WATER RESOURCES COMMITTEE
Council of the County of Maui

MINUTES

June 30, 2009

Council Chamber

CONVENE: 9:06 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Michael P. Victorino, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Gladys C. Baisa (In 9:05 a.m.)
Councilmember Sol P. Kaho‘ohana
Councilmember Danny A. Mateo (In 9:10 a.m.)
Councilmember Bill Kauakea Medeiros
Councilmember Michael J. Molina

NON-VOTING MEMBERS:
Councilmember Wayne K. Nishiki

EXCUSED: Councilmember Bill Kauakea Medeiros

STAFF: Kimberley Willenbrink, Legislative Analyst
Tammy M. Frias, Committee Secretary

ADMIN.: Jeffrey Eng, Director, Department of Water Supply
Herb Chang, Engineering Program Manager, Engineering Division, Department of Water Supply (Item No. 1(5))
Wendy Taomoto, Civil Engineer, Engineering Division, Department of Water Supply (Item No. 5)
Ralph Nagamine, Administrator, Development Services Administration Division, Department of Public Works (Item No. 1(5))
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

OTHERS: Item No. 1(5): Bill Blietz
Wayne I. Arakaki, Engineer
David DeLeon, Government Affairs Director, Realtors Association of Maui
Jocelyn Perreira

PRESS: Akaku--Maui County Community Television, Inc.
CHAIR VICTORINO: ...(gavel)... The meeting of the Water Resource Committee is now convened. We have quorum this morning and let me introduce, first of all, all our Voting Members and our Non-Voting Members that are in attendance. First of all, I'd like to introduce our Vice-Chair, Vice-Chair Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning.

CHAIR VICTORINO: Thank you for being here. Also Member Sol Kaho‘olahala present--thank you for being here--and Member and Vice-Chair of the Council, Mike Molina.

COUNCILMEMBER MOLINA: Good morning, Chairman.

CHAIR VICTORINO: Thank you. Good morning. Our Non-Voting Member here, Non-Voting Member, Member Wayne Nishiki. Thank you for being here, Mr. Nishiki. We have a--well, let me go before I go on to the agenda. Let me introduce the Administrative members that are present today. From the Administration, our Director of Water, Mr. Jeffrey Eng.

MR. ENG: Good morning.

CHAIR VICTORINO: Also present, Herb Chang, Engineer Program Manager for the Engineering Division of the Department of Water Supply. And going to be here this morning later will be Ralph Nagamine, Administrator for the Development Services Administration, or DSA, for the Department of Public Works. Joining us also a little bit later is Deputy Corporate [sic] Counsel, Mr. Ed Kushi. Committee Staff members that are present today is our Legislative Analyst Kim Willenbrink and also our Committee Secretary Tammy Frias. Thank you. Also in the audience and possibly will be called up will be Lieutenant Scott English from the Fire Department. Thank you very much for being here.

We have a, quite a...well, we actually only have two items on the agenda this morning, folks. Unfortunately, we will have to end the meeting by 10:30 a.m. because we are losing quorum. Several Members have some very important business to attend to, and they let me know early and, unfortunately, some other Members were not able to attend. Joining us later will be Member, Council Chair Danny Mateo and Member Gladys Baisa. Excused today is Councilman Bill Medeiros.

Okay. The items that we’re going to be discussing, first of all, is WR-1(5), which is the Water Supply Rules relating to Subdivision Water System Requirements. And at this time...and the other item, if we have a chance to get to will be--excuse me, where is my other item? Okay, excuse me. And the other item will be WR-5, which is “Ready To Go” Water-Related Projects, which is really an update of the stimulus money that we have received this...to date and the projects related to that. I would like, before I get started, to recognize Member Gladys Baisa in attendance. Thank you very much, Ms. Baisa, for being here.
COUNCILMEMBER BAISA: Good morning, Chair. Thank you.

CHAIR VICTORINO: Okay, alright. So at this time, I would like to open up public testimony to WR-5, WR-1(5). Right now we have three testifiers signed up. So let me go over the ground rules if I may. First of all before we start on that part, I’d like all the Members and as well as the public and anyone in the Chamber to please put their cell phones on vibrate or on silent mode. And any device that makes noise, if you could, we’d like to keep decorum in the Chamber. As far as public testimony is concerned, all testifiers will be allowed three minutes. Upon the three minutes, we will give you another minute to conclude. And if you would like to, after three minutes come back at the end of the testifiers, we will give you an additional three minutes. So with no objections, I’d like to start public testimony, Members. No objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Our first testifier is Mr. Bill Blietz and he’s testifying on, on WR-1(5), and he’s testify on him, by . . . for himself I should say, excuse me. So, Mr. Blietz, if you would. I would also like to, while Mr. Blietz is coming up, recognize the attendance of Corporation Counsel, Edward Kushi. Thank you, Mr. Kushi, for being here. Mr. Blietz, if you may.

BEGIN PUBLIC TESTIMONY . . .

MR. BLIETZ: Thank you, Mr. Chairman and Members, good morning.

COUNCILMEMBER BAISA: Good morning.

MR. BLIETZ: My name is Bill Blietz and I own a farm at West Kuiaha on Hana Highway in Haiku. And ten and a half years ago I asked for a water meter to subdivide my property, and I’ve been waiting. So far I’ve worked up to number 40. I kind of gave up about two and a half years ago. I started a subdivision and I now drilled a well, and I have a catchment and well for my, for my . . . farm and the other activities I had. By the way, I grow orchids, palm trees, I grow ornamentals and I grow bamboo on my property. And I’m not just a gentleman farmer. I mean it’s full time. And I started out in Kihei years ago with a little orchid nursery in Maui Meadows 30 years ago, and now I’ve worked up to this. My son, I have two sons, I have two grandsons, and two granddaughters that are part of this proposition. And we’ve been able to take a small property to make it agriculturally worthwhile in making money. But what I’ve done, what the Water Department is . . . they have, since they, since I’m involved with catchment and the, and the well, they don’t have anything to do, but yet they’ve required me to put a water pressure regulator somewhere—they don’t know where; they want my engineer to tell them where--three blocks up the road to cut the pressure down. And all I’m doing is making a new facility for my inch and a half line to come into one of the lots. I think it’s very unfair that, that this is being asked of me at this time because as a matter a fact, as soon as I get the plans okayed by the Water Department, I use 30,000 gallons of water a day for the facility that I have. That
30,000 gallons will all go back. I won’t be using that. It’ll be a small amount be used on the one line that comes in for domestic purposes. So, I think it’s very unfair that I’ve been requested or required to put a 35 to $50,000 pressure-reducing valve somewhere where I have to pay the. . .they want me to hire the engineer to tell them where to put it. They can’t even tell me where to put it. But it’s like three blocks up the road. By the way, all my neighbors do not want the pressure reduced at all. There are farms and there, there are some gentleman farmers in there, but there’s some legitimate. My son and my hanai grandson both have orchid farms right in the area and they don’t want the pressure reduced, but yet the County said because. . .or the Water Department said that because I’m, I’m just asking for a subdivision permit, they still have the right to require me to do that, and I think that that’s unfair. I don’t--in the subdivision I’m just trying to keep the property from going to be sold when I die because it would have to for the inheritance purposes. I’ve gone to, to Beth Ivey and I have the proper trust and stuff, but it’s still not enough to cover that. What I. . I want the property to stay in my sons, my grandsons, and my granddaughters. You know, we’re, we’re committed to stay there forever. But yet if I died tomorrow without being able to subdivide it --

MS. WILLENBRINK: Three minutes.

