

MINUTES

**COMMITTEE OF THE WHOLE
August 20, 2008**

A meeting of the Committee of the Whole of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Ronald Kouchi, Chair, at the Historic County Building, Room 201, Lihu'e, Kaua'i, on Wednesday, August 20, 2008, at 1:59 p.m., after which the following members answered the call of the roll:

Honorable Jay Furfaro
Honorable Tim Bynum
Honorable Shaylene Iseri-Carvalho
Honorable Daryl W. Kaneshiro
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura

The Committee proceeded on its agenda items out of order as follows and as shown in the following Committee reports which are incorporated herein by reference:

Bill No. 2274 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 5A,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO
REAL PROPERTY TAX

RONALD KOUCHI, COMMITTEE OF THE WHOLE CHAIR: We will now take public testimony. I have been informed by the Real Property Tax Office that they will be able to incorporate the tax changes for the next tax year if the bill is adopted by mid-September and not August 27 as we anticipated. There have been questions generated from Councilmembers that have been sent over to the Administration. So at the end of the public testimony, we have an administrative or technical amendment that needs to be put into the bill and then we will defer this matter until we can get responses to the questions that have been sent over. Are there any questions from the members about the process before I suspend the rules?

There being no question, the rules were suspended.

JERRY ORNELLAS: Aloha Chairman Furfaro, members of the Council. My name is Jerry Ornellas. I'm here representing the Kaua'i County Farm Bureau. The Farm Bureau agrees with the intent of Bill 2274; however, we would like some amendments to the bill, especially regarding classification of agricultural land. Under the bill, agricultural lands will go under the classification of resource lands. We feel that this does not serve the interest of agriculture as that. It just confuses the issue. All of our State agencies refers to these lands as agricultural lands: DOA, DLNR, the tax department. We need to have these lands classified as what they are, which are agricultural lands. We have approximately 150,000 acres of agricultural land on Kaua'i and calling them anything other than agricultural lands will not serve the purpose.

We also have concerns about forestry use of our lands.

Ms. Iseri-Carvalho: Jerry, just a question. Do you have any reference to that section? You have the numbers by any chance?

Mr. Ornellas: I don't have the numbers. As you know the bill is a really...It's a huge, it's a huge document and frankly I didn't think we'd be able to cover it point by point during the three minutes of testimony. This would take at least three hours to go through this document. So, I thought I'd just touch on some of the highlights. And Chairman Furfaro, I think you made reference at the last hearing on this bill that there may be some kind of workshop or further discussion on the bill?

Council Chair Furfaro: It's possible that members of the Council, under the leadership of Mr. Kouchi, may go that way.

Mr. Ornellas: Okay. Like I said, it's such a weighty bill that if we went point by point, I'd be here all afternoon. So, I'll just go over some of our primary concerns. In the bill, they refer to what are primarily forestry projects as tree farm crops. Well these projects are neither crops, nor farms. Forestry should be called what it is, which is a forestry operation.

Along those lines, we also have concerns with some of the incentives offered for forestry projects. We have...we don't have a problem with offering incentives provided that these incentives are offered to all users of agricultural land. We think we need a level playing field. So, the Farm Bureau will be more than happy to prepare a report and submit it to this body for your consideration. Any questions?

Mr. Kouchi: No, I mean, we just would like to get that and with the deferral, that should give some time for that to have due consideration.

Mr. Ornellas: Thank you.

Mr. Kouchi: Because this won't reappear until September 3.

Mr. Ornellas: Good. That's all we're asking for is that we iron out some of these wrinkles. Basically, it's a sound bill and we think it's got some very good provisions in there. As you know, most of our members in the Farm Bureau are small farmers. A lot of them fall within the under 5 acre category and you know for yourself if anybody's ever worked in a taro patch, a 4-acre lo'i is a big farm by any standards. And you know, we want...These are the most under represented people in our community. You know, these people work without health insurance oftentimes, substandard housing. You know, we really need to give these guys a fair break and that's what we're here for. You know, the large property owners can pretty much take care of themselves, you know. It's the small guys that we have to look out for, and get some good incentives for large property owners, but we need to look at what are we doing for our small farmers.

Mr. Kouchi: Any other questions? Mr. Furfaro.

Council Chair Furfaro: Jerry, thank you for being here today. I want to verify, as you're testifying for the Farm Bureau, that the intent of the portion of the bill that deals with the lo'i kalo and the kuleana lands, the Farm Bureau does support the effort being put behind to recognize the original intent of these lands?

Mr. Ornellas: That's correct, Chairperson.

Council Chair Furfaro: Thank you.

Mr. Rapozo: I get one.

Mr. Kouchi: Mr. Rapozo and then Mr. Kaneshiro.

Mr. Rapozo: It's just a question. You mentioned workshop, that, you know, you would be willing to participate in a workshop.

Mr. Ornellas: Yes. I think that we need a lot more input on this bill before you make a decision.

Mr. Rapozo: I agree and it's important when you have a workshop you have the stakeholders participate, especially in the cases that you talked about because those are the unrepresented ones that, you know, won't come here and testify. Thank you.

Mr. Kouchi: Mr. Kaneshiro.

Mr. Kaneshiro: Jerry, the reason for calling it agriculture is because, instead of resource, we have different categories, right? We call this a resource category. And part of the reason, isn't that also because of the important ag lands that has been passed by the legislature, to be in conformance at least when they finally recognize important ag lands, so identifying important ag lands?

Mr. Ornellas: That's correct, Chairperson Kaneshiro. In the entire 147 pages of the bill, important agricultural lands are not mentioned once. And I understand that we haven't mapped these lands yet, although this body has appropriated \$500,000 to do that. You know, it may be short-sighted not addressing that issue now, although I realize that there are some real impediments to doing that because of legal issues. You know, we can't tax these lands differently than we would tax any other farm-owning person.

Mr. Kouchi: Any other questions for Mr. Ornellas? If not, thank you very much, Jerry. Next speaker please.

Mr. Bynum: Thank you, Jerry.

Ms. Iseri-Carvalho: Jerry, just, if.

Mr. Kouchi: Glenn, if you could one second?

Ms. Iseri-Carvalho: Do you kind of have a deadline? Sorry, do you kind of have a timeframe on when you could get that information to us?

Mr. Ornellas: Oh, we can get it in a couple of days. It shouldn't be a problem.

Ms. Iseri-Carvalho: Perfect. Okay. So, you'll drop off hard copies or you'll send them email?

Mr. Ornellas: Yes. We'll be more than glad to do that. And as a final reminder, since I'm here, you know, I forgot to say, you know, we really...we cannot legislate farms into existence and we need to keep this in mind. We need to take the really long approach on how we treat our agricultural lands because although we don't have enough farmers to use these lands right now, the day will come when we're going to need them. And we shouldn't...we should be very careful about how we proceed. We especially want to protect our ranchers because I think ranching is a very good interim use of our lands. So, we need to be careful how we tax them. You know, they're not a very high margin operation. Thank you.

Mr. Kouchi: Well, I'll say thank you, not the commercial I thought, Jerry, but you'll have to do that soon because the County Farm Fair starts next week Thursday. So (inaudible).

GLENN MICKENS: For the record, Glenn Mickens. I certainly appreciate Jerry's testimony and agree with him 100%. You have a copy of my testimony. Let me read it for the viewing public. At the August 13 public hearing, a group of citizens testified in favor of retaining the present 2% annual cap on property tax liabilities for resident homeowners. The Council should probably listen to and accept these views. One view appearing in the Garden Island, it was yesterday or the day before, is that if inflation is at a 5% annum and the cap is at 2%, then 3% per year is being added to the taxes of other categories. Under the data presented, the bill would make the annual taxes payable by the residential class about \$9 million. Yet because of continuance of the cap, 3% is being shifted to other categories, that would amount to less than \$300,000 per year. But the bill data shows that over \$4 million of taxes are being shifted from the residential class to other categories because of the exemption and lower rates. Why does a councilmember accept the \$4 million but quibble over the \$300,000?

