stories and some we have a lot of concern for and others we have less concern.

Ms. Yukimura: And some we have ability to do things about and some we don't.

Mr. Bynum: And that is the part that is the struggle because... but, what is clear to me is that this bill is going to bring things to the floor, right? You know, it is going to force the issue in terms of... it is clear that under this Kobayashi decision, we've all heard that vacation rentals in many areas have been legal and that is the opinion. You know, I think what we heard tonight, there are people who have vacation rentals on ag land who believe them to be illegal and knew that. I am totally convinced that there are people that have vacation rentals on ag land that had no clue and that they thought that they were in the same boat as everybody else and it has been imminently clear to me that the rules about ag land are just bazaar and they need so much work and it is so illogical some of the current rules

that allow ag subdivisions to continue when we have a General Plan that says, that is the area that we want to preserve as a rural and view plains, so this issue is really complex, but it involves real people, many of whom acted in good faith and now, you know, it is like hand written regulated... well, now we are going to have rules that says, you put you permit number on your advertising. We are going to have to create an enforcement mechanism which... and all of those things that we should do, so this is a very difficult issue that is going to be really painful because we may be boxed in by our current laws and I love Councilmember Yukimura's passion about the need to do and I share it to do an ag planning process.

Chair Asing: Councilmember Yukimura, you know, we are going to have to take a dinner break by Council rules, so I would suggest that Councilmembers keep their comments. We are still on the Committee. This is still on the Committee level, so Councilmembers, remember that. And, you know, Council rules, you know, are Council rules and I don't want to start stretching that to an extent, so it is just a reminder.

Mr. Bynum: Under Council rules Chair, isn't there a time for us to make comments at the end. I waited until the end.

Chair Asing: Use your judgment. I am just giving you some guideline. The Chair has control, so Chair?

Ms. Yukimura: Yes, and I would like Councilmember Bynum to finish his testimony keeping in mind (inaudible).

Mr. Bynum: I am about 30 seconds from being done.

Ms. Yukimura: Yes, so please continue and finish.

Mr. Bynum: And my last two (2) cents, I think is... you know, you guys have been here many times and I don't know that we should defer, just my opinion, for two (2) weeks if we are just going to defer again. If it is going to take four (4) weeks to get the work done, to have the meeting move into some decision making or some meaningful discussion rather than taking all your testimony and deferring again. Thank you. I am done now.

Ms. Yukimura: Thank you. Other comments? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: What is the intent of the Chair at this time?

Ms. Yukimura: The intention is to recess this meeting and then figure out what we should do about the 16th versus the 30th.

Ms. Iseri-Carvalho: And recess for what?

Ms. Yukimura: For dinner.

Ms. Iseri-Carvalho: For an hour?

Ms. Yukimura: Yes, but I don't think people need to come back. We will let you know what the decision is. I am just trying to figure out how to do this in the best way possible. There are arguments on both sides, so any other comments? Yes, Councilmember Furfaro?

Mr. Furfaro: Yes, I would like to suggest that the deferral goes to May 30 and the reason I say that is, the 14th and 15th, we are going to becoming out of budget. The 16th, we've got the big box bill and the fact of the matter is, I have served on some of these commissions that have done the work up to this point and I think with all of the issues that are probably going to trigger some amendments, I would like to give it the appropriate time and I believe the appropriate time is May 30 and that is my recommendation to the Chair.

Ms. Yukimura: You know, I understand what you are saying, but I actually am thinking that we should have amendments ready on the 16th, so that we can distribute it to the public and not have them on the 30th when are going to try to make decisions that day.

Mr. Rapozo: Is it possible to have the amendments ready here for them to pick up or does it have to be officially introduced? I mean, if we can just have the amendments...

Ms. Yukimura: I was thinking of having the amendments ready actually on the 8th, but we could do that.

Mr. Rapozo: I have to agree with Councilmember Furfaro that the 16th is ugly already. It is a 2:00 in the morning meeting I think and without... I mean, with this in it, is just...

Chair Asing: How about 4:00?

Ms. Yukimura: And we are remembering a real meeting when we went until 4:00 a.m., but what I am concerned about and I think that is a good compromise is that we have amendments. I don't want to go to the 30th and then have amendments then.

Mr. Rapozo: And I think that is fair.

Ms. Yukimura: So I will set the deadline for the 16th that we have the amendments in writing ready. I am seeing the clerk shaking his head.

Mr. Furfaro: Can the Clerk give us some feedback please?

There being no objections, the rules were suspended.

PETER A. NAKAMURA, COUNTY CLERK: Madam Chair, Peter Nakamura, County Clerk for the record. I think the only issue that I see with having something prepped for the 16th is that beginning on Monday the 14th, the Committee of the Whole goes into budget decision making for two (2) days and I think just as far as staff time is concerned, will be wrapped up in the decision making meetings. The Mayor's supplemental/modification comes in on May 8 and from the 8th to the Monday of the 14th will probably be... most of the stuff will probably be prepping the budget modifications for decision making, so it is going to be difficult to...

Ms. Yukimura: Well, I am going to ask Councilmembers to have the conceptual amendments ready by the 8th, so that we can have something in writing by the 16th. I mean, that is going to happened whether we have it on the 16th or the 30th because I think we owe it to the public to give them some time for review.

