Summary Meeting Notes

Facilitated by: Tony Ching

Concerns raised about process:
- Concern about lack of posting of last meeting’s meeting notes and the lack of record of agreements made in that meeting
- Similar objections entered as to the lack of record and no posting of notes from the last meeting

County planning directors’ forum:
- Response to question regarding expected timeframe for identifying IAL and how this would fit with respective county plan revision processes:
  - Costa/Kauai—4 years to get IAL done because of procurement, contracting for consultant
  - Foley/Maui—2 years to get done after getting funding from State; just starting GP revision process on Maui
  - Yuen/Hawaii—Council has yet to act on GP amendments pending for several years. Under two different models being proposed, timeframes would be approximately:
    - Task force: 2 years with consultant contracting
    - Planning Dept to Council: ~18 months to map, Council action is indeterminate, but could be as little as 2-3 months
  - Crispin/C&C of Honolulu—Similar to Hawaii County, ~2 years either way. Undertaking an update of GP this year with new population projections coming out. Note that the C&C’s GP is very general, mostly policy document. However, a significant amount of ground work has already been done through the development & sustainable community plan revisions, more or less complete islandwide. So, 1-2 years for IAL
- Money required for all four counties to do IAL mapping; would be competing for same small pool of consultants
- Estimates of cost per county was $300,000 - $500,000, high of $700,000 for IAL mapping and process
- Response to question as to what is core for IAL for each county:
  - Crispin/C&C—whatever is right amount for each county; since important ag lands is such significant resource would need to be protected in perpetuity
  - Foley/Maui—mentioned that criteria need to be really clear for counties to use
- Response to question about what about non-IAL:
  - Costa/Kauai—would need to take more detailed look at land. don’t anticipate moving all out of ag, but is an issue would have to deal with
- Response to question about if there’s a need to plan for rural settlements:
  - Foley/Maui—absolutely necessary, but this will be most controversial part of the equation and will be difficult to deal with, partly because of existing ag subdivisions
and marginal ag land that’s in productive use. Can’t duck this issue, since in process of separating out IAL, non-IAL results. Criteria for IAL needs to be tighter than what’s proposed to be able to separate IAL from non-IAL.

- Yuen/Hawaii—county hasn’t planned for smaller lots. This process should not imply or result in rampant development of non-IAL, but issue should not be fought on basis of protecting IAL/ag land.
- Crispin/C&C—non-IAL lands are so divers that this may not be simply question of rural and non-rural, but may require looking at other designations.

- **Response to question regarding periodic review and timeframe for IAL:**
  - Foley/Maui—if talking about group of properties, then should be done quasi-legislatively, timeframe of 5 – 10 year basis, initiated by county, done in concert with GP/CP updates
  - Summers/Maui—could also look at State five-year boundary review coordinated with review of either IAL boundaries or all district and IAL boundaries

- **Foley:** Before we use Rural on Maui, we’d need to modify standards. some ag land should also go conservation, some rural. Want more of a firm hand in where those large lot subdivisions are located
- **Yuen:** Need to move away from plot-by-plot redistricting. give counties a window to come in and do less onerous process

- **Response to question whether counties see a need for a two-tiered system and the LUC (D. Wong)?**
  - all—yes, but not with LUC having such a detailed role
  - Crispin/C&C—AWG context is not appropriate for discussing simplifying the two-tier system. System is not efficient and C&C has in the past taken the position that LUC is not needed. This is not the forum for this, but am in favor of simplifying.

- **Response to question about how willing counties are to collaborate in creating/establishing tools and incentives to promote ag use of IAL and for ag viability (M. Nakahata)?**
  - Foley/Maui—would work with AWG and support incentives, especially in real property and water rates, so these are more supportive of ag
  - Costa/Kauai—agree that incentives are necessary to making IAL productive
  - Crispin/C&C—from his perspective, era of large plantations are gone. in a global marketplace, don’t see us coming back at that scale. diversified ag is future, but what are those incentives we’re talking about? C&C is talking about sustainability for whole island, ag is large component in this.