Another view that was made is that the cap is unfair to first-time home buyers. Your citizens are telling you that stability in tax liabilities for 11,000 owners is more important than precise equality in taxes between similar properties. But even if you don't accept that, simple arithmetic will show that no inequity occurs. The median price for a Kaua'i home is now about \$600,000 or \$700,000. A first-time home buyer would not be likely to buy a home for a price greater than the median. Under the bill, the tax on that value for a first-time buyer would be about \$800 per year. Now let's compare that with an owner who bought his residence a few years ago for \$400,000 and has been protected by the cap. That owner would be paying about \$1200 per year at present. So, the reality is that under the bill both would be paying \$800 and no injustice actually occurs. Councilmembers, please act for your constituents and retain the 2% cap.

Mr. Kouchi: Thank you, any questions for Glenn?

BEN BREGMAN: Mr. Chairman, Committee members, my name's Ben Bregman, and first I would like to thank you very much for your hard work on this bill. Here on Kaua'i we have a very perplexing issue in the fact that there are so many diverse uses of real property compared to what most counties have to deal with, whether it might be just ag or industry, and here we have stuff that's as far as cattle ranching to time sharing and everything in-between. So, I strongly recommend that you follow the suggestion of the gentleman from the Farm Bureau and that we have a workshop so that we can take the time and see what the effects of this bill have on each and every different form of real estate ownership and therefore, that you can weigh the pros and cons of the effects that additional tax bases will have on those forms of ownership and that's all I have to say at this time. Thank you very much.

Mr. Bynum: Thank you.

Mr. Kouchi: Any questions? I guess the only clarification I would make is that we've had a detailed presentation through the PowerPoint from the Real Property Tax Department in the Committee once. Then in advance of the public hearing, we went page by page till almost 9 o'clock or 9:30 at night including a template that had 52 or 56 examples of that soup-to-nuts that are in the variety of categories that we've had, and then been back to the Committee again today and taking testimony. So, you know, in my mind if you think that another workshop or

discussion session may be warranted, you know, we certainly have the third scheduled, but I, you know, really don't want people to get the impression that we've not had that kind of detailed opportunity for the community to participate and they have all been publicly noticed meetings. Sometimes it takes the meeting on TV or the report in the newspaper for somebody to really realize, oh, I didn't know that was going on and that's why we're saying today again, we're not going to act on the matter today. At the earliest, we'll have it back on September 3, so there would continue to be opportunity for written testimony, electronically delivered testimony. You can, you know, mail it in. You can call the Councilmembers and come forward, but again, there's been several opportunities already for that detailed discussion to occur, and we continue to create at least another two opportunities for that to happen.

Mr. Bregman: May I just respond for a moment and this is just for my own understanding. For instance I had taken the time to read the bill on-line that was put on-line so that I could be better educated on the ramifications. And as I pointed out, I had no idea that a little parenthesis by a number meant that that particular part of the bill was going to be deleted. So, I think there was confusion, obviously none done intentionally. But for a lot of us, we felt that there was language that was in this bill that obviously dealing, everybody deals from where they sit, we felt that was okay and we could live with, and it turns out that because there was a parenthesis around that number and it stated that in the very front of the bill that there was a parenthesis for those that are not in the legislative business didn't realize that was being deleted; therefore, now we come to realize that it's a whole different set of cards that we're dealing with. So, again, I can only speak for myself when I say that yes, you are absolutely right, there was plenty of opportunity, but it only is recently that I have come to find out that what I thought was contained in this real property bill was actually being deleted because of the way it is posted on the Internet. Thank you.

MIKE DYER: Mr. Chairman, Councilmembers, for the record my name is Mike Dyer. I sent in a letter as a follow-up to the testimony that I had made previously. The letter represented somewhat of a change from what I presented in my testimony. I consulted with an attorney named Walter Lewis and he suggested some refinements to what I, my sort of idealistic idea of having, you know, just other taxpayers from the district come in and take over the Appeal Board function. He suggested using an arbitrator, and when I thought about it, that seemed like, to me, to make good sense. In deciding whether or not to mess around with the appeal section of this bill, I'd like to call our attention to the fact that the cap has been on residential homesteaded properties for three or four years now. Residents really haven't been paying that much attention to their assessments because their taxes have been capped. And as I mentioned before, I appeal a lot, so I'm in there and know that it's the non-residents who are appealing except for a few, very few residents who are homesteaded who realize that at some point the cap may come off and that that assessment that underlies their tax is going to mean something at some point. So, one of the reasons I think the appeal process becomes more important is the fact the you are proposing to take the cap off. You may or may not, but you're proposing to take it off. That means you're going to get a lot of appeals from resident homeowners, which is a lot different than having non-resident homeowners appealing. So...and you're also going to raise the rate by a lot. By 2011 you're going to be charging \$100 per appeal instead of \$10 per appeal. The taxpayers should be getting better service for this...in this process, particularly as the price goes up and you will be able to afford to pay an arbitrator and in fact come out ahead, I believe. Thank you.

Mr. Kouchi: And the issues that you raised in your letter were part of the communication that went over with the list of questions.

Mr. Dyer: Yes.

Mr. Kouchi: I'm telling you that's what I sent over.

Mr. Dyer: Oh yeah, okay.

Mr. Kouchi: I read your letter and forwarded the concerns to the Real Property Tax Department for a response.

Mr. Dyer: Thank you.

Mr. Kouchi: Ms. Yukimura.

Ms. Yukimura: Under the system of arbitration, do you see that there would be no appeal to the courts? Is that how you see it working?

Mr. Dyer: No, you know as a matter of fact, there are a lot of akamai taxpayers who just jump right over our Appeal Board anyway. This is a big burden for people of lesser income, but high income taxpayers who feel aggrieved just skip the appeal process and go straight to the tax court. So the tax court, as I read it, the tax court would still be another avenue but, you know, people wouldn't go to the tax court if, which I have not done, but I understand it involves going to Honolulu and generally having to hire an attorney to carry out that process. We really should have an appeal process that's a little more user friendly and local. But I'm not proposing to skip the tax court. That's, you know, it's in there still.

Ms. Yukimura: Okay, thank you.

Mr. Kouchi: Any other questions?

Council Chair Furfaro: Yes, I have. Thank you. What do you think the percentage of the discrepancy should be for an actual appeal?

Mr. Dyer: I think 10% is fair. I think the numbers are a lot bigger now than they were back when the 20% went on. So, yeah, we're dealing, you know, with a fair amount of money in these cases. Ten percent seems fair to me.

Council Chair Furfaro: And I think in the change going to potentially 10%, obviously you pointed out that we're going to have to deal with a lot more administrative process lowering that appeal to 10%...

Mr. Dyer: Probably so.

Council Chair Furfaro: ...which adds to cost, which probably adds to the, you know, the rationale of the charge, the potential charge.

Mr. Dyer: Correct.

Council Chair Furfaro: I'm just sharing that with you, Mike. I see the Administration's, you know, point there and possibly they're going to be dealing with a number of more, a larger number of appeals.

Mr. Dyer: Yes, but the Administration's bill also says that we're supposed to arrive at fair market value and we need to get close to it. We're not...I'm saying it appears to me that we're not getting close to it a lot of times now and the public should have a right to get close.

Council Chair Furfaro: Well, as the pendulum swings with the valuations, I understand your point. Thank you.

Mr. Kouchi: Thank you.