MR. BLIETZ: --it would allow me to sell one of the parcels or allow them to sell when I die. And listen, I’m no spring chicken and I’m not getting any younger. And so I, I don’t think. . .I haven’t found the fountain of youth, although I’ve been looking for it. But what I’m trying to say is I think it’s very unfair and some rules should be passed that allows the Water Department to, to have a look at what, what am I doing. I’m actually giving back 30,000 gallons a day, and yet they’ve held me up for two and a half years. Okay. I’m on water appeal board, and Mr. Victorino knows about that, and I’ve been waiting since September and I’m number five now on the list. I don’t know when I’ll ever be heard. I hope before I make.

So that’s my situation. I think that the thing should be, should be allowed to homeowners and what. . .and don’t make it necessarily more, more than four --

MS. WILLENBRINK: Four minutes.

MR. BLIETZ: --parcels to be involved in the subdivision. You gotta look at the overall purposes. And all I’m trying to do is the right thing, give the County back 30,000 gallons a day, and yet I’ve been held up for two and a half years. Okay. I’m on water appeal board, and Mr. Victorino knows about that, and I’ve been waiting since September and I’m number five now on the list. I don’t know when I’ll ever be heard. I hope before I make.

CHAIR VICTORINO: Mr. Blietz, are you finished with your testimony?

MR. BLIETZ: I am.

CHAIR VICTORINO: Okay, thank you. I will. . .if, if now the Members would like to ask Mr. Blietz any specific questions on his testimony, I will allow that at this time. Seeing none, thank you, Mr. Blietz, and we will take in consideration of what you have told us today.
MR. BLIETZ: I’d like to reserve maybe the ability to come back at the end.

CHAIR VICTORINO: Well, you used up the four minutes. Remember, I had to stop you at three.

MR. BLIETZ: Well, I mean you said that at the end I’d have three more minutes, maybe.

CHAIR VICTORINO: Okay, maybe. Okay, let’s, let’s see.

MR. BLIETZ: I’m just saying maybe, I’m not--

CHAIR VICTORINO: Okay, okay. Thank you, Mr. Blietz.

MR. BLIETZ: Thank you, sir.

CHAIR VICTORINO: Okay. The next testifier is Wayne Arakaki, and he is an, an Engineer. Mr. Arakaki, please?

MR. ARAKAKI: Good morning, County Council and Chairman.

CHAIR VICTORINO: Before you start, I would like to take a moment to recognize the attendance of our Council Chair, Mr. Danny Mateo. Thank you, Mr. Mateo, for being here.

COUNCILMEMBER MATEO: Good morning.

CHAIR VICTORINO: Go ahead, Mr. Arakaki.

MR. ARAKAKI: You know, I heard about this meeting just this morning, so I hope I’m presenting the right case at the right time and to the right people. But I’m talking for your consideration is family subdivisions. And on family subdivisions usually...well, there is a house and a cottage and then it’s, you know, family members living on a property. The problem that we’re having on subdivisions of this nature is that when we subdivide, usually one house is on one lot and the main house or cottage is on another lot, and we have only one water meter. And that constitutes sharing of water meter and that cannot be done. I don’t see why it would be a problem because, one, when you do a family subdivision, you’re not allowed to get any more building permits. And, of course, you shouldn’t be selling the property because this is only for family members. So, I just want you folks to consider to allow a family subdivision to share a water meter. I’m talking about a family. I’m not talking about development for selling or anything like that. But just for your consideration. Thank you.

CHAIR VICTORINO: Thank you, Mr. Arakaki. Any questions for Mrs., Mr. Arakaki? Member, Vice-Chair Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Thank you, Mr. Arakaki, for being here this morning. So let me clarify this thing. You do have a main house and a cottage on one parcel. And what
you’re saying is that to create the family subdivision for two parcels you wanna utilize that one water meter to feed the main house as well as the cottage once it’s subdivided?

MR. ARAKAKI: Yes, and each house. . .usually it’s on separate lots. But as far as the size of the water meter is adequate for both houses. And there wouldn’t be any more expansion because when they sign the family subdivision agreement, you can’t apply for building permits.

VICE-CHAIR PONTANILLA: So you said that the cottage is on a separate lot, already subdivided.

MR. ARAKAKI: Say that again, repeat that again?

VICE-CHAIR PONTANILLA: When you mentioned main house and cottage, both of them are on separate lots at this time or on one common lot?

MR. ARAKAKI: No, if you have a, say a six acre lot and there’s a house and cottage, there are times when cases where each lot, when they, when the family want to subdivide, one lot might, may contain the main house, another lot might contain the cottage, but you have only one water meter. Right now you need to get another water meter to get the subdivision through, even though it’s a family subdivision.

VICE-CHAIR PONTANILLA: Oh, okay. Okay, yeah, now. . .okay. Thank you.

CHAIR VICTORINO: Are you done, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: Okay, thank you. Any other questions? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Trying to get this straight in my head.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: Okay. The, what you’re saying then is say, for instance, I have a three acre, a three acre lot and I decide I wanna cut that in half and give one half to one of my kids, this family subdivision. Right now we have one meter that serves the whole thing and there’s a cottage on that piece that I’m giving away. I cannot share that one meter with those two lots. And what you’re asking is that we be allowed. . .that that be allowed?

MR. ARAKAKI: Yes.

COUNCILMEMBER BAISA: I, I don’t understand and I’ll find out later. Because we’re really not changing the amount of water we’re going to use.

MR. ARAKAKI: That’s right.
COUNCILMEMBER BAISA: And since, particularly Upcountry the problem is the amount of water. I, I think it’s a good consideration you bring up. We’ll, we’ll talk about this with the Department later. Thank you.

MR. ARAKAKI: Thank you.

CHAIR VICTORINO: Thank you. Any other questions for Mr. Arakaki? Seeing none, thank you, Mr. Arakaki, for being here.

MR. ARAKAKI: Thank you.

CHAIR VICTORINO: Our final testifier who has signed up is Mr. Dave DeLeon, and he will be speaking on behalf of the Realtors Association. And he’ll be speaking on, again, WR-1(5).

