

1 BOARD OF WATER SUPPLY

2 COUNTY OF MAUI

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10 REGULAR MEETING

11 THURSDAY, APRIL 23, 2009

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16 Held at the Department of Liquor Control Conference

17 Room, David Trask Building, Room 105, Wailuku,

18 Maui, Hawaii, commencing at 9:06 a.m.

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28 Transcribed from the audio recording by Gaye

29 Hayashida, Commission Support Clerk, Department of

30 Water Supply, County of Maui.

1 CHAIR HOWDEN: I'd like to call our April meeting
2 to order. Present are Director Jeff Eng, Deputy
3 Corporation Counsel Ed Kushi, Members Don Gerbig,
4 Ted Yamamura, Phyllis Robinson, Scott Luck and John
5 Hoxie, and Chair Michael Howden and Gaye Hayashida.
6 Who's our pub, our guest?
7 MS. HAYASHIDA: Clayton...
8 MR. ISHIKAWA: Clayton Ishikawa.
9 CHAIR HOWDEN: Oh.
10 MS HAYASHIDA: He's just gonna...
11 CHAIR HOWDEN: He's gonna present...
12 MS. HAYASHIDA: No.
13 CHAIR HOWDEN: Are you gonna present today?
14 MS. HAYASHIDA: No, he's just sitting in on this
15 meeting.
16 CHAIR HOWDEN: Ok. Welcome, thanks for coming.
17 So, I think we'll begin with the introduction of
18 our 2 new members to the Board, Mr. Don Gerbig and
19 Mr. John Hoxie. Don, would you wanna start?
20 MEMBER GERBIG: Ah, yeah. I'm, maybe a little
21 background. I was in sugar for 40-some years,
22 growing and also in environmental, ah, ah, can't
23 get my words out; maintaining environmental
24 compliance for Amfac sugar plantations and golf
25 courses for about 8 years, which included drinking
26 water, Clean Water Act, various pollutants,
27 permits, ocean permits, and also the OSHA or Hi-OSH
28 safety..

1 CHAIR HOWDEN: Yeah.

2 MEMBER GERBIG: Regulations. So we did, I did
3 policy work on that for the plantations and the
4 companies, set up the manuals. I did a little
5 consulting after that, after they dissolved the
6 job. And then after that I went to work for Brewer
7 Environmental, branch manager on the island of
8 Kauai for about 3, 4 years, 3 years. I was a, I
9 told them when I went to work for them, that I was
10 gonna retire at age 65, and I did. So that was it,
11 so I have no obligations to Brewer, I have no
12 obligations to Amfac. If you wanted to discuss
13 Amfac I can. I'm not real happy with 'em because
14 they did dissolve my pension plan.

15 MEMBER ROBINSON: Oh dear.

16 MEMBER GERBIG: So I, I mean, one of those things..

17 DIRECTOR ENG: But they're kinda gone already too,
18 so.

19 MEMBER GERBIG: Yeah. Anyway, that's basically it.
20 And I'm interested in, in the Board of Water Supply
21 from the standpoint of just that we don't deplete
22 all of our resources, but we handle it correctly.
23 We don't over, I'm not, I like development. I'm
24 not against it but I think that we gotta face
25 reality with these things. And that's, that's my
26 big concern that we're, we're not depleting our
27 resources and we're looking, keep looking way ahead
28 than where we are. I know that this board has an

1 advisory position. I think that it could be
2 utilized to the Council in that respect. That's
3 all I have, thank you.

4 CHAIR HOWDEN: Thank you.

5 MEMBER ROBINSON: Thank you.

6 MEMBER HOXIE: Well, good morning you all. I know
7 a few of you here. I'm John Hoxie. I was born and
8 raised on Molokai, which is hard to believe I'm
9 sure for most of you. I worked in the sugar
10 industry for 40 years, mostly in the farming
11 operations. In fact, I started on the Big Island
12 and I was at HC&S. I spent most of my time on
13 Kauai. I worked for McBride Sugar Company. I was
14 in charge of the field operations so I basically I
15 classify myself as a farmer. I came back to Maui
16 in 1995. My wife and I live in Haiku. I retired
17 from HC&S 6 years ago. I've had very little contact
18 if any with A&B since I retired. You know, I've,
19 I've moved on and I do a lot of volunteer work. I
20 volunteered in the community; mostly the Hui Noeau
21 Visual Arts Center has been a big part of what I've
22 been doing. And I'm hoping that I can lend my
23 experience and my knowledge of water and water
24 resources. I'm very interested in planning. I'm
25 very interested in conservation. And I think that
26 I'm really interested in trying to help provide the
27 water resources that we need for Maui. Thank you.

1 CHAIR HOWDEN: Boy, you both bring a tremendous
2 background, I think and I, you know, I thought, I
3 thought about it 'cause you know I did have some
4 questions as you know. And I think that, that your
5 understanding, especially you were in charge of EMI
6 for I believe 6 years, 8 years something like that,
7 and Mr. Gerbig's understanding of, of you know,
8 pesticides, etcetera, I think will be really
9 helpful to us. Granted, we are an advisory body...

10 MEMBER HOXIE: Right.

11 CHAIR HOWDEN: Not paid a great deal of attention
12 to. But I, I see the Board as really being kind of
13 an educational form, and giving the public kind of
14 accessing, informal access that the Council doesn't
15 always provide. And so I appreciate the richness
16 of your experience and really look forward to you
17 sharing your mana'o with us.

18 MEMBER HOXIE: Thank you.

19 CHAIR HOWDEN: So, number 4, Approval of Minutes.
20 Any nay sayers in the crowd? Any corrections?

21 VICE CHAIR LUCK: Someone's gonna have to take up
22 Lee's old job of finding the typos.

23 CHAIR HOWDEN: That's Jeff's job now. Ok, might we
24 have a motion?

25 VICE CHAIR LUCK: I move to approve the minutes.

26 CHAIR HOWDEN: Second?

27 MEMBER ROBINSON: Second.

28 CHAIR HOWDEN: Thank you. Those in favor?

1 (a chorus of ayes)

2 CHAIR HOWDEN: Those against?

3 (silence)

4 CHAIR HOWDEN: That was painless. Ok, is there any
5 testimony from the public?

6 MS. HAYASHIDA: No, I thought there would be but
7 obviously not.

8 CHAIR HOWDEN: So...

9 MEMBER HOXIE: Can I ask a question?

10 CHAIR HOWDEN: Of course.

11 MEMBER HOXIE: This is all new. When testimony
12 from a public, is this just anybody that wants to
13 say whatever they want about what's going on?

14 CHAIR HOWDEN: Amen.

15 VICE CHAIR LUCK: There's a time limitation though,
16 right?

17 CHAIR HOWDEN: Yeah, depends how useful it is.

18 MEMBER HOXIE: Yeah.

19 CHAIR HOWDEN: Just, if it's just someone venting,
20 we're not...

21 MR. KUSHI: Mr. Chair, let me, let me kinda correct
22 that. The, the general rule is they can testify
23 whatever reasonable time limit and you should
24 testify on agenda items, items that are posted on
25 the agenda. However, you know, this group has been
26 kinda relaxed and you've heard testimony not on
27 some agenda items. You can stretch it as far as
28 you want but I usually defer it to the chair, the

1 chair's discretion. But you know, if somebody else
2 comes in and testify on the war in Iraq it's
3 definitely not congruent to the Board of Water
4 Supply. So I use that example.

5 VICE CHAIR LUCK: The most common occurrence seems
6 to be as an introductory to future agenda item, as
7 opposed to commentary on the current agenda item.

8 MEMBER HOXIE: Thank you.

9 CHAIR HOWDEN: So, it's pretty much an open field,
10 at our discretion.

11 MR. KUSHI: You being the chair, you, I would defer
12 to you but I would caution not to let some
13 testimony coming that's not related to the business
14 of the board.

15 CHAIR HOWDEN: Of course.

16 VICE CHAIR LUCK: What's the...

17 MR. KUSHI: And it shouldn't be narrowed to the
18 agenda items.

19 VICE CHAIR LUCK: What's the protocol in terms of
20 when you have to have signed up to be able to be
21 eligible for commentary?

22 MR. KUSHI: You mean the public?

23 VICE CHAIR LUCK: Yeah.

24 MR. KUSHI: They can testify at any point in time,
25 I mean, they should testify on the, at the time of
26 the public testimony is called for.

27 MEMBER HOXIE: Uh huh.

28 VICE CHAIR LUCK: Ok.

1 CHAIR HOWDEN: Ok, we'll note that Zack Franks is
2 here as well. How about the appeals that...

3 MR. KUSHI: Ah, yeah, Mr. Chair, my office got a
4 call, was it late last week, Gaye? Early last week
5 from Tom Cole, the attorney for this Kalama Hills
6 appellant and he has, in consultation with my
7 colleague, Jane Lovell of my office; they've agreed
8 to continue, continue the appeal hearing to
9 sometime in August.

10 CHAIR HOWDEN: Ok.

11 MR. KUSHI: It's not off the calendar but they're
12 trying to work something out or see what can be
13 done.

14 CHAIR HOWDEN: Great.

15 MEMBER ROBINSON: I wanted to just return to that
16 comment about public testimony. Is it appropriate
17 for there to be a response to public testimony from
18 any of us, because I, I, I've often wondered
19 whether to hold my tongue or speak. I know at one
20 point Jeff, you, you responded to, to testimony
21 and, and it felt like it's not a common thing to
22 have happen, so I was just wondering just 'cause we
23 have some new members and, and whether, what's
24 appropriate in terms of a response to someone
25 giving public testimony.

26 MR. KUSHI: You're free to ask questions of the
27 testifier.

28 MEMBER ROBINSON: Ok.

1 MR. KUSHI: If you respond in terms of like a
2 comment and if he's testifying on an agenda item,
3 that may, may have board action later, I would ask
4 you, I would advise you to keep your comments and
5 responses, not questions, comments and responses at
6 the time the agenda item comes up. But you may,
7 you're free to ask questions.

8 MEMBER ROBINSON: Ok, good. Thank you.

9 MR. KUSHI: It's one of the hazards of testifying.

10 CHAIR HOWDEN: Seven then, Unfinished Business.

11 (silence)

12 CHAIR HOWDEN: Funny, but no one's talking about
13 it. Ok, eight, Other Business, A. Discussion and
14 Update on the Status of the Piiholo Well. Director
15 Eng?

16 DIRECTOR ENG: Thank you, Mr. Chair. Actually
17 there's really not much to report at this time.
18 The last time I had any relevant discussion with
19 Maui Pine was back in, at the end of October last
20 year.

21 CHAIR HOWDEN: Uh huh, wow.

22 DIRECTOR ENG: Those discussions were more centered
23 on, on the pump test. And I might have indicated
24 at one time that the, the yield from that or the
25 productivity of that particular well, and this was
26 something that I was really highly supportive of;
27 They had thought that they could provide maybe up
28 to 1-1/2, 2 million gallons per day. It would have

1 allowed us to issue some meters. And of course
2 they would have their allocation per our agreement
3 but the pump test had indicated that yield was not
4 what they had hoped. And maybe given the
5 circumstances of Maui Pine at this time, since
6 then, since the fall, I don't know what's really
7 happening. I, I placed..

8 CHAIR HOWDEN: Ok.

9 DIRECTOR ENG: Some calls to corporate headquarters
10 but right now it's just in abeyance.

11 CHAIR HOWDEN: Ok.

12 MEMBER HOXIE: I have a question. Is, is, is the
13 well, well completed? I mean it's a..

14 DIRECTOR ENG: All it's really been is drilled and
15 capped. They did the pump test. There's a
16 sizeable amount of capital they have to spend if
17 they want to complete that well; controls, pump
18 motor, control tank, transmission lines to our
19 storage reservoir so. Obviously they know they're
20 looking at probably 3 or 4 million dollars more and
21 they may not be in the position to do that at this
22 time given the, the productivity too, or lack of
23 productivity so, but we'll see.

