Welcome, Andrew Hashimoto, Dean CTAHR

Representative Ezra Kanoho thanks the AWG for all the hard work
- Acknowledged the difficulty of identifying ag lands, but that he would welcome a plan, in whatever form you are coming up with
- Appreciated efforts – feel good on your efforts expectations high
- Effort by everyone – commitment by many people

Senator Lorraine Inouye:
- Thanks to resource people to Hawaii land issues
- All have to look forward and work with everyone for economic change/industry change
- Legislature is prepared to work with what group coming up with
- Time to be ready (before January 21) and suggests the following
  - Info briefing to legislative committees prior to session or hearings
  - Report to the community and important to get public feedback
  - Helpful to provide a process to host/how to do it

The presentations will be posted on the website [www.ctahr.hawaii.edu](http://www.ctahr.hawaii.edu)

Only questions and answers are recorded in this group notes

Introduction of speaker, Bob Wagner, American Farmland Trust:
- Presentations will be on incentives in depth in key areas

Ellen Dayhoff (Adams County, Pennsylvania): Purchase of Development Rights
Adams County since 1990’s
- 1989 bond issue established funding for this program

Any indication of value of fee vs. easement?
- some examples

Ag Development – Restriction
- Leaves open for farm development or expansion
  - 15 acres or larger
  - not saying intensity but question is preservation

Massachusetts
- difficult specific to non-ag (fishing/hunting)
- intensity – also utilizing land for restaurants and commercial uses
- 50% rule selling off farm
  - farm business vs. commercial: 50% not from farm, then is commercial how enforced – every farm inspected yearly
• counties need step up process with state to support
  • state may be involved if not
  • monitoring/less funding for monitoring
• not affect economic viability of agriculture
  o Ex: Farms with easement purchased, built a mansion without regard to easement, court ruled for farmland preservation and owner required to tear down house
  o 160 acres – owner/operator
    • leased lands common from managing owner

Question: What about Zoning? Do you work with local zoning?
  o PDR program not a zoning program, handled by another department
  o Townships try to work with all entities

Question: How does Ag-Tourism with respect to the 50% rule?
  • Visitor attractions e.g. corn maze – questionable – less than 2 acres OK
  • U-pick activities such as picking apple ok (not issue in Adams County)

Question: What about quasi-motel or large issue??? on land?
  • The distinction is that if the State paid for land already, and they do not want to have it used for commercial
  • B&B ok
  • Mother-in-law unit or an apartment over a garage ok
  • If a Farmers market is being planned, exclude areas that will be used for commercial from easement/preservation
  • Round barn – apple pick – exclude building in easement as it is commercial

Question: If not in easement, want to build market ok?
  • Exclude areas that keep 5 to 6 acres for commercial area – not destroy the sense of agriculture or rural

Question: How monitored?
  • Annual Review
    o Practice, plan in place, not develop back 40, document building. Looking at land use – under plan OK – must have all county permits
    • can go in correct violations and charge the owners (e.g., elimination of noxious weeds)
    • Difficulty with farms with easements that are in transition or abandoned, supposed to be kept for ag production – if orchid or ranch not in use, and hard to enforce farmers and farm – if not viable
    • Good working relationship with ag community to help land put into production, e.g., will try to find neighboring farmers who might be interested in farming protected land that is not being farmed

Question: How are funds raised for PDR?
  • In PA a bond to build prison was floated, and the PDR funding was tacked on
Question: How big staff is needed to accomplish a PDR program?
- PA has 2 (director and GIS person) and a shared receptionist

Question: Can Development Rights be claimed as charitable contribution?
  - Dedication of Agricultural Easement
    - Income subject to capital gains
    - Can be used in like-kind exchange (IRS1031)

Question: What happens when someone wants to buy back the easement?
- Create a formula for buyback
- APR – has right to have affordable house to keep farm in easement
- Purchase back at farm value – at current value

Question: What about Subdivisions?
- OK as long as economically viable for farm
- Question is what is economically viable
- Do research/check with other states
- Term easement – done away with in Pennsylvania
- Bona fide provision assessed at ag value-
  - Highest value that APR that was protected
  - If someone wants to purchase a farm that was in PDR – buyback available
  - Must be sure that all points are covered

Question: How can we set a program that will avoid buyback?
- Be strategic at front end
- Create strategic ag security area (or easement) that is a cluster, active, energized
- Begins a core of ag activity – many not want to buy within that area

Comment: Problem in Hawaii – very few areas with established farmers – how to create ag clusters-
- In Hawaii very little family farms as it has been plantation agriculture
- Numbers are different for HI
- Very many variables

Ellen Dayhoff comment:
- To create a viable farm, farmers in Pennsylvania often leasing from many land owners for their operation
- Maintain farm activity or keep land value low
- Initial enabling legislation – set up to prevent bidding up of high land costs
  - Could not have language that says easement is for an estate with farm activity
  - Purchase of development right
    - Sometimes successful entrepreneurs will purchase protected farmland at market value (e.g., $100,000/acre instead of $5000/acre as ag land), they pay more but they are farming
Comparable assessments do not utilize these expensive purchases, so comp is kept low/in line with ag land value.