MR. DeLEON: Good morning, aloha. Thank you for the opportunity to speak on behalf of the Realtors Association of Maui. I’m, I’m here today to ask you folks to slow down and, and digest the thing that’s in front of you, ‘cause this thing is a very major piece of legislation. This is the rules of the game when people need to improve their water systems or they need to improve, for one, improve their properties. And what you have in front of you is what the Department wants. But what is it that the public needs? We just heard Mr. Arakaki, but what I don’t see in here is all the architects and engineers who all have individual perspectives on this. The Fire Department held a meeting about changing the Building Codes about three months ago, and it was about sprinklers, mainly. That was what the Fire Department thought it was gonna be about. That meeting was mainly with architects and engineers, and it very quickly became all about the Water Department and about the issues that the. . .the professionals were having trying to work anything through the Water Department. They need to be here and they need to be represented in this discussion, and, you know, more than just one guy. They need to, they need to have an organized way of doing this. They need the notices on the table. I’m not sure they do. You heard Mr. Blietz’s statement. That is not an exception. That is not an odd case. That is more the rule than you would like to think. And that’s what I was speaking about at the last meeting. We need to be able to find a way to—if you’re not asking for more water, then you should not be required to be doing improvements. And if you are asking for water, then you should be doing improvements to the proportion of the project you’re doing, and not be enforced to be doing massive improvements for a small project that improves your house in a way that you’ll be legitimately and legally allowed to do any other way. Mr. Blietz is in, in the appeals process and if you were to—this is something else that is missing from this discussion. I don’t see a representative of the Board of Water Supply here. These folks hear these rules and deal with these rules constantly and they, they’re the appellate body that hears the appeals and these cases. Almost without exception, the Board of Water Supply has overwritten the Department on appeals—almost without exception. And I don’t know whether that’s ever been amassed anyplace, but when I talk to the Members of the Board, they say yes and that their concern is, the Department’s primary concern is protection of the, of the. . .protection and the improvement of, of the water system. And they did that, almost at the expense of the property owner without
regard to the expense of the property owner. And that’s where it’s out of balance. I mean, I don’t mean to personalize this. I think that the Board, the Department is trying to do their best with the rules they got and the way they know how to do it. But it’s, you know, the end result is it’s unfair and it’s, it’s out of balance, and it needs to be balanced out so that the property owner is not being abused in the process. The, there’s a particular individual I think that should be in this discussion, his name is Lee Aldridge, and he was the Chair of the Board for about two years. And he’s an acknowledged expert on these rules. And he’s also an acknowledged expert on what’s wrong with these rules. But so before you move forward, I really recommend that that gentleman be called and you have a conversation with him about what needs to work, and have him review these and have him make a real determination and give you his insights. The Board is an objective body. It’s an appeals body. It acts as, as the judge and jury in these cases. They’re not, they’re there to work with the Department, they’re not working against the Department. But in every case they end up ruling against the Department because what’s happening is not just and it’s not fair. Thank you.

CHAIR VICTORINO: Thank you, Mr. DeLeon. Any questions for the testifier? First, I’ll start with Vice-Chair of the Council, Mike Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. Good morning, Mr. DeLeon. Just for clarification sake, Mr. Aldridge whom you’ve mentioned, what additional background does he have?

MR. DeLEON: He’s a water engineer.

COUNCILMEMBER MOLINA: He’s a water engineer. Okay, thank you.

CHAIR VICTORINO: Any further questions for Mr. DeLeon? Seeing none, thank you, Mr. DeLeon.

MR. DeLEON: Thank you.

CHAIR VICTORINO: Mr. DeLeon was the last testifier to sign up prior to the meeting commencing. We have one more testifier who signed up since, and I would like to call on Ms. Jocelyn Perreira. And she’s speaking on behalf of herself. Ms. Perreira.

MS. PERREIRA: Good morning, Chair Victorino, Members of the Council. My name is Jocelyn Perreira; I’m speaking to you today as an individual. I would like to add my voice in support of what Mr. DeLeon said about getting Mr. Aldridge. I think that whenever we can get experts of that kind of expertise, I think it’s always very helpful. I am also supportive of Mr. Arakaki and his plight. You know, I have always been a long time supporter of the local families that are struggling to make ends meet. And if we wanna do true affordable housing, we have to think out of the box and find ways that we can keep our family on the land that they worked so hard to earn for generations in many cases. Many of them are still, unfortunately, not on the land that they worked so hard for. So, I do think when it comes to family subdivision, in particular, we need to look at that very seriously. And the other portion that we need to look at is those who are
trying to do ag and farming endeavors. And I mean true ag and farming endeavors that are...you know, I think we need to have support for our families and support for agricultural pursuits. And that's my little two cents for the day, and I wanna thank you very much for your hard work and consideration of these requests. Aloha.

CHAIR VICTORINO: Thank you, Ms. Perreira. Questions for the testifier? Seeing none, thank you, Ms. Perreira. Ms. Perreira was the last person to sign up to testify on the WR-1(5). Before I close public testimony, I will afford anyone in the gallery an opportunity to step forward to give public testimony. And I guess, I'm gonna allow it just this time, Mr. Blietz, for you, because you're a nice guy. I'm gonna let you have three more minutes 'cause nobody else is coming up to testify. So with no objections, Members, I will let Mr. Blietz have three additional minutes.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay.

MR. BLIETZ: Thank you, sir. Actually, I'm not trying to be the ugly haole; I'm trying to be helpful for everyone.

CHAIR VICTORINO: No one said anything to that. I'm sorry. Thank you, sir.

MR. BLIETZ: No, I know, but I, I listen.

CHAIR VICTORINO: Thank you, sir. Thank you, sir. No, come on.

MR. BLIETZ: The key, the key to what needs to be done is there has to be some kind of provision put in like, what Mr. Arakaki said, about the fact that when you have off-site requirements required by the Water Department, that it be, that the other side of the coin be is what, what is the, the homeowner getting in, in response. If he's getting nothing, then, there, there...these requirements should not be in there, and I don't see any provision in here for that. Thank goodness that you were the Chairman for the, for the...Water Committee as long as you were, sir, because I know that you understand a lot of these problems. But especially in my instance, where I'm getting nothing more than what I got now, in fact I'm giving back 30,000 gallons of water a day. And having waited on that water list now, and gone from number 700 to number 40, in ten and a half years, it's, you know, that's why I finally drilled a well. I'm not trying to do anything more than long time provide for the, for agricultural purposes in my land. I'm not trying to--I want it to stay agriculture. I've encouraged it and my families have made it an economic livelihood for everyone. And, and we've gotten involved with the Orchid Society. For the, for the last 20 years one of the members of my family have been involved in, in the Orchid Society. Mr. Fukumura and I years ago went all over the world pushing orchids of...in Maui in mind. So it's not as though where I'm trying to do anything other than what’s in the best interest of the Water Department giving back 30,000 gallons of water a day. That's a lot of water. Maybe some of those people on that, those 1,300 people waiting on that list could have some water meters. I don't know. So that's kind of...please, you guys have the power to put in there
that if the homeowner is not getting anything, he should not be required to have some, the, extraneous thing put on him. In my instance, it’s 35 to $50,000 for a pressure reducer on the lines up there that the neighbors don’t even want. Frank Santos, the neighbors and all the farmers in that area do not want that pressure reduced, but yet the Water Department has seem fit to say well, you’re asking for a subdivision so we can put that on, even though you have your own water requirement met on a private situation, you’re not taking any water, you’re taking less water than what you’re taking now. It’s, it’s just not fair.

CHAIR VICTORINO: Thank you, Mr. Blietz. Questions, some questions for Mr., the testifier? Any questions by the Members? Ms. Baisa, go ahead.

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you very much, Mr. Blietz, for being here today. You represent a very important viewpoint that we hear often. Exactly where is your property?

MR. BLIETZ: West Kuiaha on Hana Highway. It’s the old agri-tech property that was there for years.

COUNCILMEMBER BAISA: And how large is it?

MR. BLIETZ: Its 26.7 acres.

COUNCILMEMBER BAISA: And how many dwellings do you have on it?

MR. BLIETZ: Five, I believe.