24 CHAIR HOWDEN: What, what's the, what were the
25 yield on that?

26 DIRECTOR ENG: Well, you know, we saw some, we did
27 a, we saw some data on a preliminary pump test,
28 gee, back in last spring and it didn't look too,

1 too good. I think they even drilled it a little
2 bit deeper with the Water Commission's permission.
3 And the last pump test we saw, pretty much
4 reproduced the earlier preliminary tests and not
5 yielding very much. Now there's always something
6 that they can attempt. It doesn't mean that it's,
7 can't go forward; you know there are, if they
8 wanted to spend some more money, maybe even in
9 looking to do some additional drilling. I don't
10 think they want to spend any money this time
11 probably. But the assumption right now is that
12 they just, unfortunately picked a poor site,
13 geologically. And you can tell I think by their,
14 their drilling records that they've hit some pretty
15 impermeable stuff near the bottom there. What do
16 you wanna do? That's up to them. It would take
17 some capital to explore that further. So that's
18 all I have this time. I'm kinda disappointed.
19 That was something that we were really counting on
20 the past couple of years.

21 CHAIR HOWDEN: Ok, so we'll move on to item B.
22 Zach, do you have a...

23 MS. HAYASHIDA: Mr. Chair?

24 CHAIR HOWDEN: Presentation?

25 MS. HAYASHIDA: Mr. Franks has some hand-outs. I
26 don't think there's enough but I guess you can
27 share.

28 MR. FRANKS: I just passed one out.

1 CHAIR HOWDEN: Thanks for coming today and..

2 MR. FRANKS: Thank you very much.

3 CHAIR HOWDEN: Sharing this information with us.

4 MR. FRANKS: You're welcome.

5 CHAIR HOWDEN: You board members wanna take just a
6 few moments to look through what Mr. Franks brought
7 us?

8 MR. FRANKS: Some of you will be missing the last
9 sentence or two. My secretarial skills are lacking
10 and ah, but you get the general idea.

11 (a few minutes of silence while the board members
12 read the hand-out)

13 CHAIR HOWDEN: Zack, would you like to..

14 MR. FRANKS: Sure, I'd be happy to give you a
15 little preamble. We, the report that I've given
16 you is, is a preliminary report. We actually have
17 a final draft but it was (inaudible) that and I'm
18 happy to print those out for the board as well and
19 have 'em con, conveyed to, I guess the secretary
20 and then take, you gonna send 'em, send them all to
21 you. But essentially we struck a very rich vein of
22 water and the, we, we did a, we did our pump
23 testing back in October and we pump tested at a
24 sustained rate of 1200 gallons a minute or 1.728
25 million gallons per day. And we pump tested all
26 the way up to very close to 2 million gallons a day
27 for one period which is 1500 gallons per minute.
28 And we never had a drawn down of even 2 feet.

1 Furthermore, we had our, our well replenished
2 within, I believe it was 15 or 16 minutes. So,
3 after we pumped for something like a 120 hours and
4 pumped a huge, 10 million gallons of water, the
5 well came right back. And so it's a, it's just
6 very, very strong. The water temperature by the
7 way, stayed within a one degree tolerance and which
8 indicates that the water is coming from a distance
9 away and is, is just refilling all the time. The
10 hydrologist said it's probably coming from about 2
11 miles uphill. And so you have like a very wide
12 flume basically coming down into what is our, our,
13 our hole. We, we spent the maximum amount of money
14 on our well that we could because we knew that we
15 were taking a really big risk, and, you know a
16 multi-million risk and we didn't want to, what we
17 wanted, we wanted to do the very best we could. We
18 didn't, we didn't cut any corners at all. We
19 grouted the well all the way down, we put in the
20 most expensive, the most powerful pump that you can
21 find on the entire market. We, we did it all and
22 we were, we were nervous. We, we could've gone
23 wrong. The Piiholo well that Maui Land & Pine
24 drilled was 2,000 feet away from us and they
25 started before, before we did and they were getting
26 preliminary reports back that things weren't going
27 so well and so we knew that we had to, we knew that
28 we had to do it right, we knew that we had a big

1 risk but we were very fortunate. And, and it came
2 out well. So, we have our, we have economic needs
3 but we also have the ability to help the County so
4 I guess that's why I'm here today.

5 CHAIR HOWDEN: Jeff, would you have any comments on
6 this or...

7 DIRECTOR ENG: No, we've had a couple of
8 preliminary meetings, Zack and I, and I think he's
9 met with you and I think you've talked to a number
10 of council members...

11 MR. FRANKS: A couple of them.

12 DIRECTOR ENG: We don't have anything definitive to
13 talk about this time...

14 MR. FRANKS: In terms of an agreement.

15 DIRECTOR ENG: Yeah, we, that would have to be
16 worked out and of course my position would have to
17 be favorable to the County.

18 MR. FRANKS: Uh huh.

19 DIRECTOR ENG: And I know that there is some
20 concerns about the Piiholo agreement and you had
21 some but...

22 CHAIR HOWDEN: Uh huh.

23 DIRECTOR ENG: My position would have to be
24 minimally as favorable to the County as that. And
25 I don't know where you're at on that this time,
26 Zack.

27 MR. FRANKS: Uh huh.

1 DIRECTOR ENG: But that's something before we can
2 go too much further, we have to understand that
3 again for us to bring it before Council and even
4 this board, it clearly has to have, in favor of, of
5 our County.

6 CHAIR HOWDEN: Ok, so what would, what would be the
7 procedure if, if you want to explore this more for
8 Mr. Franks to meet with you again or...

9 DIRECTOR ENG: Yeah, my door is open. We met about
10 a month and a half ago...

11 CHAIR HOWDEN: Ok.

12 DIRECTOR ENG: There's always things that we still
13 want to look at, take a closer look at the pump
14 test. They seem to be fine. But we wanna review
15 that. We would definitely because of the location
16 of that well right in the middle of a pineapple
17 field is a concern; not only the community has
18 expressed but even our department, we'd have to, I
19 think we'd have to, Mr. Kushi, deal with those that
20 are involved in the settlement for approval of that
21 well site too. There was this DBCP settlement in
22 which any well that the County would either develop
23 or acquire would require those parties approving.
24 So, but yeah, we closely look at the water quality
25 and make sure that, 'cause the concern would be
26 most likely those same fumigants that caused some
27 problems in other areas were utilized in those
28 fields. And so, we might have to make some

1 provisions that if treatment is required in the
2 future that there is some language in the agreement
3 to cover that. And even look at, even now the
4 current water quality too. I'd rather even have
5 our lab people, we run the pump, run the well, take
6 some samples just to make sure that we know where
7 we're starting from.

8 CHAIR HOWDEN: Yeah.

9 DIRECTOR ENG: So.

10 CHAIR HOWDEN: Ok, I mean...

11 MEMBER GERBIG: Then no water analysis has been
12 done from the well then, correct?

13 DIRECTOR ENG: I, I've seen 2, 2 sets of analysis.
14 The first one was not acceptable...

15 MEMBER GERBIG: Talking chemical.

16 DIRECTOR ENG: Yeah, it was water quality; basic
17 chemistries. The first one was inappropriate. It
18 was done by a non-certified lab. That equipment
19 couldn't even detect close to the levels that are
20 required by the EPA and the Department of Health.
21 The second one was done but again we, you have a
22 lab background and being in wastewater or water,
23 sampling is probably, the sampling technique is so
24 key to everything that makes or breaks your results
25 so, we would probably need to get our personnel out
26 there and do the sampling...

27 CHAIR HOWDEN: Uh huh.

1 DIRECTOR ENG: Have a good comfort level of the
2 results.

3 MEMBER GERBIG: So, no reliable analysis has been...

4 DIRECTOR ENG: Not anything that I, I can place any
5 money on at this time.

6 MR. FRANKS: But we did place money on it actually.
7 And we did place money on the analysis and I, I
8 think that it's done by a certified lab I believe.
9 And, and there was nothing that, that came up to
10 levels that were objectionable by either state or
11 federal standards. The water is essentially for, I
12 believe for drinking water purposes, pristine and
13 or close to it. Probably does not need filtration.
14 The water is sourced 1608, 1680 feet below the
15 ground on a basal lens. And the situation with it
16 is that the, for the, for the groundwater and the
17 chemicals to percolate, it, it'll take
18 approximately 5 years, if they could get down to,
19 if they could get down to the basal lens. Take
20 approximately 5 years. Well, the amount of
21 filtration in the soil and in the rock that it has
22 to go through in a quarter of five years purifies
23 it and that's why the water is clean. We're of
24 course, you know, I, I, by the way I, I'm not here
25 on my initiative. This was, I, I've been, you
26 know, this came up before the board and I happened
27 to find out about it in my Maui County notices.
28 So, I'm not actually here to sell you on it but

1 I'm, now that, now that it's come up, we're happy
2 for anybody to test our water and come, come in and
3 test our water. We've done it. We've done it
4 twice as a matter of fact. And, you know, the
5 water, the water is good. I've, I've drunk it.
6 I'm still here to talk about it. I wouldn't worry
7 about it. But I, but, but the director may have,
8 you know he has different fiduciary duties than I
9 do.

10 CHAIR HOWDEN: Scott.

11 VICE CHAIR LUCK: What is the, the original purpose
12 of the well? What was it intended to be used for?

13 MR. FRANKS: We own 325 acres and so the Show Me
14 the Water bill came in after we bought our land and
15 so we drilled the well.

16 VICE CHAIR LUCK: And so you have excess capacity
17 now and..

18 MR. FRANKS: We have excess capacity. We decided
19 to build it big, bigger than our specific needs
20 because we knew that there was a demand for water
21 and that it was valuable and so we, we put it in.

22 VICE CHAIR LUCK: Has there been any interest in
23 tapping into your resource from private entities?

24 MR. FRANKS: Yes.

25 VICE CHAIR LUCK: Ok. Thank you.

26 MR. FRANKS: Sure.

27 CHAIR HOWDEN: Yeah, and these are, obviously the
28 Piiholo Well I've been monitoring as best I could

1 and when I found out this well was happening and
2 that it got tested well and 1.7 million gallons
3 plus a day in the range of the 1.5 to 2 million
4 that we were hoping from the Piiholo Well. And
5 there, there are some technical things too.
6 Engineering, in the discussions from the
7 engineering department of the Board of Water
8 Supply, not Board of Water, Department of Water
9 Supply. Engineering had pushed before the
10 agreement was signed that the well, that the
11 Piiholo Well be grouted all the way to the basal
12 lens because of possible contaminants from the
13 pineapple fields. Maui Land & Pine chose not to do
14 that against the mana'o of, of Engineering. There
15 were some other questions as well, but the
16 agreement was signed none the less. And so we
17 became committed to that agreement. Now is the
18 question if Piiholo isn't producing and won't be
19 producing, how do we compensate for that in the
20 public interest? And, I've had coffee with Mr.
21 Franks yesterday, I paid for my own. And just to
22 have a better understanding of what was going on
23 with this and I'm, I'm very impressed. I've seen
24 his presentations before, before the Olinda
25 Community Association, etcetera and I find him a
26 very thoughtful and considerate person and I think
27 that if the County is open to working with him,

1 that we could work out an agreement that would
2 satisfy the County.

3 VICE CHAIR LUCK: I had one other question for Mr.
4 Franks. Would you be open to the Department
5 conducting an independent testing of the source
6 water?

7 MR. FRANKS: Oh yeah.

8 VICE CHAIR LUCK: Ok.

9 MR. FRANKS: Yeah. You know, and that may be a
10 requirement of it. Mr. Eng has, Mr. Eng who is
11 also easy to work with and, and very friendly and,
12 and we're interested in each other, has indicated
13 in the past that he might have to do that. And,
14 and it's just confirmatory in nature. I know
15 nothing, I mean I, I, I don't know anything about
16 lab analysis. We had our professional engineers
17 order these tests. I wouldn't have even known what
18 to ask for let alone influence the, the, and you
19 know and, and what we're doing up there along these
20 lines is that we're trying to build essentially a
21 community that'll have permaculture and orchards
22 and public gardens and, and so we'll use some of
23 that water but we're also gonna use a lot of
24 catchment 'cause we're in a fairly, we're in an
25 area that gets 50 to 70 inches of rainfall a year.
26 So, we're trying to be environmentally positive in
27 this way and we wouldn't want to sell the County to
28 any water that's for sure. But we know that we

1 have enough water really by ourselves, we have
2 enough water that we can appropriate to County.
3 Right now there are about 1300 applications on the
4 water meter list for Upcountry. And we could
5 probably by ourselves cover about a thousand meters
6 at 500 gallons, 4 to 500 gallons a day just by the
7 appropriation that we, that we turn over to the
8 County. In other words we can make a huge dent in
9 what has been an ongoing crisis. And the reason
10 that we can do that is because we've actually had
11 the good fortune to drill probably the biggest and
12 best well that's ever been drilled Upcountry. I
13 don't think there's any well that's comparable,
14 that's comp, even, even the, even the County's well
15 is not as productive as ours.