SCOTT MIJARES: Good afternoon, Council. My name is Scott Mijares. It's nice to be here this afternoon. Over the past few weeks, I've had an opportunity to really sit down and talk with most of you. Some of you I haven't had yet, but I'm looking forward to it. And I want you all to know that I really, really truly appreciate, you know, what you do and individually I think you all are very, very smart and you're very attentive and you know the issues, and I hope that my testimony doesn't offend you, but I do have some news that I'd like to bring to light. I was here last week testifying about how important it is for families to purchase their first home and how they really rely on the cost when they go into the decision to make the purchase of a home and that that's important for them. We need the security to know that when we go into a home, we don't have to sell it because of taxes. And I really feel that, I'm having a hard time getting my arms around this tax bill because it fails to address security. I mean most families and homeowners want to know what they can expect. And although this tax bill has promises of lowering many people's taxes and in fact it might; I don't know that for a fact because I haven't seen the numbers yet; it fails to give us something that we can hang onto. And I might be wrong, but I think that the bill has the rate, but there's no process on how the rate is determined and so that's an unknown that gives us a lack of security. And I wanted to go further and say why personally I feel insecure about it and as you all know, we've had property tax values have increased across the State at a pretty wide margin. I have a couple of reports here that are produced out of Honolulu, you know, that outline the property tax values and in fact across the State from O'ahu to the Big Island, to Maui, Kaua'i, property values have gone up considerably. From 2005 to 2008, that number is somewhere around 30, 35%. Every county except Kaua'i has lowered their tax rates as we've seen the assessments go up. Kaua'i has not. And I wonder why have we not lowered our tax rates? We're putting an additional burden on our citizens as these values are going way up and while every other county in the State is lowering their tax rates in some way or another, Kaua'i has failed to do that. We did have a little tax break of a nickel, I think, in 2008 on the base. So, when you're asking people to trust you, that you're not going to over tax them and that this rate is going to give them in fact a property tax break, how can we trust that because maybe some citizens might feel like you haven't been looking out for us for the past few years. I hear the bell, so. I sense there might be some questions.

Mr. Kouchi: Thank you. Any questions?

Mr. Kaneshiro: I have one. How many of the other counties have a 2% cap.

Mr. Mijares: I can't answer that.

Ms. Yukimura: Nobody.

Mr. Kaneshiro: Okay, none.

Mr. Kouchi: I just assumed his first part of his testimony answered the second question he was asking himself, so.

Mr. Mijares: Well, but let me follow up, let me follow up. Because if you look at the numbers...

Mr. Kouchi: The answer was no, so...

Mr. Kaneshiro: The answer is no.

Mr. Mijares: Okay, I think that's a little unfair, you don't let me rebut that. That was a trick question.

Mr. Kouchi: That's a trick question? Any other questions?

Mr. Mijares: Somebody ask me a follow-up.

Ms. Yukimura: Well, the...

Mr. Mijares: ...if you're interested in the answer.

Ms. Yukimura: But the answer is correct. Rather than lowering tax rates, we put a 2% cap on and therefore, kept a control. Unlike other counties, people's taxes didn't skyrocket because of the 2% cap. So, it's just two different ways of trying to keep some controls on the taxes. And I guess, my question is...the...well, and then I think we did lower the tax rate by \$1 on land in every category in 2005.

Mr. Mijares: I'm not seeing that in my report.

Ms. Yukimura: Okay, I believe that can be verified by the Tax Rate Ordinance that we pass every year. So, there have been attempts to control it. And now, you said you're not sure whether taxes go up or down under this proposal...right?

Mr. Mijares: Well, we don't know really and there's nothing in the bill that gives us the rate. I mean, we're getting some presentations on what we think the rate might be, but that's a moving target.

Ms. Yukimura: Right, but you can pretty much assume that's the rate we're looking at now. I mean, we can't set the rates until we set the rates, you know what I mean. So, there's a rate setting process in the ordinance and that's what we follow at budget time. It is related to budget and that's the time we do it. So, if you assume the rates we're looking at, you can apply it to your property and see what will happen to your property or to various properties. And it's an important exercise for people to do because I think it shows that we're very much trying to keep taxes low or workable for people. But can't eliminate taxes altogether because they form the bases of our services: police, fire, roads, parks...

Mr. Mijares: No one's suggesting that, yeah.

Ms. Yukimura: Well, but we are also looking ahead at the economic situation where valuations may go down. And, you know, if we set things too low right now, I mean, we may have to raise them even higher later. So we...to give

some stability, we can't go too low because we have to think about the future and the needs. I mean, this is not a theoretical exercise. These are real needs: police, fire, road, etc.

Mr. Mijares: No one's doubting that.

Ms. Yukimura: And if the economy turns down too, CIP projects will become more important, you know, in terms of keeping some construction going in the economy. So, there's many things that we have to think about in terms of how we're going to keep everything together on this island, especially in a time of economic downturn.

Mr. Mijares: Right.

Ms. Yukimura: And, you know, I mean look at that, we lowered the rates for hotels in 2005 and we might be just restoring that cut right now back to normal, so to speak, and there's a whole hue and cry because they think we're raising it, you know. So, we have to take some long-range view on this, not just the next year.

Mr. Mijares: I'm mostly concerned with the residents. I mean, and even though we have the 2% cap, if you look at the growth of our tax base year over year and you compare it to our taxes collected from the homestead class, they go lockstep 30% increase in valuation, 30% increase in tax collected from that category. So the 2% cap isn't being taken advantaged of by that many people because the taxes collected, the same ratio matches with the increased valuations. The numbers are right here.

Mr. Kouchi: You know, I'm not going to really belabor this, but, you know, if you talk to anybody who was involved in the real estate business, during the last run up in the market, there were a significant amount of parcels or homes that were being rented out that converted into home ownership because people who had secondary properties with the prices that were being offered were now willing to sell their rental properties and realize that capital gain. And so, the homestead class, by total number of inventory, has significantly increased from one year to another and you're picking up 100% of that market value. The cap is the cap for people who have been in that dedicated area whether it's been 6% or 2%, so you go do the math. The assessed values state-wide went up 35%. The tax rate reduction is probably 10% or less in those categories, and so the myth now is I lowered your taxes because I cut your tax rate, yet I collected 25% more revenue. So, there was no...

Mr. Mijares: So that's not what happened on Maui.

Mr. Kouchi: There was no reduction that happened across the State and the cap that was there was in there to protect the homeowners during that run up in the values and that's why there was no rate reduction in the homestead class on Kaua'i. Any other questions? Mr. Furfaro.

Council Chair Furfaro: Yes, just to follow on your discussion and later, I do have the Real Property Tax Table for the County of Kaua'i right off of our resolution, so I'll be glad to share it with you.

Mr. Mijares: I'd love to see it.

Council Chair Furfaro: What we have is we have a reverse of these values now as the pendulum swings the other way and when we had double-digit growth, we now are looking at growth at 2.1%. I think the other term I want to share with you because Councilmember Kaneshiro and myself were the authors of the 2% cap as a temporary move until we found ourselves re-evaluating this. And a couple pieces that aren't pointed out by you is we did not make a number of years where they had to dedicate their home. So that if they took the dedication and the tax credit now and they sold it, there were no penalties. They did not have to go back. I mean, so there was a lot of consideration in doing something to position and protect and put predictability in the plan. It wasn't a trust thing, okay? And clearly you have to understand, the rates are not determined until we understand, as Councilwoman Yukimura tried to point out, our capital and operating expenses for the year, as we have many deferred items that we're now putting on our radar screen. So, there's many variables, Scott, and I'll be glad to meet off-screen with you.

Mr. Mijares: No and I would certainly love to be a part of any workshop that is put together because I'd love to learn more about it. I guess my message is is that couldn't we put something in this bill that gives people peace of mind that they don't have to try to worry and guess when their assessment comes in and when their tax bill comes in, and really, you know, be traumatized? Isn't there something we can do within this bill that will give some predictability and not leave so much to chance?

Council Chair Furfaro: Scott, I just answered your question earlier, how we arrived at that. I did not pose a question to you to extend your time, but thank you.

Ms. Yukimura: In answer to your question, actually the permanent homeowner bill in its original form gave great stability to people. It gave a 2% cap if they promised not to sell their property for 10 years. And, you know, that actually makes more sense than to say you can have a 2% cap and you can sell your property for the next year. You can say my property value is really stable and I want stable taxes, but the next year you sell your house for a million dollars, you know. So...

Mr. Mijares: We're not talking about people who want to sell their house. We're talking about people who want to stay in their houses.

Ms. Yukimura: No, no, well, but this is a way for people to stay in their houses. To know that their... These are for people who aren't intending to sell their houses, who want to live in their houses and therefore, in exchange for the stability to government, we're not going to sell, and they get to stay in their houses, they get a 2% cap. When you disconnect the 2% cap from the promise to stay in your house, that's when you have all of these inequities because people want to have their cake and eat it too. They want a stable value as long as they want to stay in it, but as soon as they want to sell, they want a higher value, you know. And this a... The property taxes evolved as a valuation tax. So, but we also try to put in things like ability to pay because we don't want people to be thrown out of their houses or forced to sell. So, we've tried to... to key that so that that doesn't happen. And where there are situations where that is happening, like that young man who talked about his taxes being \$24,000, I mean that's, you know, really an intolerable situation. And that's where we need to make the corrections. But in most cases where people, you know, are paying, what, somewhere between \$1,000 to \$2,000 per year and solid waste costs alone per household are about \$1,000 plus. How do we

pay for all our services over time? One of the ways we pay is defer maintenance, you know. We just don't do the kinds of things that businesses do and others do because we don't want to raise taxes.