If one is very expensive, county throws that comp in determining easement value.

Question: Are there any restriction on size of house?
- Restrictions include curtailage (driveways, etc.) around no more than 2 acres.
- Conflict – may want to have a house on the easement.
- Massachusetts – not have affordable house designation.
- Pennsylvania – not define the kind of house.
- If have building lots – must be excluded during that designation.
- Allow exclusion of these lots from easements.

Bob Wagner: Agriculture District
- Start from scratch with ag enterprise zone/district for Hawaii.

Ag District Laws can be part of a comprehensive planning for a host of wider agricultural encouraging activity:
- Purchase of Development Rights.
- Cluster.
- Transfer of Development Rights.
- Ag incentives as a beginning in Massachusetts.
  - Was a framework.
  - Program never happened.
- No provision in Ag Security that in planning does not provide for ag preservation.
  - Counties have done better in the planning.

Super Williamson Act information is on the website:
- Allows for State of California to compensate counties/local governments for their loss in property tax revenue.
  - Community has to approve – cluster in areas around ag security zones.
  - Direct other ag incentives toward designated areas.
  - Property tax saving.

Ag Enterprise Zones – Tom – DBEDT.

(Modeled in 1986 – VA. Enterprise Zone--Hawaii Enterprise Zone Partnership)

To enroll in the Enterprise Zone program, at least half of a firm's annual gross income in an Enterprise Zone must be from one or more of the following activities:
- Agricultural production or processing;
- Manufacturing;
• Wholesaling/Distribution;
• Aviation or maritime repair or maintenance;
• Telecommunications switching and delivery systems;
• Information technology design and production; Medical research, clinical trials, and telemedicine;
• For-profit training programs in international business management or environmental remediation; Biotechnology research, development, production, or sales;
• Repair or maintenance of technology equipment;
• Certain types of call centers;
• Wind energy producers.

Almost all other businesses are not eligible, including retailers and professional services. Contractors (firms which build, maintain, or repair real estate, such as custodial, construction, painting, electrical, and plumbing firms) also cannot enroll in the EZ program.

All eligible businesses must increase their average annual number of full-time employees. All businesses must already employ at least one full-time worker at their EZ establishment before beginning participation. (Full-time = 20 or more hours per week.) The specific requirements that must be satisfied by existing and new businesses are described as follows:

"Existing" businesses: Businesses already in an EZ must increase their average annual number of full-time employees by at least 10% at the end of the first year. The average annual number of full-time employees must also increase by at least 10% annually in years 2 to 7.

"New" businesses: Businesses that start up in or move to an EZ must increase their average annual number of full-time employees by at least 10% by the end of the first year. The average annual number of full-time employees at the end of years 2 to 7 can fluctuate, but cannot be less than the number of employees required at the end of the first year. (Note: "New" businesses will be considered new throughout their seven years of eligibility.)

Businesses which satisfy all requirements will qualify for the following state tax benefits for up to seven consecutive years:

• 100% exemption from the General Excise Tax (GET) and Use Tax every year. (The GET exemption applies only to gross revenues from EZ-eligible business categories within an EZ.) Licensed contractors are also exempt from GET on construction done within an EZ for an EZ-qualified business.
• An 80% reduction of state income tax the first year. (This reduction goes down 10% each year for 6 more years.)
• An additional income tax reduction equal to 80% of annual Unemployment Insurance premiums the first year. (This reduction goes down 10% each year for 6 more years.)

NOTE:
The two income tax reductions combined cannot exceed 100% of income tax due.

Additional City and County of Honolulu benefits include:

Two-year exemption from any increase in property taxes resulting from new construction by EZ firms at their EZ sites.

Waiver of building and grading permit fees for enrolled EZ firms for seven years.

• State designated/county
  o 19 state sites - 24 in each county
    6 Big Island (Waimea not qualify; Hawi included)
    5 Kauai (1 zone not needed as in conservation)
    5 Oahu (Iwilei-urban area included; Waimanalo not included, but qualify)
    3 Molokai, Hana, East Maui (Puunene)

• Criteria
  o Income, unemployment – modest test
  o Criteria is not be targeted to Ag Preservation, but on job creation

• Eligibility to enterprise zone reviewed yearly
  o Not all businesses eligible
  o Ag/ag processes included (24%)
  o About 210 businesses

• Increment, tax break on upgrading
  o 3 years (Big Island)
  o 2 years (Oahu)