16 VICE CHAIR LUCK: A question, thank you.

17 MR. FRANKS: Yeah.

18 VICE CHAIR LUCK: A question for the director
19 actually.

20 DIRECTOR ENG: Uh huh.

21 VICE CHAIR LUCK: Are the costs associated with
22 doing the testing that would be appropriate for
23 this prohibitive or fairly nominal or...?

24 DIRECTOR ENG: Well, the lab testing could, if you
25 do the full array that we would want, would
26 definitely be in the thousand to two thousand
27 dollar range.

28 VICE CHAIR LUCK: Ok.

1 DIRECTOR ENG: What Mr. Franks would have to do
2 though, he'd have to set up a temporary pump and a
3 generator to run that, that well. He doesn't have
4 any power out there, he doesn't have a pump in
5 place or motor, all that has to, that could be
6 costly.

7 VICE CHAIR LUCK: For, for Mr. Franks?

8 MR. FRANKS: Well, for whomever wants the water.
9 I've already tested it.

10 VICE CHAIR LUCK: Ok.

11 (Vice Chair Luck, Director Eng and Mr. Franks
12 speaking at the same time)

13 VICE CHAIR LUCK: I, I see your...

14 MR. FRANKS: So it could be costly for the County
15 not for me.

16 DIRECTOR ENG: We just have to see if we would foot
17 the bill on that.

18 MR. FRANKS: We tested it.

19 DIRECTOR ENG: Yeah, you know it's a good well.
20 And we have a good well too at Pookela. We could
21 have probably even put a bigger pump in if we
22 desired. You know, we have to look again at the
23 capacity of this; that have to be studied further.
24 On the surface, on the pump test that's run around
25 1200 gpm, that's 1.7 mgd but as you know we've made
26 reference to our standards. Our standards are 2/3
27 of 2/3, which is 45%. So really you're talking
28 about a net pump capacity of 765,000 gallons per

1 day. You're not gonna pump it the full 1.7 mgd.
2 And then if you recall the Piiholo agreement then
3 there was a, an allocation between the County and
4 Maui Land & Pine. So of that net amount, let's say
5 in this case it's 765,000 gallons per day, 75% went
6 to the developer and 25% would have gone to the
7 County. So I think we would have to, minimally
8 look at some kind of allocation like that to
9 satisfy most people who have an interest, probably
10 including the Council. So that's where we looking
11 at. And that's something that Mr. Franks, we've
12 discussed a bit and so really the net pump capacity
13 isn't, but it's something that we're certainly
14 would be interested in.

15 CHAIR HOWDEN: Yeah, the parts of the Piiholo Well
16 Agreement, such as the 120,000 gallon day
17 allocation from the Upper and Lower Kula systems
18 that we were granting to Maui Land & Pine wouldn't
19 need to be...

20 DIRECTOR ENG: Right.

21 CHAIR HOWDEN: Given to him.

22 DIRECTOR ENG: So, you all, in, in...

23 CHAIR HOWDEN: We would, we would..

24 DIRECTOR ENG: And I'd like to, if you don't mind,
25 just talking about that. I think the concern that
26 you had was, is being delivered outside of the
27 normal service area of that well.

28 CHAIR HOWDEN: Yes.

1 DIRECTOR ENG: Is that your...

2 CHAIR HOWDEN: Yeah, because we'd have to pump, in
3 worst case scenario, we'd have to pump up. And
4 Engineering in their reports, that Gaye provided to
5 me earlier or let me access...

6 DIRECTOR ENG: Right.

7 CHAIR HOWDEN: The file a few years back.
8 Engineering was concerned that for the Upper and
9 Lower Kula systems, given the disrepair of the
10 Waikamoi flume systems, etcetera, that there was
11 source scarcity for Upper and Lower and so to
12 guarantee Maui Land & Pine a 120,000 gallons a day,
13 where we might be pumping that to provide that
14 seemed ill-advised, in my opinion of course.

15 DIRECTOR ENG: No, I think some of my staff had
16 shared that same opinion. We do look at the
17 service area of any potential source 'cause you do
18 want to run efficiently as possible too and
19 minimize our pumping costs.

20 CHAIR HOWDEN: Yes.

21 DIRECTOR ENG: So no, I think most of my
22 engineering staff support your position and agree
23 with you. One thing I know you mentioned about
24 Piiholo, if you don't mind my...

25 CHAIR HOWDEN: Oh, no, of course. Good, good we
26 talk.

27 DIRECTOR ENG: You mentioned about the grouting,
28 that was an issue, we, we won that argument.

1 CHAIR HOWDEN: Oh, they did grout all the way down?

2 DIRECTOR ENG: We got 'em, yeah.

3 CHAIR HOWDEN: Ok, 'cause then in the agreement...

4 DIRECTOR ENG: Yeah, yeah, that was something that
5 was probably the final point that had to be
6 resolved, so we did. This one, if you look at this
7 one, this isn't actually grouted all the way down
8 to the water level. It's about 125 feet shy. But
9 it still is in accordance with the Water
10 Commission's water well development. But we
11 typically try to get grouting down to water level.
12 We had, I've discussed this with another hydro-
13 geologist recently, that's a proper position to
14 take and he supported it, so.

15 CHAIR HOWDEN: Good.

16 DIRECTOR ENG: And we will try to do our best to
17 get that.

18 CHAIR HOWDEN: Thank you. I'll issue a retraction
19 then.

20 (laughter)

21 DIRECTOR ENG: Now you didn't get to hear all the
22 gory details of that discussion with Maui Pine so.

23 CHAIR HOWDEN: Just as well.

24 MEMBER YAMAMURA: I have a question.

25 CHAIR HOWDEN: Yeah.

26 MEMBER YAMAMURA: I don't need to know all of your
27 total investment, however...

28 MR. FRANKS: Right.

1 MEMBER YAMAMURA: Do you have cost of your
2 drilling? Just the drilling.

3 MR. FRANKS: I can't tell you what the cost of the
4 drilling is. I can tell you the pump cost us
5 \$850,000, just alone. And I think that Maui Land &
6 Pine has, has without a pump, more than \$2 million
7 in their well already. So, that'll give you an
8 idea of where we are.

9 MEMBER HOXIE: How far a distance between the 2
10 sites?

11 CHAIR HOWDEN: Two thousand.

12 MEMBER HOXIE: This, this well and..

13 MR. FRANKS: Two thousand feet.

14 MEMBER HOXIE: Two thousand feet?

15 MR. FRANKS: Right. The, the problem as I
16 understand with the Maui Land & Pine well, and some
17 of you probably know much better than I, is that
18 their draw down was severe. Our draw down is
19 minimal and, and that's the, that's the big
20 difference.

21 CHAIR HOWDEN: Any other questions?

22 MR. FRANKS: And we also have a pump, that's a big
23 difference too.

24 CHAIR HOWDEN: Well, thank you so much..

25 MR. FRANKS: Thanks very much.

26 CHAIR HOWDEN: For coming.

27 MR. FRANKS: Ok.

28 CHAIR HOWDEN: Good news.

1 MR. FRANKS: All right.

2 CHAIR HOWDEN: Ok, C...

3 VICE CHAIR LUCK: Before we, before we move on you
4 wanna...

5 CHAIR HOWDEN: Say anything?

6 VICE CHAIR LUCK: Comment amongst ourselves or, and
7 or make any actions? I mean, I guess when I hear
8 the, both sides of the conversation it sounds like
9 conversation has already started which is
10 fantastic. I certainly would not personally trust
11 someone else's testing so I understand Jeff's point
12 of view of wanting to have an independent testing
13 done.

14 CHAIR HOWDEN: Absolutely.

15 VICE CHAIR LUCK: But the cost of couple thousand
16 dollars which isn't minimal doesn't seem too
17 prohibitive to be able to...

18 DIRECTOR ENG: No, that cost isn't anything.

19 VICE CHAIR LUCK: I think that personally I would
20 encourage an expedited route of trying to come up
21 with seeing if this is going to be viable or not,
22 because there is definitely a demonstrated need in
23 Upcountry...

24 DIRECTOR ENG: Oh yeah.

25 VICE CHAIR LUCK: That even if both of the wells
26 were functioning, we still probably wouldn't
27 actually really cover it all.

28 DIRECTOR ENG: Well sure...

1 VICE CHAIR LUCK: And that's not to say that
2 there's, I think you know a lot more of the details
3 obviously than I do..

4 DIRECTOR ENG: Yeah.

5 VICE CHAIR LUCK: And there might be a lot of
6 things going on that make it so it's not perfectly
7 ideal at the moment but at least to take that
8 exploratory step seems like a good move at this
9 time.

10 DIRECTOR ENG: Well, just to give you some
11 background. Last time we, I did meet with Mr.
12 Franks was about a month and a half ago. Prior to
13 that I had another fairly encouraging meeting with
14 him. But then I'm glad we had a chance to talk
15 about 2/3 of 2/3, what kind of expectations if he
16 wants to dedicate this source to the County to own
17 and operate and maintain, what the cost is for the
18 developer and I was not very successful earlier in
19 getting him to understand it so I appreciate having
20 this format 'cause you folks are familiar with
21 generally how we deal with developers. We wanna be
22 consistent. We need to make it favorable to the
23 County. And I don't know exactly where he's coming
24 from earlier but it wasn't anywhere near what, I
25 was gonna say, Mike, that if he didn't like the
26 Piiholo agreement I know you wouldn't like the
27 direction he's going.

1 CHAIR HOWDEN: Well, I made it very clear to him
2 yesterday. I said if you can work an equitable
3 agreement with the County we're, we're all ahead.
4 The Upcountry water system is precarious. And I
5 said you know, you know if, if your needs can be
6 balanced with the County's needs then we move ahead
7 and it was one the main themes of, of both mayoral
8 candidates last time around of improving the water
9 systems. I think especially in these times if we
10 could move forward a little bit I think it would be
11 very heartening to people who are otherwise quite
12 disheartened for so many years who's on this list.
13 Scott?

14 VICE CHAIR LUCK: Just have one, one last comment,
15 I guess, would be that I think that we all trust
16 that you're working in the best interest of the
17 County and will come up with a deal that only makes
18 sense and if you can't then there won't be a deal.
19 I think about the, probably the first step is
20 making sure that the water meets the standards that
21 are gonna be required anyway, otherwise a lot of
22 effort and money are spending to meetings that are
23 gonna be fruitless. If later on you do the test
24 afterwards and then all the money you spent on Ed
25 looking over the documents was wasted because..

26 CHAIR HOWDEN: Yeah, was pretty expensive.

27 VICE CHAIR LUCK: It ended it wasn't good enough to
28 you know. So, looking at it from a business

1 perspective it seems like a decent investment to
2 make so at least we know that piece from the
3 outset. That's just my 2 cents from a business
4 perspective.

5 CHAIR HOWDEN: Would you wanna make a motion,
6 Scott? To encourage the Department to move forward
7 or...?

8 VICE CHAIR LUCK: I, I would say, let's see if we
9 can think of the phrasing for it, I think it would
10 be something along the lines of encourage further
11 discussion but in order to make a deal that would
12 be equitable for the County. I don't know if
13 anybody has a different p.o.v.

14 MEMBER ROBINSON: Before I add my, my vote to that
15 I, I would like to know what the cost of the
16 temporary pump and generators would add to the
17 1,000 and 2,000 for the testing.

18 DIRECTOR ENG: Yeah see, that's something I
19 probably won't obligate the Department because it
20 could be, well it could be in the tens of thousands
21 of dollars so. You probably have to work with a
22 drilling firm who has the equipment. We would
23 probably want to maybe take numerous samples, maybe
24 even before we start up the pump and after a period
25 of time, particularly with the potential
26 contaminants that are in that area and just their
27 behavior too. I've seen it fluctuate from wells
28 that were out of service, undergoing repair and

1 starting up again. I would almost wanna run that
2 thing for a few days too, so take an initial sample
3 and then see it after a few days of pumping, see if
4 that even cause more extraction of movement of
5 those chemicals. And, and, and also if any
6 agreement were to be developed we would wanna have
7 some language to protect the County if they do down
8 the road show up too..