Mr. Mijares: I'd love to be a part of a workshop. I'd just like to say we need to make our government more efficient too, so it isn't a thousand dollars for solid waste. Thank you.

Ms. Yukimura: I agree with you. I think that's a good point.

Mr. Kouchi: Ms. Iseri-Carvalho.

Ms. Iseri-Carvalho: Thank you, Committee Chair. I just wanted to announce that I have a preplanned off-island trip and I need to run to catch my flight. So, Bruce, I apologize for not being able to hear you, but I'm sure you're free to share your sentiments to me when I get back. Thank you.

Mr. Kouchi: He sent the email already. Easy, efficient. So I'll just note, though, for the record for the purposes of vote counting that both Councilmember Iseri-Carvalho and Rapozo have submitted letters of excuse. So they are now excused and we have five members present for the remainder of the Committee of the Whole. Bruce.

Councilmembers Iseri-Carvalho and Rapozo noted excused from the meeting at 2:34 p.m.

BRUCE PLEAS: Bruce Pleas, for the record. The main points is the caps need to be kept in some form, somehow. Ten years is fine with me. I'd sign it. I plan on living there. I have tried to get Councilmembers to realize caps need to be there. An example is my taxes five years ago was around a thousand dollars. Without a cap, it'd be, at the rate of fair market assessment, be somewhere around \$2500, you know. I mean, that's a lot. I mean, I pay \$3,000 for insurance on the house too. So, you know, that's just like...This just adds up. So, the caps need to be kept in there just so we can exist. I mean 2%; that's all I can afford.

As I mentioned before, the tax ratio which is in section 5A-6.2(d) needs to go through the same legislative process as the real property tax rate. I just can't stress this enough. As it's written, all it is is "The tax rate for net taxable building shall bear a higher ratio to the tax rate for net taxable land within each class." It has nothing in that section that says how that's going to be done. So, all I ask is that for the rate, which is the section before, is that the rate, you have to advertise the intention, you have the public hearings and that. So, I think the ratio needs to be that open of a process. I'm split as to whether the ratio, you know, should be 3:1 and be what it is, but I have faith in the Council, as long as it's an open process for the public to comment, that we can live with the ratio.

On the Kuleana Lands, that's section 5A-11.23, I think that section should be exclusively for Kuleana Lands, Royal Patents and such. I don't believe the public utilities should be into that section. It should be separated. It's in my written testimony I gave you. The only thing I'm concerned about is basically I think the land should be kept at a minimum, say \$25 or \$50, the rate for the land across the board. I don't care whether it's acres or square feet or what. This is kanaka maoli land. They have the Royal Patents, they have everything. So, it's theirs and should be cheap. What I would like to see, though, is the building use on that land be charged for the use. So, what I see is if you charge...

Mr. Kouchi: Was that the...

Mr. Pleas: Okay, if you charge \$50 for a Kuleana Lands, if you allow them just to build whatever they want on it, I see danger as resorts going in or something because there's money. So, I would like to see any building use charged at the use rate for the County. You know, this may not be popular with some people, but I think if we don't we're digging a hole for ourselves, that we can get a higher use and not get the moneys, the County, for the use of what that land is being used for. This way in ag lands that they keep, they would be paying \$50 a year and that's it, but once they start building on it, which I don't think most of them want to, that they would, you know, they would have to pay that rate.

Mr. Kouchi: Question, JoAnn.

Ms. Yukimura: According to those who have been promoting the idea of the kuleana lands, they have, and I believe it's in the bill that the use be traditional use, and it includes a house for the person who tends to the taro, but not for vacation rental and that kind of use. So, if it goes into that kind of use, it's not qualified for kuleana category. I believe that's how it's written. And then my other question is, don't you feel that the ratio would be embodied in the tax rates and that will come out through the tax rate process? I mean, you'll see what the ratios are when the rates are proposed and that's how to actually implement the ratios.

Mr. Pleas: If the ratios were in the same section as the tax rates, yes, because then it would be specified in the ordinance. But with it being in a separate section, I don't think the...it...to me, it isn't clear enough that it would be included in the tax rate.

Ms. Yukimura: It's the ratio and rates between land and building, so it almost has to be. I mean, not almost, it has to be period.

Mr. Kouchi: The land and the building are valued by the market and so to get to a ratio, there needs to be this parity in the tax rate that you assess to a building versus the tax rate that you set to land. But land and building are valued by the same monetary amount. There's no difference in the valuation, but it's how you set the tax rate. That's why it's important to continue that published tax rate, but we're required by law today to adopt a tax rate by resolution, publish it in the newspaper, go through the second reading as opposed to one reading for a resolution. So, there is already a defined process about how tax rates are set and the bill is just reinforcing that you're not going to deviate from the current process. But as Councilmember Yukimura says, the ratio gets defined when you say how much tax rate goes to the building, how much tax rate goes to the land because the land is just valued per thousand.

Mr. Pleas: Okay, so you feel confident that would be in the public view.

Mr. Kouchi: Absolutely, it has to.

Council Chair Furfaro: Obviously by law it has to be posted.

Mr. Pleas: As long as you feel confident.

Ms. Yukimura: Yeah.

Mr. Pleas: Okay.

Ms. Yukimura: I mean, your point about it being a public process is well taken and I think it's actually achieved by the present process where we have to go through a very rigorous procedure to set rates.

Mr. Pleas: Yeah, I've been through that.

Mr. Kouchi: And again, Real Property's suggested draft says, you need to continue that very public process.

Mr. Pleas: Thank you.

Mr. Kouchi: Thank you, Bruce.

Ms. Yukimura: Thank you very much.

Mr. Kouchi: Next? Anyone else who has not registered that would like to speak, please come forward. Barbara.

Council Chair Furfaro: Thank you, Bruce.

BARBARA ELMORE: Thank you. My name is Barbara Elmore. The person that had the question, I don't remember who it was, about the bracketing and underlining didn't read the last paragraph in the bill which explains that.

Mr. Kouchi: And he just said that he apologized because he was not familiar with legislative drafting.

Ms. Elmore: Yeah, we all had to learn that at one time. I have a few things, but first I do think you should keep the resort category for single family vacation rentals, absolutely. They have a gold mine in areas that were not...they really weren't allowed to do that in. It's something I would not do to my neighbors, bring a business in, into one of the homes in the neighborhood and bring paying guests in and out, so that is a resort.

About the appeals process that was discussed, I never thought, when I heard that suggestion, that it was a good idea to have a group of citizens do the appeals from that locale because that could lead to all kinds of problems. So, I'm glad to hear him change his mind about that.

It's really interesting to hear real estate people talk about fair market value. They themselves are a major reason why prices have skyrocketed and a few years ago I wrote a letter to the Garden Island on that very subject if anybody wants to Google it, but they flip real estate. When a really good buy comes along, they snap it up before anybody in the public can get a chance to even look at it, much less bid on it. Realtors do not inform their customers properly and we saw that in the ADU law in the VDA area information that they did not give, false information or misleading information they gave about the CZO to their customers, and so they're not unbiased, fair, objective parties. And they have no fear of being reprimanded by the Real Estate Commission. When a real estate agent negotiates a sale, he or she is required by ethical standards and common sense and by law to tell the truth and not give clients misleading or incorrect or incomplete information, and I'm afraid that's been done over and over again.

The person that talked about other counties lowered their rates, but Kaua'i didn't. I think Kaua'i is worth more and people should be happy to pay more taxes for the honor of living here. Kaua'i is the crême de la crême of the State of Hawai'i and if that is so upsetting to people, they are always free to move to the other islands and get a lower tax rate. If they think they have it so great there, just, you know, go where the rate's lower.

