WATER RESOURCES COMMITTEE
Council of the County of Maui
MINUTES
June 2, 2009
Council Chamber

APPROVED:

[Signature]
Committee Chair

IWADO COURT REPORTERS (808) 244-9300
CONVENE: 9:03 a.m.

1 PRESENT: VOTING MEMBERS:
   Councilmember Michael P. Victorino, Chair
   Councilmember Joseph Pontanilla, Vice-Chair
   Councilmember Gladys C. Baisa (In 10:56 a.m.)
   Councilmember Sol P. Kaho'ohalahala
   Councilmember Bill Kauakea Medeiros

2 NON-VOTING MEMBERS:
   Councilmember Wayne K. Nishiki

3 EXCUSED: Councilmember Danny A. Mateo
   Councilmember Michael J. Molina

4 STAFF: Kimberley Willenbrink, Legislative Analyst
   Tammy M. Frias, Committee Secretary
   Darlene Ane, Executive Assistant to Councilmember
   Gladys C. Baisa
   Lei Kihm, Executive Assistant to Councilmember
   Bill Kauakea Medeiros

5 ADMIN.: Eric Yamashige, Deputy Director, Department of
   Water Supply
   Herb Chang, Engineering Program Manager, Engineering
   Division, Department of Water Supply
   Milton Arakawa, Director, Department of Public Works
   (Item No. 1(2))
   Scott English, Lieutenant, Fire Prevention Bureau,
   Department of Fire and Public Safety (Item
   No. 1(5))
   Edward S. Kushi, Jr., Deputy Corporation Counsel,
   Department of the Corporation Counsel

6 OTHERS: Item No. 1(2): Brook Starr
   David Goode, President, KSD Hawaii
   Tom Welch
   Item No. 1(5): David Goode, President, KSD Hawaii
   Others: Additional attendees (5)

7 PRESS: Harry Eagar, "The Maui News"
   Akaku - Maui County Community Television, Inc.

22 CHAIR VICTORINO: (Gavel.) Good morning.

23 COUNCIL MEMBERS: Good morning.

24 CHAIR VICTORINO: And welcome to the Water Resource

Committee meeting for June 2nd, 2009. First of all, I would
like to say thank you to the public for their patience over
the last three months with our budget session. Now we
reconvene all of our regular business for the County of Maui.
This morning we have quorum present and let me
introduce the Voting Members and Non-Voting Members that are
present today. First of all, present is Vice-Chair Joseph
Pontanilla.
VICE-CHAIR PONTANILLA: Good morning.
CHAIR VICTORINO: Good morning.
Member Sol Kaho'ohalahala.
COUNCILMEMBER KAHO'OHALAHALA: Good morning, Chair.
CHAIR VICTORINO: Good morning.
And Member Bill Medeiros.
COUNCILMEMBER MEDEIROS: Aloha and good morning,
Chair.
CHAIR VICTORINO: And myself, Chair Michael
Victorino.
I would like to extend a special thanks to
Mr. Medeiros for being here this morning. I know he has to head
to Hana right after this meeting, and I truly appreciate it or
else we wouldn't have had quorum. So thank you, Mr. Medeiros.
COUNCILMEMBER MEDEIROS: You're welcome.
CHAIR VICTORINO: Excused today is Council Chair
Mateo, who is home not feeling well, and I wish him a speedy
recovery. Also, Members Gladys Baisa and Member Mike Molina.
Today with the Administration we have Mr. Eric Yamashige, the Deputy Director for the Department of Water. We also have Herb Chang. I guess you're the Chief of Engineers?

MR. CHANG: Yes.

CHAIR VICTORINO: Okay. Whatever title you want, I'll give it to you.

MR. CHANG: Thank you.

CHAIR VICTORINO: We also have in the gallery today Lieutenant Scott English from the Fire Prevention Bureau, Department of Fire and Public Safety. Also, Deputy Corporation Counsel, Mr. Ed Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Our staff this morning is Legislative Analyst Kim Willenbrink and Committee Secretary Tammy Frias. So I want to thank all of you for being here this morning.

Because we have bare quorum, I will ask -- Oh, excuse me, Mr. Nishiki, I did not mean to forget you. I will introduce you right now. We also have Non-Voting Member, my apologies, Mr. Wayne Nishiki. Thank you, Mr. Nishiki, for being here this morning.

So let us get started and get caught up with what we are attempting to do today. First of all, we have Item WR-1, Water Supply Rules. Members, today we have one item on the
agenda, WR-1, Water Rules. This item relates to the
codification of the rules and regulations for the Department
of Water Supply. Today we have -- today we will consider and
take possible action on three bills. Members, as you recall
on our Committee meeting on February 12th, this body voted and
recommended the passage of two bills on First Reading; one
related to Water Supply Definition, one relating to the
Upcountry Water Meter Rule. However, prior to the March 20th
Council meeting, I met several residents who had concerns
about the definition of subdivision. Because of that, at the
meeting I made a recommendation that the Committee Report
attached to these two bills be referred back to the Committee
for further consideration. We will continue to discuss this
today. In addition, we have received a bill from the
Department of Corporation Counsel relating to the subdivision
water system requirements for which we will also consider
today.

I will now open up the floor for public testimony if
there is no objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. Thank you.

Public testimony will be taken today. We will also
have those wishing to sign up, sign up with the Committee
Secretary off to my left here. Testimony shall be limited to
three minutes with one minute to conclude. You may return for
an additional three minutes after all testifiers have been heard. When you testify, please state your name for the record and indicate if you are representing yourself or some other organization.

May I please request that anyone in the gallery or on the floor turn off their cell phones or put it on vibrate mode. I would appreciate that.

Our testifiers, today we have two -- well, one, two -- actually, we have three signed up. First testifier this morning will be on WR-1(2), and that is Brook Starr. And Brook is testifying on behalf of himself.

Mr. Starr, will you come forward, please.

...BEGIN PUBLIC TESTIMONY...

MR. STARR: Good morning. My name is Brook Starr and I am here testifying for myself on Item No. WR-1(2), the definition -- or the Water Supply Rule definitions and specifically the definition of subdivision.

And I wanted to thank Mike for referring this back to the Committee. I appreciate your efforts in that and hearing the testimony from everyone at the last Council Meeting of the whole. And I've -- I've had a chance to read the revised language. And in addition, Tom Welch has submitted an additional section to that definition of subdivision. And based on having read all that, I can't speak for those that testified here before, all the individual
homeowners and -- and their concerns, but it's my opinion that
this new definition and this added language that Mr. Welch is
providing addresses all of their issues as far as mainly
building permits and -- and using their property in the future
after they've converted it to a condominium in the same manner
that they would be able to if -- if it weren't a condominium.
And so I just wanted to support the bill and thank
you again for bringing it back to Committee and -- and giving
us a chance to discuss it.

CHAIR VICTORINO: Thank you, Mr. Starr.
Any questions for the testifier?
Seeing none, thank you.
MR. STARR: Thank you.
CHAIR VICTORINO: The next testifier on WR-1 will be
Mr. David Goode, and he is speaking on behalf of KSD Hawaii.
MR. GOODE: Thank you, Chair. Good morning.
Members of the Committee, good morning. My name is David
Goode. I'm the President of KSD Hawaii. And I want to touch
on WR-1(2) and WR-1(5). I did hand out some testimony to
staff.
Did that make it to the Members?
CHAIR VICTORINO: Yes, it did.
MR. GOODE: Okay.
CHAIR VICTORINO: You all have the written testimony
from Mr. Goode.
MR. GOODE: Thank you.

CHAIR VICTORINO: Go ahead, Mr. Goode.

MR. GOODE: On WR-1(2), I, too, support the changes recommended for defining condominium units not requiring separate meters. As you know, we just finished our Na Hale O Kilinahe, the affordable housing project in Makawao. There's 13 units on six lots where we had six existing meters. That project would not be possible if we had to have 13 meters instead of the six meters. The six meters would be the same as if anybody owned the lot and had an ohana on it, and so it worked well. Those individual units are submetered, people are paying their bill and it works great. So keeping the definition as you -- as you propose will help projects such as that.

I do think you ought to look at the definition on easements, any easements requiring is -- is covered under the definition, and so I ask that you look at that as well.

On the next item, WR-1(5), we support this bill. I mean, the whole project you're undertaking here, Chair, to migrate these rules into the ordinance is -- is extremely important. And I like your approach of cutting it into bite-sized chunks, and so I think we're going to have -- be more effective and hopefully we can get it out this term.

We support the bill and I've noted here six concerns and I would like to touch on them briefly. First, on
14.05.010 of the bill, it talks about the bill basically applying where there's adequate and sufficient water supply. I think that term needs to be defined. I think the term is too nebulous. It has the potential of saying, no, it's not adequate here without supporting documentation.

Now, the next item is 020(B), Bonded Final Subdivisions. In this particular section they -- they talk about the recording of easements prior to final subdivision. And if you're not doing a bonded final subdivision, that's fine. But if you are doing a bonded, it's better to have the easements prepared, accepted and approved, but not recorded until the improvements are in. If for some reason something needs to be adjusted and moved five feet, let the final placement dictate the easement. And so it just saves everybody time and money.

Next item, 130(A) talks about water pipes, material, and the pipes may be ductile iron. I like the idea that it may be because there's other products available, specifically C900, which is substantially less costly, which all goes back to the cost of housing. And so I'm glad to hear that perhaps C900 is now being considered.

Next item is 190(B), Family Subdivisions. Here it states the Director may approve a request for deferral of improvements. The whole purpose of the family subdivision, as you know, is to create lots that can be passed on to
descendents without having to do the improvements until they're needed. I think this gives the Director probably discretion he doesn't want because you have to make a decision, should we defer it or not. It should -- it should be "shall," that way there's -- it's just clear and it allows the family subdivision to move forward.

On my fifth item, I would like to see something in here regarding timeliness. The Department is either out-manned or has too many things on their plate that the timeliness in getting plans approved, whether they're subdivision plans and in some cases building permits, is too long. And I would ask you to take a look, ask Corp Counsel to look at --

MS. WILLENBRINK: Three minutes.

MR. GOODE: I'll wrap it up in a minute.

CHAIR VICTORINO: Sure.

MR. GOODE: -- HRS 91-13.5, where it talks about timeliness. And there's an opportunity to put the timeliness requirements into this ordinance, and I'm suggesting 30 to 45 days on all permits is appropriate.

And, finally, appeal procedures, although not specifically addressed in this bill, it comes back to the timeliness concern. We currently have an appeal before the Department -- the Board, actually, that's taken one year. We haven't been heard yet. And I'm looking at other sections of

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the code like the BVA, and the BVA has standards for
timeliness. I think that ought to be taken up as well.

That's it.

CHAIR VICTORINO: Thank you, Mr. Goode.

Any questions for the testifier? We'll start with
Vice-Chair Pontanilla and then Mr. Medeiros after that.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

Good morning, David.

MR. GOODE: Good morning.

VICE-CHAIR PONTANILLA: You know on 14.05.010, I
know this is subdivision water system requirements, but one of
the concerns that I had in regards to that one area is that on
irrigation, we all know that, you know, we do have R-1 water
available in certain areas in Kihei as well as Lahaina. And I
don't know if the Water Department is the appropriate place or
the Environmental Management area more appropriate in regards
to something of the utilization for irrigation purposes, the
use of R-1 water. Should that be included in -- in one of the
sections here?

MR. GOODE: Mr. Chair and Councilman Pontanilla, I
think it could be, because it's a potential source for a
particular project and could -- could help to fulfill what
defines an adequate and sufficient water supply.

VICE-CHAIR PONTANILLA: Thank you.

Thank you, Chairman.
CHAIR VICTORINO: Thank you.

Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

And, Mr. Goode, good morning.

MR. GOODE: Good morning.

COUNCILMEMBER MEDEIROS: Thank you for being here.

MR. GOODE: Welcome.

COUNCILMEMBER MEDEIROS: What is your understanding of WR-1(5), Item A when you say it -- it seems not to be clear to say adequate and sufficient water supply? What is -- what would be your understanding of that definition?

MR. GOODE: What I read in -- in the context of the ordinance, it kind of sets up the whole ordinance and it says where there is -- and I'm paraphrasing because I'm not reading it, but what I got out of it was where there is an adequate and sufficient water supply, then the following shall prevail. So say you were to submit something, and then it could be summarily rejected because, oh, no, there's no more adequate and sufficient water supply here.

COUNCILMEMBER MEDEIROS: Okay.

MR. GOODE: But I think for the Department's protection and the applicant's knowledge, we should know that in advance and maybe have some standards that tells, okay, this might be deficient and here's what's happening, or this area's got plenty. It's too subjective, I think.
COUNCILMEMBER MEDEIROS: Thank you for your response on that. And, you know, I'd be -- I will be asking the Water Department about that, also.