9 VICE CHAIR LUCK: Absolutely.

10 DIRECTOR ENG: At any, any level.

11 MEMBER ROBINSON: Could an agreement be made that
12 if, if it is favorable, if all the tests proved
13 favorable that then the, that working into the
14 agreement would be the cost of this? Is there
15 some, I don't know, maybe some language..

16 DIRECTOR ENG: See, I like to always throw it on
17 the developer..

18 MEMBER ROBINSON: Uh huh.

19 DIRECTOR ENG: As much as possible..

20 MEMBER ROBINSON: It didn't sound though..

21 DIRECTOR ENG: Since you know..

22 MEMBER ROBINSON: They were particularly
23 interested.

24 DIRECTOR ENG: We're really relieving them of the
25 burden of owning and..

26 VICE CHAIR LUCK: Uh huh.

27 DIRECTOR ENG: Operating this thing. And, and
28 that's probably what I would require for us to go

1 further. The burden of proof is on him, not us.
2 Even though we will have benefit in the end but
3 it's, but also a lot of it is just make sure he
4 understands the basic allocation of that well. Too
5 many times I think some people who drill a well,
6 they think, oh they're gonna get a 100% of that
7 pump capacity. But that's not how we would
8 operate. We would always try to do defend our, our
9 system standards, 2/3 of 2/3 minimally, 'cause
10 already we're not in compliance. We got to bring
11 the Department and the systems towards that, that
12 water system standards.

13 MEMBER ROBINSON: Could you explain what you mean
14 by 2/3, 2/3?

15 DIRECTOR ENG: Well, for wells generally, and this
16 is the standard that the County of Maui as well as
17 the City and County of Honolulu adopted many years
18 ago. And that is when you determine that net
19 capacity from a well, it's based on you gonna meet
20 maximum day demand of 1.5 times average day demand
21 as well as operating that well in only 16 hours, or
22 again achieving that maximum day demand in 16 hours
23 of pumping. So as it turns out the formula, you
24 end up with 45% of the gross capacity to meet your
25 standards.

26 MEMBER GERBIG: That's a, that's a rule of thumb?

1 DIRECTOR ENG: Yeah, that's a standard and
2 basically a guideline that we try to follow. We
3 haven't been good at all in doing it but...

4 MEMBER GERBIG: Let me ask, let me ask you another
5 question. If say there's been no chem, am I
6 correct, there's no chemical analysis of any of
7 that water.

8 DIRECTOR ENG: There were 2.

9 MEMBER GERBIG: At this point.

10 MEMBER ROBINSON: Two.

11 DIRECTOR ENG: There were 2.

12 MEMBER ROBINSON: Two.

13 DIRECTOR ENG: One was by an uncertified lab that
14 did not have the proper...

15 MEMBER GERBIG: What was the chemical they analyzed
16 for?

17 DIRECTOR ENG: Well, the first one, again you can
18 just tell by the detection limits of the equipment,
19 I threw it out immediately. It was an unknown lab.
20 The detection limits weren't even close to what you
21 need to determine if they're at the MCL's (maximum
22 contaminate level), ok, so. The second one was by
23 a certified laboratory. It did look favorable. I
24 forget, but it's something you know...

25 MEMBER GERBIG: Did they find anything?

26 DIRECTOR ENG: Sampling is...I don't recall anything,
27 might've been a trace of something. Again,

1 sampling is, is so key. Particularly if you're
2 looking at these volatile organic...

3 MEMBER GERBIG: Well, it's kinda useless if it
4 hasn't run for awhile either, doesn't mean
5 anything.

6 DIRECTOR ENG: Yeah, but sampling's all key...

7 MEMBER GERBIG: Let me ask you...

8 DIRECTOR ENG: 'Cause those things again...

9 MEMBER GERBIG: Let me ask you...

10 DIRECTOR ENG: Can be lost in, in your samples.

11 MEMBER GERBIG: Yeah, let me ask you another
12 question. Say we, say the County agreed to, to
13 this, take this water whatever, and naturally I'm
14 assuming that all the parameters would be in there
15 to safeguard the County and all that, but if later
16 on, like you mentioned, that the chemical was
17 applied to the soil in that area and it's not down
18 there yet, but what after we accept this thing and
19 then it, I mean you'd have to put that in the
20 contract, that if it does appear, he either treats
21 it or, or the County recovers the cost to treat it
22 if we wanna still maintain it or still use it. Let
23 me...

24 CHAIR HOWDEN: I think that's part, part of the
25 agreement...

26 MEMBER GERBIG: Yeah, would be, yeah, I agree. One
27 more question I have. On my understanding that, on
28 the, at one time there'd be, between chemical

1 companies and everybody that, the chemical
2 companies whatever their insurance, would bill the
3 treatment plants, is that still in effect?

4 DIRECTOR ENG: Uh huh. Yes it is.

5 MEMBER GERBIG: Ok.

6 DIRECTOR ENG: For so many years though, it's been
7 awhile since I reviewed them..

8 CHAIR HOWDEN: There are some measures...

9 MEMBER GERBIG: It hasn't expired.

10 CHAIR HOWDEN: On it, 'cause it was signed I think
11 under Elmer Cravalho.

12 MEMBER GERBIG: But it hasn't, has, how long is
13 that agreement?

14 CHAIR HOWDEN: It was thirty something years
15 originally.

16 MEMBER GERBIG: Oh, so it's probably still in
17 effect then.

18 CHAIR HOWDEN: Still in effect. But we're running
19 out of...

20 DIRECTOR ENG: And, and again, I think I'd have to
21 kinda review that agreement because it does pay for
22 the capital cost of the treatment facility as well
23 as O&M costs going out so many years. And as I
24 also recall the O&M costs have changed quite a bit.
25 Basically the cost of the granular activated carbon
26 has probably gone up three-fold. So we would have
27 to make sure that that's addressed in the language
28 of the agreement. There's a lot of things we'd

1 have to consider and Mr. Kushi will catch 'em all,
2 as usual.

3 CHAIR HOWDEN: Absolutely.

4 MR. KUSHI: You know, I'm just sitting here
5 thinking about this. Mr. Chair, if I may...

6 CHAIR HOWDEN: Of course.

7 MR. KUSHI: I'm not involved in this. I don't know
8 that guy. I haven't seen anything. But it has to
9 come out in an agreement but this Franks' well
10 versus the Piiholo Well, is night and day because
11 the Franks' well is being done ass backwards. I
12 mean he's done it, he's drilled the well already,
13 he selected a site, versus the Piiholo agreement we
14 negotiated with Maui Land & Pine, we put all these
15 things in and we, we, we negotiated the agreement
16 before they dug the hole, and we had all these
17 contingencies. But this guy's half way through.
18 So, now he wants to come to us and accept what he's
19 already done. Anything's possible but it just puts
20 a step backwards. The key thing, I, I think is
21 that before Piiholo, Maui Land & Pine drilled that
22 well, we checked with the chemical companies as far
23 as the site selection and they said ok, go ahead.
24 This site, I'm not sure if it would be acceptable.
25 You got, you need to...

26 MEMBER ROBINSON: What do you mean by that?

27 MR. KUSHI: You need to let the chemical companies
28 know where you're gonna drill a well.

1 MEMBER ROBINSON: Chemical companies, what chemical
2 companies?
3 DIRECTOR ENG: Shell and Dow, those...
4 MR. KUSHI: The County sued all these chemical
5 companies for DBCP...
6 DIRECTOR ENG: The only...
7 MEMBER ROBINSON: I see, the ones...
8 MR. KUSHI: Yeah, right.
9 DIRECTOR ENG: The DBCP settlement.
10 MR. KUSHI: And they would be good for it. But you
11 gotta know where you're gonna drill.
12 MEMBER ROBINSON: I see.
13 MR. KUSHI: So, right in the middle of the
14 pineapple field?
15 MEMBER ROBINSON: Right.
16 MR. KUSHI: So they may come back and say, I'm not
17 sure, they may say, noooo, no, no, we're not going
18 to indemnify that site.
19 CHAIR HOWDEN: Ahhh.
20 MEMBER ROBINSON: I see.
21 MR. KUSHI: And you take it as is, right. But if
22 as if you...
23 DIRECTOR ENG: So we've have to get the protection...
24 MEMBER GERBIG: So, the possibility of them buying
25 a treatment plant may not happen.
26 MEMBER ROBINSON: I see.

1 CHAIR HOWDEN: But then because these people were
2 not a party to that agreement they would have
3 recourse against Dow and Shell.

4 MR. KUSHI: But why should the County jump into a
5 lawsuit?

6 CHAIR HOWDEN: Oh, no, never. Not us.

7 MR. KUSHI: You know, if, if, again, anything's
8 possible but push comes to shove, he does his own
9 private well...

10 CHAIR HOWDEN: Yeah.

11 MR. KUSHI: And he serves his own private
12 subdivision.

13 DIRECTOR ENG: Yeah, you know...

14 MR. KUSHI: But he does his own water tanks and
15 distribution lines also.

16 DIRECTOR ENG: Mr. Kushi's absolutely correct.
17 This has been difficult at best because, yes, he
18 went forward, usually we wanna be up there and
19 looking at the design and making our comments from
20 the beginning. This hasn't gone to our engineers,
21 you know, they're gonna have a fit if we were to
22 dump it on them because they haven't seen anything.
23 He already has a pump and motor. I'd route my
24 operations people to have reviewed and help require
25 that selection. Hopefully, you know, we want
26 equipment that they're familiar with, some
27 consistency in our system. Some of these
28 developers, some of them buy the cheapest piece of

1 equipment 'cause they know they're gonna turn it
2 over to us and the County, and we're stuck with it.
3 Again, I'm glad we had, I had the opportunity to
4 talk about this allocation because in my, again, I
5 only had a couple meetings but, he's not even
6 considering what we've done in the past. And we
7 have to be at least somewhat consistent. So, I
8 know he's talked to a lot of the politicians and
9 getting their support before they get, the
10 Department's...

11 CHAIR HOWDEN: That's pretty easy.

12 DIRECTOR ENG: You know so, I'm kinda like, I'm
13 glad we're working together on this and you have a
14 better idea what I'm facing because (it's) a little
15 bit ass backward. I'd rather he sell it to us so
16 we can help sell it to the politicians and the
17 council. He's going the other way around. So, now
18 I'm under a little pressure by everyone saying,
19 "you'd better accept it." But I got my Calvin here
20 so, it ain't that easy.

21 CHAIR HOWDEN: No, no, no, all I, all I, all I
22 would want in the public interest would be that we
23 begin discussions and we look at what the specs are
24 and that we just initiate something, you know as
25 Scott suggested. I, I don't think we should rush
26 headlong into any agreement. He doesn't seem to be
27 in a great hurry either. But, but I think we, it
28 would be helpful to put this on the table if it is

1 anywhere near as good as what he represents it as.
2 It would be to our great advantage and certainly a
3 great advantage to the Upcountry system. So, that,
4 that's why we're nudging you and...

5 MR. KUSHI: Yeah, Mr. Chair, if I may.

6 CHAIR HOWDEN: Sure.

7 MR. KUSHI: I'm just gonna put it to rest. I would
8 suggest this then, I mean if he's serious and the
9 Department is willing to get into some kind of
10 proposal, tentative agreement, it'll come to my
11 office and I will rip it up but when, when it's
12 done in a tentative form, bring it back to this
13 body. You guys look at it and make your
14 recommendations in executive session, I want this
15 because it's still a...

16 CHAIR HOWDEN: Sure.

17 MR. KUSHI: Draft agreement. Give us, give the
18 Department your comments and if the Department is
19 still willing, send it up to Council. 'Cause the
20 Council needs to approve this. Not like the
21 Piiholo Agreement. The Piiholo Agreement was, was
22 signed off the day before that, that law went into
23 affect so...

24 VICE CHAIR LUCK: Mr. Kushi.

25 MR. KUSHI: Council never even saw that.

26 VICE CHAIR LUCK: Mr. Kushi, so your recommendation
27 then is to, to leave it back in Mr. Franks' hands

1 to come up with a proposal as opposed to having the
2 Department kinda chasing them.

3 MR. KUSHI: Well, I mean, it's you know, if the
4 Department has the time and effort to chase them.

5 VICE CHAIR LUCK: Right, no, I understand that so,
6 so the next step really if you were to be here
7 would be for us to say, "develop a proposal..."