Oh, I hear...just one more second. Somebody talked about giving us peace of mind by keeping the caps, but nobody ever says, assure me right now that the price I paid for this property is the maximum price I can sell it for in 5 years or 10 years or 20 years. They want to double their profits when they sell, but they want you to guarantee to keep the caps. So, if they would be fair on both sides, that would help a lot. Thank you.

Mr. Kouchi: Thank you. Since we are going to the second round, you know, I extended you that time. Any questions for Barbara? If not, anybody else who hasn't spoken once that would like to speak again? Anybody who testified once that would like to come back. If not, I'll call...Mike.

Mr. Dyer: For the record Mike Dyer. I don't want to get too much into Jerry's venue, but I am a Farm Bureau member, so I want to ask about on page 58, 5A-9.1(C)(3)(c). It appears to me that the way that clause is written, if a property, an ag property under 5 acres in size...

Ms. Yukimura: Where? I'm sorry.

Council Chair Furfaro: Page 58, Mike?

Mr. Dyer: Yeah, 58.

Council Chair Furfaro: Item 5? Did you say item 5? 5C?

Mr. Dyer: Yeah, the one about if you're under 5 acres and you haven't been in farming for the preceding 5 years or you can't qualify for this special...

Mr. Kouchi: Mike, the only reason I'm going to interrupt you is that we have a technical amendment that needs to resection. So, if you look at the technical amendment that you've been handed, the section that Mike is referring to in this one is page 56 in the middle of the page.

Mr. Bynum: Oh, got it, thank you.

Mr. Dyer: I have an original version I guess.

Mr. Kouchi: Right, but we're at the same place.

Mr. Dyer: So I got the one that starts "Must have been engaged in..."

Mr. Kouchi: Correct.

Mr. Dyer: ...qualifying farm use..."

Mr. Kouchi: Yes.

Mr. Dyer: Am I reading that correctly?

Mr. Kouchi: Yes.

Council Chair Furfaro: "Must be and currently employed..."

Mr. Dyer: In farm use.

Council Chair Furfaro: "...in qualifying farm use."

Mr. Dyer: In other words, you can't come in as a new farmer with an under 5-acre parcel and qualify for special ag use?

Ms. Yukimura: I believe that's correct.

Mr. Dyer: Does that mean there's no way ever to qualify for the special ag use?

Mr. Kaneshiro: This is in conformance with the current Agriculture Bill. If you look at the current Ag Dedication Bill, in order for you to dedicate your property to be qualified for doing ag, you have to prove that you were 5 years in the business of doing ag under that 5-acre property to be able to qualify for this dedication. So that is in the current bill right now.

Mr. Dyer: So you're doing away with dedication but you're continuing that particular...

Mr. Kaneshiro: Well, this is part of what, yeah, they are proposing. This is a proposal that came from the Administration to the Council, but I am working with the ag people. I am working with the Farm Bureau to address this also. Because currently, the way the bill reads, there's no more ag dedication once this bill is adopted.

Mr. Dyer: Right.

Mr. Kaneshiro: And probably that's why they have that in here, because of that. And I can probably throw it on the table right now, but my proposal is that we keep those that are still in ag dedication, whoever it is, whether it's 10 years or 20 years, and let them make the choice if they want to get into this new ag, our new adopted ordinance, and if they do, you know, they won't be charged a (inaudible) back tax from getting out of the 10-year permanent or 20-year permanent ag use. But currently this language comes out of the Ag Dedication Bill, straight out of the Ag Dedication Bill.

Mr. Dyer: Okay.

Mr. Kaneshiro: So, just clarify it somewhat.

Mr. Dyer: Am I reading it correctly then, a new farmer who comes in, acquires a 4-acre parcel, cannot get this special ag use even if they...

Mr. Kaneshiro: That's correct.

Mr. Dyer: ...do 75% of land in...

Mr. Kaneshiro: That's correct.

Mr. Dyer: ...legitimate ag use.

Mr. Kaneshiro: And that's why I have some concern and I'm trying to address that as we work on this bill, as we work along on this bill. You're correct.

Mr. Kouchi: Because the policy is supposed to encourage agricultural activities.

Mr. Kaneshiro: We realize that, yeah, but that language, like I said, was taken out of the current permanent Ag Dedication for either 10 years or 20 years, and we're trying to work on this language too.

Mr. Kouchi: Ms. Yukimura.

Ms. Yukimura: Mike, just a minute. Your concern about this language is that someone would have to operate for 5 years without ag resource land category to prove that they're a farmer before they can actually get the farm land break, right?

Mr. Dyer: Right. It wasn't really clear to me reading that list of requirements, whether it was an either/or thing or that not qualifying under any one of them would preclude you from getting the special ag exemption. Yeah, it would perhaps be helpful as Councilman Kaneshiro says to look that language over and see if it really gets at your intent. Because, you know, a new farmer could come in from the mainland or something like that or from another island and have some great idea and want to start from scratch, but, you know, end up paying for the first 5 years when you're really struggling anyway, probably paying a really high tax rate, that's all.

Ms. Yukimura: Right, okay, thank you. That's a very good point.

Council Chair Furfaro: Oh no, I just wanted to share with Mike that Councilman Kaneshiro had serious questions about that earlier on and he's doing the research, so.

Mr. Kouchi: Anyone else?

Mr. Mijares: I just wanted to take the time...Scott Mijares...I just wanted to take the time to come back. I'm afraid I allowed my report that was produced by the State to be minimized in my previous testimony and I just wanted to reiterate, even with a 2% cap that we have in place for the homestead class, the tax collections from our homestead class have increased by 50% over the past three years. Based on these reports that are available to all of you, they've gone even more so than the actual tax base. It went from 2005-2006 tax year from \$4.4 billion, in 2007-2008 \$6.4 billion, that's a 42.5% increase in tax base or valuation. In the same tax period, the same periods, the taxes collected by the County in the homestead class with the 2% cap in place have increased from \$13.6 million to \$20.5 million, a 50% increase in collections. And this is not consistent with what's taken place in the other counties and that was the point I was trying to make. Basically, we've been overtaxing our citizens on Kaua'i.

Mr. Kouchi: Ms. Yukimura.

Ms. Yukimura: I believe Mr. Kouchi tried to explain that there was a huge influx, an increase in the number of units in the homestead class because...

Mr. Mijares: Are we the only County that experienced that?

Ms. Yukimura: Yes, because we gave such a huge break to homeowners and that's where the increase came. Not from the existing homesteaders, but from the new homesteaders that came into the class.

Council Chair Furfaro: They came in from the residential category, they came in from the apartment category and so forth because that bill was available to them.

Ms. Yukimura: Right.

Council Chair Furfaro: So...

Mr. Mijares: That all sounds good but that's not the case in my personal situation. I've seen the value of my building and property increase by over 200% in the same period.

Ms. Yukimura: But your taxes have not, right?

Mr. Mijares: If I didn't have the 2% cap, they wouldn't have. But the fact is only 800 out of the 11,000 are taking advantage of the 2% cap.

Council Chair Furfaro: If I can just share a quick summary with you.

Mr. Mijares: Okay.

Council Chair Furfaro: There are about 12,700 people that qualified for the 2% cap. Ten thousand of them are in that homestead category, okay? Secondly, with the cap in place, the potential revenue that existed because people were in apartment category or residential category actually resulted in about \$13 million change in our total tax collection in favor of people who signed up for the homestead. But I think Councilman Kouchi tried to flag that item for you that we had a number of people that seeing this predictability in that category flocked to register and that contributed to the, a very large increase in those numbers reported by the State. I hope I've helped to answer that, but I'll be glad to meet with you afterwards, Scott.

Mr. Mijares: Okay.

Mr. Kouchi: Well and of course, those who owned their homes and sold their homes and now the home was picked up at the new value is another reason the homestead class would increase and the statistic you should look at in the State report is how many new home start constructions were in each of the four counties and you'll see that Kaua'i County will have the lowest amount of new home starts, so it's been a resale of existing inventory and that's why the Kaua'i numbers are exacerbated because there is a shortage of new inventory available. And that's why you get the pent up demand prices for those second properties and owners willing to sell. I mean, it's very simple and basic economics of supply and demand that has created that situation and you file your homeowner's exemption, you qualify for the cap. There's no more dedication or anything else now. Mr. Bynum.