But the C900 pipe you referred to, what kind of material is that?

MR. GOODE: It's a -- it's a PVC-type product. I'm not a materials engineer. It's accepted by the Department of Health and private water systems. We've installed it many times. And its cost per foot is maybe a third of the cost of ductile iron. It has an extremely long life. It's put together in the same manner. And in the private systems, the Department of Health Safe Water Drinking Branch approves it. So it can save a lot of money and that money just gets passed on to the customer.

COUNCILMEMBER MEDEIROS: Okay. So you say that C900 pipes are approved to carry potable water?

MR. GOODE: Correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you for your responses.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.

Good morning, David.

MR. GOODE: Good morning.
COUNCILMEMBER KAHO'OHALAHALA: I'm just curious to understand what would be your suggested language for adequate and sufficient water supply? Since you bring it up, I'm just wondering what in your mind would satisfy that kind of definition.

MR. GOODE: I'm probably going to have to ponder that and maybe come back to you, but I think I brought up this issue before this body -- not all the same Members, obviously -- when we had the Show Me the Water Bill. I thought it was important to define this -- and like this comes from my experience with sewer treatment plants. Here's the capacity. Here's where we're at now. I mean, it's real obvious where -- what was left. And for whether the applicant or the division managing it, you knew what capacity you had left and you can manage that and come back and ask you folks for money to expand this and that.

Unless there's a document floating around that I haven't seen, I'm not aware of a systematic breakdown of, say, the Hana, Upcountry, Central, West Maui water systems just here on Maui saying here's exactly where we're at and here's what we need. Water comes back to the Department standards, so they typically use two-thirds of two-thirds and things like this. And I think that that information ought to be posted on the web and -- and we know it.

So I guess I'd have to get back to you with more --
better definition.

COUNCILMEMBER KAHO'OHALAHALA: I just thought that since you're raising the issue, you must have contemplated what might be acceptable language or proposed language, so I thought you might add to that -- to your testimony here by suggesting something.

MR. GOODE: Yeah. In theory, that's where I'm at. I'd ask the folks who know more about it to tie the theory together.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Thank you. Thank you, Chair.

CHAIR VICTORINO: Thank you.

Before I recognize you, Mr. Nishiki, do you have any questions?

COUNCILMEMBER NISHIKI: No.

CHAIR VICTORINO: Okay. For the second time, Mr. Medeiros, please.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman, for my second opportunity.

I failed to ask one question, Mr. Goode. When you talked about your affordable housing project that you just completed in Makawao --

MR. GOODE: Uh-huh.

COUNCILMEMBER MEDEIROS: -- you said there were 13 lots and just six meters. And I think you used the word
"submetered." What is that? One meter that's divided and then goes to two houses or properties?

MR. GOODE: Essentially, yes. There's 13 homes --

COUNCILMEMBER MEDEIROS: Right.

MR. GOODE: -- on six lots as allowed by the zoning, right, a house and ohana. One lot was big enough to have two houses and an ohana. So let's say you and I were on the same lot, yeah.

COUNCILMEMBER MEDEIROS: Right.

MR. GOODE: You have one condo unit, I have one condo unit. We've got one meter feeding us and then we branch it off from my place to your place and then we put a submeter, another water meter, a private water meter on your lot. So about the time the Department reads the meters, our managing agent goes out and reads the meters. And basically we split the bill, but it's based on how much you use and how much I use.

COUNCILMEMBER MEDEIROS: So the submeter or the second meter is your private meter that's not put in by the County?

MR. GOODE: Correct.

COUNCILMEMBER MEDEIROS: Okay. And that's just a means to account for the amount of water used by the two different individual units?

MR. GOODE: Right. It was a decision we made. We
thought it was the way to go. And a lot of times in condominium complexes, you don't do that.

COUNCILMEMBER MEDEIROS: Right.

MR. GOODE: You have 70 units in a building, you're not typically going to put in submeters, but you could.

COUNCILMEMBER MEDEIROS: Okay. Thank you,

Mr. Goode.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Vice-Chair Pontanilla.

Thank you, Mr. Medeiros.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

Fast question: I'm looking at 14.05.050, Reimbursement For Water Main Extensions, and, you know, I come from an environment where we have aid-to-construction costs in regards to extending facilities for areas that don't have, you know, facilities, communication facilities. In this case here, I -- I don't know if you had the occasion of extending any water main from the County, end of County water main line extending to a subdivision, you know. Have you had occasion to do that?

MR. GOODE: Yes, I have.

VICE-CHAIR PONTANILLA: And the reason I ask this question is the sizing of the -- the water main, you know, is it determined by the Department or is it determined by your subdivision?
MR. GOODE: In answer to the question, it's determined by the Department and that process works well. We've done one or two of them. And there's a nice -- there's a reimbursement process that your fiscal division handles well. And it -- the process works, I think, pretty well and I'm glad to see it in the ordinance.


Thank you, Chairman.

CHAIR VICTORINO: Thank you.

Any other questions for the testifier?

Seeing none, thank you, Mr. Goode.

MR. GOODE: Thank you.

CHAIR VICTORINO: The next testifier is Mr. Tom Welch and he's speaking on his behalf.

MR. WELCH: Good morning, Mr. Chairman, Members.

I'm Tom Welch testifying on behalf of myself and lots of miscellaneous clients.

I want to thank the -- the Chairman and the Committee for -- for responding so well to the public testimony on the last -- the last round in March relating to the definition of subdivision. A lot of problems were outlined and I -- we talked to Ed Kushi during the process, and they then addressed and I think adequately meet the requirements and concerns of the points that were raised. They benefit -- benefits not only small property owners,
several of whom testified, it solves -- it enables projects to be -- to be structured like the Hale O Kilinahe project, which I worked on with David. And it also avoids having to -- having to go with a project like Kai Makani and have 212 separate meters. So it worked well.

I would like to mention a -- one or two changes that I would like to suggest. There's a drafting principle here in this definition, which I think is a good one, which is to bring this definition in line with the definition of subdivision in Title 18, the Subdivision Ordinance. And -- but in doing -- And it does that and it does it very well and it simplifies and makes things consistent and works well for the public. There's two elements, though, of this that I would like to suggest consideration on.

First of all, in the definition as now proposed, it says that subdivision includes the process of consolidation and resubdivision. The second thing is it says "easements for roadway or access purposes shall be construed as subdivided land." Now, in Title 18 -- that parallels Title 18, but in Title 18 elsewhere it says that consolidation and resubdivision is not a sub -- is not considered a subdivision or is not subject to the subdivision rules as long as no additional development lots are created. And, secondly, with respect to easements for roadway access, it says that isn't a subdivision unless the easement enables a broader subdivision
process of actual division of lots. So, in other words that, language is in there, but then it's taken out and qualified elsewhere in Title 18.

For purposes of this ordinance, by keeping that in there -- I mean, it's in there now, actually, in the definition, but it's never -- it's never really enforced because -- resubdivision is enforced sometimes, but the easements for access is never enforced. I -- I would suggest that maybe for water purposes and water regulation purposes those two items be qualified so if we're -- if we're -- we're referring to consolidation and resubdivision, say provided it will not be included if no new development lots are created. And on the easements for access purposes, I don't see why the Water Department would be interested in that one way or the other. Maybe they are, but I don't see a -- really a regulatory context for that.

I've written out some -- just a simple sentence to add at the end of the existing language that would -- that would resolve these two issues. And I didn't submit them earlier, but I'd be happy to make them available to the Council. Thank you.

CHAIR VICTORINO: Thank you, Mr. Welch.

Questions for the testifier?

Seeing none, thank you, Mr. Welch. We appreciate that.
MR. WELCH: Thank you, Mr. Chair.

CHAIR VICTORINO: Do you have anything in writing you would like to submit to us?

MR. WELCH: Yes, I have these.

CHAIR VICTORINO: If you'd give that to the Secretary, the Committee Secretary, we'd appreciate that.

Thank you very much.

And later on if you can make sure that's passed out to the Members. Thank you.

Thank you very much.

At this time I will offer one more opportunity to anyone in the gallery who would like to come forward to testify, this would be a time I would allow that and just sign up with the Committee Secretary.

Seeing no mass charge to the podium, I will turn to the Committee and -- and recommend the closing of public testimony on WR-1. Is there any objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you, Committee.

...END OF PUBLIC TESTIMONY...

ITEM NO. 1(2): WATER SUPPLY RULES (DEFINITIONS) (C.C. Nos. 05-46, 06-228, and C.R. 09-33)

CHAIR VICTORINO: This morning in your binders under WI -- WR-1 (2), please turn to correspondence dated May 27, 2009 from myself, attaching a draft bill entitled "A Bill For
an Ordinance Amending Title 14, Maui County Code, Relating to
Public Services”. This bill is relating to the definition
that has been recommended for consideration. May I direct
your attention to the definition of subdivision on page 3 of
the proposed bill. Some residents have had concerns on the
definition, as previously written, would require that all
condominiums have separate water meters.

We have revised this definition to read as
follows --

Okay. Okay. That's this one, right? (Inaudible.)
Okay. Okay. It's on page 3 and it goes, "and to
include the procedure of consolidation and resubdivision and,
when appropriate, to the context, shall relate to the process
of subdividing land. Easements for roadways and access
purposes shall be construed as subdivided land. The term also
includes the construction of a building of groups or buildings,
other than hotel, or on a single lot, parcel, or site which
will contain, result, or be divided into four or more dwelling
units, including planned developments in pursuant of chapter
19.32 of this code, condominium projects established
pursuant to Hawaii Revised Statute, or other forms of
development, provided, that unless requested by the developer,
condominium projects shall not be required to install separate
meters for each condominium unit."

So that was the revised change. As you can see in
parentheses, you can see "Except" -- and this was taken out, "Except when other permitted by law, for the purposes of this article, the development consisting of four or more dwelling units on this lot, parcels, or site, including planned units developments and condominiums reviewed, approved or established pursuant of Hawaii Revised Statute shall be deemed a subdivision." That was removed, yeah.

So let's stay with that just -- that particular area. I will ask at this time Mr. Kushi and -- Well, let's start with the Department. Mr. Yamashige, comments on that, and then I will turn to Mr. Kushi for comments on this particular change. Mr. Yamashige, please.

MR. YAMASHIKE: Yes. Thank you very much, Mr. Chair. We have with us this morning Engineering Program Manager Herb Chang, and our Engineering Division has to deal with this definition of subdivision a lot, so I will allow him to explain some of the -- the things that we have to deal with with the proposed definition.

MR. CHANG: Good morning. One of the things that we'd like to bring out is in an earlier version of this subdivision definition we had proposed that the wording be slightly different. We asked for consideration to have the -- the condominium -- condominiums and the planned unit developments to be separated from this one long sentence. 'Cause the problem with the way it's currently reading is one
could interpret that for condominiums and PUD's if you have
anything less than four lots, that it won't be considered a
subdivision. It's the intent of the Water Department to have
any condominium or planned unit development no matter how
small, whether it's, you know, two, three lots, to be
considered a subdivision.

CHAIR VICTORINO: Okay. Questions for Mr. Chang?

Vice-Chair Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

Mr. Chang, what I have heard is that in the
definition for subdivision, I'm looking at the -- where it
says "condominium projects established pursuant to Hawaii
Revised Statutes, or other forms of development, provided, that
unless requested by the developer, condominium projects shall
not be required to install separate water meters for each
condominium unit." So the Department is requesting to have
that, I guess, definition to be separated from this
subdivision?

MR. CHANG: Actually, what we're trying to do is
we're trying to make sure that no matter how -- no matter what
size the condominium -- condominium is or the PUD, it
doesn't -- it will be subject to the subdivision rules. And
as far as the sharing of the meters, at this point we like --
we wouldn't have a problem with the condos sharing a meter, so
we'd like to make that really clear. Because it -- in the
existing rules and regs that we are implementing, it's not --

it's not really clear that -- whether a condo can share a

meter, but -- so --

VICE-CHAIR PONTANILLA: So in order to make it
clearer, though, do you want this located someplace else, or
in this proposal that is before us?

MR. CHANG: It worked. It will work in this
definition.

VICE-CHAIR PONTANILLA: So this definition is okay,
then?

MR. CHANG: Except for the part about -- because if
one -- one was to read this, one could interpret it that if
you have a condominium project of two units, which is less
than the four, that's not -- it would not be considered a
subdivision. But we would like to have it considered as a
subdivision, so that's why we're asking to make sure that we
remove the condominium and the PUD away from the four or more
units part of the sentence. That way it will be clearer that no
matter how small or how big your condo project, it will be
considered as a subdivision by the Department.

VICE-CHAIR PONTANILLA: I'm still confused. Maybe,
Director, you can provide us some comments.