8 MR. KUSHI: Submit a proposal.

9 VICE CHAIR LUCK: "...keep in mind that we're looking
10 for the best interest of the County, so it needs to
11 be reasonable, and then once you've submitted
12 that's public," or at least, I guess it's private
13 actually, "to the Department that then next steps
14 will be taken from there."

15 MR. KUSHI: Right. Then the process would be it
16 goes to the Council 'cause it's a private-public
17 partnership for water resources and under the law
18 as it exists now they need to approve it.

19 VICE CHAIR LUCK: So in your opinion, it would make
20 more sense to take that route than to test the
21 water for it's viability, than that it meets the
22 Department's standards first.

23 MR. KUSHI: Well, I mean, he, he take his risk if
24 he wants to do it independently, without the
25 Department knowing.

26 VICE CHAIR LUCK: Well the Department's gonna do it
27 at some point anyway.

1 MR. KUSHI: No, no. I mean I would recommend to
2 the Department, he does it at his cost.
3 MEMBER ROBINSON: Do the, the sampling?
4 VICE CHAIR LUCK: Yeah.
5 MEMBER ROBINSON: I think they've already done the
6 sampling.
7 VICE CHAIR LUCK: Yeah, no, but it's not up to the
8 standards of the Department or to the Director at
9 least it sounds like.
10 DIRECTOR ENG: We want, we would just want
11 verification..
12 MR. KUSHI: Right.
13 MEMBER ROBINSON: In the standards that you, you,
14 you would use. In other words you, you'd like him
15 to do water sampling that is up to the standards
16 that we would say we agree with.
17 VICE CHAIR LUCK: Right.
18 MEMBER ROBINSON: But at their cost not at our
19 cost.
20 CHAIR HOWDEN: So, it needs to be done in
21 connection with the Department. Don?
22 MEMBER GERBIG: Yeah. In regards to this, if, my
23 recommendation would be to give them a request for
24 proposal once they come up with all the data that
25 they have. In other words, rather than get,
26 request their proposal or what they want to offer
27 you, and you put all the safeguards in the request
28 for proposal that, you know, any fumigant found,

1 treatment plant, whatever it is, all this insurance
2 we put it in the request for proposal. Let them
3 come back and say, "ok, this is our proposal." And
4 then you can say yea or nay or renegotiate whatever
5 but let them, we put out, if you're interested, if
6 the County's interested in the water, let the
7 County come out with it, request for proposal to
8 them. And then in that, like I say, in that
9 request put all the safeguards that Maui would
10 need.

11 DIRECTOR ENG: Yeah, you're right. I mean in my
12 couple meetings with Mr. Franks, I have been trying
13 to lay out some of the groundwork and the criteria
14 for us to accept it, and I, again I, hopefully
15 today you heard it again, you know, basically what
16 we, conditions that we need to have in place, you
17 know, so we'll see...

18 CHAIR HOWDEN: Ok.

19 DIRECTOR ENG: How it goes from here.

20 VICE CHAIR LUCK: If, if it were to actually go to
21 RFP it would need to be open to other contractors
22 though then, right?

23 DIRECTOR ENG: Well, we wouldn't want an RFP so
24 much as more just a letter clearly indicating our
25 requirements and conditions...

26 MEMBER GERBIG: Yeah, that's basically what you
27 would be stating in there...

1 DIRECTOR ENG: And either he can live with them or
2 not then he's a private water system, if he chooses
3 that route, that's fine.

4 MEMBER GERBIG: Give them some guide, yeah, give
5 them some guidelines.

6 DIRECTOR ENG: And he could be a private water
7 system 'cause it's on his property.

8 MR. KUSHI: An environmental assessment or
9 environmental statement needs to be done too.
10 Since we gonna be using...

11 DIRECTOR ENG: If it would be, yeah, it's gonna,
12 it's gonna be requirement...

13 MR. KUSHI: Because the County will be involved at
14 the end of the day.

15 CHAIR HOWDEN: John.

16 MEMBER HOXIE: So we had a motion on the floor and
17 we kinda got distracted so we wanna get back to...

18 VICE CHAIR LUCK: Yeah, I'm gonna, I'll retract it
19 and do...I agree, I'll retract it. I do think we
20 need to make some sort of action. And I guess it,
21 it..

22 CHAIR HOWDEN: Well, Director Eng?

23 VICE CHAIR LUCK: It sounds, it sounds like the
24 consensus of or maybe it's not the consensus but
25 sounds like the latest thing is that we encourage
26 the Department to develop an RFP that suits it's
27 needs.

28 DIRECTOR ENG: Yeah...

1 VICE CHAIR LUCK: And that's gonna be my question.
2 Do you have the, does the Department have the
3 resources to do that in a timely manner?
4 DIRECTOR ENG: Again, it's not so much an RFP...
5 MEMBER MYERS: I don't think so.
6 VICE CHAIR LUCK: Or, or specifications.
7 DIRECTOR ENG: It'd just be some kind of, of
8 written, when he's receptive to it. My door has
9 been open the past month and a half. I'm surprised
10 he hasn't contacted me. He only contacted, he left
11 a message yesterday. Wanted me to call him
12 desperately because he knew it was on the agenda.
13 CHAIR HOWDEN: Yeah.
14 VICE CHAIR LUCK: Right.
15 DIRECTOR ENG: That, that kind of, what's this all
16 about? I've been around the past...
17 CHAIR HOWDEN: Yeah, he seemed somewhat surprised.
18 DIRECTOR ENG: Month and a half, waiting for him to
19 call me to continue our discussion so.
20 VICE CHAIR LUCK: We basically (have) 2 options,
21 right? We can, as a board we can send a letter to
22 Mr. Franks, too, I believe. Mr. Kushi?
23 MR. KUSHI: Yes.
24 VICE CHAIR LUCK: Yes. So we can encourage him to
25 take the step, although it sounds like he's kinda
26 put the olive branch out. He's got his own
27 parameters and beliefs about the, how, the quality
28 of his well but in order to just get something

1 going someone needs to take a step. Someone needs
2 to take the first step, I mean...

3 MR. KUSHI: I mean, I'm not even sure this is going
4 to work. As a board you might just send him a
5 letter saying, "oh, thank you for your presentation
6 on this. We encourage you to work with the
7 Department and perhaps submit a proposal. Attached
8 for your reference is a copy of the Maui Land &
9 Pine Piiholo Agreement as a draft." Work off of
10 that maybe.

11 MEMBER ROBINSON: Because that sets out the
12 parameters of standards that we need to file?

13 CHAIR HOWDEN: But with lower expectations.

14 MR. KUSHI: Yeah, yeah, yeah.

15 MEMBER ROBINSON: With lower expectations?

16 CHAIR HOWDEN: Yeah. Oh yeah. That's you know, I
17 mean, Jeff loves it. But, but I, I found it kinda
18 inequitable agreement myself.

19 MR. KUSHI: I mean, just as a draft.

20 CHAIR HOWDEN: Yeah, yeah, yeah, no, it's fine.

21 MEMBER ROBINSON: So, ok.

22 MR. KISHI: He can even start from there.

23 VICE CHAIR LUCK: Well, that puts the burden of
24 responsibility back on Mr. Franks was that thinks
25 reasonable.

26 DIRECTOR ENG: That might be a nice...

27 CHAIR HOWDEN: Why not? Why not? I mean the
28 Department is overwhelmed at present.

1 MR. KUSHI: Then you know the ball sits in his
2 court.

3 VICE CHAIR LUCK: Yeah.

4 CHAIR HOWDEN: Mr. Hoxie, you had something..

5 MEMBER HOXIE: No, I was just gonna say that you
6 know, does he know what you need?

7 DIRECTOR ENG: Oh, yeah, I have talked to him about
8 it.

9 MEMBER HOXIE: Have we written down to him what,
10 what..

11 DIRECTOR ENG: And kinda explained to him our
12 previous developer source agreements. He actually
13 didn't want to hear it. He wanted, 'cause he
14 wants, so that would be interesting. And maybe do
15 send out something and let him review it. I think
16 he's seen the Piiholo agreement but..

17 MEMBER HOXIE: I think like Mr. Kushi said, just,
18 you get the ball going you know.

19 DIRECTOR ENG: Again, he's taking a little bit
20 different route. He's trying to sell his project
21 to the politicians first; maybe with the
22 expectation that I'll be pressured, the Department,
23 to accept it. Of course I will to a certain degree
24 but I want to do the right thing. So, it's just
25 gonna make it more difficult in getting this thing
26 to work. So, we'll see. I, again, until he left a
27 message yesterday, I haven't heard a peep from him
28 so. But I think again, we're all on the same page

1 here. Everyone wants what's best for the County.
2 So, that's all we're trying to do.
3 VICE CHAIR LUCK: So, I...
4 CHAIR HOWDEN: Kelli?
5 VICE CHAIR LUCK: Oh, I'm sorry.
6 MEMBER MYERS: Sorry.
7 CHAIR HOWDEN: She had her finger up.
8 MEMBER MYERS: I put my finger up. I have, I like
9 the idea of sending the letter and I'd like to put
10 forth a motion to send a letter from the Board
11 thanking him for his presentation and to encourage
12 him to work with the Department.
13 DIRECTOR ENG: Instead of the politicians.
14 (laughter)
15 VICE CHAIR LUCK: Maybe just..
16 CHAIR HOWDEN: Well, I mean, that, that's kind of
17 fundamental I would think. I mean it's one thing
18 to be chummy with the politicians but you've got to
19 pass departmental standards.
20 MEMBER MYERS: So, encouraging him to work with the
21 Department with some sort of proposal and also to
22 provide a copy of the Piiholo Well agreement, just
23 as, since it's already in play or in place..
24 DIRECTOR ENG: Uh huh. Yeah, an existing
25 agreement, yeah.
26 MEMBER HOXIE: I'll second that motion.
27 CHAIR HOWDEN: Ok, any discussion.

1 VICE CHAIR LUCK: Yeah, I would, I like it a lot.
2 I think maybe just with some sort proposal to
3 replace that with "to develop a proposal," and then
4 that's it.

5 MEMBER MYERS: Work with the Department to develop
6 a, no, and encourage him to develop a proposal and
7 work with the Department.

8 VICE CHAIR LUCK: Oh, yeah. Sorry, you already had
9 it.

10 CHAIR HOWDEN: Yeah.

11 VICE CHAIR LUCK: My bad.

12 MR. KUSHI: Similar but not identical.

13 CHAIR HOWDEN: Ok, excellent.

14 MEMBER ROBINSON: And we don't want to say,
15 "instead of the politicians?"

16 MEMBER MYERS: No.

17 MEMBER ROBINSON: We'll keep that out. That's
18 implied.

19 VICE CHAIR LUCK: That's not on her copy. I can
20 verify that.

21 CHAIR HOWDEN: Ok, any further discussion? John?
22 Those in favor?

23 (a chorus of ayes)

24 CHAIR HOWDEN: Ok, we're all in favor. Well done.
25 Well done. Ok. Mr. Hoxie has to leave by when?

26 MEMBER HOXIE: Eleven forty-five.

27 CHAIR HOWDEN: Eleven forty-five, ok.

28 MEMBER ROBINSON: And, and I do as well.

1 CHAIR HOWDEN: Ok.

2 MEMBER ROBINSON: I have a 12 o'clock meeting.

3 CHAIR HOWDEN: Ok. We should be out of here by
4 then. Ok, C., the Central Maui Water Use and
5 Development Plan. Have you all had a chance to
6 review the plans?

7 VICE CHAIR LUCK: I had a question.

8 CHAIR HOWDEN: Well, it's a little late if you
9 haven't.

10 VICE CHAIR LUCK: I'm wondering just how much this
11 differs from the previous draft that we had
12 received?

13 DIRECTOR ENG: About when did you receive that?
14 Has been a lot of months...

15 VICE CHAIR LUCK: Maybe 6 weeks ago, something like
16 that.

17 CHAIR HOWDEN: We got it in early March. Gaye sent
18 one out in early March and then sent another one
19 out.

20 DIRECTOR ENG: Then this might be the same one.

21 MS. HAYASHIDA: This is the one that's on the
22 website and according to Ellen this is the final
23 draft.

24 VICE CHAIR LUCK: Ok. It looked very similar to
25 the one that I had before. But I just wondered if
26 there were any substantial differences, 'cause I
27 didn't go back through in detail on this copy.