Mr. Bynum: So, Scott, these issues are really complex and when you do the math, it's difficult because you got to look every which way. There's nothing more complex than the County does than collect taxes and so we've heard

people talk about their concerns about loss of the 2% cap. What I haven't heard in the testimony is an acknowledgement that the homeowners' deduction will go from 48,000 to 300,000 or more and you acknowledge that. Is that correct?

Mr. Mijares: I think that number helps out some people, but there's a vast number of people that that doesn't help out enough.

Mr. Bynum: Okay, and in all of the analyses I've seen, the average homeowner who has had the cap, even though with this new deduction and the rates that are proposed, will have a decrease in their taxes. This will be a very large, in my view, decrease in taxes to the homeowner class if we enact it. Correct?

Mr. Mijares: That sounds great, but what guarantee do we have in the future? And that's all I'm looking for, it's the stability, you know, the stability, to be able to sleep at night the month before you get your tax bill and assessment.

Mr. Bynum: And those folks who, for one reason or another, need to sell their home, maybe they want to downsize because their children are gone and they want to move to a smaller unit or maybe their children put the resources together to buy their first home, are taxed at a much higher rate than those people who've had the taxes even for similar properties and that, for me, is an issue, or they're taxed at a higher tax bill than the people who are in the very same home next door. So, it's a disincentive for people to move up if their family grows or to move down if they have less of a need for a home. And so we create artificial reasons that people don't stay in their home or don't make the normal kind of changes because they're worried about losing the cap and starting over again. And so, this bill, in my mind, is an attempt to get back to a fairness across those tax bills and still reduce taxes for the homeowner class by curing some of the difficulties we've had in another class, the resort class with time shares in particular, who have been getting a great deal on the backs of perhaps homeowners, right? So, it's a really complex issue and so I just want an acknowledgement that the 2% is not going away and everybody's taxes are going to go up.

Mr. Mijares: Right.

Mr. Bynum: The 2%, if it goes away, is being replaced by other mechanisms that, in my opinion, create more fairness in the system. So, thanks for that.

Mr. Kouchi: Any other questions? JoAnn.

Ms. Yukimura: I would really like to see specific instances, if you could submit them to me where people are not, they're going to be left in a terrible position under this tax bill, like tremendously higher taxes.

Mr. Mijares: Would that influence your decision on how you vote for this bill?

Ms. Yukimura: That's why I'm asking for the information.

Mr. Mijares: Okay.

Ms. Yukimura: Because I want to know how people will be impacted. That's why we have a public hearing because the only way to get that information is for people to look at their situations, their associates' situations, or,

you know, their business situations and tell us, look, your bill, it's going to cause this for us or it's going to cause that for us and it's not fair. I mean, we, you know, we can't just lower...I mean everybody wants lower taxes. Well, we have other goals as well in this County that really benefit everybody that we have to keep in mind too. So, but yes, if there are...because you said, you know, I mean, in response to Councilmember Bynum that there are some people this bill is not going to help and in fact is going to terrify them and I'd like to know who they are and how they're impacted.

Mr. Mijares: I will get you a list...

Ms. Yukimura: Okay.

Mr. Mijares: ...with some numbers and assessments.

Ms. Yukimura: That would be really helpful.

Mr. Mijares: Okay, thank you.

Ms. Yukimura: Thank you.

Mr. Bynum: Thank you.

Mr. Kouchi: Thank you. Jerry.

Mr. Ornellas: Jerry Ornellas, Kaua'i County Farm Bureau. Regarding Mr. Dyer's comments regarding undedicated land under 5 acres. There is some relief under the new proposal in that under the old regime, that person would be paying \$6.90 currently per thousand dollars of assessed value. Under the new proposal, that rate would drop to \$3.50 whether his land was dedicated or not. It's sort of like purgatory instead of hell.

Mr. Kouchi: Ben. How can I ask a question after that?

Mr. Bregman: Mr. Chairman, Councilmen, Ben Bregman. I would just like to give Councilwoman Yukimura an example of how this bill would affect time share owners. I know Councilman Bynum made the statement that they have received a tax benefit in the past under the old legislation. Let's take Lāwa'i Beach Resort as an example, an older property. I've just received a statement giving an estimate of what their tax increase would be, to be about \$150 per interval which would equate to \$5,000 per condominium and I understand you have to weigh the pros and cons again of each particular piece of this legislation and how it affects different groups, but a huge percentage increase like that is going to have a far more reaching effect than just a \$158 added to a maintenance bill on a property that has a market value of probably about \$3,000. So, I think you need to put all of those in perspective and see that when you do have such a huge increase in such a short term, again as I've said before, you're going to have a dramatic delinquency rate and that's going to have a broad effect on the local economy.

Mr. Kouchi: I would just like to say besides Lāwa'i Beach Resort, you know, we've had a chance during the course of the morning and afternoon to talk to Peter Sit. He's still in the audience. He submitted written testimony relative to Pono Kai, which would be in a similar situation. And in that 52- or 56-sample village the Real Property Tax Division did point out specifically that Lāwa'i Beach Resort and Pono Kai would see a much more dramatic increase than other time shares because of the reasons that you've stated and, you know, but

I appreciate that you're here and you'd want to again reiterate that information for the Council. I do believe that the thrust of Scott's testimony was relative to the homeowners.

Mr. Bregman: Yes.

Mr. Kouchi: And Ms. Yukimura's question was relative to the homeowners, but as a head official, excellent move to insert your point anyway, Ben. Tim, question?

Mr. Bynum: And I, you know, I've seen a lot of analyses of time shares and I acknowledge that for Lāwa'i Beach Resort it's probably the worst case scenario because it's an older property, those assessments were set long ago, and, but it's also a measure of how much they've benefited over those years. You know, to bring them to parity with say a brand new time share project or parity, you know, requires that large of an increase, but the owners there have benefited from that tax break for all of these years, where a new time share property is impacted very, very little. And so when I saw that analysis of Lāwa'i, I knew that was going to be difficult for those individual owners, but I would encourage you to look at how that rate compares with the time share rate on Maui. It's still in, from my understanding, considerably lower on the island of Kaua'i even with the changes that we're trying to bring about. But I do want to acknowledge that, you know, that particularly for Lāwa'i Beach Resort, that's a difficult increase to get all at one time.

Mr. Bregman: Yes, Councilor, and if I may just add, as a developer, I also am a developer on Maui. I do have a resort there. And the direct results of the County of Maui's increase has caused over a 200% delinquency rate in our resort, which if I can equate to what that brings to the broad economy of the Maui County versus Kaua'i, as I've stated before, every time you have a delinquency that's like taking a plane seat away from the island because once a unit goes into delinquency, it can't be used as an exchange, it can't be used for rental nor can the owner use it. And if you look at the statistics with Maui as far as their 18% drop in visitor count in July versus our 9% visitor count drop in July of this year, a huge percentage of that can be directly attributed to the delinquency rate in time shares. So, they might have taxed themselves right of the ball game and I think the broader effect on the Maui economy is being felt.

Mr. Bynum: I want to acknowledge that your analysis is, you know, has a lot of merit. But we're not looking to bring our tax rates, even with this adjustment, anywhere near what Maui's is.

Mr. Bregman: Gratefully appreciated.

Mr. Bynum: So, I think that in the resort class across the board, whether it's time share, condominium or hotel room, we still will have one of the lower, I think the lowest tax rate in the State of Hawai'i. So, I see, and I realize that the Lāwa'i Beach example that it's a pretty dramatic increase, but as I said, it's a measure of how good a deal they've had, in my opinion, over the last 15 years or 10 years or however long that mechanism has been in place. But over...you know, if you look at the big picture, I still see it as a fairly modest increase for the resort category to bring us still with the lowest tax rates in the State. And, you know, it's true and I know it's difficult for some people in the resort category to see that, that under this proposal, that those increases will go into the pockets of homeowners here on Kaua'i and so, you know, you can't get away from the fact that if we accept

the proposal, it does shift the tax burden more on the resorts and it puts that savings into the homeowner class. So, but I don't want to diminish what you said about your analysis with Maui.