CHAIR VICTORINO: Yeah. Mr. Yamashige, before
you -- you go with that, just so that we're all on the same
page, you're specifically saying, Mr. Chang, if I read you
correctly -- just so that I'm clear and I think everybody else
is, you're saying that you want "or be divided into four or
more units," is that what you want changed or taken out? What
are you specifically asking us to change? So that, you know,
maybe Ms. Willenbrink can kind of put that out there so we --
we know what you're asking for.

MR. CHANG: Oh. I could read out what we
propose.

CHAIR VICTORINO: Do you have a copy of that?

MR. CHANG: Yes. Well, we -- I have a copy in here,
yes.

CHAIR VICTORINO: Okay.

MR. CHANG: I can try reading it.

CHAIR VICTORINO: If you have a copy, can you give
that to Ms. Willenbrink and we can make a copy so that all the
Members could read it?

MR. CHANG: Sure.

CHAIR VICTORINO: I mean, that way we're much
clearer. And I think we're all looking at each other and
we're trying to figure out what exactly the change which
you're recommending, please.

MR. CHANG: Okay.

CHAIR VICTORINO: And, Kim, would you be able to get
his copy and make some copies for the Members? I'd appreciate
it.
In the meantime, Mr. Yamashige, if you would like to expound on this, I would appreciate that.

MR. YAMASHIGE: Yes. Thank you very much, Mr. Chair. If you look at your definition of subdivision as distributed, the sixth line that's underlined, your underline starts at "and includes the process of consolidation," on the sixth line right after "four or more dwelling units" --

CHAIR VICTORINO: Okay.

MR. YAMASHIGE: -- it says, comma, "including planned developments." The previous draft or previous proposal did not include that word "including." It -- the sentence ended at "more dwelling units," period.

CHAIR VICTORINO: Uh-huh.

MR. YAMASHIGE: And "planned" was capitalized as a new sentence; therefore, separating planned unit developments from the three lots or less exemption or --

COUNCILMEMBER KAHO’OHALAHALA: That is what's there.

MR. YAMASHIGE: Therefore separating it from the dwelling units exemption.

CHAIR VICTORINO: Okay.

COUNCILMEMBER KAHO’OHALAHALA: Okay.

CHAIR VICTORINO: Okay. Maybe at this time I'd ask Mr. Kushi, because he had worked diligently on making these changes, if you may be able to comment? Because I think we're trying to come to some concurrency in our -- in our rules. So
if you would, Mr. Kushi, kind of expound on this so that we
can understand --

MR. KUSHI: Yes, Mr. Chair.

CHAIR VICTORINO: -- what this -- what this entails.

MR. KUSHI: Yeah, thank you. First, I apologize if
I start cracking-up, but I have a bad cough, so --

CHAIR VICTORINO: Okay.

MR. KUSHI: Anyhow, exactly what I didn't want to
happen is happening. This is why we requested Mr. Milton
Arakawa to be present.

CHAIR VICTORINO: Okay.

MR. KUSHI: I believe the whole intent, Mr. Chair,
from your side was to get the Water Department to be
consistent with the Public Works Department in its
interpretation and treatments of subdivisions.

Now, Mr. Welch and his gang in that corner did point
out that there is a -- right now a discrepancy in the
interpretation of the rules. Mr. Chang is -- is correct in
that the Water Department to this day treats condominiums,
whether it's two or three or four or whatever, as long as it's
a condominium, regardless of the size, as a subdivision.
Public Works, on the other hand -- this is why I wanted to get
clear -- do they say if it's a three lot -- three unit condo,
is it not a subdivision? If that's the case, then we should
be on the same -- same page. Okay?
So Water as of now treats any PUD's or condominiums regardless of size as a subdivision. And if you call it a subdivision, then you have to go through all the nine yards of improvements. And Public Works, on the other hand, is saying that if you have a three unit condo, it's not a subdivision, then I believe, you know, applicants may be caught in the -- in the mix. Okay?

So I think it's for you to decide, you know, which way to go. But I think it will benefit the Committee to hear from the Public Works as to how they treat condominiums and PUD's and the numbers, you know, et cetera.

Consolidations, testimony about consolidations, resubdivisions, that's true, as long as it's no further developable lots. However, the -- the Water Department has been experiencing problems because right now they don't see consolidations until they come in for building permits. Example, if you have a big lot and you've got these small little kuleanas inside and they determine these are separate lot determinations, so you have five right now, the big lot and four separate parcels. So if these are determined to be separate parcels, you can do a -- a consolidation and resubdivide without any improvements. Okay? Then they come in for building permits, then the Engineering Department from the Water Department -- Engineering Division from Water becomes a -- they're stuck. They can't impose any
requirements, especially in case of fire. So that needs to be discussed, too.

Road easements, access easements, I don't think it's a big deal because you can't create landlocked parcels anyway.

CHAIR VICTORINO: Thank you.

We do have available for clarification and questioning the Director of Public Works, Milton Arakawa.

Would the Members like to have him come up and give some more clarification on this matter?

COUNCILMEMBER NISHIKI: Yes.

COUNCILMEMBER MEDEIROS: Yes, Mr. Chairman.

CHAIR VICTORINO: Okay. Thank you.

At this time if -- if it's okay, I would like to ask Mr. Milton Arakawa from Public Works to come forward.

And -- and just for the public's knowledge and the Committee Members, I think we've discussed this, I think I have mentioned this on many occasions that one of the main thrusts of getting these rules codified was also to make it concurrent with other rules so that we would not have the public, as it has been in the past, very confused on which rule is the abiding rule. I think if we can put things together and have them as uniform as possible, it makes the job for both the planners and as well as the person who is coming in to buy or build his home or build his project at least a little more consistency. And that was my intent from
the beginning.

So at this time if it's okay, I would like to ask Mr. Milton Arakawa, Public Works Director, to give his comments. Mr. Arakawa.

MR. ARAKAWA: Thank you, Mr. Chair. We just became actually aware of the proposed bill this morning. I did have a chance to take a quick look at it, but in terms of getting comments to the Committee, I would prefer to do a more thorough review of it and get back to the Committee in -- in writing as far as our comments.

If there are specific concerns that the Committee would like us to address, we can do that as well, but we'd prefer to do that in writing. Because I believe it's -- it appears like it -- there are some -- it is a major revision, so we'd like to basically take a more reflective and more thorough look at the proposed rules before commenting.

CHAIR VICTORINO: Thank you, Mr. Arakawa.

Questions for Mr. Arakawa? Mr. Pontanilla, followed by Mr. Kaho'ohalahala.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

Thank you, Mr. Arakawa, for that comment. Just a question. You know, I know we've worked on a lot of revisions or amendments to ordinances. And if an ordinance touches Water Department and Public Works Department, do you have a chance to review prior to any of these ordinance that are, you
know, coming before us for either amendments or addition
for your comments? In other words, you know, does the
Administration circulate any changes or any amendments to any
ordinance to the different departments for their comments?
MR. ARAKAWA: Councilmember Pontanilla, I guess in a
general sense, any bills that would affect other agencies, you
know, should -- should be circulated for comment beforehand.
I'm not sure what happened in this particular case, but we're
certainly willing to review it and give the Council our
comments on the -- on this definition of subdivision, how it
will affect us as well as how it may affect the Water
Department.

VICE-CHAIR PONTANILLA: Okay. Thank you.
Thank you, Chairman.
CHAIR VICTORINO: Thank you, Mr. Pontanilla.
Mr. Kaho'ohalahala.
COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.
Yeah, Director, I just wanted to get your comments.
Were you here when Corporation Counsel explained what some of
the -- the issues were between Public Works and Water
Department?
MR. ARAKAWA: I was here for about, oh, ten minutes
or so prior to that and I did hear Mr. Kushi mention some of
the issues.
COUNCILMEMBER KAHO'OHALAHALA: Okay. So is that
something that you want to comment on? Because, I mean, that's pretty much the crux, I think, of what we're here for and then if you can -- I mean, I know you want to do something more formal, but just off the cuff, given the -- the interpretation by the Corporation Counsel, what is your thought?

MR. ARAKAWA: Councilmember Kaho'ohalahala, I'd prefer to look at the whole thing first, have our staff kind of review it and respond in writing, if you don't mind.

COUNCILMEMBER KAHO'OHALAHALA: So you have no comments, then?

MR. ARAKAWA: I would prefer not to comment at this time.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Thank you.

CHAIR VICTORINO: Thank you.

Mr. Medeiros.

COUNCILMEMBER MEDEIROS: I just wanted to follow up on Member Kaho'ohalahala's inquiry.

Director, then when you return to your office and review this and provide your written comments, will you be also inquiring about this with Corporation Counsel as part of your review so you can understand what Mr. Kushi had expressed as possible issues for the Water Department, the way there's a discrepancy or a difference between Public Works and the Water Department's definition?
MR. ARAKAWA: Well, at this point I'd want to get some comments from our staff, our Development Services Administration first. If there are legal issues that we feel may need clarification from Corporation Counsel's office, then we'll do so. But at this point I'm not familiar enough to -- to tell you yes or no.

COUNCILMEMBER MEDEIROS: Okay. Because I think the Chair expressed a good point that we're trying to keep things pretty much in agreement between the two departments as far as application of what the definition and what the allowances are. So your response will be very important to this Committee. Thank you.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you.

You know, again, in light of what has come forward, I'm just going to at this point ask the Committee to defer this matter until our next meeting. And, also, I will put in a written request both to the Department of Public Works and the Department of Fire and Safety to get written comments by our next meeting, which is slated for I think June 24th.

Is that not correct, Ms. Willenbrink?

MS. WILLENBRINK: That is correct.

CHAIR VICTORINO: Okay. And because I think like you, Members, I'm kind of confused right now. I thought this had been passed on to every department. Obviously it hasn't.
So I would ask if -- with your indulgence, if we could defer
this matter until our June 24th meeting, which then I'll bring
it forward.
Mr. Nishiki.
COUNCILMEMBER NISHIKI: Yeah. Thank you.
Mr. Chairman, the concern I have is process, where Mr. Chang is
saying that Public Works is approving something and they may
have other concerns that they may want to condition. So how
is this process initiated to where -- Is it too late when
Mr. Chang receives a -- I don't know what it is that he receives.
What do you receive from Milton that you have a concern with?
What is the process? Is there a process that's occurring?
MR. CHANG: As -- as far as the Water Department, we
are made aware of the consolidation and resubdivision when
it's actually final approval. So the -- we -- we just are
informed that it's all done.
COUNCILMEMBER NISHIKI: It's a done deal?
MR. CHANG: Yes.
COUNCILMEMBER NISHIKI: Okay. So, obviously,
Mr. Chairman --
CHAIR VICTORINO: Yeah.
COUNCILMEMBER NISHIKI: -- the -- the process is
flawed. And so I think we need to understand why Water is not
being able to give input.
CHAIR VICTORINO: Well, we will look into all these
matters, Mr. Nishiki. And I think the problem with this whole
process has been inconsistency and variations in definitions.
Okay? The whole problem lies with the way the County has set
up the system where each department now brings forth their
definition, whether it's Fire, whether it's Water or whether
it's Public Works or any department. And this is where the
public has been agonized for years. And I'm not just talking
developers, I'm talking everyday people. And you know and I
know because you hear it from them. And so it's my intent to
try to get these things concurrent.

Now, whether they should be up front, behind, I'm
not the one that decides that, but everyone should be in this
process. But let's first -- and I think this is the key right
now -- set up the rules for which we have consistency. If
Fire is supposed to take care of fire flow issues, then let
them do it. And I think the Water Department will state that
a little bit later, that that's what they want. Let's get who
needs to do what doing it so that we won't have all of this
dilemmas and hassles for the general public. That's my whole
key right now.

And, you know, as far as the process, this process,
you, Mr. Nishiki, as well as any of us in this room who has
been around for a long time know this process has been the
same one and has had challenges for many, many, many years.
My intent is to really to do as much to correct it so that we
all can work together. Because the general public should be afforded the opportunity to get things done in an expedient, timely, and correct manner. And that's my only intention. So I will work on this and -- and try to see if -- find out what other parts of this process we need to work together to make concurrency and get things in line.

Thank you, Mr. Nishiki.

Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

Ms. Willenbrink, you know, passed out information from Herb Chang and looking at the request from the Water Department, I can see why the confusion, you know, when you add the word "including." By removing "including" and starting off with "planned development" makes it clearer.

CHAIR VICTORINO: Yeah.

VICE-CHAIR PONTANILLA: In regards to process, you know, you know, working for a utility company, whenever we do excavation, there is a process where we go to the different departments, you know, County departments, State of Hawaii, as well as other utilities to get concurrence or approval whenever we excavate. And, similarly, maybe the County should have a process where, you know, a -- a work flow for anything that involves, you know, Water, Public Works, even Environmental Management in -- in the sense that sometimes, you know, we overlook other areas and, you know, we find out
too late. So something that maybe the departments need to get
together and work out. Thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. And
that's my hope, that the departments as well as the
Administration -- and I think they've been working at it. I
know that Fire and Water have been working very closely on the
fire flow issues and all -- in that respect. So I think this
is just another means of trying to correct and make things --
and make the process more user friendly.