28 MS. HAYASHIDA: I don't know when your previous...

1 DIRECTOR ENG: If anything was dated February or
2 earlier then, then this is a change. This is the
3 latest dated March 2nd.

4 VICE CHAIR LUCK: I'm pretty sure it's actually
5 March.

6 CHAIR HOWDEN: Ok, good.

7 DIRECTOR ENG: And I think, really the difference
8 between the prior ones and this latest is one, the
9 typos Carl's cleaned up. And then what I liked, he
10 added at the very last was on page 84 where kinda
11 indicating the various uncertainties of these
12 various candidate strategies, such as Na Wai Eha
13 outcome; going, developing wells going northward
14 toward Kahakuloa. And then so it's kinda, this is
15 what I liked, enjoyed seeing. It's not all a slam
16 dunk any of these potential new sources. They all
17 have their obstacles and issues. So right now, I
18 think some, some people are, are submitting
19 comments to our planning division and I think part
20 of the process is to review them. I don't know if
21 all of them are going to be incorporated. And then
22 at some point this will go before the County
23 Council and they basically have to adopt the Water
24 Use and Development Plan. And the next step after
25 that is then to submit it to the Water Commission
26 because their doing this full state plan including
27 all the various counties and various others, water
28 quality plans, ag plans, so it's a, who knows where

1 this is going to end up and how much more time it's
2 gonna take to really finalize. Now the next thing
3 coming up is the Upcountry Water Use and
4 Development Plan. I think they're real close to
5 coming up with their final candidate strategy. So,
6 I think we can notify you when they're gonna have
7 the next advisory committee meeting. This is a
8 good, interesting reading. There's a lot of
9 analysis done. Again, most of this is from the
10 perspective of economics, ok. So, when you look at
11 this, you know, that's why I, some people think oh,
12 this isn't what we're going to follow strictly, but
13 no, it's, I view it more as a guideline, because of
14 the uncertainties and...

15 MEMBER GERBIG: So it's evaluating the most
16 reasonable way to do it, not necessarily...

17 DIRECTOR ENG: Yes. And mostly the most...

18 MEMBER GERBIG: Most desirable.

19 DIRECTOR ENG: Economic ways of doing things. So
20 you'll see things like the, probably the most
21 economic is this Waiale Surface Water Treatment
22 Plant. And then the least would be desalination.
23 So those are the extremes we're looking at. But as
24 the Department goes forward we will be looking and
25 evaluating a lot of other things too; basically the
26 obstacles that are before us. We hopefully gonna
27 take the path of least resistance as we develop our
28 new sources too.

1 MEMBER HOXIE: I have a question.

2 DIRECTOR ENG: Yes.

3 MEMBER HOXIE: This is the first one I've seen.
4 Now is one being done for every water district?

5 DIRECTOR ENG: Yes. Upcountry is close to being
6 here. West Maui is still in the earlier stages as
7 well as Molokai. Lana'i, Ellen has been working on
8 for 18 years. That's darn close.

9 (laughter)

10 DIRECTOR ENG: She, she, just yesterday requested
11 one additional month. I figure well what, 18
12 years, I, I can't be such a hard ass. I'll give
13 you another month. But I really debated if I
14 should give.

15 (laughter)

16 CHAIR HOWDEN: Oh, yeah.

17 DIRECTOR ENG: And then eventually Hana will have
18 one too.

19 MEMBER HOXIE: So is this funded by the County or
20 the Department, or what is, how is...

21 DIRECTOR ENG: Yeah, it's a, it's Department, yes.

22 CHAIR HOWDEN: And, and it's, it's mandated by the
23 Commission on Water Resource Management.

24 MEMBER GERBIG: How much did this thing cost, so
25 far?

26 DIRECTOR ENG: I haven't tallied it up; mostly in
27 our consultant and sub-consultants. A lot of
28 internal staff work is, is...

1 MEMBER GERBIG: Also working..

2 DIRECTOR ENG: Involved in this too. We have each
3 of the districts have advisory committees and
4 that's part of the process too. So, really even
5 this, a lot of this I may not necessarily totally
6 agree with but it is part of the process to work
7 with this advisory committee so I have to accept
8 it. So again, my job is to look for typos
9 basically.

10 CHAIR HOWDEN: Yeah, when Carl presented this at
11 the MACC about 3 or 4 weeks ago, there was some
12 questions on page 5, the second paragraph it says
13 in "...determining future water needs, identifying
14 all feasible means to meet future water needs..."
15 And the question that I had for him was what about
16 the EMI waters. Why, why isn't that part of the
17 strategy, I mean politics aside obviously, yes.
18 And he said well, there's no delivery system for
19 that and thanks to former Mayor Arakawa, we were in
20 a water forum in South Maui that actually Phyllis
21 moderated a few weeks ago. And I'm sure you're
22 aware having run the system that, that there are,
23 the possibilities of bringing the water to South
24 Maui, you know, some of that water and possibly
25 even setting up a water treatment plant for the
26 surface waters somewhere on the slopes of
27 Haleakala, etcetera. But I, I was kinda
28 distressed, I mean, 'cause it was the first time

1 that we actually got into kind of a debate about
2 what the potentials were.

3 MEMBER ROBINSON: Uh huh.

4 CHAIR HOWDEN: But I felt that, that we were
5 leaving out a major strategy, a potential strategy.
6 That's why I'm happy that you're on this board.
7 Eventually I'm happy, yeah. So, I, I don't think,
8 I mean obviously the, this is a draft and there's a
9 period of commentary that a number of us will be
10 making on, on the draft. But when we're looking
11 at, I think one of the problems with the water
12 systems countywide is that there's no real
13 integration of, of our water resources, of our
14 water systems. And so, I just wanted to, to add
15 that to the discussion. I mean it, it's an awesome
16 accomplishment that our consultant did all this.
17 The patience of Job to have gone through all this
18 year after year.

19 MEMBER HOXIE: There's a lot of information here.

20 CHAIR HOWDEN: Yeah, phenomenal. So, I, I would
21 encourage everyone to read, to study this and just
22 see what your mana'o would be. For instance, the
23 Waiale Treatment Plant which the County supports,
24 the joint venture with HC&S; the consultant was
25 saying it would make a lot more sense to have the
26 treatment plant somewhere closer to the Waihe'e
27 River and then to be able to gravity feed into the
28 system rather than have the expense of, of pumping

1 water from Waiale. And one of the community plan
2 members said and maybe John can comment on this,
3 but that there was some concern about the Waiale
4 Reservoir. You know, it's, how strong it is and
5 what, what its real capacity is given that it's
6 above or mauka of the residential area. So, there
7 are questions and, and I, I, I would like us to
8 continue to look at this. I would really encourage
9 you to do it because it's, our mana'o can be very,
10 very helpful to the County Council.

11 MEMBER HOXIE: On that page 5, it talks about the
12 consumption from 22 to 34; is that, does that tie
13 back to all those general plans stuff that's going
14 on? It does?

15 DIRECTOR ENG: Yeah, most of the demographic
16 information was taken from..

17 MEMBER GERBIG: Yeah, states right in here this is
18 based on the plan.

19 DIRECTOR ENG: The planning, yeah, yeah.

20 CHAIR HOWDEN: Ok. So anyway, since there is no
21 further discussion on this we can move on to, well,
22 we can't do without Gaye in the room, but Receipt
23 of Board member requests for future agenda items.
24 Maybe we'll come back to this when Gaye comes back
25 'cause she has to write it down. Communications?
26 Gaye, again? Ok. Director's report.

27 DIRECTOR ENG: I have nothing more at this time.

28 CHAIR HOWDEN: Ok. Scott?

1 VICE CHAIR LUCK: Any further development on the
2 fire protection and working with the Fire
3 Department and Council also on that?

4 DIRECTOR ENG: Well, once the Council gets out of
5 budget and we resume the Water Resources Committee
6 meetings. I know that's high on Victorino's list,
7 is to go through all of our rules. As you know,
8 you've seen; I was talking to Eric in fact
9 yesterday, I think I'm going to try to push
10 Victorino that we address that fire protection
11 plan. What we're trying to do is, fire flow
12 requirement is something that the Water Department
13 does. The Fire Department does their own thing,
14 too. I mean, use different guidelines to make
15 things worse so. I'm very happy for building
16 permits if we take it out of our department and
17 just place it in the hands of the Fire Department
18 and they're willing to accept that.

19 MEMBER HOXIE: Can you explain that to me a little
20 bit? I...

21 DIRECTOR ENG: Well, they use as a guideline to
22 determine fire flow requirements for a structure,
23 Uniform Fire Code. And that from time to time is
24 revised, updated, adopted by the County, State and
25 County. And we use this other guideline, Insurance
26 Services Office guideline that is not consistent
27 with the Uniform Fire Code. But it's something
28 we've had for years and therefore, sometimes there

1 is a conflict when people come in saying, "well,
2 we've gone to the Fire Department, but they think
3 it's all right." Go to Herb Chang and Herb is
4 saying, "nope." So, we're trying to change that.
5 That's just a bottleneck. It doesn't have to be.
6 We'll still make sure like new subdivisions have
7 proper waterlines put in to have proper fire flow
8 and hydrant spacing to begin with. But as far as
9 all these building permits that have come in we can
10 really get rid of a big bottleneck and move it out
11 of our department quicker so.

12 CHAIR HOWDEN: Yeah, I think that will be useful.

13 DIRECTOR ENG: We're all in support of that. We
14 came close last year with Michelle Anderson. It's
15 just that towards the end she got kinda confused
16 as, she kinda just read too much into things
17 sometimes you know, and you gotta learn in county
18 government sometimes you just gotta make a decision
19 and move on. If it'll be 90% better than it was,
20 that's a big improvement. So, I'm gonna push that.
21 There's other things like definition for Ag. We
22 have a big concern about it, 'cause these guys who
23 want to get Ag rates, who are these bogus gentlemen
24 farms. And that's just a big li'l loophole. Right
25 now in order to come and get Ag rates, really all
26 your property has to do is be in Ag zone, state
27 designated Ag area and then you have to have a
28 G.E.T. license. There's no income requirements. I

1 mean we do an inspection. We send a guy out but
2 you know it just, people are growing something and
3 it's hard for, to be denied. But we know there's
4 been a lot of abuses out there that we clean up.

5 MEMBER ROBINSON: I thought there was an income
6 requirement of a \$100?

7 DIRECTOR ENG: No.

8 CHAIR HOWDEN: A 1,000, a \$1,000.

9 MEMBER ROBINSON: A \$1,000?

10 DIRECTOR ENG: There's nothing.

11 CHAIR HOWDEN: Really?

12 DIRECTOR ENG: There's nothing. So we need to
13 develop something, but the Council will have to
14 help us come up with that definition. We can make
15 recommendations probably, maybe even this Board is,
16 may wanna take a look at that.

17 MEMBER GERBIG: Right now there's nothing in there
18 as far as income, is there?

19 DIRECTOR ENG: No.

20 MEMBER GERBIG: No, no income requirement?

21 DIRECTOR ENG: There was an effort a few years ago
22 by, there was a, I guess an advisory group to the
23 then mayor, to try to come up with some income
24 requirements. I think they were working with the
25 Maui Farm Bureau but they never, I think, finalized
26 anything. But you know, there's a lot of abuses is
27 what I'm hearing from people on the outside.

28 MEMBER GERBIG: Launiupoko.

1 DIRECTOR ENG: Well, fortunately, that's a private
2 system so.

3 MEMBER ROBINSON: Well, I've heard actually as a
4 member of South Maui Sustainability, I've heard at
5 our core meetings people talking about backyard
6 gardens because there's a big push for people to
7 grow their own food, that trying to get some kind
8 of special rate for people that grow their own food
9 and, and I said I would bring it up but I doubt it
10 whether there would be anything and I see you
11 shaking your head.

12 DIRECTOR ENG: No, we need a, we have a revenue
13 requirement to run this operations and if
14 everyone's gonna be highly subsidized, that \$1 Ag
15 rate, again we have 3 classes of customers. We
16 have our General rate customers that we probably
17 all fall into that category. The Ag rate
18 customers, they get a break at a certain point when
19 they use more that 30,000 gallons over a 2 month
20 period. So, for the first 30,000 gallons in a 2
21 month period they pay the same rates as the General
22 rate customer. But beyond 30,000 they get a dollar
23 per thousand gallons. That's highly subsidized.
24 And then we have the non-potable customers and
25 these are strictly the Kula Ag Park farmers. They
26 get a dollar per thousand gallons. It's a uniform
27 rate. And yeah, everyone wants, and I've heard
28 that same argument, "well, we all wanna do our home

1 garden, victory gardens." But not everyone can be
2 subsidized or everyone's gonna come in and request
3 that and it's just gonna be a nightmare because I'm
4 gonna deny them and that's what you guys gonna be
5 dealing with, people requesting Ag rates. I mean
6 if that's how you wanna spend your time, but I
7 don't. I need revenue.