Mr. Kouchi: Ms. Yukimura.

Ms. Yukimura: Yes, isn't it really, well not the real property taxes, I mean, you could probably take that except that the energy costs are the ones that are really killing everybody?

Mr. Bregman: I guess, I'm not sure I understand that question.

Ms. Yukimura: I mean, isn't it because your energy costs are rising so much and they factor into the maintenance that that's how you assess all of these costs, right, through a maintenance fee?

Mr. Bregman: That's correct. Under Hawai'i statute time share, all of the expenses that go into running a resort are grouped into the maintenance fee and here in Hawai'i, we pay the real estate tax as an association.

Ms. Yukimura: Right.

Mr. Bregman: Wherein some states, as in California for instance, each individual time share owner is billed and assessed separately, which creates a nightmare and is a total waste of the taxpayers' dollars just in the mere operation of that standpoint. But when you say energy being the single biggest cost, in our particular resort, as an example, we've done, spent a tremendous amount of money in our infrastructure so that we can save cost, putting in timers and the different lighting issues and etc. like that. And if I may say, again, when you look at improvements, when a resort then spends money to improve itself, that then, of course, creates the assessed value, which of course creates the cycle. So, your older properties which are the ones that are in the most need of becoming energy efficient, when they decide to spend, this is taking away from money that they would use to spend because the budget is a budget is a budget. And when we sit down annually to figure out what our budget is, obviously property tax is something that can't be, that has to be paid as an association. So, we're therefore going to look at now we have to pay, as in the worst case example of Lāwa'i Beach, \$150 more out of a \$700 maintenance fee. Then, we can't spend the \$50 that we had allocated in energy, becoming more energy efficient, so we look at what's the next thing. Well then we have to cut back on our staffing and I'm not speaking for Lāwa'i Beach. Please, I'm only speaking for Banyan Harbor in which I am the developer, but it doesn't matter. All of the older resorts are going to fall under the same scenario. So, in some sense, this will cause us to look at cutting back our spending and becoming more energy efficient.

Ms. Yukimura: Well, I mean, I'm interested in how and I'm in looking into how we could use the property tax framework to encourage, you know, both energy efficient and other kind of plant upgrades that will improve and maintain the quality of our visitor plant. So, you know, that, I mean, because if we just not raise the property taxes doesn't mean you're going to spend it necessarily on energy improvements or improvements on the plant. It may just be you'll, you know, keep the fee low. And we need some of that money to pay, I mean, what is it that you said, it's \$170 per person who comes per week?

Mr. Bregman: No, \$150 per their interval week.

Ms. Yukimura: Right, right.

Mr. Bregman: An increase.

Ms. Yukimura: Yeah, okay. So, I mean, and visitors in a week will use parks and roads and police and fire and emergency rescue and all of these things we have to pay for too. So, you know, it is a matter...and how we provide those services affects whether tourists come back as well.

Mr. Bregman: You're absolutely right.

Ms. Yukimura: So everybody has a stake in a well-functioning county. And believe it or not, that's part of our motivation...

Mr. Bregman: Yes.

Ms. Yukimura: ...in trying to keep a sustained tax base so we can do these things. But I'm also interes...and it may be a better way in this whole system is if we maintain these taxes at least look at some ways to give you breaks when you put it back into the plant.

Mr. Bregman: Only speaking for myself as a time share owner and for my property, I think that's a wonderful idea if you were to give us a large percentage of that as a tax credit. In other words if you're going to give us an increase, if we're willing to go ahead and commit to X amount of those dollars be spent towards rebuilding the property and towards becoming more energy efficient, I think that's a worthy goal for both parties.

Ms. Yukimura: Okay, so the other...I mean, that has come up in the land to building ratio issue that the 1:3 works well in farm lands and open space and those places where keeping land undeveloped is really our goal. But it may not work well in resort areas where keeping buildings maintained may be our goal.

Mr. Bregman: Yes.

Ms. Yukimura: Now, I mean, I don't know that we want to really encourage a lot of new building right now in terms of resorts. But maintaining our existing plant, I think we all have an interest in that.

Mr. Bregman: Thank you and that's all I'm speaking about is the older deals.

Ms. Yukimura: So, okay, so thank you for this discussion. It has helped me. I mean, we're looking at how we can make this thing work.

Mr. Bregman: Thank you.

Mr. Kouchi: Mr. Furfaro.

Council Chair Furfaro: Yes, I think these are comments I had with you last week that Councilwoman Yukimura picked up on, but I think we all know that we need to clarify specific kinds of plant improvements: energy, total refurbishment and so forth. Because we also know through the association rules you are responsible to maintain a certain reserve fee.

Mr. Bregman: You're absolutely right.

Council Chair Furfaro: Okay. So let's...before we kind of say everything under the sun might be considered, let's realize what you're currently expected to do in maintaining your plant.

Mr. Bregman: No question about that.

Council Chair Furfaro: I think the point for example a resort like the Hyatt, they're putting in a huge improvement for energy. I mean they're covering their entire garage for the employees and putting solar heat on top of it, solar energy, for the purpose of reducing between 8 and 12% of their kilowatt demand. Those kinds of investments are things that we can talk about because they certainly benefit the whole island as well. Because then KIUC does not have to find themselves producing all of this...

Mr. Bregman: Yes.

Council Chair Furfaro: ...redundant energy and everybody kind of benefits from those, so. I just want to caution us because there are rules about you needing to refurbish the plant. And we also do know that much of our economy inventory has converted to, you know, increment ownership: the Beachboy, the Islander and so forth. So, you know, we have a higher expectation of our visitors and we need to encourage the hotel operators, the owners of leasing to constantly make improvements to keep our plant competitive so we can get better rates. And I just wanted to state that also there's so many other economic issues going on right now on the mainland, it's very difficult to singularly tie the Maui tax rate to the Maui fallen occupancy. I mean, there's credit banking issues, there's less airline seats, there's higher airline tickets. I mean...

Mr. Bregman: You're absolutely right.

Council Chair Furfaro: That exists. So, it's not one item, and thank you for the time, Mr. Kouchi.

Mr. Bregman: Thank you very much.

Council Chair Furfaro: Thank you.

Mr. Kouchi: Thank you. Barbara.

Ms. Elmore: Thank you. I'm tired of hearing the crybabies coming here and saying, give us, give us this, give us that. I'm just so tired of...they've skated all along. They've refused to acknowledge that they got a fantastic deal all along. Their property's worth 3 or 4 times what it's assessed at or what they pay for. It reminds me of what one of our Presidents once said, to kind of paraphrase it, ask not what your island can do for you; ask how you can take care of the island. When he was talking about take...you know, this might take a plane seat away from Kaua'i, well, I, all of us, I guess, have ancestors who lived through the Great Depression. People have to deal with hard times. They can't continue forever living the lifestyle they lived when times were good. I just, you know, people need to wake up. They say, give me, give me, give me, but yet I want to keep all this other and I want to live in a million-dollar home that I paid \$400,000 for. I just...Using the figures that this, Mr. Bregman, I believe, gave, he says there would be an increase of \$150 per interval. Let's say that's two weeks. That's \$10 a day extra. That's, even in hard times, that's not much more to ask of anybody. That's probably less than a hamburger and a drink would cost. And \$5,000 a year, he said per unit? There's 365 days in a year. Divide that into the \$5,000. That's only about

\$13 a day. They're not hurting. I haven't heard one of 'em say, thank you for giving us a break all these years. But I did hear the taro farmer say that since 1999 he's been paying about \$24,000 a year in taxes without complaining and he's still not complaining. He just very humbly and calmly came here and told you his situation. So, you know, I'm just shocked at all this selfishness. Thank you.

Mr. Kouchi: Thank you. Anybody else wishing to speak?

There being no one else wishing to speak, the meeting was called back to order, and proceeded as follows:

Mr. Kouchi: We have a motion to approve. Can we have a motion to amend as circulated and I will restate it. It's introduced by Mr. Kaneshiro at my request and these are just technical amendments to put the bill back together and this is the only amendments we are considering today. The bill will be back on September 3.

Mr. Bynum moved to amend the bill as circulated, seconded by Ms. Yukimura.