So if there is no objection, I'd like to defer this
matter to our June 23rd meeting if there's no objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Or June 24. I apologize.

June 24. My apologies, the June 24th. No objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you, Committee Members.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GB, DM, MM).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Okay. Now, moving right along --

In fact, at this time I would like to call for a ten-minute
recess because it's almost 10 o'clock and I would like to give
my Members an opportunity to -- to take care of personal
needs. We will reconvene at five minutes after 10:00. This

meeting stands in recess. (Gavel.)

RECESS: 9:55 a.m.
RECONVENE: 10:07 a.m.

CHAIR VICTORINO: (Gavel.) The June 2nd meeting of the Water Resources Committee will reconvene. Thank you for that recess, Members.

ITEM NO. 1(3): WATER SUPPLY RULES (UPCOUNTRY WATER METER RULE) (C.C. Nos. 05-46, 06-228, and C.R. 09-33)

CHAIR VICTORINO: Members, I would like to draw your attention to binder under WR-1(3), which is dated February 23rd, from the Department of Corporation Counsel, attaching a proposed bill entitled "A Bill For an Ordinance Amending Title 14, Maui County Code, Relating to the Water Meter Issuance Provisions For the Upcountry Water System". This is the bill that was attached to the recommitted Committee Report.

As you are aware, the Upcountry Water Meter Rule has been in effect since 2002. This bill codifies the rules into the County Code. There has been no revisions to this bill since the Committee voted to pass this on First Reading on February 12th, 2009.

Members, is there any need to discuss this bill any further? In other words, this was the same bill we passed out and was just a matter of codifying the Upcountry water meter issuance provisions. And this would be something that at a later date we want to work on the actual water meter list, but this is just the provisions that we had passed on back on February 12th. Because when we recommitted the other bill, we
had to recommit both bills simultaneously. So this is only
what we're trying to do now is to bring this forward for our
passage, yeah. Okay?

Is there any questions or discussion on this matter?

Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. You
know, because I didn't sit on the Water Resources Committee
last term, this is a catch-up mode for me, I'm trying to get
up to speed, but I just want to ask, being that this is
something that has always been very important to our Upcountry
Representatives Molina and Baisa; in previous deliberations on
this, did they have any concerns or issues, or they were fine
with the way it is now?

CHAIR VICTORINO: They were both fine with this. I
mean, we know that we need to look at working on this when
this water issuance meter -- the meter issuance comes up as
far as water availability. There is questions that need to be
worked on, but they both voted, if I can remember correctly,
they approved this when we had the first go-around on this in
February.

COUNCILMEMBER MEDEIROS: Okay, Mr. Chairman. I'm
fine, then, with that response. Thank you.

CHAIR VICTORINO: Seeing no discussion, then I will
recommend the passage of “A Bill For an Ordinance Amending
Title 14, Maui County Code, Relating to the Water Meter
Issuance Provision For the Upcountry Water System\text".

VICE-CHAIR PONTANILLA: So move.

COUNCILMEMBER MEDEIROS: Second.

CHAIR VICTORINO: It's been moved by Vice-Chair Pontanilla, seconded by Member Medeiros. Any further discussion?

Seeing none, all those in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed?

Let the record show four ayes, three excused;

Councilmember Molina, Baisa and Mateo.

VOTE: AYES: Councilmembers Kaho'ohalahala, Medeiros

Vice-Chair Pontanilla, and Chair Victorino.

NOES: None.

EXC.: Councilmembers Baisa, Mateo and Molina.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED.

ACTION: Recommending FIRST READING of proposed bill.

ITEM NO. 1(5): WATER SUPPLY RULES (SUBDIVISION WATER SYSTEMS REQUIREMENTS) (C.C. Nos. 05-46, 06-228, and C.R. 09-33)

CHAIR VICTORINO: Now, finally, Members, may I please direct your attention to correspondence in your binder under WR-1(5) dated May 27, from the Department of Corporation Counsel, which is attached a draft bill entitled "A Bill For an Ordinance Amending Chapter 14.05, Maui County Code, Relating to Public Services".
I would first like to call upon the Deputy Director Yamashige to provide us with an overview of the bill. We also have Lieutenant Scott English here from the Fire Department who can help us with questions relating to fire flow requirements. At this time I would like to ask Deputy Yamashige for his input on this change. Deputy Yamashige.

MR. YAMASHIGE: Yes. Thank you very much.

Mr. Chairman, Members, the effort here is to codify our existing rules and regulations relative to subdivisions. I know in the future we will be addressing water service, which is something that we've been working very closely with the Fire Department on. However, in subdivisions, the Department generally provides the distribution system -- or the developers provide the distribution systems to the standards of the Department, which addresses fire protection requirements. This -- this simply tries to codify those rules.

And if you notice, there are a couple things that we've tried to incorporate. And specifically on page 8, you'll notice that fire flow requirements for subdivisions, we are attempting to make it tie into the zoning of the land that is being subdivided and not the land use. So with that, Mr. Chair.

CHAIR VICTORINO: Thank you, Mr. Yamashige.

I would like to also call up, if -- if it's okay
with the Committee, Lieutenant Scott English for a perspective from the Fire Department. Is there any objections to that?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. Thank you.

Lieutenant English, would you come forward, please.

And, gentlemen, if you will look over to our -- my left, your right, on the -- on the wall there is a copy of the ordinance that we are going to be discussed being brought forth so that it will be easier for you and as well as the public to read what we will be -- will be discussing. Excuse me.

Lieutenant English, good morning and welcome. Do you have any comments on what we are trying to accomplish on this area when it comes to this, this change?

MR. ENGLISH: No comments at right now. Basically, we worked together to have the same requirements both for the County sector and the private sectors' water supply for fire protection for subdivisions. So basically we adopted the same standard that was in the 2002 Water Standards and only now Water Department is adopting the same standard.

CHAIR VICTORINO: So if I'm correct, Mr. English, Lieutenant English, you're saying that the Water Department now is adopting the 2002 Fire Water -- Uniform Fire Code or whatever that that we have been discussing in the past?

MR. ENGLISH: No. Base -- When we adopted the '97
Fire Code, we adopted the standards that the Water Department had, the 2002 edition standards in the water -- Water System Standards ahead of the Water Department thinking that Water Department will be adopting that soon. And until now, they haven't adopted it yet.

CHAIR VICTORINO: Okay. So if I'm correct, we're trying to get concurrency between the Fire Department and Water Department as far as what fire flow issues that concern subdivision and other types of construction?

MR. ENGLISH: Correct.

CHAIR VICTORINO: Thank you.

Before I go on, Kim, is there any other comments that we need at this point? Nothing from Public Works, right?

MS. WILLENBRINK: Thank you, Chair. Originally this bill was part of a large bill that included all of the chapters, and it was submitted and it's in your binders dated October 11th, 2006. This year on March 5th we sent two chapters to the Department for their review. We broke that large bill down because we've already passed out some portions of that large bill. And we sent two chapters to the Department for review.

However, back in January of '07 the Department of Public Works, DSA did send some comments and it is in your binders in the front of the binders just under WR-1. Their comments are January -- January 31st, 2007. And we may want
to refer to some of those comments as we get into the -- the
meat of the bill, Chair.

CHAIR VICTORINO: Thank you.

Just for clarification, I mean, this is something
that when I stated earlier that we had or that the Public
Works Director said that they had not been able to comment on
any of these issues, we did allow them and they did respond.
But we also -- because I've asked for an update with the new
verbiage as far as subdivisions are concerned, we will be
receiving that, also.

So at this time before I -- I let the Members ask
questions, Mr. Kushi, you helped craft this. Do you have any
comments in regards to this part of the rules, the fire flow
issue?

MR. KUSHI: Yes, Mr. Chair. Mr. Chair, thank you.

There's a couple revisions in my mind nonsubstantive as
compared to the existing rules. If you refer to, you know,
the attachment to my May 27th, '09 memo to you under the draft
bill, basically I believe on page 3 and 4.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: Under Water Main -- Water Mains and
Appurtenances and also on page 7 under Fire Protection, the
previous rules and regs provided for standpipes in Ag. zoned
Districts as well as Rural. This new codification eliminates
that. The Department is requiring hydrants in all districts.
The other change would be starting at page 8 under Fire Protection Schedule, we listed all the zoning districts pursuant to Title 19 of the Code. And you notice some blanks there like Resort, Commercial, Park, Airport, Public/Quasi-Public, Historic Districts and Project Districts? At this point in time the Department has not come to a conclusion as to the minimum gallons per minute or the duration of hours, so those areas need to be filled in.

And I believe at page -- starting at the bottom of page 13, Section -- Subsection 190, Deferral, before it used to read "waiver." This is the family subdivision provisions. So I changed that to say "deferral" because I believe that's the more proper term because the family subdivisions, the improvements are not waived, they're deferred until a point in time.

And, lastly, the violation section at the top of page 15, it provides for a criminal enforcement proceedings, but, again, you know, I found out a couple days ago that Member Kaho'ohalahala's Committee in March of this year amended Section 19.530.030 of the Code, Administrative Enforcement, so -- and that basically reads that in lieu of or in addition to enforcement by criminal prosecution, the various directors, including the Water Supply Director, can proceed to administrative proceedings for civil fines. So that gives the Department some discretion in going either or
Both ways.

That would be it, Mr. Chair.

CHAIR VICTORINO: Thank you very much. I appreciate that.

At this time I'll open the floor up to questions from the Members. I'll start off with Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.

This is for the Fire Department. You said that you've already passed your Fire Code in 2007 and you incorporated these standards for water then, but this ordinance has not passed. Is that -- My question is this: In light of the changes that are being proposed now, does that mean that you need to go through another process yourself?

MR. ENGLISH: No. The -- our Fire Code was adopted in June -- July 1st, 2006 and the proposed ordinance is similar to what we have now.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So I'm just trying to understand. We're going to pass this after the fact, yeah, they have included that and we're making changes, so I'm just saying does that mean that you now need to adopt these changes, or does that already just become part of yours, become part of your Fire?

MR. ENGLISH: The proposed ordinance as far as the Fire Protection Schedule is similar to what is -- what's adopted in our Fire Code in 2006. So right now we're just
trying to get similar. Water Department has the same
requirements as Fire.

COUNCILMEMBER KAHO'OHALAHALA: So everything that's
presented here in this ordinance right now is in line with
what you --

MR. ENGLISH: The only thing that's lacking is,
like, the hydrant spacing. It was not put in in this
ordinance. As far as the flow schedule, it's similar to what
our Code has.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Is that
something that we have to consider, Chair?

CHAIR VICTORINO: Well, we may want to consider
that. As far as the spacing of the hydrants, Mr. English,
would that some -- would that be necessary right now or can we
do it at a later date or would be it be -- what is your take on
that spacing of hydrants?

MR. ENGLISH: It can be worked on at a later date.
It is already enforced in our Fire Code, the spacing that is
based on land use and zoning.

COUNCILMEMBER KAHO'OHALAHALA: Okay, Chair. I guess
if we're going to pass the ordinance and it's a simple
amendment to the ordinance, we should probably consider
something in this bill as an amendment so that we don't have
to come back. I mean, if you're offering language that we can
incorporate in here that suffices the, you know, spacing of
hydrants, then -- Is it difficult to include, Corporation Counsel?

CHAIR VICTORINO: Mr. Kushi, can you respond to that?

MR. KUSHI: Mr. Chair, I -- I thought -- I thought we covered that starting at page 3 of the proposed draft ordinance under Section 030, Water Mains and Appurtenances. It did -- it gives a whole slew of number of unit subdivisions and the -- I guess the run -- runs and I -- maybe technically I'm mis- -- I misunderstood whether that's the spacing. But, in any event, I believe it can be resolved.

COUNCILMEMBER KAHO'OHALAHALA: From the Fire Department, are you looking at that same section? Can you look at that section that's being referenced here, 14.05.030?

MR. ENGLISH: Yeah. That section does not cover the hydrant space -- the minimum hydrant spacing. That section just covers the minimum water main sizes for the fire flow.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So it would mean adding on just another section of just spacing, then, language?

CHAIR VICTORINO: The Chair is going to call for a five-minute recess, let the Department kind of get this together, and then we'll come right back. The Chair will -- the meeting will be recessed 'til 10:30. (Gavel.)

RECESS: 10:25
RECONVENE: 1038 a.m.

CHAIR VICTORINO: (Gavel.) The June 2nd, 2009 Water Resource Committee meeting will reconvene. As we had taken a recess, we did, by taking a further review, found on page 7 of the revised, the new ordinance under Section 14.05.090, Fire Protection, Subcode(sic) B, the spacing of fire hydrants was included.