8 MEMBER GERBIG: Jeff, could you give us a print out
9 or a copy of all these rates that we could all, all
10 in one place?

11 DIRECTOR ENG: Sure.

12 MEMBER GERBIG: Make up something...

13 DIRECTOR ENG: We have it on our...

14 MEMBER GERBIG: We'd all (be) familiar with it.
15 Seems to come up but if we have it in front of us
16 we can...

17 DIRECTOR ENG: Yeah, we have our rates and fees...

18 MEMBER GERBIG: Yeah.

19 DIRECTOR ENG: That we update annually and it would
20 have all of our...

21 MEMBER GERBIG: I'd appreciate it.

22 DIRECTOR ENG: Our water rates, our monthly meter
23 service charges...

24 MEMBER GERBIG: Ok.

25 DIRECTOR ENG: I can, we can get that. I can work
26 with you, Gaye, on that? Ok.

27 VICE CHAIR LUCK: Can I just comment also a little
28 bit more on the background of the, the fire

1 restrictions? So many of the appeals that we've
2 had have been related to that and then what we find
3 is they'll invariably come in here and say, "we
4 talked to the Fire Department and everything's fine
5 in what we're proposing but the Water Department's
6 saying it doesn't meet their standards." And in
7 fact it's true because these standards are
8 different and it just, there's that strange dynamic
9 that it just doesn't make any sense, that's why
10 we've been pushing, "ok, it is the Fire
11 Department's responsibility."

12 DIRECTOR ENG: Yeah, 'cause you know a lot of it
13 is, let's say like, you know, we require a certain
14 gallons per minute flow. Because if there were a
15 fire we wanna make sure that it could be addressed
16 not only in the house but even maybe outside the
17 home. The Fire Department, we kinda look at what
18 they're requiring mostly is, they just really want
19 a sprinkler. They're concerned about the safety of
20 the people. They don't care if the structure goes
21 down. Sprinkler goes off, run out and then the
22 dwelling is lost anyway. But we feel we have a
23 higher duty to help fight that fire and people,
24 again, that's a little philosophical difference.
25 We've had this philosophy forever. So, again, if
26 we can get it out of our department, it'll be the
27 Fire Department's liability, responsibility. As
28 long as it's with our engineers, they're going to

1 push for the, you know, whatever fire protection
2 per our standards. I know where they're coming
3 from and, and they're conservative but I think
4 they're doing a great job. I mean just look at the
5 County and our department. But if they can be
6 relieved of that responsibility, I'll be very happy
7 too.

8 CHAIR HOWDEN: Oh, I think they will be.

9 DIRECTOR ENG: Yeah. yeah, I haven't got any
10 resistance from them when I, we talked about
11 transferring it.

12 CHAIR HOWDEN: I can imagine.

13 DIRECTOR ENG: And usually they'll resist you on
14 anything.

15 (laughter)

16 CHAIR HOWDEN: How, how are we doing with staffing
17 of engineering?

18 DIRECTOR ENG: Pretty good. We have I think a
19 Civil Engineer V vacancy that I think we're sending
20 an offer to a gentleman on the mainland. And then
21 we have I think like a Civil Engineer III and IV
22 openings still. Interesting though, we're not
23 getting many local engineers applying, so maybe the
24 local consulting firms are still hanging on to
25 their engineers. We're, we thought maybe with the
26 downturn that they'd be kinda doing something,
27 laying off some people, get some of them. But yeah
28 we, as far as most of our vacancies, I think

1 countywide, a couple years ago people weren't
2 applying for any of the county jobs and now for
3 some of the introductory level jobs they're getting
4 40 applications.

5 MEMBER ROBINSON: Wow. Tough economy.

6 DIRECTOR ENG: So, that's how bad it is out there.
7 It's really bad, is what I'm hearing. Yeah, we're
8 slowly, slowly getting there.

9 CHAIR HOWDEN: Good.

10 DIRECTOR ENG: I'm happy.

11 CHAIR HOWDEN: Good, that's heartening. Ok, since
12 Gaye's back. Agenda items for future meetings.

13 MEMBER HOXIE: What, what is this? I mean, I...

14 CHAIR HOWDEN: Oh, we, we just come up with ideas
15 of what we'd like to talk...

16 MEMBER HOXIE: Oh, ok.

17 CHAIR HOWDEN: Talk about.

18 VICE CHAIR LUCK: Gaye, so there, for the new
19 members there's gonna be an initiation, that's a
20 bad word..

21 CHAIR HOWDEN: Orientation.

22 MEMBER ROBINSON: Initiation!

23 (laughter)

24 VICE CHAIR LUCK: Initiation! We do that separate.
25 Orientation.

26 MEMBER ROBINSON: Ooooh. This is where the real
27 Water Board comes in, right?

28 MEMBER HOXIE: Water boarding, yeah?

1 MS. HAYASHIDA: Since we didn't have, our, our
2 plans fell through for appeals, there's no appeal
3 set for May, I thinking of having a(n) orientation
4 for the new members. It'll be after, at the end,
5 the tail of the meeting and basically our staff
6 will give you the background of the Department of
7 Water Supply and I guess Mr. Kushi can over the
8 duties and responsibilities of the board members.

9 MEMBER HOXIE: So that would be May...?

10 MS. HAYASHIDA: May, May...

11 MEMBER HOXIE: Twenty-eight?

12 MS. HAYASHIDA: Yeah, the next meeting.

13 MR. KUSHI: No appeal, no appeals, Gaye?

14 MS. HAYASHIDA: No appeals. I, I tried to get Mr.
15 Davis' appeal on May but Mimi Johnston is not
16 available.

17 MR. KUSHI: Ok.

18 DIRECTOR ENG: I guess I'm not doing my job.

19 (laughter)

20 MS. HAYASHIDA: So the next one is Mr...

21 DIRECTOR ENG: No, no.

22 CHAIR HOWDEN: Work for us.

23 DIRECTOR ENG: We don't, we don't want to appeal
24 people.

25 MS. HAYASHIDA: Davis in June.

26 MR. KUSHI: Ok.

27 MEMBER HOXIE: So we should plan on being here for
28 a couple hours after the meeting or...

1 MS. HAYASHIDA: Well, yeah, what's gonna happen is
2 we'll probably, it'll be a short meeting based
3 whatever agenda items you ask to be placed on the
4 May one and then after that's discussed it'll
5 probably be placed after Division Reports but
6 before Adjournment. And so, yeah.

7 MEMBER HOXIE: Good. Will, will this include any
8 kind of capital, do you have a 5 year capital plan
9 or anything like that? Will we be able to see
10 that?

11 DIRECTOR ENG: I could probably get you a copy of
12 our, our budget that we have..

13 MEMBER HOXIE: Not detailed, just in you know in
14 general. You have a..

15 DIRECTOR ENG: Yeah, well, at least maybe I can
16 bring you up to speed where we're looking at for
17 next fiscal year, you know. There is a six-year
18 plan that the County has but it's something that is
19 a kinda moving thing.

20 MEMBER HOXIE: Yeah, sure.

21 MEMBER GERBIG: When is this scheduled?

22 MS. HAYASHIDA: May..

23 DIRECTOR ENG: Twenty-eight.

24 MS. HAYASHIDA: Twenty-eight.

25 MEMBER GERBIG: I got a problem in May.

26 MS. HAYASHIDA: Oh.

27 MEMBER GERBIG: I won't be here.

28 MS. HAYASHIDA: Oh, ok.

1 MEMBER GERBIG: Be off island.
2 DIRECTOR ENG: I will be starting my vacation that
3 day but Eric will be here.
4 MEMBER HOXIE: Could we pick a different day..
5 MEMBER ROBINSON: Yeah, sounds like a good..
6 MEMBER HOXIE: Just dedicated just for that?
7 MS. HAYASHIDA: Sure.
8 MEMBER HOXIE: I mean is that..
9 CHAIR HOWDEN: Well, the orientation, Don would..
10 MEMBER GERBIG: Yeah, I, I can't. You're talking
11 about after next meeting? Is that right?
12 CHAIR HOWDEN: Maybe after the June meeting.
13 MEMBER GERBIG: I won't, I'm gonna miss the next
14 one.
15 VICE CHAIR LUCK: There's still no appeal in June?
16 MS. HAYASHIDA: There is, Mr. Davis so far.
17 VICE CHAIR LUCK: Ok.
18 MEMBER HOXIE: Can we schedule something..
19 MEMBER GERBIG: In between?
20 MEMBER HOXIE: Early May? I mean I'll, I'll be
21 available to come.
22 MS. HAYASHIDA: Well, what about June, June 25th?
23 MEMBER GERBIG: What's that?
24 MS. HAYASHIDA: June 25th, for the orientation.
25 MEMBER GERBIG: Yeah, good.
26 MEMBER HOXIE: Can't do it earlier? I wanna know
27 what's going on.

- 1 MS. HAYASHIDA: Well, that would be up to the
2 Board to hold a meeting, we could hold the meeting
3 with the Board's agreement, May 21st.
4 DIRECTOR ENG: Yeah, I can't do that.
5 MR. KUSHI: You know, orientation, if, if there's
6 only less than 5 of them, can do it without even
7 setting an agenda.
8 MS. HAYASHIDA: Ok.
9 MR. KUSHI: Once you get 5 or more then it's a
10 board meeting.
11 MS. HAYASHIDA: Ok. So, would we, how would we do
12 it? Like a, meet in our office?
13 MR. KUSHI: Wherever.
14 MEMBER HOXIE: That's fine, yeah.
15 MEMBER GERBIG: Can do like a walk through or
16 something?
17 MR. KUSHI: It's just your staff and my staff.
18 MEMBER HOXIE: So right now it's just Don and I, or
19 are there other people?
20 MS. HAYASHIDA: Ted..
21 CHAIR HOWDEN: Patty Eason's been nominated as the
22 3rd seat, 3rd new seat so.
23 MS. HAYASHIDA: And I don't know if Ted has, you
24 never went through an orientation, yeah?
25 MEMBER YAMAMURA: Initiation?
26 (laughter)
27 MS. HAYASHIDA: Ok, so that'll be Ted and then...

1 (at this time several members speaking at the same
2 time)

3 MS. HAYASHIDA: Well we could set something up
4 separate from the May 25th...

5 MEMBER GERBIG: That'll be fine.

6 MEMBER HOXIE: I'd like to get it going early.

7 MS. HAYASHIDA: Yeah. Ok. You guys tell me when
8 you guys are available.

9 MEMBER GERBIG: Up until the 26th of May, any time.

10 MS. HAYASHIDA: Just to let you guys know, I will
11 be on vacation from April 30th to May 8th.

12 MEMBER ROBINSON: Have a wonderful vacation.

13 MS. HAYASHIDA: I plan to.

14 MEMBER HOXIE: How about May 14th?

15 MS. HAYASHIDA: May 14th? Ok.

16 MEMBER GERBIG: What day?

17 MS. HAYASHIDA: May 14th.

18 MEMBER HOXIE: Let's just throw out May 14th...

19 MEMBER GERBIG: What day is that? What day is
20 that?

21 MEMBER MYERS: Gaye, did...?

22 MS. HAYASHIDA: That's a Thursday.

23 MEMBER MYERS: Did I go through orientation?

24 MEMBER GERBIG: Fine with me.

25 MS. HAYASHIDA: That's what I think. I don't think
26 you did either.

27 MEMBER MYERS: I don't think so.

28 MEMBER HOXIE: We got to keep it below 5 so.

1 MEMBER MYERS: But I don't think I'm gonna commit
2 to May 14th.
3 MS. HAYASHIDA: Oh, ok.
4 MR. KUSHI: May 14th?
5 MS. HAYASHIDA: Do you really want to? I mean you
6 don't have to.
7 MEMBER MYERS: It would be informative I think.
8 MS. HAYASHIDA: When are you available?
9 MEMBER MYERS: I don't know. My due date is May
10 15th.
11 MS. HAYASHIDA: Oh, ok.
12 MEMBER MYERS: So, I could be available but I don't
13 really want to commit to it.
14 MS. HAYASHIDA: Yeah, ok. Well, why don't we put
15 it for the 14th then if you're able..
16 MEMBER MYERS: If I can, I'll come.
17 MS. HAYASHIDA: Yeah, but don't have your baby in
18 our office.
19 MEMBER HOXIE: You have a good excuse.
20 (laughter)
21 CHAIR HOWDEN: Ok.
22 MS. HAYASHIDA: Ok, orientation May 14th. So I'll
23 take it off the May agenda then, the orientation.
24 CHAIR HOWDEN: Eric, did you say something?
25 DEPUTY DIRECTOR YAMASHIGE: But Jeff isn't going to
26 be here on the 14th.
27 MS. HAYASHIDA: Well, we don't need Jeff.
28 DIRECTOR ENG: Yeah, it's just these guys.