Mr. Kouchi: Moved and seconded. Discussion? Ms. Yukimura.

Ms. Yukimura: Yeah, are you, is it really only technical...

Mr. Kouchi: Yes.

Mr. Kaneshiro: Yes, absolutely.

Ms. Yukimura: ...or are there some substantive changes at all?

Mr. Kouchi: No.

Ms. Yukimura: Okay. Thank you.

Mr. Kouchi: Just some sections were, you know, inappropriately deleted that should have just remained in there, so. Mr. Furfaro.

Council Chair Furfaro: Yes, I think in all fairness, I do want to point out that this is a very delicate and sensitive item for our County's well-being. I'd be very careful in saying that the money we're putting on the resorts are, in fact, going to homeowners' pocketbooks because really what we're saying here is the taxes that we're putting on the resort burden are taxes that are going to go to the amenities that are extremely important for our County to operate. Investing in just repaving roads, issues that we now, the cost of oil and petroleum that goes into those products, the fact that the County has issues dealing with increases in medical, and the fact that the County currently gets \$82 million of grants from the federal and State governments that may be shrinking as the federal government has the largest deficit that they have, the fact that occupancy state-wide is down substantially. So, please, let's not focus on the problems because there are many. We need to first focus on where we can make improvements and work out because I do believe we are in for some difficult times, not only in the homeowners issues with foreclosures up 19% over the previous year, but also in businesses that are operating and are faced with medical, electrical refurbishment costs because they're all striving to be more green and more effective. Thank you for the time, Mr. Kouchi.

Mr. Kouchi: Thank you, Mr. Furfaro. We are going to take an in-your-seat recess to change the tape.

There being no objections, the meeting was recessed at 3:20 p.m. The meeting reconvened at 3:34 p.m., and proceeded as follows:

Mr. Kouchi: After Council Chairman Furfaro, do we have any other discussion before entertaining a motion to defer. Mr. Kaneshiro.

Mr. Kaneshiro: Just real fast, by the next meeting, Committee meeting, I believe we'll be back in Committee meeting.

Mr. Kouchi: September 3.

Mr. Kaneshiro: Right.

Mr. Kouchi: Oh, yeah, I'm sorry, we're still on the discussion.

Mr. Kaneshiro: Oh, we're still on the amendment. Okay, sorry.

Mr. Kouchi: Any objections to the motion to amend, hearing none, so ordered. Discussion on the main motion as amended. Mr. Kaneshiro.

Mr. Kaneshiro: Yeah, thank you. Before we meet with the next meeting two weeks from now for Committee meeting, I will work on some proposed amendments that...

Council Chair Furfaro: Excuse me, all in the room, we are in session. We are conducting business and dialogue at the table. Mr. Kaneshiro, you have the floor.

Mr. Kaneshiro: Thank you, Mr. Chair. And thank you Chair for this Committee, Mr. Kouchi. Before we do meet in two weeks and get this back on the table and discuss these issues, again, I will be proposing some amendments and some of my amendments will be in the form of the ag dedication side and try to resolve some of the issues that were brought up here. And I'm also probably working on some other amendments, so I believe all of us will have amendments coming in previous to the next meeting, so just to let the public know.

Mr. Kouchi: Thank you. Ms. Yukimura.

Ms. Yukimura: I just wondered if we can have copies of those amendments before the 3rd so that we can at least have some time to look at them.

Mr. Kaneshiro: Before the 3rd? When's the 3rd?

Mr. Kouchi: Two weeks.

Mr. Kaneshiro: Oh.

Ms. Yukimura: So maybe everybody by the 27th, you know. I'll try to do that too. I may have some.

Mr. Kaneshiro: So before our next Committee meeting.

Ms. Yukimura: Yeah.

Mr. Kaneshiro: Okay.

Ms. Yukimura: So if everybody aims to have that...

Mr. Kaneshiro: That's not a problem.

Ms. Yukimura: ...then we'll all have a week to think, look at it and understand the implication.

Mr. Kouchi: Further discussion?

Mr. Bynum: I just wanted to acknowledge the staff for all the hard work that went into, you know, dealing with the technical issues and the amendment that I think that we just passed or we're going to.

Mr. Kouchi: Yes. Mr. Furfaro.

Council Chair Furfaro: Yes, Committee Chair, I have, I do have some definitions that I would like to circulate around to the members dealing with the Mahele 'Aina interpretations as it deals with the kuleana portion of the bill, and I do want to acknowledge that I did plan to circulate a separate piece next week on that portion of the bill.

Mr. Kouchi: And that would be good. I believe Councilmember Yukimura tried to point out that the work you'd been doing has covered a lot of the concerns that were, in fact, raised. So if we have something in writing, that would help assist the public. Further discussion? Otherwise, I'd say even on the area of the reinvestment that you had been talking about, the Finance Director had emailed to me the bill that Honolulu used to encourage reinvestment in the older Waikiki properties. So, I don't think that we really are going to have to expend tremendous energy to reinvent the wheel. We've got a baseline document. I emailed that hopefully to the Clerk so that the Clerk could get copies available to the rest of the members. Mr. Rezentes is on the Big Island today attending that lawyers conference on financing, where our financial advisor Larry Rolapp, among others, are making presentations and so he...While, he could not be here, he made sure before he left he got that to me so councilmembers could see potentially one way to encourage the reinvestment and acknowledge, for those who are willing to reinvest in their properties, that there could be a potential for a partnership with the counties. You know, I think that we were, hopefully, able to answer a lot of the questions and you know, I didn't want to get into calling Kim and Belma, who are present from the Finance Department today, to answer in particular the issues that Scott raised. You know, it just troubles me that, you know, people, would still, you know, rise or I guess lower themselves to the politics of scaring people and, you know, taking statistics and presenting them in a way to create fear to have people, you know, respond in a negative way without really, you know, going through and analyzing the data or even asking the second question. You know a simple, well, the data shows this, why? And instead of, you know, doing that and understanding about the secondary homes becoming primary residences, about residences that were in the cap being resold and now coming up to the full market value and a very easy explanation, and the shortage of inventory on Kauai as opposed to the other three counties, you know, the assertion comes out that, you know, the cap isn't working, people are being over taxed and we are somehow secretly taking money away from the homeowners unbeknownst to them and, you know, we send out the assessments, we send out the real property tax bill itself, we advertise the tax rates and we go through a whole public process to get to where we get to and, you know, to have something tossed out there and then holding up a State pie chart to assert

that now this is statistically supported and true, you know, I just hope that people who are going to come forward on the 3rd would be a little more thoughtful like Peter and his testimony. Whether we wind up agreeing or not, he has listed it out in great detail and he's provided, you know, statistical data and everything else to advance the concerns that he's been trying to raise. And, you know, I appreciate that he's trying to deal with this in a factual way to move forward. And, you know, I appreciate that the Real Property Tax Division has gone to great lengths to try and create numerous examples in all of the categories so that we could make some informed decisions. And so, with that I'll entertain a motion to defer.

Council Chair Furfaro: Oh, I had some, one more. I would be...It would be incorrect not to acknowledge the work that Mr. Rezentes has done on the piece we talked about last week. Thank you for bringing that up on the potential of capital reinvestment to keep the plants fresh. So, thank you for reminding us that he's working on that.

Mr. Kouchi: Can I have a motion to defer.

Upon motion duly made by Councilmember Kaneshiro, seconded by Councilmember Yukimura, and unanimously carried, Bill No. 2274, as amended, was deferred.

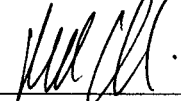
CR-W 2008-20: on Resolution No. 2008-34 RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO FINANCIAL PROCEDURES
[Received for the record.]

CR-W 2008-21: on Bill No. 2268 A BILL FOR AN ORDINANCE TO AMEND SECTION 32 OF ORDINANCE NO. B-2008-672, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009 (Amending Section 32 relating to court fines and sanctions)
[Received for the record.]

There being no further business, the meeting was adjourned at 3:42 p.m.

Respectfully submitted,
Wilma Akiona
Wilma Akiona
Secretary

APPROVED at the Committee Meeting held on September 3, 2008:



RONALD KOUCHI
Chair, Committee of the Whole