And, Lieutenant English, you had a chance to read it. Does that conform with your standards at this time?

MR. ENGLISH: Yes, it does.

CHAIR VICTORINO: Thank you. So no amendment would be necessitated.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Thank you,
Chair.

CHAIR VICTORINO: Thank you.

One of the Chairman's preference is to start from the beginning of this bill for some of the concerned areas and just move right through it, if that is okay with the body.

And then that way we can ask specific and direct questions that have been either raised by the public and/or by Members in general.

So let us turn to, again, so that we're all on the same -- the memorandum from Mr. Kushi to myself dated May 27, 2009. And we have all the parties here, so, Mr. English, don't run away because we may need you. Okay?
So let us start by going to page 2 under the draft, and one of the concerns that was brought up was the question about on the very top of the page when it starts, "an adequate and sufficient water supply developed for fire protection". And that was raised by one of the testifiers. I think Mr. Goode brought that up.

I would ask the Department for a clarification on that particular definition, because, again, do we have what we call a standard for which we will place adequate and sufficient water? And what is that standard, if I may ask that question? So either Mr. Yamashige or Mr. Chang, if you would like to take a -- a stab at that, please.

VICE-CHAIR PONTANILLA: Mr. Chairman?

CHAIR VICTORINO: Yes.

VICE-CHAIR PONTANILLA: Maybe Corporation Counsel can provide us with some clarity. You know, when you read the whole thing, I think it does cover. So if Mr. Kushi can bring forth that.

CHAIR VICTORINO: Okay. Mr. Kushi, I'll let you start and then we can go from there. How's that?

MR. KUSHI: Okay. Mr. Chair, let me --

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

MR. KUSHI: Let -- let me try and if the Department has some -- another standard that I don't know of, you ask them. But, again, the issue was brought up what is -- what is
adequate and sufficient supply of water. If you read the entire section, it goes on and says, "adequate and sufficient water supply developed for fire protection, domestic and irrigation purposes to take on new or additional service without detriment to existing customers", and it goes on. So I believe that is the -- the background, the standards in determining whether the Department has anything left to issue without affecting the existing customers. That's the way I've been interpreting that.

CHAIR VICTORINO: Thank you.

MR. KUSHI: Now, again -- again, you know, if an applicant comes in and -- and is denied water service because the Director feels that there's inadequate source, again, and there's a decision by the Director, appeal it to the Board of Water Supply. Hopefully we'll hear within a year, but, again, that's the recourse.

CHAIR VICTORINO: Thank you.

Mr. Yamashige, do you concur with what Mr. Kushi has just stated?

MR. YAMASHIGE: Yes, Chair. Thank you very much. And we need to keep in mind that this is in the section for extensions and connections, so it's really looking at the distribution system and the ability of that system to provide the service.

CHAIR VICTORINO: Okay. Members, questions for the
Department or Corporation Counsel?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

Also in that particular section, you know, I brought up the question about irrigation and it seems like, you know, both Department of Water Supply as well as Environmental Management -- I don't know who takes the lead in regards to utilizing recycled water from Kihei as well as our Lahaina treatment plants. You know, I have had a brief sidebar with Corporation Counsel in regards to irrigation and the use of recycled water, and he brought out, you know, as a condition of subdivision, it may be DSA can, you know, provide us with more information on the use of R-1 or recycled water from the treatment plants for irrigation. So we need to follow up with DSA in regards to any conditions that can be put on the development in utilizing recycled water.

CHAIR VICTORINO: Thank you. And that -- we will make sure that we keep that in mind, yeah.

Any other questions or discussion on this matter?

Okay. Then moving right along, down on the same page I had a question under 14.05.020, Reservoirs/storage tanks, Section 1, and it says, "For residential, hotel, apartment, business, industrial, airport and commercial district. Unless otherwise approved by the director, storage
capacity required shall be determined on the basis of fire flow. Now, the question I have is why and how. On that particular -- why -- why at that point and how is it deemed? Mr. Yamashige or Mr. Chang.

MR. CHANG: In this section, excuse me, we are making requirements on storage tanks. And if you continue reading the paragraph, it concerns not only fire flow, but also your domestic demands. And so we do have standards to determine, you know, if we're going to do based -- determine the size of the tank based on fire flow or the domestic demand. So we just take the larger of the two and -- Am -- am I answering your question?

CHAIR VICTORINO: Okay. So, in other words, at this point, before -- with the Director's approval, you have based this calculation in there for approval purposes?

MR. CHANG: Yeah. We use the -- we have calculations that we can -- If the criteria is fire flow, we have calculations to determine that. Or if it's on the basis of domestic demand, we have the calculations for that.

CHAIR VICTORINO: Okay. And so they're -- they come into play at this point?

MR. CHANG: Yes.

CHAIR VICTORINO: Okay. That was my question. Any other questions on that particular area by the Members? Yes, Mr. Medeiros.
COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

For the Department, I know in previous meetings that we've had there was always a -- concerns about the Fire Department's fire flow requirements and the Department's requirements as far as water, you know, flow. So does this section now indicate that the Fire Department and the Water Department are together as far as the standard required for both of them?

MR. YAMASHIGE: Yes, we are. We need to keep in mind that this is the subdivision section of the ordinance.

COUNCILMEMBER MEDEIROS: Right.

MR. YAMASHIGE: When we get into the water service section, which is probably down the road a little bit, that's where the Water Department and the Fire Department used to have the most conflicts.

COUNCILMEMBER MEDEIROS: Right.

MR. YAMASHIGE: So once we get into that, I think we'll resolve a lot.

COUNCILMEMBER MEDEIROS: Okay. As far as the section we're talking about now, this only applies to subdivisions?

MR. YAMASHIGE: That's correct.

COUNCILMEMBER MEDEIROS: Okay. Because in the past I had some concerns when we looked at a TVR that the Fire Department had a different requirement than the Water
Department and -- and we could never get a, you know, good
answer on why. So you say we're going to take that up when we
come to residential?

MR. YAMASHIGE: Actually, the -- the whole idea or
the whole concept of water service and the Fire Department
really taking the lead and the responsibility on fire
protection of structures, that will clear up a lot of the
conflict that we have now. The Department is still retaining
the fire protection requirements of subdivisions, so we'll be
putting in the system initially; but once you start developing
your structures and your dwellings, the Fire Department will
determine what the fire protection is for that structure.

COUNCILMEMBER MEDEIROS: Let me ask you this: Is
the Fire Department fire flow standards requires higher
standards as far as fire flow than the regular Water
Department requirements?

MR. YAMASHIGE: Actually, I think the Fire and Water
are quite consistent. Where -- where we kind of get the rub
is the Fire Department takes into consideration alternative
measures of fire protection like sprinklers.

COUNCILMEMBER MEDEIROS: Right.

MR. YAMASHIGE: The sys- -- the process that we use
or the standard that we use to calculate fire -- needed fire
flow does not. And that -- that's where we have a lot of our
problems or the conflict in why Fire will say okay and why
Water will not.

COUNCILMEMBER MEDEIROS: Okay.

MR. YAMASHIGE: And we're trying to work with Fire and resolve that.

COUNCILMEMBER MEDEIROS: Okay. And -- and, you know, I'm -- I'm glad to hear that, because --

MR. YAMASHIGE: We are, too.

COUNCILMEMBER MEDEIROS: If -- if the Water Department had to raise their fire -- not fire, but just their flow standards to be the same as the fire flow standards, does that mean it would cost the Fire Department -- I mean the Water Department more to reach those same standards? Would there be a difference in infrastructure requirement changes?

MR. YAMASHIGE: I guess it's a possibility. Usually the way the Department determines fire flow, we would be higher or the same with Fire Department. But certainly I -- I guess that could happen. I'm not sure where or when.

COUNCILMEMBER MEDEIROS: But -- but when you say it pretty much is the same, but when you talk about having to put in fire sprinklers, then that changes the standard as far as what you have and what the Fire Department requires?

MR. YAMASHIGE: Yes. That's correct.

COUNCILMEMBER MEDEIROS: So why wouldn't we be at a standard of equal so that there's no question whether there's enough fire flow?
MR. YAMASHIGE: And -- and that's where we are trying to go.

COUNCILMEMBER MEDEIROS: Okay.

MR. YAMASHIGE: You know, again, the Insurance Services Office process that we use to calculate needed fire flow, you know, unfortunately, doesn't give you a credit for sprinklers, so, anyway --

COUNCILMEMBER MEDEIROS: Okay.

MR. YAMASHIGE: -- the Fire Department.

COUNCILMEMBER MEDEIROS: Well, I appreciate those responses. And like you say, if we're going to discuss this later, then I'm, you know, satisfied with that.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Any other questions? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. So the ordinance -- the proposed ordinance that we're looking at, basically it's for new subdivisions rather than old ones.

A question: When extending a main line from the end of the County's responsibility, do you consider -- you know, we all talk about standpipes sometimes, yeah? And according to Corporation Counsel, you know, all we're going to be talking about is fire hydrants. But if you see that there is a substandard main line to provide service to any new subdivision, I'm assuming that the developer will need to
reinforce that existing line. In the meantime, does the
developer or subdivider also changes — changes out the
standpipe to meet the new ordinance?

MR. YAMASHIGE: Yes, they would.

VICE-CHAIR PONTANILLA: They will. Okay. Thank
you.

Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any other questions? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Thank you. Just — Thank
you for this second opportunity.

Because Vice-Chair Pontanilla brought that up — I
was going to wait to bring that up, I thought it was in
another section, but I just want to follow up. Because
Mr. Kushi, and if I understood it correctly, said that even in
rural areas we're now changing to hydrants. Is that correct,
Department or Mr. Kushi?

MR. KUSHI: Yes, in all areas, all districts
standpipes will not be allowed.

COUNCILMEMBER MEDEIROS: Okay. This is in only new
developments, not in existing?

MR. KUSHI: Effective as of the date you codify the
rules.

COUNCILMEMBER MEDEIROS: Okay.

MR. KUSHI: You can't go back and --
COUNCILMEMBER MEDEIROS: Oh. Because in rural areas, many of our standpipes are on much smaller mains, even down to 4 inch and so forth. And if my understanding is correct, hydrants require a minimum of an 8-inch main. Is that correct? The full hydrants.

MR. CHANG: Actually, no, our existing rules the only areas that we allow standpipes are Ag. zoned. Rurals are -- the ones that have been subdivided recently, the past 20 years or so, have been required to put in fire hydrants. And they were allowed to connect to a 6 inch because our -- at that time our fire flow demand was only 400 gallons per minute. But, unfortunately, with -- unfortunately, with the -- this change, we're going to bump it up to 1,000 gallons a minute, so it will be 8-inch pipes.

COUNCILMEMBER MEDEIROS: Because the 6 inch, you can correct me, the volume that a 6 inch provides sometimes doesn't keep up with the pumping of a fire truck in lines like that.

MR. CHANG: That's correct. If it's really a long length of 6 inch, it can cause problems with vacuum.

COUNCILMEMBER MEDEIROS: Right, right. Okay. As long as we're, you know, considering that requirement, I appreciate it.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.
Any further questions or discussion?

Okay. Moving right along, turn to page 3 at the very top. And this is the question I have for the Department, because in my research, the first sentence is "storage assessment fees in the amount provided -- as provided for in the rates and fees of the department as established in the County's annual budget." But I did go to the rates and fees and could not find that. So where is that and -- if it is? And if it's not, should we have put it in there? Deputy Yamashige.

MR. YAMASHIGE: Yes. Thank you very much, Mr. Chair. You are correct. The -- It's actually, I think, in the budget as the Water System Development Fee and it is just one, one figure. In the past the Water System Development Fees have been broken up into three components: The source, the storage and transmission. There is a breakdown that the Department has on what each of those components are, and, you know, I believe you're correct that we should put it in the ordinance, the budget ordinance.

CHAIR VICTORINO: The budget ordinance, yeah. I think for -- for clarification and for consistency, I think this is very important, so -- and that would be something that we have to do in -- under Budget and Finance, right? That would have to go to Mr. Pontanilla's Committee?

MR. YAMASHIGE: That's correct.
CHAIR VICTORINO: Okay. I will make a note of it and send a letter for his consideration on that. Yeah.

VICE-CHAIR PONTANILLA: Chairman.

CHAIR VICTORINO: Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: I think it should come from the Department in regards to the -- the fees themselves to be considered at the next budget cycle. They provide the numbers in regards to how much we should charge or assess for development fees.

CHAIR VICTORINO: Well, that was in my -- and, excuse me, Mr. Pontanilla, that isn't what I was going to ask them to do. I would like the verbiage to be put in so it would be clarified. So that when -- when we read these rules, there is a specific -- you know, and they can do the rates and all that, that's not something I was asking for. So I would -- my letter to them would be asking them to make sure that's forwarded to you, sir. That was my consideration, if you -- if you don't mind. Okay?