• Building permits – free
  o Flexible – Removes taxation in early years in this program, and in the later years when businesses have higher income the lower tax credit provided greater savings to grow the business
  • Companies are certified
  • Program is self-regulating

$23 million on Enterprise Zone tax credits

Question: Is it possible to fix the criteria? Yes, if reasonable employment standard can be developed

Question: Can other criteria be used e.g. income – gross, net, farmgate? Possibly, but it should have job component
**Distinction**

Hawaii Enterprise Zones – based on stressed economy, distress

Agriculture Enterprise Zones – more set to encourage agriculture activities
  - Has ag activities and want to support viability
  - PDR areas – then create agriculture enterprise zones

Criteria needs to be tailored to
  - Promote ag initiatives
  - Promote ag viability

Reducing regulations for ag in this area
Better to do new bill or piggyback on existing
  - May want to start in legislative history
  - New initiatives set up to promote ag viability

Hawaii efficient to monitor/grow
  - Can be under Department of Agriculture
  - Work with technical people
  - One stop certification for state/county

No enterprise zone has any programs geared to agriculture
  - In Hawaii, ag is eligible activity within enterprise zones

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**Grant Tanimoto, Tax Department**

**Tax Facts 2001-2001** (on website) These numbers refers to the slides
Issued with response to taxes in relation for agriculture

- GET
  - #5 certain sales to agriculture producers
  - #7 export exemptions – ship out of state
  - #9 half-percent not applicable
  - #11 sublease land – pyramiding of taxes

Enterprise Zones – administration
Fuel Tax – off public highway use
Income Tax

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**Act 221: How it is structured**

Hawaii's Act 221 high technology tax credits are provided in the following sequence:

1. Investment Year - 35%
2. Second Year - 25%
3. Third Year - 20%
4. Fourth Year - 10%
5. Fifth Year - 10%

Qualified High Technology Business (QHTB) investments up to $2 million per QHTB per year can qualify for this tax incentive. However, qualified research should comprise more than 50% of the company activity and more than 75% of this research should be conducted in Hawaii.
Qualified research means research conducted in: Astronomy, Biotechnology, Development and design of computer software, Non-fossil fuel energy related technologies, Performing arts, Sensor and Optic Technologies, Ocean Sciences, or Research and experimentation.

Apart from angel or individual investors, corporations, insurance companies, and financial institutions can benefit from Hawaii's high technology tax incentive. The 'stock option income tax exemption' includes all stock options issued by the holding company and includes equity interest in entities other than corporations.

Additional benefits for Qualified High Technology Business (QHTB) from Hawaii's high technology tax incentive are:

- Provision to sell $500,000 of unused net operating loss accumulated up to two prior years, in an amount equal to at least 75% of the amount of the surrendered tax benefit.
- Royalties and other income derived from patents copyrights or trade secrets are exempt from income tax.
- Provides a 20% refundable state research and development tax credit based on all qualifying R&D and not just annual increment expenditures.
- Renovation work on office buildings that support high tech tenants receives 4% nonrefundable income tax credit. The renovation work can include high volume digital or analog telecommunications, physical security systems, environmental systems, and backup power systems.
- Internet Data Centers are exempt from general excise tax and public service company tax.
- General Excise Tax exemption related company IT services, usage of software and hardware, and database management services.

Question: Can biotechnology be included for this Act?

Biotechnology science/non-fossil fuel
- Where does it apply for research
  - to create better products
  - can it be extended for agriculture
  - presently not for value-added
- It may be allow for super strain of new product tissue culture
  - 75% income from research – separated in separate entity
  - If revenue is small – must not meet threshold
- Biotech – look at narrowly
  - Statutory definition broader
  - Experimentation
  - Entity – mostly research

Tax credit for research activities
- State – taxpayer 20% of 100,000 of (refund)
- IRS credit – tax payer in decreasing amount (see 41) – to amount of $100,000
Things to change
  - County tax incentive
  - R&D – piggyback what IRS does
  - HI tech tax credit, energy

Question: What type of program is recommended for Ag investments, R&D?
  - What guidance for similar type of program?
    - Act 221 was created to motivation to create more high paying jobs
      - Issues arose on compliance issue
      - Questions such as purchasing new computer systems, is it legitimate expenditure to qualify for credit?
      - The Act was created to do something not done before
  - Recommendations
    - Fine tune the Act
    - Be clear on who you want to address and benefit
    - Definitions are important
    - Identify key areas, such as
      - Infrastructure tax credit for areas as
        - water system for ranchers
        - drought mitigation – 4% - sunset at a certain time
    - Limit on the money investment
      - Non-refundable credit
      - Credit only where there is income