COUNCILMEMBER BAISA: You have five.

MR. BLIETZ: Yes.

COUNCILMEMBER BAISA: And what kind of a meter do you have now?

MR. BLIETZ: Inch and a half. That was put in years ago. And that’s what allowed me and all my, every structure on my property is properly permitted and inspected, and, and, and all that. I mean there’s not one structure on my property that’s not an illegal structure.

COUNCILMEMBER BAISA: You said you dug a well?

MR. BLIETZ: Yes.

COUNCILMEMBER BAISA: How much does it produce daily?

MR. BLIETZ: It produces as much as I want to, but I have a pump and it’ll produce 85 gallons a minute. I put an extra big pump on the bottom of it, and I will have two storage tanks with
60,000 gallon capacity for that. However, I have fire protection, as Lieutenant English knows, I have fire protection to maintain for that property that I have to put in.

COUNCILMEMBER BAISA: Okay. How long has your appeal been sitting in the Water Department?

MR. BLIETZ: Since September.

COUNCILMEMBER BAISA: Of?

MR. BLIETZ: I’m number five on the list now.

COUNCILMEMBER BAISA: Of 2008?

MR. BLIETZ: Yes.

COUNCILMEMBER BAISA: Thank you very much.

MR. BLIETZ: And, you know, I’m not trying to throw rocks at those folks because they’re non-paying people, the, on the Water Board. Mr. Victorino knows that.

CHAIR VICTORINO: Uh-huh.

MR. BLIETZ: The Chairman knows that, and they do the best job they can, but, but while I’m being held up, if something happens to me if my health goes bad and I croak, my family is going to have to sell that property and move off of it. And it’s not intended to be anything other than a family--two sons, two grandsons, two granddaughters and two daughter-in-laws and a wife. Hopefully my wife will still be there. So I’m just trying to do what’s right.

COUNCILMEMBER BAISA: Thank you very much. I certainly understand your need to do estate planning. I’m in that group, too. . . .(inaudible)...(chuckle)... Trying, trying to beat the Grim Reaper and get the paperwork done. Thank you very much for being here. Thank you.

CHAIR VICTORINO: Thank you, Ms. Baisa. Further questions for the testifier? Seeing none, I’ll ask you one real quick question. You’ve mentioned a number of times giving back 30,000 gallons. Are you saying now by doing this you will, by getting this family subdivision finalized, you will not do farming anymore? ‘Cause I mean you’re saying you’re gonna do farming, yet you’re gonna give back 30,000.

MR. BLIETZ: No.
CHAIR VICTORINO: I'm kind of asking the question, please.

MR. BLIETZ: No, no sir. I'll be doing farming, but the, the well that I have on there will produce the water, especially the agricultural water.

CHAIR VICTORINO: Okay.

MR. BLIETZ: Because I have a, a... and I want to, I've done everything in the world to encourage agriculture on my property.

CHAIR VICTORINO: Okay.

MR. BLIETZ: You know, we have ornamentals, we have bamboo, we have orchids, we have palm trees, we have trees in the ground. And Bobby Caires and, and Miller come and dig 'em for different people. And, you know, we, we sell 'em at Home Depot. We sell 'em at Lowe's. We sell 'em at the Kihana Nursery. We sell 'em to people that come. In fact, I don't know, maybe some of you folks have come and gotten trees from me. I don't know.

CHAIR VICTORINO: Yeah. And as far as your farm is concerned or the farming that you do, do you employ people? Now you mentioned others coming in, I guess, as contractors or you're selling directly to them. But do you employ anybody directly to assist you in the farming itself?

MR. BLIETZ: Yes, my, my family helps. And also, I have local labors that come. And they're properly, we take the proper tax and so forth and so on.

CHAIR VICTORINO: Insurance and whatever else.

MR. BLIETZ: And we have GET, you, you know, the--

CHAIR VICTORINO: TDI, TDI.

MR. BLIETZ: Yeah, TDI, but I mean we, we have the excise tax that we--

CHAIR VICTORINO: GET, GET, right?

MR. BLIETZ: Yeah, yeah.

CHAIR VICTORINO: Okay.

MR. BLIETZ: That we pay and our taxes are paid up and, you know, we try to do the best we can do.

CHAIR VICTORINO: Well, thank you. I appreciate that. Thank you for the, the information. I appreciate it. Any other questions? Seeing none, thank you, Mr. Blietz, for being here.
MR. BLIETZ: Thank you, sir.

CHAIR VICTORINO: Mr. Blietz was the last testifier. And again, I’ll ask one more time, anybody else would like to give public testimony? Seeing no rush to the podium, I will ask, with no objections, the Committee to close public testimony on WR-1(5).

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you.

...END OF PUBLIC TESTIMONY...

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

CHAIR VICTORINO: Let us now go to item WR-1(5), Subdivision Water System Requirements. I have met with the Public Works, DSA, and the Water Department last week, and based upon the discussions made and requested on the June 26th, which you look in your binder there is a request on June 26th from myself to Mr. Brian Moto, in regards to the revised bill. On your desk you will have a proposed bill entitled, A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05--yeah, and that is also in the binder, dated June 29th. And that is to myself from Corporation Counsel Ed Kushi. Do we all have that, those items that I’ve referred to thus far? Again going back, “A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES”, which, with the revisions as follows; a letter that was dated June 10th, in your sub..., in your binder. --(Changed Tape, Start 1B)--

...water to prepare, to discuss the storage assessment fees as they related to Section 14.05.020(D), and thirdly when going through the bill to discuss any fire flow requirements for which we have, Mr. Eng, Lieutenant English, present to help us in that area.

At this time, I will allow the Department to start with an overview and then we will go, if required and requested, I have Mr.--excuse me, I forgot your name, so I’m sorry--Mr. Ralph Nagamine who also in the gallery and Lieutenant Scott English who are available, along with Herb Chang, for direct questions. And on the screen you will have Chapter 14.05. Thank you, Ms. Willenbrink, for being able to put that forward for us so that we can go by areas and we can make any changes or reviews that necessary. So at this time, I would like to ask the Director, Mr. Eng, if he would honor us with some opening statements.

MR. ENG: Thank you, Mr. Chairman, and good morning, Committee Members. You know, at this time I really don’t have any comments. I would like for us to begin proceeding through this chapter. I know we have a lot of work before us and limited time, so I’ll turn this back to you, Mr. Chair.

CHAIR VICTORINO: Thank you. And knowing that and because of our limited time, I will say that we will try to cover as much as we can and then, if necessary, if we’re not able to accomplish and
conclude, we will return at our next meeting to finish this off. Okay. Let us start by going to
your correspondence from Mr. Kushi, dated June 29, 2009, and that is a revised bill on Chapter
14.05. And what I will do is at this point, if you have specific questions, and I will start from
14.05.010, Extensions and Connections, or Connections, I should say. I will start with that first
and move right through the bill, chapter at a time. So if you bring that up on the screen, there
you go. Would you require--well, I, I think the audience may not be able to read it because the
lighting is so... So see if you can dim the lights, yeah. Let’s see, is that good enough?
Members, can we still...and, and the, the projector now is much clearer for those looking at that,
yeah. Okay. Let’s start with Section 14.05.010, Extensions and Connections. Questions in that
area? Mr. Mateo? Go ahead.