Mr. Nakamura: I would think that if we could actually get through the decision making, budget decision making process and the procedure for budget, we could, for staff time, to have some time until about the 23rd, I think the week after because anything between the 8th and the 16th will pretty much be focusing on the decision making process.

Ms. Yukimura: Well, then, basically, you are saying that the 16th isn't available.

Mr. Nakamura: I am saying that it is going to be very difficult.

Mr. Furfaro: Chairwoman, I would just like to say for this bill, it is a very important bill and I think you know my involvement since two (2) years ago being very close to it, but the single biggest thing that this Council does every year is to focus on completing an operating budget and that truly deserves the kind of attention especially when it deals with making sure that we have the right enforcement officers in the budget making...

Ms. Yukimura: Councilmember Furfaro, I understand.

Mr. Furfaro: Well, I just want to thank you for sharing that comment and that we do this appropriately and give it the right tools and the right time.

Ms. Yukimura: Well, what is ironic to me is that we were still looking at the 16th, but given all the information that has come forth, we will work to have the amendments ready by the 23rd. I would like them... the conceptual amendments to be proposed by the 8th and then we will have them ready for the public by the 23rd.

Ms. Iseri-Carvalho: Can you just repeat that? Conceptual amendments by May 8, so that our staff at least has them in concept and then we will have

prepared amendments. The problem is, of course, if there are amendments to amendments, that gets pretty complicated, but different sets of amendments have to lock in, but let's try... and then we will have a set of amendments ready for public by the 23rd and then we will have the meeting on the 30th, decision making.

Mr. Furfaro: And if we could schedule it through your request as Chairwoman to be the first item on the 30th. That might be appropriate.

Ms. Yukimura: Which means then that the actual decision making on the Council... this will be a Committee meeting on the 30th, so the Council meeting decision making, is that going to be on the 6th?

Mr. Furfaro: It will depend on the progress that we make from the boning of the 30th.

Ms. Yukimura: Yes, but... I mean, this thing has been delayed already so far.

Mr. Furfaro: We all recognize that.

Ms. Yukimura: Now, we have the HSAC Annual Conference, so may I assume that we are still going to have the meeting on the 6th?

Mr. Furfaro: Is that what our schedule reflects Mr. Clerk?

Mr. Nakamura: The current schedule reflects the 6th of June as being a meeting day.

Ms. Iseri-Carvalho: Is there an opportunity to have that moved to the 5th?

Mr. Nakamura: I think we have public hearings scheduled for the 6th. We did publications...publications have gone out to the newspaper.

Ms. Yukimura: That is correct, the shoreline setback bill is on the 6th, but HSAC actually starts on the 7th, does it not?

Mr. Rapozo: 8:00.

Ms. Iseri-Carvalho: 8:00 a.m. is the first speaker I believe.

Ms. Yukimura: We can finish to catch the night plane.

Ms. Iseri-Carvalho: Alright, that is what I wanted to hear Chair.

Ms. Yukimura: This is a Council meeting.

Ms. Iseri-Carvalho: Better yet.

Ms. Yukimura: But we will have done so much work in a...

Mr. Rapozo: Guy, can you fly us over on Wednesday night?

Ms. Iseri-Carvalho: Can you charter a plane?

Ms. Yukimura: Okay, so we are set then? Conceptual amendments to me by the 8th, amendments available to the public on the 23rd, decision making in Committee on the 30th, decision making in Council on the 6th.

Mr. Furfaro: Thank you very much for those considerations Madam Chair.

Ms. Yukimura: Thank you.

The meeting was called back to order, and proceeded as follows:

Ms. Yukimura: So then the motion would be to defer to the meeting of the 30th.

Ms. Iseri-Carvalho: Can we decide that now? If there no other discussion, I will make the motion to defer.

Ms. Yukimura: Is there any other discussion? Motion to defer.

Upon motion duly made by Councilmember Iseri-Carvalho, seconded by Councilmember Furfaro, and unanimously carried, Bill No. 2204 was deferred until May 30, 2007 Planning Committee Meeting.

CR-PL 2007-4: on C 2007-183 Communication (04/17/2007) from Councilmember Jay Furfaro, transmitting for Council review and support, two resolutions which requests the preservation of taro activities and to promote agriculture and minimize development by amending Chapter 8 and Chapter 10 of the Kaua'i County Code 1987. (*See Resolutions Nos. 2007-72 and 2007-73*)

[Received for the record.]

CR-PL 2007-5: on Resolution No. 2007-72 RESOLUTION PROPOSING AN AMENDMENT TO CHAPTER 8, KAUAI COUNTY CODE, 1987, RELATING TO ZONING DESIGNATION IN HANAIEI, KAUAI, HAWAII
[Approved.]

**CR-PL 2007-6: on Resolution No. 2007-73 RESOLUTION PROPOSING AN
AMENDMENT TO CHAPTER 10, ARTICLE 2,
KAUA'I COUNTY CODE, 1987, RELATING TO
THE NORTH SHORE DEVELOPMENT PLAN
[Approved.]**

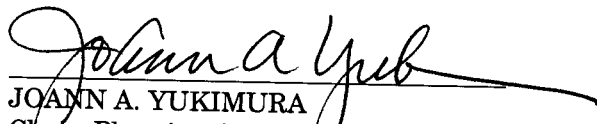
There being no further business, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on May 30, 2007:



JOANN A. YUKIMURA
Chair, Planning Committee Chair