  - Improve farm operations with infrastructure
    - Criteria – can be higher with alternative energy
  - Look at principles
    - Credit – tax benefits – have several types
    - Seek ways for the industry to diversify
    - Infrastructure for agriculture nationally is viewed as public benefit as well
      - What is trade-off to public?
        - Give resorts/high tech credits – not do so for agriculture
        - State parks – how much money invested, how much yield
    - Locally – infrastructure has been developed with private money
      - Tax credit for drought mitigation and water storage
  - Planning
    - Where success? Kamuela
    - Molokai – infrastructure/lots/cooling plants/education
    - Where we optimize our investments

**Important:** Must have tax incentives or enterprise zones important to be focused on ag viability

New York

Enterprise Honolulu

Outline of Meeting
Question: Is Schedule F in IRS tax forms a way to look at monitoring incentives?
- It is a way to identify agriculture income
  - Maui water department uses for agriculture water rates
  - Is it realistic to use this?

Discussion Point:
- Tax incentive must be enough to get people to look at getting into long term lease or ag easement
- Define who is farmer and not depending on wealth
  - There are people who are investing in ag with wealth

For viability of agriculture, there are many needs are many, and collaboration is critical
- Land – how transferred, sold, bought
- Opportunity for new farmers
  - Internship
  - Apprenticeships
  - Finance transaction to a new generation
    - Should be kept low for beginning farmer

Question: What is happening in Hawaii?
- Enrollment in CTAHR – increased 13%
- Agribusiness incubator
  - Federal funds to establish work with community colleges, UH Hilo

Question: Incentives – tax – enterprise zones
Statement: These are some critical needs
- Land issues
  - Longer leases
  - Water
  - Transportation
- Workforce
  - Bring new people
  - Upgrading workforce
  - Encouraging youth and students

Jay Healy: Ag Viability (Ag Viability Program information posted on web)

Question: Who can be consultant to farmers?
- Selected by farmer or someone from universities, like Cornell
  - State check them out
  - Bring them to farmer
  - Pay to consultant capped at $200 a day
• If from out of state – can be for technical assistance or marketing (e.g. change cattle to organic goats for milk)
• Need part of plan, site specific
  • Success of Ag Viability Program great
    • One failure out of 252 business plans
    • #2 highest retail sales
      selling in retail manner

What are the measure for success?
• What kind of indicators are really working
  o More qualitative data, e.g. farmer purchased 14 acres away from developer and made 3 times as much money
    ▪ Program is working
      o Only one farmer dropped out
      o Please comeback – 6 to 8 months to upgrade plan
  • Public support – goes hand in hand with other farmers
  • Apply for PDR – Phase I
    Good business advice to PDR farmer

Vermont, Minnesota all looking for Ag Viability Program
• Marketing
  • In some states, farm families are profiled on side of milk carton
  • Part of cooperative and adds personal connection
  • Buy local – aggressive campaign
    o When Safeway wanted to cut out the family farms – 3% of the market, made strong campaign
    o Local products generally more expensive but show relationship with land and connection to land
    o Have consumers understand where their food is from, not from multinational corporations

• Criteria
  o Payments not for debt
  o Not for own sweat equity
  o Not for those who have ability to pay
  o Looking for those between debt and wealth

Question: A&B funded $10 million of their own R&D
Is Act 221 or similar to provide them tax credit to keep them viable?
What are incentives to keep ag viable with large landholders?

Recommend process for drafting legislation--Package of ideas:
• Importance of wrestling with meaningful discussion of priority issues on identification of lands
• How we look at viability – address incentives because of resource/people
• Constitutional land issue
• With ag enterprise zones, PDR
Create a package with three things – develop 6 to 8 concepts
What would make sense?
Turn it loose to drafting committee

Look at 8 aspects on what makes ag successful
- Ag viability
- Land issues
- (use systems approach)
- May require funding to allow counties to raise money to provide funding
- Viability issue important part of the constitutional mandate
  - 1st step of the larger plan
  - Land/viability need to be coupled
    - Must be working together to have both
- Incentives will float above the land issues
  - Certain incentives for ag lands
  - Incentives regardless of land part

Need a policy framework → legislation
- Want programs
- Some not funded, etc.
- Not generalized policy – but a framework on land use plan – use experts to help design in implementation.
- Incentives best with coordination and part of a framework. Heard that the land issues were the most important – at initial meeting

Don’t want to go in ready to go to legislation and say land is not the issue. Land is a very important issue.
- Every subcommittee asked for incentives – it will help agriculture
- Address incentives, get it out of the way
- Mixing land use and incentives at these meetings slows process

This administration wants to propose major land classification issue
Discrete work products – get some out by Friday
- Have to have bills
- Question is timing

Experts have been very important. It is very important for incentives → go for it.
Address the incentives, complete and move forward.

Proceed on Friday – incentives
There will be expectation that discussion on the criteria – but being incentives on important land – tweak it the support the appropriate land use plan

Lack of financial stability – have to overcome financial needs
Ag Working Group 10/15/03

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