COUNCILMEMBER MATEO: Chairman, thank you very much. These, the ordinance we’re looking
at right now, these are all recommendations that...drafted by the Department or Committee?

CHAIR VICTORINO: These are recommendations that I worked out with the various departments, as I
stated earlier.

COUNCILMEMBER MATEO: Okay.

CHAIR VICTORINO: And for your consideration, we hope that once we’re completed, that the
recommendations would be one of the Committee.

COUNCILMEMBER MATEO: Yeah, thank you. So, Mr. Chairman, as we walk through it in
14.05.010, Extensions and Connections, can you just briefly indicate the purpose and the intent
because the language is all new.

CHAIR VICTORINO: Okay. Ms. Willenbrink, will you please assist me in this area?

MS. WILLENBRINK: Yes, Mr. Chair. This bill is a proposed bill incorporating revisions from a
meeting held last week where DSA and Water got together. It is from a revised bill dated
May 27th, in your binders, Members, and that bill was transmitted by Deputy Corporation
Counsel Kushi, and it merely codifies some of the Board of Water Supply’s and Department of
Water Supply’s rules and regulations related to subdivision requirements. So these rules are
already in effect; however, we’re continuing the codification process. Does that clear that up?

COUNCILMEMBER MATEO: No, thank you. No, I don’t have any problems understanding how we
got to this point.

MS. WILLENBRINK: Okay.

COUNCILMEMBER MATEO: I’m looking at what we’re showing on the wall, and walk us through it.
Walk us through it so we understand the purpose and the intent.

MS. WILLENBRINK: Um...
CHAIR VICTORINO: I think this one, I would then turn to the Department and, Herb, would you be able to help assist us as we walk through these various sections?

COUNCILMEMBER MATEO: Thank you, Mr. Chairman.

CHAIR VICTORINO: Mr. Chang.

MR. CHANG: Good morning. This first section, Extensions and, or Connections, it's just a general statement saying that if any subdivision, for any subdivision application we need to make sure there's adequate water system for fire protection and domestic service. So if there's any kind of improvements for specific subdivisions, to make sure there's, those two things are provided. This, this paragraph pretty much covers the, that general requirement.

COUNCILMEMBER MATEO: Thank you.

CHAIR VICTORINO: Mr. Mateo, you okay with that?

COUNCILMEMBER MATEO: Thank you.


COUNCILMEMBER BAISA: Yes, Chair. I think that, like Member Mateo, I'm trying to figure out what, what we're doing here. First of all, are we changing anything? And secondly, for definition, can somebody define point of adequacy for me?

MR. CHANG: As far as when the original rules and regs that we're trying to codify, essentially the wordings are pretty much all the same. As far as to answer your question about point of adequacy, I'll give you an example. If a subdivision, doesn't matter whether it's 2 lots or 50 lots, wanted to proceed and there was only like a two-inch waterline maybe running in front of it and it's, it meanders maybe 1,000 feet away till it hits like a 12-inch line, the point of adequacy term means that point where the subdivision can connect to that particular section in that existing water system that can provide the adequacy for fire protection and domestic service. So the subdivision is required to improve the existing water system from the point of adequacy which, you know, is so much, is considered capable of being extended to provide...

COUNCILMEMBER BAISA: So in the example you gave about a two-inch waterline and all that distance to a 12 inch, when they hit the 12 inch is where it would be adequate. So they would have to improve until they can get to the 12 inch?

MR. CHANG: Yes.

COUNCILMEMBER BAISA: Okay.
CHAIR VICTORINO: Okay. Are you clear with that?

COUNCILMEMBER BAISA: Thank you. Thank you.

CHAIR VICTORINO: Okay. Thank you. Any other questions? Seeing none, again we can come back to anything but, you know, just so long as we have an understanding on each particular item. I will move on to 14.05.020 which is Reservoirs/storage tanks. And, Mr. Chang, would you like to kind of give us an overview on this. That way our Members then can ask questions.

MR. CHANG: This particular section covers the requirements for storage reservoirs or tanks. Let’s see, just going down the, the section. It just covers the, the construction type of the, you know, tank. You know, generally we require concrete tanks. We have been, we have been going into steel tanks, but in general we, we prefer concrete for the larger tanks. We also talk about the purpose of these tanks. It’s mainly to provide fire protection, is one function. And another function would be to provide the storage during peak flows, you know, like in the mornings and evenings, when people get ready to go to work. The tank, what the tanks. . .the purpose of the tank is to store enough water so that during these large demand periods, the system will have, be able to provide the demand. Otherwise, if we didn’t have tanks, it was just connected to our wells. You know, the wells itself could not provide the peak flow. So we need the storage tank to like kind of buffer the system so that we can handle these peaks. Going down, moving down to B., tank site lots. . .this just goes, covers the requirement that--

VICE-CHAIR PONTANILLA: Chairman, can stop at A.?


VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: You have specific questions on A.?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: Okay, Member Pontanilla, please.

VICE-CHAIR PONTANILLA: So you say peak flow requirement. So that will determine the size of the tank?

MR. CHANG: Yes. We have criteria’s. . .I think we have couple criteria as to how we size tanks. One, one criteria would be to be able to handle the peak flows.

VICE-CHAIR PONTANILLA: And the other?

MR. CHANG: Fire protection.
VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR VICTORINO: Any other questions in that area? Member Kaho’ohalahala.

COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair. In your Section A., I noticed that and I guess we talked about this at the previous meeting, but that there’s a lot of discussion here by, by the Director in terms of approving this. So in A. you have in the middle of the sentence or paragraph, determining department standards or as otherwise approved by the Director. And then at the very end of it in storage tanks with the capacity of less than a 100,000 gallons, you also have as approved by the Director. So I’m trying to understand if we’re putting standards together for what is going to be expected in terms of requirements in the, in the law, we still leave a lot of room for discretion by someone. So are we looking at other standards besides what you already indicate here, that there’s a list of discretionary kinds of alternatives for the Director to pick and choose from? And how we’re going to standardize all of this?

CHAIR VICTORINO: Mr. Eng, if you would like to address that question.

MR. ENG: Yeah. I’ll give it a try, Mr. Chairman.

CHAIR VICTORINO: Yes.

MR. ENG: Yeah, the question is, you know, how much discretion should we have. We’d like to have enough discretion that if a subdivider has a proposal for a tank of a different type of structure material, that we can review it and possibly approve it. You know, sometimes we can be accused of being too rigid. And so basically, as Mr. Chang pointed out earlier, we would prefer steel or concrete in material. But, you know, there are, is always constantly some new technology. We ourselves look at, you know, glass-lined steel tanks and utilize them, and in certain applications they’re very good. So this gives a subdivider some, some leeway to come into the Department. And if it is suitable, we could perhaps approve that type of.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, and then the reason for us putting in these particular kinds of storage containers is based on --

MR. ENG: Uh-huh.

COUNCILMEMBER KAHO‘OHALAHALA: --volume, pressure--

MR. ENG: Yes, and Mr. Chang pointed out earlier, basically it’s to have enough storage capacity to meet those peak flow demands on the system as well as have storage for, to accommodate fire flow. And as we see later on in this Chapter, you know, fire flow requirements generally are a specific gallons per minute over a two-hour period of time.
CHAIR VICTORINO: I think, if I may interject, I think Mr. Kaho`ohalahala’s question is the materials part, if I’m correct. Am I correct in your, your questioning, your line of questioning, the materials?