1 MS. HAYASHIDA: And Jackie. I'll check with Jackie
2 and maybe Holly for the budget stuff.
3 DIRECTOR ENG: Ok. Yeah, you can have...
4 MS. HAYASHIDA: And maybe Herb.
5 VICE CHAIR LUCK: I was just bringing up the
6 potential for new members who didn't get the
7 benefit of doing this, I think it was last year
8 when we went on the field trip so to speak. That
9 might be...
10 MEMBER MYERS: Two years ago.
11 VICE CHAIR LUCK: Two years ago? See time is
12 flying. That might be beneficial as well at some
13 point in the near future to do a walk through but I
14 know that finding someone who could actually do it
15 might be difficult too. So, I'm just throwing that
16 out there. I found it personally very beneficial.
17 MS. HAYASHIDA: I think, yeah, Paul Seitz. That
18 would be up to Paul to let us know.
19 VICE CHAIR LUCK: He was a fantastic tour guide.
20 CHAIR HOWDEN: Yes.
21 MEMBER ROBINSON: Yeah, he was great.
22 MEMBER MYERS: Very good.
23 MEMBER ROBINSON: We haven't seen the Central
24 system or the West side.
25 VICE CHAIR LUCK: Yeah, I haven't seen the West
26 side.
27 MS. HAYASHIDA: Ok. So, any future agenda items?
28 Was there anything?

1 MEMBER ROBINSON: Willie Bennett was going to do
2 some kind of presentation on the de-sal system that
3 he's been piloting, is that, has he talked to
4 anybody here?

5 CHAIR HOWDEN: I think he came up to me at the
6 forum...

7 MEMBER ROBINSON: Well, that's what I...

8 CHAIR HOWDEN: Yeah, he didn't go anywhere with
9 that.

10 MEMBER ROBINSON: He didn't request an actual date
11 or anything?

12 CHAIR HOWDEN: No, but he's welcome to contact us...

13 MEMBER ROBINSON: Ok.

14 CHAIR HOWDEN: If he'd like to make a presentation.

15 MEMBER ROBINSON: All right. I see him pretty
16 regularly, so I'll check on it.

17 CHAIR HOWDEN: Yeah, that'll be good.

18 MEMBER ROBINSON: Did you want to point out the
19 diagrams that you put up?

20 CHAIR HOWDEN: Oh no, this is simply the, what I,
21 what I would call the EMI system, the HC&S system,
22 water delivery system for Central Maui. And it
23 shows the, actually the water moves as you can see
24 by where the sugarcane fields are, where Monsanto
25 is now, but, but there is delivery system that's
26 all the way to Kihei. Contrary to what Carl said
27 at the presentation of the Water Use and
28 Development Plan. And I'm surprised he didn't know

1 that. But anyway that's just for general
2 information and I have to give it back to Alan
3 Arakawa 'cause I borrowed it from him. The 2
4 agenda items that I would like to raise, I think
5 it'd be helpful for us to begin discussing
6 disposition of, of the wastewater, the treated
7 wastewater. Maybe Steve could show up and just
8 participate in that discussion. And also I've,
9 with the Board's consent and with Ed's consent I'd
10 like to invite someone qualified in public trust
11 doctrine to come in and give us a presentation on
12 what public trust doctrine is relative to our water
13 resources. Just for, so that we're, we're as a
14 board up to speed on that kind of stuff. I think
15 it'll be helpful. Yeah.

16 MEMBER GERBIG: Excellent, excellent.

17 MS. HAYASHIDA: You have a person in mind or...

18 CHAIR HOWDEN: I just, I need to dance that a
19 little bit...

20 MS. HAYASHIDA: Ok.

21 CHAIR HOWDEN: Because there are some
22 considerations with people who are involved in
23 litigation that you wanna find someone who...

24 MEMBER HOXIE: Kinda neutral.

25 CHAIR HOWDEN: Who's appropriate to do that. I
26 mean it'd be great to have Miike, Miike if he would
27 come but he probably talks forever. Have you guys
28 read his book? Has every, well, you've read that.

1 DIRECTOR ENG: No, I haven't.

2 CHAIR HOWDEN: Ok.

3 DIRECTOR ENG: just trying to get through...

4 MEMBER HOXIE: What is it? What's the book?

5 CHAIR HOWDEN: Water and the Law in Hawaii I
6 believe it's called.

7 MEMBER GERBIG: Yeah, I have it.

8 CHAIR HOWDEN: Oh, you do? Good. Good. I mean
9 it, it's a tough book. I mean and he's, repeats
10 himself, ad infinitum. But he's a brilliant man
11 obviously. He's both an MD and an attorney.

12 MEMBER GRBIG: Knowledgeable.

13 CHAIR HOWDEN: So I would highly recommend that. I
14 think the libraries would have it. But it's a
15 struggle, it's a struggle. I mean the court itself
16 has kinda gone this way, gone that way. Even the
17 initial changes with the McBride-Robinson decision
18 which opened this all up in the 70's. But I think
19 it will be helpful for us to be better informed of
20 what that is. And good for you to have that book.
21 Anything else, Gaye.

22 MS. HAYASHIDA: Mr. Chair, I'm sorry...

23 MEMBER GERBIG: Just loaned it to a guy on the
24 water commission.

25 MEMBER ROBINSON: Oh dear.

26 MS. HAYASHIDA: Did you also want to put the
27 Central Maui Water Use Development Plan back on the
28 agenda for further discussion?

1 CHAIR HOWDEN: Oh yes, yeah, that's good.

2 MS. HAYASHIDA: And then another thing, did you
3 want to extend an invitation to whoever for, I
4 guess from the Department of Environmental
5 Management to, to be present for this disposition
6 of treated..

7 CHAIR HOWDEN: Oh yes, Steve..

8 MEMBER ROBINSON: Parabolicoli?

9 CHAIR HOWDEN: Parabolicoli, yeah.

10 MS. HAYASHIDA: Ok.

11 CHAIR HOWDEN: Scott?

12 VICE CHAIR LUCK: I have a feeling that nothing has
13 happened so it's not gonna be worth discussing but
14 has there been any further development in terms of
15 the 100, 250 million gallon or one 300 million
16 gallon reservoir for Upcountry? Or is that..

17 DIRECTOR ENG: No, there hasn't. No, the federal
18 funding portion which was the most significant one
19 hasn't materialized yet.

20 VICE CHAIR LUCK: Ok.

21 DIRECTOR ENG: Don't know if has. And even
22 internally, we're, we're having discussion and
23 meetings about even other potential sites too.
24 Partly environmental friendly sites would be nice.
25 Sites in which maybe we could even expedite the
26 construction of it, reservoir too, so there's a lot
27 of things that we wanna consider..

28 MEMBER ROBINSON: Hydro-electric?

1 DIRECTOR ENG: Whenever we can. And that would be
2 part of an effort.

3 MEMBER ROBINSON: 'Cause I just, I think I saw in
4 Obama's Earth Day speech that he gave in Iowa,
5 yesterday, he talked about pretty clearly about
6 hydro-electric, support of hydro-electric
7 facilities.

8 CHAIR HOWDEN: Yeah, it would seem that the East
9 Maui system especially and perhaps Wailuku Water
10 Company's systems would lend themselves ideally to
11 micro-generation.

12 MEMBER ROBINSON: Yep.

13 CHAIR HOWDEN: So, but none of us perhaps as expert
14 in that, for a future meeting perhaps we could have
15 someone come in and do a...

16 MEMBER ROBINSON: Talk about that.

17 CHAIR HOWDEN: Presentation...Don?

18 MEMBER GERBIG: Mr. Chair, yeah, you were talking
19 about agenda items, disposition of wastewater was
20 one item, another public trust doctrine, in under
21 the disposition of the wastewater, Steven
22 Parabolicoli, you're talking about having?

23 CHAIR HOWDEN: Yeah.

24 MEMBER GERBIG: If he does come, I, I would like to
25 see, say, some maps of where wastewater is being
26 used, where you know...

27 CHAIR HOWDEN: Yes.

1 MEMBER GERBIG: That's primarily which plants are
2 doing what.

3 MEMBER ROBINSON: He has a pretty...

4 MEMBER GERBIG: Just bring us up to date on them,
5 reuse.

6 MEMBER ROBINSON: Yeah, he actually gave a lovely
7 power point presentation at our South Maui
8 Sustainability meeting.

9 MEMBER GERBIG: Good, good, good, ok. That'll be
10 great.

11 MEMBER ROBINSON: He has that all together so if we
12 could ask him maybe...

13 MEMBER GERBIG: That'll be great yeah.

14 MEMBER ROBINSON: To include that.

15 MEMBER GERBIG: Thank you.

16 CHAIR HOWDEN: Scott, Scott, do you have something?

17 VICE CHAIR LUCK: No, that was gonna be it. That I
18 had a feeling that was the answer, there was no
19 further development on it.

20 CHAIR HOWDEN: Ok, if there's, Don?

21 MEMBER GERBIG: We brought up the subject, a
22 favorite of mine, Ag.

23 CHAIR HOWDEN: Yes.

24 MEMBER GERBIG: Is, I'm just gonna throw this,
25 should we discuss the Ag use rates, maybe we should
26 look at, just look at the rates before, but I'm
27 just thinking of these gentlemen farmers that have
28 a couple of peach trees in the backyard and it's a

1 farm and they're using a lot of our water, or maybe
2 they're not but anyway they're getting a cheap,
3 they're getting a deal, you know. And I say why
4 should they get a deal? Is there something that we
5 might discuss on, on that or is it maybe just, push
6 the, push the Council or whatever to, to, to revise
7 this Ag rate, this Ag thing to where income is
8 involved in it?

9 CHAIR HOWDEN: Well, I think that, that's a
10 discussion we wanna have and so let's put that on
11 the agenda. And maybe as part of our homework, we
12 just go home and, and think really what would be
13 reasonable in that.

14 MEMBER GERBIG: Yeah. I guess it's worth looking
15 at. I just don't want to offend anybody but that's
16 the way it is.

17 CHAIR HOWDEN: Oh, no. I mean people who are
18 deceitful and working against the public interest
19 in that way I think we, if we can, I mean the
20 Department doesn't have enforce, enforcement
21 capacity. But it'd be at least, if we could codify
22 that I think that would be helpful.

23 DIRECTOR ENG: You know, I think that would be
24 important 'cause I think the Council needs some
25 help too in coming up with a definition so I think
26 that's something that is suitable for this body to
27 maybe even send a resolution to the Council with a
28 recommendation...

1 MEMBER GERBIG: Yeah, if, if the Board has the
2 recommendation after discussing it we can go
3 forward or something.

4 CHAIR HOWDEN: Yeah, I think that'll be quite
5 appropriate.

6 MEMBER YAMAMURA: Gaye, you gonna put that on June
7 because he's not going be here in May.

8 MS. HAYASHIDA: Thank you for...

9 CHAIR HOWDEN: Or we could start the discussion and
10 then...

11 MEMBER GERBIG: Do I have to take my garden out?

12 (laughter)

13 DIRECTOR ENG: I'm gonna check your accounts, Don,

14 (laughter)

15 DIRECTOR ENG: You'd better not be.

16 CHAIR HOWDEN: Anything else? Ok, meeting is over.

17

18 (meeting adjourned at 10:50 a.m.)

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Prepared and submitted by:

Gaye Hayashida
Commission Support Clerk

Approved on: _____