Moving right along, any other questions in that area?

Okay. Now, moving down to page -- okay, page 4, page 5. Any questions on page 4 and 5, because I had none, but I don't know if any Members had any questions on page 4 or 5, and as well as page 6, which really is laterals, altercations (sic).
VICE-CHAIR PONTANILLA: Oh, Chairman.

CHAIR VICTORINO: Yes. I'm sorry. Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: On page 5. 14 --

CHAIR VICTORINO: Page 5. Going back to page 5.

VICE-CHAIR PONTANILLA: Yes. 14.05.050.

CHAIR VICTORINO: Okay.

VICE-CHAIR PONTANILLA: In regards to reimbursement for water main extension.

CHAIR VICTORINO: Okay.

VICE-CHAIR PONTANILLA: When I read through the whole section --

CHAIR VICTORINO: Yes.

VICE-CHAIR PONTANILLA: -- the County will reimburse the developer 50 percent of their construction costs. And I think Mr. Goode provided some information in regards to the sizing of the pipe, that the Water Department will be providing the developer with that sizing. And I just want to ask the Department, first of all, the sizing of the pipe is also -- is determined with any future growth in the particular area? And if it is, those people that want to subdivide that one particular run, do they pay the County back in regards to the 50 percent that we pay the person that -- or developer that provide that infrastructure?

CHAIR VICTORINO: Department?

MR. YAMASHIGE: Yes.
CHAIR VICTORINO: Mr. Yamashige?

MR. YAMASHIGE: Yes. Thank you very much, Mr. Chair.

Mr. Pontanilla, you -- you really have to look at 14.05.050 together with 14.05.040. In 040 the Department may request the developer increase the size of the main extension for those future considerations. And in addition to that, in 050, it just says that we would reimburse -- well, in 040, we have to pay for the increase in the size.

CHAIR VICTORINO: Right.

MR. YAMASHIGE: In 050, we're reimbursing one half. As far as the reimbursement back, you know, or the payment for that increase back to the County, part of the Water System Development Fees doesn't address distribution, but that is the source of that, those funds.

VICE-CHAIR PONTANILLA: So the development fees would be assessed to anyone that comes along tapping on that main line?

MR. YAMASHIGE: That's correct.


CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any other questions from the Members? Or Non-Voting Member, any questions in this area?

COUNCILMEMBER NISHIKI: No.

CHAIR VICTORINO: Thank you.
Okay. Continuing on, any questions on page 6 on laterals and alterations to public service (sic)?

COUNCILMEMBER MEDEIROS: Chair.

CHAIR VICTORINO: Sure. Go ahead, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And my question may revert back one page, but in Mr. Goode's testimony, you know, he brought up the -- the consideration for the less priced product, the C900. How does this -- the draft ordinance now address that? Because in his words it says, "states pipes may be ductile iron," and his interpretation or his question is: Does that mean that C900 is acceptable? Department, how does the draft ordinance address that?

CHAIR VICTORINO: Department, do you have a comment on that, please?

MR. CHANG: The ordinance is drafted where ductile iron pipe would be the only pipe allowed for -- I think, I believe for like 4 inches and above or 3 inches and above. The PVC pipe, that C900, the Department has in the past considered using it, but I think we believe that the -- the superior strength of the ductile iron pipe is much more beneficial than using the -- the PVC.

One of the problems we have is when you have excavators, you know, digging holes and if you do it by accident, you know, you can puncture the PVC easily. With the
ductile iron, it's a lot, lot stronger.

COUNCILMEMBER MEDEIROS: So in this draft ordinance, the Department has a list of pipe materials that are acceptable or not acceptable?

MR. CHANG: Yeah. I believe there's somewhere in here somewhere a --

COUNCILMEMBER MEDEIROS: Okay.

MR. CHANG: 14.05.130 is --

COUNCILMEMBER MEDEIROS: So in that section it states what is acceptable by the Department --

MR. CHANG: Yes.

COUNCILMEMBER MEDEIROS: -- as materials for pipes?

MR. CHANG: Yes.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Department.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you.

And the Chair would like to take a moment to recognize the attendance of Member Baisa. Thank you for rushing down from Upcountry.

COUNCILMEMBER BAISA: Thank you very much, Chair. I appreciate the leave this morning.

CHAIR VICTORINO: Okay. Further questions in this particular area?

Okay. Thank you. Moving on to page 7, and there I
had a couple of questions. Going to 14.05.090 and I have on fire protection and the fourth line down, "In the event the proposed land use within the subdivision is inconsistent with the permitted use as described in the zoning district, the department shall have the discretion to adjust the requirements as set forth in this section." This is a revision from the old rules.

So, Mr. Kushi, if you could comment on that particular revision.

MR. KUSHI: Yes, Mr. Chair. When -- when the Water Department and the Fire Department started discussing these -- the Subdivision Code as well as the building permit procedures about a year ago, there was a -- a situation where the existing Water Department rules and regs always had fire protection, minimum fire flow requirements, et cetera starting on page 8 of your draft by County zoning districts. However, the standards that they were using came out of their Water System Standards from -- It's all the four counties get together and publish this book of requirements, which to date the County has not really adopted. But they -- they issued their fire flow requirements based on land use.

Example, like, you know, on top of page 8, the various County zoning districts, which you're all familiar with, they're listed in Title 19. The zoning -- the land use categories that the Department has been using are as follows:
You know, Agricultural, Rural, Single Family, Duplex, PUD, townhouse, and low-rise apartments, schools, neighborhood business, small shopping centers, Hotels (except Maui), and high-rise apartments, Light Industrial, downtown business, large shopping centers, and hospitals and, lastly, Heavy Industrial, Hotel use. So they -- it's not set forth in the zoning districts, whereas the existing rules and regs that the Department should have been following was based on zoning districts.

So what we did was to be -- to be consistent, but yet flexible, we continue listing the requirements by County zoning districts, but we added in that sentence that you just read where in the various districts, you know, maybe in a -- let's say in a Business District, but the proposed land use is a school, you know, it may be a different requirement. Or in a -- in an A-2 Apartment District, it may be a small shopping center or, let's say, they get a variance or whatever. But, again, it gives the Department some flexibility to increase, adjust, or maybe perhaps decrease the requirements when it comes down to subdivision. That was the intent of that insertion, Mr. Chair.

CHAIR VICTORINO: Thank you.

Any questions to what Mr. Kushi has just brought forth? Mr. Kaho'ohalahala and then followed by Ms. Baisa.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.
You know, as we're going through the sections one at a time, it becomes evident that in this ordinance there's a lot of discretionary decisions that are given to the Department. And I'm a little concerned as to who's keeping track of these things as they occur within any sections that's relative. And then who makes those decisions along the way. And -- and that would be my -- my -- just my concern.

As I'm looking through, through the ordinance, there are many, many sections for discretionary decision making, so -- so we're just leaving it up to whomever is there to make those kinds of calls. And I'm not sure -- you know, I'll go over the whole ordinance over again and see where it's specifically cited, but it would raise concerns to me that there is this nebulous kind of section or powers or decision making that's left to -- to a single person, perhaps, you know. So that's just my comment.

CHAIR VICTORINO: Okay. And you're absolutely correct, Mr. Kaho'ohalahala, is that there are -- and, in fact, we have tried to -- to diminish some of that from the old rules to make it more -- more concurrent and -- and to have things less discretionary. But it's like everything else, we -- we'll never get it to a point where it's no -- if that's the case, then we could have a robot process yes, no, yes, no. So some discretion must be left to the Director and the engineers who actually review all these plans. However, I
agree with you, we should try to be as -- as specific as possible so we eliminate any possibility of too much discretion and -- and where decisions are made based upon other than the merits of the -- the project itself, yeah. So I agree with you and we will continue to work on this, Mr. Kaho'ohalahala. This is something that's not finished today.

COUNCILMEMBER KAHO'OHALAHALA: Yeah. Okay. Thank you, Chair.


COUNCILMEMBER BAISA: Thank you very much, Chair. I'd also like to say that I have some of the questions that Member Kaho'ohalahala has raised in regards to discretion. And I apologize for coming in late; therefore, I'm not really sure what's been covered. But at some point, Chair, I would very much like to hear us talk about and make a decision in regard to what happens in a subdivision that has already been built and a use is now changing, and I don't see it as a significant use, probably from a home that was residential and is now up for a B & B permit, and how these requirements will be applied. I understand it's an area of quite a lot of concern at the moment and I think we ought to deal with it as quickly as possible.

CHAIR VICTORINO: Thank you, Ms. Baisa. Any other questions or discussions in this matter?

COUNCILMEMBER MEDEIROS: Chair.
CHAIR VICTORINO: Yes. Go ahead, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: I have the same thing. Excuse me.

CHAIR VICTORINO: Same page?

COUNCILMEMBER MEDEIROS: Page 7.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER MEDEIROS: Yeah. I wanted to ask either the Fire Department or the Water Department on Section 14.05.090, Fire Protection, Subsection B., the spacing. Help me understand that if you have a new subdivision or -- and this applies -- the first is 250 feet apart and this is for business, commercial, industrial, hotel and apartment districts. And I don't know if it's in a different section, but I was looking -- you know, it is -- that it gives a radius that has to reach that new subdivision from the closest hydrant. Now, the radius of 250 feet, is that correct, Department or Fire Department? I'm not sure if it was in this section, but I was reading a section on radius.

MR. CHANG: I think there is a mention of radius in --

COUNCILMEMBER KAHO'OHALAHALA: The E. is radius.

COUNCILMEMBER MEDEIROS: Oh, E. Oh, the next page.

COUNCILMEMBER KAHO'OHALAHALA: On page 8.

COUNCILMEMBER MEDEIROS: Okay. Yeah. My question is on radius, so, Mr. Chairman, if you want me to wait 'til the page is turned, then I can ask my question, if you want.
CHAIR VICTORINO: Okay. Why don't we wait 'til we get there so that we can cover --

COUNCILMEMBER MEDEIROS: Okay.

CHAIR VICTORINO: You know, stay on course if I don't -- you don't mind, please.

COUNCILMEMBER MEDEIROS: Uh-huh.

CHAIR VICTORINO: Okay. And I do have a question on C. and D., because if you read C. and you read D., they kind of -- they're -- they -- who makes the decision and which Department makes the decision on C. and D. of the same page, page 7.

Mr. Kushi, maybe you can comment on this. Because I know earlier we talked about the -- the spacing of the fire hydrants and all that, but here we have the Department -- "the standards for the fire protection flow shall be listed in certain publications kept on file by the department, which entitled 'Insurance Services Office's Guide for Determinations of Fire Flow' issued of the Insurance Services 1974." But at the same token we heard Mr. English say that, you know, they're trying to make the fire flow and fire protection based upon the Uniform Fire Code.

So my question there is: Is there some concurrency or are we looking at maybe this being applicable to what we're trying to accomplish here? Whoever wants to take a stab at that. I think I asked the question in five different ways, didn't I? Thank you, Mr. Yamashige.
MR. YAMASHIGE: Let me try to answer that.

CHAIR VICTORINO: Okay. Thank you.

MR. YAMASHIGE: I think this is one of those things that will -- will be fleshed out once the Fire Department takes more involvement in the determination of fire protection. As it applies to the subdivisions, D. actually presents the -- the table of the required fire flow.

CHAIR VICTORINO: In the back, next page, yes.

MR. YAMASHIGE: Yes. So maybe reference -- although ISO does refer or is the basis for determining those flows --

CHAIR VICTORINO: Uh-huh.

MR. YAMASHIGE: -- once the Fire Department is more involved, they will actually determine the needed fire flow for structures.

From the Department's perspective, we are looking at fire hydrant spacing along the public right-of-way, so it's not necessarily just the radius of -- where you put a compass at a fire hydrant, draw a circle and determine where the next one will be. The distance is actually along the street, that's how the spacing is determined. So when you look at one half, you could say that in a residential subdivision where the spacing of those hydrants are supposed to be 350 feet, the hydrant could be, what is that, 275 feet from the end of the cul-de-sac.

CHAIR VICTORINO: Uh-huh.
MR. YAMASHIGE: It does not have to be at the end of the cul-de-sac. So that that's all that paragraph 3 is trying to say.

CHAIR VICTORINO: Okay. And I'm glad to hear your -- your statement and I think that was the ultimate goal, to one day when it comes to fire protection and fire flow, having the Fire Department and that Department take care of that and releasing you of all that, that part of it so that you guys can focus on the areas that you need to focus in. So I think that's one of the objectives down the road that we are working towards, yeah.

Okay. For right now, then, we'll just leave it be until we get to that point.

Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

Mr. Yamashige, in regards to commercial subdivisions, meaning shopping malls, how do you determine the spacing of fire hydrants and, you know, how do you locate them?