COUNCILMEMBER KAHO`OHALAHALA: Only because you’ve mentioned--

CHAIR VICTORINO: Yeah.

COUNCILMEMBER KAHO`OHALAHALA: --there may be other kinds of materials for storage that you may wanna or you might have to consider. So my question is along those lines. Do we already know that the, the array of storage materials are currently, I mean, other than just concrete and steel?

MR. ENG: Well, you know, primarily we would like for as far as any type of structural material, foremost we look for longevity, you know, and steel and concrete do tend to have the longest life, useful life. You know, but, so that would be our preference. And, you know, it, it is really up to this body if you want to limit it to steel or concrete only. I mean, I’m certain that my engineers would, would like to see that direction. But, again, it just gives some flexibility so, so we can consider some other options.

COUNCILMEMBER KAHO`OHALAHALA: Okay, and I wouldn’t, I wouldn’t be opposed to the flexibility if, as you stated, we know what the structural integrity is of steel and concrete. And then as we’re moving on into those discretionary areas of consideration, what will be the criteria then to help you make those kinds of discretionary decisions? Is it, you know. . .that’s the, that’s what I’m, I’m trying to, to (inaudible due to interruption)--

CHAIR VICTORINO: Well, let, let me interject, Mr. Kaho`ohalahala. I just returned from San Diego and I attended a number of meetings, and new material like what they’re referring to with longer integrity, better structural integrity, and probably even some of the, in some cases where contaminants will be less residual on these newer materials are coming out consistently. And I think that was the reason for leaving this in so the Director, as these become available, would be able to look at ‘em and say, oh, yeah, this is better than steel, this is better than concrete for overall longevity and as well as lessening probable contaminants entering the system. So, I think that’s why we left it in. That was part of the discussion. Now, being specific at this point, I, I couldn’t tell you because there is technology evolving every day, and you are well aware of that, in many areas in our, in our environment. Now new green technology is becoming more applicable. So, I think this is what I’m, what we’re trying to do in this particular case--not to just give ‘em discretion, but to make sure that the discretion would be used in a proper way. So, I hope that kind of clears what you’re trying to lead to, but if not, I, I will open it up for question.

COUNCILMEMBER KAHO`OHALAHALA: I, I appreciate that, Chair. And, I guess, what I am asking for is that if there is some kind of criteria for you to make a decision or determination on the infrastructure storage materials, integrity of it, that the manner in which you quantify or qualify these things is, is in part what you’re going to be ultimately left with your discretion to,
to make a decision upon storage. If--I’m not asking about what the actual product is, but I’m asking for what quantifies or qualifies that kind of structure or material to be considered, and maybe we should know what some of those are, if they’re already known today, you know.

MR. ENG: Well, basically, you know, if we...as we do review different types of materials for tanks, you know, we’re, we’re looking for, again, longevity of the material, again, is foremost. And we would like to see it, the track record of that material too. And I think based on that if it can be proven through the track record, you know, we may consider it.

COUNCILMEMBER KAHO'OHALAHALA: Okay, then maybe rather than saying what the actual product is, could you in a, in this particular section talk about how you will come to evaluate materials, you know. . .looking at, you know, what qualities, what, you know, a time span.

MR. ENG: Oh, boy. I think that--

COUNCILMEMBER KAHO'OHALAHALA: What are the, what are the, the qualifying measures that you would look for? You know, that’s not listing a particular product.

VICE-CHAIR PONTANILLA: We need one engineer over here.

MR. ENG: You know, this could be a pretty lengthy Chapter or section of the Chapter if you wanna go in that direction. You know, I kind of wanna keep it as simple for everyone to understand. You know, times will change, materials will change, you know, technology will change. I don’t think we can address everything at this time. I mean, you know, you’re really getting into the, the process of how a brain thinks and if you wanna go that far, it could be anything. So, I don’t know how you wanna, more you wanna go in this, how specific you wanna get, you know.

COUNCILMEMBER KAHO'OHALAHALA: Okay. I was asking the questions to just determine what kinds of discretion that you have in making that determination, you know. And if, if that, if the body and Chair you wanna move in that direction with leaving that as open as possible, then that’s up to, to you and your, your Committee. But I just feel compelled to at least ask these questions.

CHAIR VICTORINO: And I thank you, Mr. Kaho'ohalahala, representative. At this point, I would like to keep it as open as possible. What I will request is a letter from the Department, Mr. Eng and Mr. Chang, if you can give us an overview in how the criteria is, or what are the criterias you look for. Okay. And that way you can address that to all of us, and that way you’ll have some kind of information on how the process is determined, yeah. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. I, I, I, I would surely hope so, hope that the Department...I know there are engineering standards that they follow.

CHAIR VICTORINO: Uh-huh. Yes.
VICE-CHAIR PONTANILLA: And if new materials come up, I'm sure it's gonna have some engineering standards. I, I take this as, you know, the Director will use his or her judgment in regards to protecting the County, if we should accept any of these tanks. So, you know, for us to tell the Director that--of course, we wanna be sure, but there are also engineering standards that they must follow. I'm sure they're gonna make the best decision in regards to benefiting the County. So I, I'd just like to add that comment.

CHAIR VICTORINO: Thank you.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla, and I think the letter will address that and hopefully the answers they return to us will give you guys a better and a clearer picture in that respect. And I'm well aware of the, many of the standards for which Mr. Eng and Mr. Chang and the Department follows. So, but to share it with all of you I think will be very important. Any other questions on Section 14.05.020(A)? Seeing none, let us move on to B., which will be site, I think site lots. Yes, Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I'm sorry I got lost. Before we move on in C., whenever a sub...,

CHAIR VICTORINO: Wait, Ms. Baisa, you're getting ahead. We're only in B. right now. We're going to B. right now, tank site, and then we're gonna go to C.

COUNCILMEMBER BAISA: Well, it must've been in the one before.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: Something to do with requiring more, more than one what is required by the Department. . .on more than what the person is gonna do. Maybe I am lost. Okay, I'll wait.

CHAIR VICTORINO: Okay, thank you.

COUNCILMEMBER BAISA: Sorry.

CHAIR VICTORINO: Thank you, Ms. Baisa.

COUNCILMEMBER BAISA: Sorry.

CHAIR VICTORINO: No, no problem. B., Mr. Chang, please.

MR. CHANG: Okay. This particular paragraph covers the requirement for subdividers before they get, before the Department recommends final subdivision approval. If the project requires the tanks, we have to make sure that the tank sites, any, the access roads to the tank sites, connecting
waterlines, all these land issues are dedicated to the Department. So easements and tank site lots.

CHAIR VICTORINO: So in other words, this is just to make sure that the County is controlled or has control of both the access as well as the tank site itself?

MR. CHANG: Yeah. Correct, all the real estate.

CHAIR VICTORINO: Real estate, okay. Any questions on that particular item? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Sorry, Chairman. But --

CHAIR VICTORINO: No problem.