- **Response to question about how amenable counties are to providing incentives to landowners to stay in ag, such as financial incentives for long-term leases to farmers (M. Ching)?**
  - Nitta/Kauai—Kauai looking at regulatory relief from one-time ag subdivision requirements for ag leases
  - Foley/Maui—willing to look at anything we can that support ag on Maui, but will also be looking at landowners that continue to convert land for residences
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- Yuen/Hawaii—would be willing to consider where landowner might come in with project somewhere in exchange for providing lots with long-term leases, ag water, etc.
- Crispin/C&C—would like to see reversal where ag land is so coveted because someone wants to farm. need to look at different ways to cut up the pie. premium branding, like with Kona coffee, could be model for these efforts.
- It’s not just from the regulatory perspective.

**Review/discussion of critical path to addressing constitution:**

- Recap of December 9 meeting results:
  - At 12/9 meeting, AWG chose to stick with focus on meeting constitutional mandate, and not also taking on fixing land use system
  - At 12/9 meeting, AWG chose of the various options for dealing with IAL, the option to establish IAL as an overlay to the Ag District
  - At 12/9 meeting, AWG chose to endorse a county-based process for identifying IAL and a quasi-legislative process for LUC adoption of IAL maps
  - At 12/9 meeting, AWG acknowledged that something needs to be done with non-IAL lands and other land use issues
  - At 12/9 meeting, AWG agreed that we needed the establishment of incentives to promote ag and meet constitutional mandate, October workshop generated agreements about what some of these might be
- Why are we discussing Rural now? Thought a vote had been taken at December meeting to not deal with Rural now, so confused by the language for non-IAL
- Option was brought back to the table during the Drafting Committee meetings
- Also thought this was decided at December’s to deal with this later
- The group does not have consensus on this—that non-IAL should be included now

**Discussion of meeting process & AWG report content/outline:**

- Meeting will take up what might be presented to the legislature and to go over and try to get agreement on the different proposals to date. Handout outlines what was identified by Drafting Committee in addition to legislative proposals: report to set context for any proposals, preamble or purpose for legislative package needs to be prepared
- After continued discussion of non-IAL issue, group agreed to take out the two bullets for non-IAL out of the report outline on page 1 of Tony’s handout
- Add incentives and discussion on need/issues related to promoting ag and increasing ag viability into report outline
- Should keep group together to continue working on all these issues that can’t be done in this short timeframe
- Report can mention that these other issues exist that need to be addressed, like non-IAL
- Can have in report that we see non-IAL as an important issue that is next step, next part of the sequence, but not part of this legislation
- Volunteers requested to help draft report
Review and discussion of proposals:

Proposal IAL #1—policy for IAL/standards and criteria for identification of IAL:
- Very important to find ways to better regulate what is farming/not-farming—this is central to getting a handle on what is bona fide ag—only one way: to show they’re making income from farming, income needs to be demonstrated
- Didn’t we want to put “biomass” in the standard/criteria for unique crops for energy production?
- Should also put “aquaculture” as part of ag—always treated separately
- HFB recommends using definition for “farming operation” in Ch. 165-2, HRS, as definition for ag
- Response to question to counties as to whether the criteria is too vague for them:
  - Foley/Maui—criteria is vague, might be hard to work with, can have counties define more, but will then have 4 sets of operational criteria, which might not be good. e.g., what does “land currently in ag production” mean? can that be one cow? etc.
  - Crispin/C&C—flexibility is desirable
  - hard choices need to be made in the process
  - no one criteria is going to determine whether in or out
- Similar concern raised about the vagueness of the standards and criteria, the definition of IAL proposed refers to high agricultural yields, which means we’re really talking about the best lands
- Do we need a redraft?
- Is there a concern that criteria isn’t tight enough if challenged in court or to provide sufficient guidance to staff and consultants?

- Vote on whether to send standards and criteria back to Drafting Committee to rework—voted down, agreement to move forward with this language