MR. YAMASHIGE: Yeah. That's kind of between like the Fire Department, who takes care of a lot of the on-site within the private property spacing and requirements, and then the Water Department's along the subdivision lot. So it kind of goes -- as long as it's not going through a sub- -- I'm sorry. As long as it's not going through that subdivision
process, it's -- it's really the determination that the Fire
Department will make because they'll determine, you know,
which way the wind is going to be blowing, where they need the
fire hydrants spaced, you know, how far from the building it
has to be. There's a lot of things that, it's pretty
interesting, the Fire Department considers when spacing
on-site fire hydrants.

VICE-CHAIR PONTANILLA: So when they review the
plans in regards to any shopping malls, then they will
determine the location of the fire hydrants themselves,
Mr. English?

MR. ENGLISH: Thank you, Mr. Pontanilla. Right now
what we're working on is just for subdivisions, the minimum
fire flow that should be available on the street. For your
question, say like a Wal-Mart or Home Depot, when they
subdivided the lot, the streets serving those lots, the
hydrants are spaced at 250 feet. Once the building's -- like
I said, like a Home Depot that are very large in size, they do take
fire hydrants into their on site and we space them at 250 feet
along the fire lanes that are around Home Depot area. So,
basically, once it comes off the street, it becomes private
and it becomes our juris- -- the Fire Department's
jurisdiction.

VICE-CHAIR PONTANILLA: Okay. As far as the repair
for those hydrants, the County's responsible?
MR. ENGLISH: The on-site hydrants is taken care of by the owner.


Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any other questions?

Seeing none, now we turn to page 8. And I think on page 8, Mr. Medeiros, you had a question about the radius.

COUNCILMEMBER MEDEIROS: Yes. Mahalo, Mr. Chairman.

And also at the top of the page, Fire Protection Schedule, and I see a GPM and hours, which I'm sure is the duration that you -- the system has to hold at that GPM. I want to ask the Department or -- the Fire Department or the Water Department, when you did this test to meet those requirements, was it just that it flowed at that GPM for two hours, or was the test done with a fire truck on the system pumping also?

CHAIR VICTORINO: Before you answer that question, just for the public's information, GPM means gallons per minute. Is that correct, Mr. Yamashige?

MR. YAMASHIGE: That's correct.


MR. CHANG: These standards are -- If you look on the top second line, minimum fire flow requirements, and so it
would be based on the minimum, which would be no pumping. And
a cri— one of the other criteria that is not mentioned
here is the minimum -- it has to have at least 20 PS— --
pounds per square inch of pressure in the pipe. So that -- to
try to answer your question, it'd have to meet these 500,
1,000, you know, based on the zoning with no pumping and
maintaining a minimum pressure of 20 pounds per square inch.

COUNCILMEMBER MEDEIROS: So -- so the GPM and the
pressure you talk about and the duration, this is static flow?

MR. CHANG: Once it starts flowing, it's no longer
static. It's under a dynamic condition. So would be after --
you have to flow for like say the top, agriculture, 500
gallons a minute for two hours straight.

COUNCILMEMBER MEDEIROS: So you would have to open a
section of that system to -- to determine that? So that you
no longer have static flow, but you have, you know, the
thing -- the water running through the system?

MR. CHANG: Yeah. Normally when you have like a big
flow, the pressure will drop, so we require that part of
the -- the system reacts so that they can at least maintain 20
pounds. And that's determined by pipeline size, so if, you
know, you have to put in a bigger pipe, then that's how we
make the requirements.

COUNCILMEMBER MEDEIROS: And this standard meets the
MR. CHANG: I'm not sure.

COUNCILMEMBER MEDEIROS: Okay. I see the nod, so it does.

The second question on the same -- on the Fire Protection Schedule is: Why are some zoning districts not included or not required to meet any minimum fire flow, such as Resort, Commercial, and Park, Airport, Public/Quasi-Public, Historic and Project Districts?

MR. CHANG: The Department still needs to fill in the blanks. It's intended to be filled.

COUNCILMEMBER MEDEIROS: So if it's intended to be filled and part of this draft ordinance, we going to be waiting for that numbers?

MR. CHANG: We can try and fill them in before the next meeting.

COUNCILMEMBER MEDEIROS: Okay. And then finally, for me, on the same page, the radius, help me understand. It says, "Fire hydrants are not required -- not required for new subdivisions which fall completely within a radius of 250 feet from the nearest existing fire hydrant," and it gives the different, you know, categories. So if the -- the nearest existing hydrant is 250 feet from the start of the subdivision, the rest of the subdivision going to be beyond that measurement, so that satisfies the requirement?

MR. CHANG: This Section E. kind -- kind of works
with the Section B. What this thing is saying is that --

Section E. kind of like supports Section B. in saying that if
your hydrant -- You can take an example. It may be easier to
understand. Like if you take like Business zoned, which
requires under Section B. to be at least 250 feet spacing along
roads, what Section E. is saying is if your entire
subdivision -- if you swing a radius from the existing
hydrant -- if you notice like for business, the spacing is 250
zone for hydrants. On the Section E., it's also 250 again for
when we swing the radius. So it's pretty much --

COUNCILMEMBER MEDEIROS: So my question is: Does it
mean the radius has to cover the entire subdivision? What I'm
saying is if you have a subdivision, a new subdivision, and
the existing hydrant is 245 feet away, so that radius would
touch the new subdivision, but certainly not cover the entire
subdivision, that satisfies the Fire Department and the Water
Department? Or does the radius have to cover the entire
subdivision?

MR. CHANG: It's saying here that the subdivision
has to be totally within the --

COUNCILMEMBER MEDEIROS: The radius?

MR. CHANG: -- circle.

COUNCILMEMBER MEDEIROS: Okay. That makes sense,
but it doesn't say that in this section.

MR. CHANG: I thought it does. Let me try read that.
COUNCILMEMBER MEDEIROS: Oh. I didn't read that --
but it just says the radius. But I think if you're explaining
like it has to be within that radius, the entire subdivision,
that -- then that makes more sense.

MR. CHANG: I guess when -- when it's read like the
subdivision falls completely within the radius.

COUNCILMEMBER MEDEIROS: And where are you reading
from?

MR. CHANG: That's the second line.

COUNCILMEMBER MEDEIROS: Of which section?

MR. CHANG: Section E.

COUNCILMEMBER MEDEIROS: B as in Bravo?

MR. CHANG: No. E as in Eric.

COUNCILMEMBER MEDEIROS: E as in Eric.

COUNCILMEMBER KAHO'OHALAHALA: The radius line.

MR. CHANG: Yeah. Second line.

COUNCILMEMBER MEDEIROS: Okay. All right. Well,
that makes more sense for me. Thank you, Department.

Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Any other questions? Mr. Pontanilla and followed by
Ms. Baisa.

VICE-CHAIR PONTANILLA: Thank you.

In determining -- determining your water tank
reservoir, looking at the gallons per minute for each of the
different zoning districts, except for Residential, you know, according to this, you need 1,000 gallons per minute. So if a residential area requires a storage tank of 100,000 gallons, in fact, 100,000 gallons is actually the requirements for Residential, how do you determine by adding, you know, consumer use and everything else, how do you determine the water tank size or reservoir size?

MR. CHANG: Okay. The -- the criteria for reservoir size is either the fire flow for the two-hour duration or the domestic. Example is like if you have a 100-lot subdivision -- residential lot subdivision coming in for approval, we use 1,000 gallons per day per lot as the criteria for domestic use. So we take the difference between the two. So in this case of 100 -- a 100-lot subdivision, multiply that by 100, so it comes out to pretty much 100,000 gallons. Then you compare it to the fire flow 1,000 gallons -- excuse me, 1,000 gallons a minute for two hours, so that would be 120,000 gallons. So we take the larger of the two, which would be the fire storage requirements for the subdivision.

VICE-CHAIR PONTANILLA: So, you know, when I look at two hours, I'm thinking like it's going to take approximately two hours to continue to replenish the tank. Right?

MR. CHANG: Depends how big our pumps and the lines are filling. It could be -- it could be around there. Depends on the system.
VICE-CHAIR PONTANILLA: Yeah. I'm looking at Upcountry area, you know, how many pumps you got to run to replenish that one particular tank.

MR. CHANG: Yeah. A lot of -- some areas, it's not so good, but other areas where we've got fairly decent-sized mains, it might not be too bad.

VICE-CHAIR PONTANILLA: Okay. Thank you.

Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any other -- Oh, yeah, Ms. Baisa. I apologize.

COUNCILMEMBER BAISA: It's all right, Chair. Thank you very much.

This is real interesting. I certainly understand the need to have a standard for building, but in actuality once these lines are installed and tanks are installed and reservoirs and all that stuff and we're into a couple years, maybe even more, let's say ten years, is there any measuring of what is actually going on once it's installed? I mean, can we rely on the fact that there will be this kind of a standard after it's installed? Particularly Upcountry.

MR. CHANG: We do do some investigations as far as trying to compare whether it's actually 1,000 -- you know, like in our standards, it's like -- it says 650 gallons a minute for Residential and we have -- we do investigations every so often and try to compare what's going on. And as far
as Upcountry, we find most areas are under that -- that versus Kihei or Wailea, it's usually way over.

COUNCILMEMBER BAISA: Right. The reason I bring it up is it's really interesting because we have great standards, but in actuality, if you had a fire, what is actually coming out of that hydrant? Particularly when we don't have a whole lot of water Upcountry. So I think we have some responsibility, also, to make sure that that water is there.

Thank you.

CHAIR VICTORINO: Thank you, Ms. Baisa.

Any other comments?

Okay. Moving right along, anything else on page 9?

Yes, Mr. Pontanilla, on page 9?

VICE-CHAIR PONTANILLA: On page 9, the last line, let's see, "should the subdivider fail to complete all work required to be done within the specified time, then the department take action." "Within a specified time," what kind of time frame we looking at before you take action?

CHAIR VICTORINO: Department, Mr. Yamashige or Mr. Chang?

MR. YAMASHIGE: I believe generally the Department has been looking at one year.

VICE-CHAIR PONTANILLA: One year. Nothing in writing?

MR. YAMASHIGE: I don't think so. And we haven't
gone after a whole lot of people. We try to work with the
developer to try and get the work accomplished. It's very
difficult to go after a bond and that takes a lot of time,
so -- Although we try and initiate early, it'll take years.

VICE-CHAIR PONTANILLA: So you don't release the
bond until everything is done, then?

MR. YAMASHIGE: That's correct.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any other questions on page 9?

Okay. Moving on to page 10, any questions on page

Okay. Moving on to page 11. And I have one that
goes down to -- on page 11, D., which is at the bottom of the
page, and it reads, "If any period exceeding one year after
plan approval or such time extensions as may be granted by the
department expires without substantial progress by the
subdivider in the construction of the subdivision water system
improvements, that plan and specific thereof shall be deemed
void and invalid, and, at the subdivider's option may be
resubmitted to the department for review."

Now, the reason I read all of that is really to back
to go to what I read the first sentence, "If any period
exceeding one year." And knowing what we know today and all
the challenges, the question is: One year too long? One year
too short? What is -- what is a good frame in that respect?
Mr. Chang, you like to take a stab at that one?

MR. CHANG: The one year has worked out pretty good.
You know, it -- if some -- if a developer has -- or a
subdivider comes in with construction plans and if they're
really intent on doing it, they usually proceed within that
one year. If not, it usually drags on sometimes many years.
But one year seems to work okay.

CHAIR VICTORINO: Okay. Any other questions on page
11? Yes, Mr. Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Yeah. Just to -- to
find out: Is there any conflicts in here with other
departments in terms of approvals?

MR. CHANG: I believe Public Works is also one year.

COUNCILMEMBER KAHO'OHALAHALA: I just want to check
to make sure so we don't have to go through this process
again.

MR. CHANG: I think, yeah, Public Works I think is
the -- as far as I know, the only other agency that has a
one-year expiration.

COUNCILMEMBER KAHO'OHALAHALA: Okay. As long as
we're consistent, then it's fine. Thank you.

CHAIR VICTORINO: Thank you very much.

Okay. Moving to page --

COUNCILMEMBER MEDEIROS: Question.
CHAIR VICTORINO: Oh, yes. Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

So in -- in the section you read, which is D as in David, the plan you're talking about is what plan?

MR. CHANG: This would be the construction plans.

COUNCILMEMBER MEDEIROS: Construction plan, okay.

And just a follow-up question: Not only in this section, but also the one we went by regarding fire protection, fire flow, any time the draft ordinance says "department," it refers to the Department of Water Supply, Mr. Chairman; is that correct?

Because like under fire protection, you know, I'm not sure if it meant the Department of -- the Fire Department or the Water Department. It just says "department." So any time there's just "department," it means Department of Water Supply?

CHAIR VICTORINO: Mr. Kushi, if I'm correct, that is -- that's a yes, but I will ask -- I'll defer to you to answer that question.