VICE-CHAIR PONTANILLA: --one of the issues that, or not issues, but, you know, we approve all of the, the easements that is being required by the County and, you know, we go through the formal process as far as going committee meetings and final approval on the resolution to accept it. So in this case here, we gotta take the, the word of the Department that whatever easement is required is what the County need. And when we come to the committee meetings or, or, you know, taking final action on this requirement, sometimes we, we bog them down, we ask all these questions only--you know, the work is already done. So what I'm trying to say is that, you know, we gotta, you know, give the Department the discretion that they're doing the right thing. So when we go to Committee meetings, yeah, we ask all the proper questions, but sometimes the questions that we ask, you know, the, the equipment is already in the ground, we're not going tell 'em take 'em out. So, I just wanna make that comment when we go into accepting, you know, easements for the County of Maui.

CHAIR VICTORINO: Thank you, Mr. Pontanilla, for that comments and I think, again, the bottom line is we're all trying to do the right thing to protect the County of Maui.

VICE-CHAIR PONTANILLA: Right.

CHAIR VICTORINO: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Chair. Just a question on B. So the tank site lots, access roads, pipeline easements, and once it's dedicated to the County and the property owner is not responsible for maintenance, future maintenance on that, yeah, that's a given, right? Okay, just in case, we wanna make sure that, you know, no one is stuck with footing the bill for maintenance. So...

CHAIR VICTORINO: Mr. Eng.

COUNCILMEMBER MOLINA: ...I don't know if we've ever had cases like that, any disputes between the County and a property owner.
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MR. ENG: That's correct, Member Molina. Yeah, we will be responsible for that property.

COUNCILMEMBER MOLINA: Okay, thank you. Thank you.

CHAIR VICTORINO: Okay, thank you. Any other questions? Seeing none, now I'll move onto C. And C is the... Mr. Chang, go ahead on C.

MR. CHANG: Okay. This particular paragraph covers the situation when... if a, in a situation where a subdivider needs to construct a new tank, and the Department under... engineering analysis determines that a bigger tank is required so that could serve on the other areas, and not just this particular subdivision application. This paragraph gives the Department the authority to require the subdivider to design and construct a larger tank. And the Department would be responsible to reimburse the, the, the subdivider for the construction costs of the larger, the difference between the larger tank and the original tank that they would have been originally provided to, would have been required to construct. This is a good option 'cause a lot of, there's a lot of times when the needs of a subdivider as far as tank is, just doesn't make sense to put a small tank, especially if we knew, if we know that the area is insufficient or we, we know of a future development of the area. So, so it's a good time to have ability to have a joint venture.

CHAIR VICTORINO: Okay, Mr. Chang. Ms. Baisa, this was your question.

COUNCILMEMBER BAISA: Yeah, thank you very much. Now I'm in the right place. What I wanted explained was, how the Department comes to that decision, to ask the person who wants to do a development or to install a reservoir or whatever, to do something greater than what they proposed? And the reason I ask that question is because it requires, of course, an initial investment by the person who wants to do whatever it is they wanna do. And yes, we talk about reimbursement, but I have not been involved in that process. I'm kind of wondering how does that go, and does that propose some financial burden on this person and then they sit around waiting for us to get around to reimbursement. And I've dealt with government processes all my life and sometimes we, we are not very good about reimbursing things quickly. So I'm concerned about putting financial burden on somebody who wants to do something. You know, maybe I can afford a $35,000 tank, but when you start talking about 100,000, maybe I cannot.

CHAIR VICTORINO: Okay. Mr. Eng, would you like to address that question by Ms. Baisa?

MR. ENG: Thank you very much, Mr. Chair and Ms. Baisa. I am, I understand your concern. Again our requirement for additional storage capacity will be based on our identification of a, a deficiency in that particular area. So that subdivider would, would for his particular subdivision would have to construct a tank of a given size anyway. So again if they, we have... find an opportunity that would benefit the local community by enlarging that tank, we would participate with the developer in, in constructing a larger tank. Now, as far as reimbursement, according to Mr. Chang, we can reimburse that quite readily, and we do try to budget some funds in our Countywide CIP for situations such as that. And according to Mr. Chang, it's not like that
five-year reimbursement for mainline extensions. It could be done pretty much immediately after it being dedicated to the County.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: I was okay until we got to it being dedicated to the County. How long does that process take?

MR. ENG: Well, it really shouldn’t take too long. As, as, you know, the earlier paragraph regarding the easements, you know, sometimes that’s a hang up. You know, we will have an agreement in place with the subdivider as far as storage improvements. You know, many times it’s just the paperwork, you know, but as long as we keep it moving it really shouldn’t take that long.

COUNCILMEMBER BAISA: Well, you know, my concern, of course, is for the family person who is not rich, is not a developer per se, but just an ordinary person trying to do something with his land. And, you know, he may be on a very tight budget, and so in order to front all this money he goes to the bank and borrows money in order to do whatever he has to do. And then, of course, we go through all the process and hopefully he gets his money back. Meanwhile the meter’s running at the bank because he’s paying on a loan and paying interest. So, I just wanna be careful when we do these things that we’re sensitive to people who do not have means, because those are the people that come here and tell us their heartfelt stories all the time, and we get them in our offices. You know, we really wanna do this, but we cannot come up with the cash that the Water Department wants. And so that’s what’s in the back of my question.

MR. ENG: I understand. Thank you.


COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair, and just along--

CHAIR VICTORINO: And then followed by Molina.

COUNCILMEMBER KAHO‘OHALAHALA: --along the same lines of questions. When you have a criteria that requires us now to ask the subdivider for additional storage, what are those sets of criteria that, that will determine that kind of need or request to be justified? And is it written in some section that refers to that? So that the subdivider, when coming to be asked, will say, well, why is this required? How will we go about to--so, again, is it up to you and your discretion to make that determination, or where is that criteria listed?

CHAIR VICTORINO: Mr. Eng.

MR. ENG: It will be listed, that criteria--thank you, Mr. Chair--it will be listed exactly in this Chapter.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, so--
MR. ENG: As we walk through this and we look into further on in the table for fire flow requirements, it will give the gallons per minute requirement over the two-hour period, and that will pretty much determine the capacity for fire flow requirements. And that, generally, is the driver to determine the capacity of a storage tank, and that criteria. . .-(Changed Tape, Start 2A)-- . .is consistent with the Fire Department on that capacity.

COUNCILMEMBER KAHOʻOHALAHALA: Okay, and I, I just think for, for, for it to be comprehensive and clear, then is there something written in terms of what you just explained to, to Member Baisa?

MR. ENG: As far as the payment?

COUNCILMEMBER KAHOʻOHALAHALA: No, no.

MR. ENG: They payment is in--

COUNCILMEMBER KAHOʻOHALAHALA: I, I think her payment question is a, is a good one.

MR. ENG: The lump sum payment is, is in here.

COUNCILMEMBER KAHOʻOHALAHALA: Yeah. But prior to the payment, when you make that requirement of the subdivider to add additional storage, what criteria will you be using to make that, that request of the subdivider?

MR. ENG: Criteria should in this section of this Chapter. . .such as 14.05.020(1). If you read that paragraph, For residential, hotel, apartment, business, industrial, airport and commercial districts. Unless otherwise approved by the director, storage capacity required shall be determined on the basis of fire flow duration, maximum daily flow, or 1,000 gallons per lot, whichever quantities or basis is greater.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. So if I look at that subsection 1., then I’m suppose to know that that’s the criteria for C.?