- Vote to accept Proposal IAL #1—had votes to accept and move forward

Proposal IAL #2—Process for identification of IAL:
- Four options outlined:
  1. Option A: Identification by county advisory task force/LUC adoption
  2. Voluntary process
  3. County IAL Commissions/LUC adoption (Included language for IAL overlay zones)
  4. Option B: County Council/LUC adoption
- Discussion of question to county planning directors whether specifics for process need to be set in statute:
  - Yuen/Hawaii—regarding membership/composition of task force, just tell us what we need to do, takes more time at county level to determine how to work out details and get organized
  - Crispin/C&C—specifics can help, but do we need to have this replicate existing structures?
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- Foley/Maui—okay with proposal 4 which sets broad language
- Point made that county planning commissions and councils are already overwhelmed, could get bogged down
- Yuen/Hawaii—can Council decision be overridden?
- Crispin/C&O—task force would be duplicative of planning department. Ideal scenario is to go directly from planning department to LUC
  - Planning department with an advisory task force that represents stakeholders is very important and is needed
  - It’s not clear in any of these options that LUC has final authority over IAL. This could be impermissible delegation of constitutional authority
  - Can we bypass councils? Might this conflict with their land use decision making authority?
  - Clarification of authority in Proposal 1: LUC has ultimate authority for IAL
  - Can LUC change the boundaries?
  - As written, LUC can’t change, can only return those portions that it does not concur with counties to the counties for reconsideration
  - County task force would have more public support than council option in Hawaii County
  - County not doing the mapping, so not clear why this is issue
  - Don’t think councils should be doing decision-making
  - Note that Proposal 4 includes non-IAL matters as part of the proposal, if this is an issue for people
  - Clarification of authority in Proposal 4: LUC has ultimate authority for IAL, can only remand
  - Can State add lands? And why not? If IAL is a compelling State interest, why shouldn’t it require counties to designate IAL that it thinks the county has made an oversight by excluding?
  - State agencies should be active in county process, and that should take care of State interest, to make sure their input is included
  - Incentives and money for counties should be included in whatever proposal the AWG might agree on
  - Advisory task force should be included in proposal 4
  - Mandatory advisory task force to advise county council?
  - Clarification on proposal 4 as to whether the inclusive public process was to come after preliminary mapping: drafter was okay with having public process start from outset of identification process

■ Votes on proposals 1, 2, and 3—no consensus for any of these to move forward

- Question as to why can’t make process voluntary, can we put it in with proposal 4?
- In the county process, landowners can always come forward to ask that their lands be considered for IAL
- Can’t meet constitutional mandate with voluntary designation
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- Can’t get bogged down with this now, have come a long way—the legislature asked this group to get this going, are we all committed to doing this?
- Since it will take some time to identify IAL anyway, would it be possible to allow voluntary process for a two-year period and see how that works?
- IAL needs to be based on some set of criteria and not just any land being offered
- Unable to complete review of all the proposals in time remaining
- Time short on getting proposals together
- Agreed to have another AWG meeting to complete discussion and review on Proposal 4 and rest of proposals, including incentives that are supposed to come in
- January 28th—last day to introduce bills
- Group members need to receive all documents minimum 48 hours before meeting

■ Vote taken on proposal 4—had votes to move forward with proposal 4 with unspecified changes

NEXT MEETING SET FOR:
WEDS, JANUARY 14, 2004, 1-5 PM, PLANT QUARANTINE

RE-CAP of where we stand now:

1. AWG Report Outline
   a. Remove two bullets referring to non-IAL and rural
   b. Add incentives, ag support, ag viability issues discussion
   c. No drafter identified to date

2. Proposal IAL #1, IAL policy, standards & criteria for identification
   [file name: AWG[DC_IAL1_draft]
   Accepted for any legislative package that might come out of AWG—need to incorporate the biomass, aquaculture, definition of agriculture items

3. Proposal IAL #2, Option B/Proposal 4, county process/council reso/LUC quasi-legislative IAL adoption(optional) non-IAL boundary amendments
   [file name: DanD[IAL2_OptnB_draft]
   Moved forward with unspecified changes
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4. Next Meeting will need to cover:
   a. Unspecified changes to IAL #2/Option B/Proposal 4, process of identification of IAL
   b. Proposal IAL #3A, standards and criteria for taking out of IAL
      --Option A  [file name: AWG[DC_IAL3A_draft]
      --Option B  [file name: 040102 IAL3A_Ag Land Use Bill IAL exit criteria Draft5]
   c. Proposal IAL #3B, new standards for IAL [file name: AWG[DC_IAL3B_draft]
   d. Proposal IAL #4, task force for non-IAL/Phase II [file name: AWG[DC_IAL4_draft]
   e. HFB Proposed language [file name: HFB[IALproposals_Jan6]
   f. Draft Reso regarding county real property taxation [file name: 2004PROPTAXRES.E03]
   g. Incentive proposals

Notes submitted by: Ruby Edwards