MR. KUSHI: That's correct. I believe in the initial section of Title 14 under the definitions the department is Water Supply.

COUNCILMEMBER MEDEIROS: Okay. So if another --

MR. KUSHI: Unless otherwise, you know, we would name the Department of Fire Control.

COUNCILMEMBER MEDEIROS: Okay. Thank you,

Mr. Kushi.
Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Okay. Any other questions on page 12?

Okay. Moving right along, page 13. And I think this was where the deferral came in, yeah. And I think 14.05.190, wasn't that a change, Mr. Kushi, or am I incorrect? I think you brought that up earlier as far as deferral.

MR. KUSHI: Yes. The only change is it used to be entitled Waiver.

CHAIR VICTORINO: Okay.

MR. KUSHI: So we just said deferral.

CHAIR VICTORINO: Okay.

MR. KUSHI: This is the family subdivision provisions.

CHAIR VICTORINO: Okay. Okay. Any other questions on page 13?

If not, then we move on to page 14. Thank you. Any questions on page 14? This is when speed reading really comes in handy, doesn't it?

Seeing none, then I will turn to the final page, page 15. And there under Section 14.05 dash -- I mean dot -- .200, Violations and Penalties, right now the definition as it stands, I would like to propose an amendment to that. And the amendment would be to change that to Title -- defer to Title 19. If we remember, Mr. Kaho'ohanalahala went through
that under Planning for which violations specifically and the
authorization and powers were given to the Department -- not
only to Public Works, but the Director of the Water Department
and Environmental Management and Planning. So I think under
Title 19 it has definitive rules of enforcement for this
purposes of violations and penalties.

So, Mr. Kushi, am I correct in trying to get
concurrency, because we've made that change, Title 19 now
could be applicable to this particular section?

MR. KUSHI: Mr. Chair, as -- as I understand it,
although, you know, I wasn't involved in the Title 19 change,
but as I understand it, Section 19.530.030 of the County Code
was amended to include the Department of Water Supply and its
Director. And, again, what you have before you, you know,
under Section 14.05.200 is a violation section saying that if
anybody is deemed to violate any provisions of this chapter,
then we can issue a citation and they go to court. You know,
it says "upon conviction," conviction is State Court and
subject to a fine.

But, again, in the ordinance on Chair
Kaho'ohalahala's Committee was that it says in lieu of or in
addition to enforcement by criminal prosecution, the various
directors can cite violators under the civil code. And it has
the various scheme of notice of violations and fines, cease
and desist orders. And, again, any appeal from that, it goes
through the BVA, not the Board of Water Supply, which is nice.

So, again, you know, as I read it, unless you otherwise want to just eliminate the criminal possibility, I don't feel you -- you need to do anything because the Section 19.530.030 says in lieu of or in addition to, so it gives the director a choice. You know, you can say we'll just have this person go through the civil process or let's just cite him and he goes to court. Or in a bad case, do both, you know. So, again, it's up to you, Mr. Chair, and this Committee, but I don't feel any change is needed because the other law -- the other section, Administrative Enforcement, provides an alternative.

CHAIR VICTORINO: Okay. Thank you. And just so that -- I don't think you all have a copy of that, but this is 19.530.030, Maui County Code as revised. And it does have now in particular the Director of Environmental Management, the Director of Water Supply and -- or the Planning Director determines any person are violating any portion of Titles 8, 12, 14, 16, 18, 19 and 20 of this Code. So if I read correctly, then, Mr. Kushi, that Chapter 14.05.200, those violations and penalties still could be applicable because under the change we did provide for Chapter 14.

MR. KUSHI: Correct. Anything in Chapter 14 -- in Title 14 under the jurisdiction of the Water Supply can -- can go to administrative enforcements.
CHAIR VICTORINO: Are we clear with that, ladies and gentlemen? I wanted to make sure that we were clear because that idea about Title 9 -- deferring everything to Title 19, excuse me, would be appropriate, but I -- I believe after listening to Mr. Kushi that the way it stands, I would leave that and give the Director of the Department of Water Supply the means to follow through with this and others that have been given to their jurisdiction.

Any questions in that area? No?

COUNCILMEMBER KAHO’OHALAHALA: No questions.

CHAIR VICTORINO: Okay. Ladies and gentlemen, we have come to the end and I would like to ask your indulgence. I would like to recommend that we defer this -- this item because we will now be sending this again as part of the earlier conversation, which, Ms. Baisa, you weren't here in the earlier part of the meeting, the Department of Public Works for their review and this one, also, so that we can be totally confident that when we come back on June 24th, that all the departments have given their comments and we will be all in what I call concurrency and all on the same page.

So that is my recommendation that we defer this matter to our June 24th meeting and at that time we would have the various comments from the Public Works Department.

Yes, Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair. Before you conclude, a
response to Member Kaho'ohanala, on the building permit
sections, the building permits issued by the Public Works
expire within -- if work is not commenced within 180 calendar
days.

COUNCILMEMBER KAHO'OHALAHALA: Oh, so it's -- it's
different, then.

MR. KUSHI: So the Department by giving them one year
is very generous, I guess.

COUNCILMEMBER KAHO'OHALAHALA: Okay.

CHAIR VICTORINO: Okay.

COUNCILMEMBER KAHO'OHALAHALA: Now -- now -- well,
so we're looking at 180.

CHAIR VICTORINO: Six months.

MR. KUSHI: Yeah. If work is not commenced within
180 calendar days from the issuance of such building permit.

COUNCILMEMBER KAHO'OHALAHALA: Then they can be
pulled?

MR. KUSHI: Then the permit becomes null and void.

COUNCILMEMBER KAHO'OHALAHALA: By Public Works?

MR. KUSHI: Right.

COUNCILMEMBER KAHO'OHALAHALA: So why wouldn't we
make it consistent with Water, then?

CHAIR VICTORINO: Water?

COUNCILMEMBER KAHO'OHALAHALA: Because, essentially,
if they pull it at 180, you wouldn't have a year to make a
decision.

MR. KUSHI: I could imagine a situation where Water approves the construction plans and the applicant then goes down to DSA to get a building permit and for whatever reason doesn't -- you know, delays within 100 calendar days and goes and get another -- and goes and gets another building permit. But the construction plans would still be good for -- for one calendar year.

COUNCILMEMBER KAHO'OHALAHALA: But if the permit itself -- if anything changes within their permits, you could be changing the -- the water requirements.

MR. KUSHI: Well, the building permits would need to be in accordance with the approved construction plans. Now, if an applicant, for whatever reason, let the -- the construction plan approval lapse and in the meantime we increase some, you know, requirements, that's too bad. I mean, too sad, too bad, you know. You get stuck in the grind, right?

COUNCILMEMBER KAHO'OHALAHALA: Okay. I just want to make sure that we're not being inconsistent and that we're trying to --

CHAIR VICTORINO: Mr. Kaho'ohalahala, could you speak into the mike? I'm sorry.

COUNCILMEMBER KAHO'OHALAHALA: Yeah. I just want to make sure that we're not being inconsistent as we have
learned, you know, in -- in some of our ordinances and try as much as possible to be consistent.

MR. KUSHI: Right. My last response is that we're not inconsistent in that if we were to say construction plans become null and void less than 100 calendar -- 180 days, then we would be inconsistent.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So we can go beyond, but we cannot -- I agree with that, but I'm just wondering, there's -- there's still that -- that amount of time that one department has that goes far beyond another, so -- Okay. Anyway --

CHAIR VICTORINO: Mister --

COUNCILMEMBER KAHO'OHALAHALA: -- thank you for that information.

CHAIR VICTORINO: Before I recognize you, Mr. Pontanilla, Mr. Yamashige, you have a comment in regards to what -- what was asked by Mr. -- by Member Kaho'ohalahala?

MR. YAMASHIGE: Yes. Thank you very much, Mr. Chair. Yeah. I know we're discussing the building permit time period. We were talking about the subdivision approval. And although I need to go and research this a little bit, I do believe that the Public Works' approval of construction plans for a subdivision also has that one-year time period.

COUNCILMEMBER KAHO'OHALAHALA: Okay. We'll look forward to that information, then.
CHAIR VICTORINO: Okay. I think that's something that we can bring forward at -- at the 24th meeting so that we'll all be on the same page. Thank you.

Mr. Pontanilla, you had something you wanted to add?

VICE-CHAIR PONTANILLA: Yeah. Thank you. Just wanted to ask the Department if there is such a thing as a work flow of, you know, plans being reviewed by the different departments? And what is the criteria in regards to when they need to complete the review? In other words, if it goes from Water to Public Works to DSA and back, you know, how long does it take? Is the process one year from your submittal to Public Works or DSA, or it's 100 -- one year for each of the different segments?

MR. CHANG: The -- the review by Public Works and Water Department, they're done pretty independently. The Public Works may initially give the Water Department the set of plans, then the Water Department just takes it from there. We don't even notify the Public Works of any interaction with the design consultant 'til it's actually approved where we actually sign off on the construction plans.

And depending on the size of the project and the quality of work submitted by the consultants, it usually takes a minimum of three -- three reveals back and forth. Once in a while if it's a really small project, you can go probably two quick reveals, but the more larger, complex ones could take a
year. But, again, a lot depends on quality submitted and if
the engineers that's submitting the construction plans
understand the system that they're trying to connect to well
enough to have all of those things correct.

VICE-CHAIR PONTANILLA: Thank you. And one of
the -- And the reason why I ask the question is, you know, we
always hear how long it takes to -- to approve a -- a project
or a plan, you know. If, you know, there's responsibilities,
you know, amongst the different departments, then, you know,
we all need to be on the same page in regards to, you know,
approving those plans on a timely basis. That way, you know,
hopefully it can reduce some of the complaints.

MR. CHANG: Yeah. The Department is not trying to
delay, but if it's able to -- we could do it in one reveal,
would be quick, great, we can get just get it off, sign it
off. But, unfortunately, it's -- it doesn't happen that way.

VICE-CHAIR PONTANILLA: I -- I know you guys got to
do your due diligence and, you know, all parties need to
understand that, so thank you.

Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Any further questions? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

Was it your intention to write correspondence from
this Committee to Public Works to provide that information
that was discussed?

CHAIR VICTORINO: That is correct. Yes.

COUNCILMEMBER MEDEIROS: And will that letter be
date specific for the response?

CHAIR VICTORINO: Yes.

COUNCILMEMBER MEDEIROS: Okay. Thank you.

CHAIR VICTORINO: Because we need it prior to our --

COUNCILMEMBER MEDEIROS: Yeah.

CHAIR VICTORINO: -- our deliberations. So I am

trying to make it where it would be in your hands -- at least

in our binders before we -- by the time we post and the

binders are put out.

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chair.

CHAIR VICTORINO: So I'm hoping by the 19th of June,

minimum.

Okay. Any other questions or discussion? If not, I

would, first of all, like to thank the Committee Members and

especially Mr. Medeiros, because I know you have to head out
to Hana. Have a safe trip out there.

COUNCILMEMBER MEDEIROS: Thank you.

CHAIR VICTORINO: And, Ms. Baisa, coming all the way

from Kula with -- with reckless abandon, what I understand the

police are still looking for you. We won't go any further

than that one.

And the rest of the Committee Members for making
yourself available this morning. And I hope, again, Council Chair Mateo will recover very quickly and be back with us.

And to our Fire Department, Lieutenant English, thank you for being here. And I know you're working really diligently with the Water Department and it is our hope in the near future that Fire will do fire and fire flow issues and Water will do water issues. And once we get that, I think we'll be in good shape.

To the Department, thank you, Mr. Kushi from Corp. Counsel and to the Water Department, Mr. Yamashige and Mr. Chang, for being here today.

To our staff, Ms. Willenbrink and Ms. Frias, thank you very much especially for tolerating me and my challenges at times.

If there's no other questions or discussion, announcements, this meeting of the Water Resources Committee for --

MS. FRIAS: Mr. Chair.

CHAIR VICTORINO: Oh, yes.

MS. FRIAS: Defer the item.

CHAIR VICTORINO: Oh. We never voted. I apologize. Thank you for your -- That's why we have the staff here. They're so good at correcting our shortcomings.

My recommendation was to defer this matter to the June 24th meeting.
COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections. Thank you very much. I appreciate that, ladies and gentlemen.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: DM, MM).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: And now, with no further ado, the meeting of the June 2nd, 2009 Water Resource Committee will stand adjourned. (Gavel.)

ADJOURN: 11:44 a.m.
CERTIFICATE

STATE OF HAWAII )
 ) SS.
CITY AND COUNTY OF MAUI )

I, Sandra J. Gran, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 18th day of June, 2009, in Maui, Hawaii.

Sandra J. Gran
Hawaii CSR 424
Notary Public for Hawaii
Commission No. 200-198
My Commission Expires: 5/14/12