MR. ENG: I think it spells it out pretty clearly, yeah, unless you want to add some language to clarify it, but I think this reasonable for our Department. We’ve been working with this exact language for many years and we haven’t been questioned to date.

COUNCILMEMBER KAHOʻOHALAHALA: Okay, yeah. I somehow, I mean it’s under the same paragraph. I, I somehow missed its relationship to the first one, so I would question how the subdivider would be assessed with this additional requirement.

CHAIR VICTORINO: To further elaborate, Mr. Kushi, will you comment on Member Kahoʻohalahala’s question?
MR. KUSHI: Yes, I’ll try. If I understand your question, is that situation where a subdivider per the standards required to install 100,000 gallon storage tank. The Department says, okay, since you’re doing it, we want a 200,000 gallon storage tank and we would pay for the difference. So you’re asking what determines that decision, decision? Is that your question?

COUNCILMEMBER KAHO‘OHALAHALA: Well, because in part we’re putting the, the burden on the subdivider to add that additional capacity and, and the additional cost even though we make a statement of reimbursement, you know. So until we define the reimbursement process, then what drives the requirement of the additional 100?

MR. KUSHI: Well, I’m not speaking for the Department, but I would, I would think that if a new storage tank will be coming up in, in an area where there is no storage tank and you have a subdivision, it’s an opportunist situation. Okay. We have a subdivider that’s gonna build a storage tank, and the Department knows that there’s other subdivisions planned in that area or other developments planned in that area. I would take it the Department would, it would be prudent on the Department side to say, look, this is an opportunity now for a, a joint partnership. I would think that kind of criteria would be used.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, and that opens up a whole other can of worms--

MR. KUSHI: Correct, correct. And, and, Member, you know, I’m...I see what you’re saying. And let’s say if I’m the applicant and I say, look, I don’t wanna bear the burden of sponsoring an, a larger tank. I would think I would have the right to say, look, I’ll just do the minimum. And that decision can be appealed to the Board.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And I guess what I’m asking is, is a more clearer explanation of these sections and that what drives them. What is the intent of these sections? If you’re anticipating other development growths and that’s why we would drive this, then state them in here so it’s clear that these are parts of the criteria for which the Department would make these requirements on a subdivider, a subdivision. I mean because you’re, you’re telling me all of the conditions that might be a part of why this is there, but there’s nowhere in here that any of that is explained. So, now I would not necessarily agree to the fact that we would as, as, in anticipation of that we would want the additional storage capacity because we see other development perhaps down the road, you know. If that’s the case, then, then I would not be necessarily in favor of that.

CHAIR VICTORINO: Okay, thank you, and we can go into more discussion as far as this item is concerned. Again, I will also remind my colleagues that we do have in our subdivision meanings, means and one of the parts of the subdivision means “or divided into four or more dwelling units”, which many family subdivisions would fall under. Okay. So, I think we’re trying to get two things done at this point, and I don’t wanna get too drawn out. Your concerns will be looked into and, Member Kaho‘ohalahala, and we’ll come back and, and address that,
I’m not sure, and we’ll discuss it with the Department as far as that is concerned. Member Molina, you had question. Please, go ahead.

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. Just a follow-up on Member Baisa’s concern with regard to reimbursement to the subdivider in terms of time. If, I guess, Director Eng, if you could share with us, have there been any concerns expressed in terms of the, you know, getting money back in a, I guess, an acceptable amount of time? And the reason I ask this because, you know, many of our families our there, they don’t have deep pockets and when they have to fork out a large amount of money for, you know, additional storage, it can be quite burdensome. So, I’m just curious if maybe we should consider specific language that the subdivider shall be reimbursed by “X”, within an “X” amount of days, 60 days, 30 days, or so forth. Can I get your comments on that, Mr. Director?

CHAIR VICTORINO: Mr. Eng, go ahead.

MR. ENG: Mr. Chair and Member Molina, you know, there’s a lot of factors even other than the Department that can cause a delay in reimbursement. Many times it’s the subdivider, subdivider’s contractor who has to provide an affidavit of construction costs. So there could be easement issues, there could be agreement issues, there could be issues that we’re waiting, and many times we are waiting for the developer or subdivider to provide the proof of costs before we can go forward. So, I don’t know if we can really put a, you know, a time limit on it. You know, I mean that is your call, this body, but, you know, we will try to provide the reimbursement as quickly as we can. You know, a lot of things can delay things.

COUNCILMEMBER MOLINA: It’s out of the Department’s control then?

MR. ENG: But we will certainly try our best. You know, I mean, you can add some language in this, you know, but to put a specific --

COUNCILMEMBER MOLINA: For example, how long have you--

MR. ENG: --time period could be difficult.

COUNCILMEMBER MOLINA: Yeah. How long have you had to wait because of say a, for example, a contractor’s not giving you, you know, verifying the cost? How long have you taken to reimburse?

MR. ENG: That’s a, that’s a very common, common thing to, to finalize a subdivision. Many times we’re waiting for those type of things till the very end. When it’s something that the developer or contractor, if they had completed the water portion of a project, could have submitted to us much earlier. But many times those things come in real late, after our requests. So, but we’re working on this, you know, we’re trying to meet with consultants and contractors--

COUNCILMEMBER MOLINA: And--
MR. ENG: --to get a better understanding of the things that we face in our Department.

COUNCILMEMBER MOLINA: Yeah.

MR. ENG: And so like the Fire Department, the Water Department has met with the community to kind of go over the, the issues we're facing to kind of streamline our operation.

COUNCILMEMBER MOLINA: Okay. Thank you for sharing that with us because sometimes it’s out of, it seems like it’s always automatic, oh, it’s the County’s fault. And in this case, you know, you provided clarification that it’s not always the County’s fault. So that’s why I kind of, you know, brought this up and to see if maybe we, we should put some additional language, that way, you know, in the event that it’s not the County’s, you know, problem that it’s, it’s... which is the cause for the delay. So, because it’s always easy to pick on the County...

MR. ENG: Uh-huh.

COUNCILMEMBER MOLINA: ...yeah, you know, whenever people are waiting for their money. So anyway, just food for thought, Mr. Chair, down the road, if it’s something the Committee may wanna consider.

CHAIR VICTORINO: And maybe some kind of language can be added in, that upon total completion of requirements are met and all kinds, whatever needs to be met, and then we can... after that has all been submitted, then 60 days from that point. I mean, you know, and again, but just to make sure that the Department is not the one, or if it’s out of their hands, not being chastised for it. But we know that doesn’t always work out either, but we’ll do our best.

COUNCILMEMBER MOLINA: Yeah.

CHAIR VICTORINO: Mr. Nishiki, your, you had a question.

COUNCILMEMBER NISHIKI: Yeah. We’ve spoken a lot about this, this... in this area. But I guess, Jeff, the proof of the pudding is have there been complaints or the Department has been late? I mean this is when, perhaps, the Council springs to action in having to put this into law, rather than allow you to handle it administratively. So if I hear there’s a bunch of people complaining, then I can see where we may, we may need to, but if not, then why even discuss this situation? Has there been a situation --

MR. ENG: Member Nishiki--

COUNCILMEMBER NISHIKI: --where people have said we can’t afford it, you’ve been unfair, you’ve sized my reservoir, my tank too much and so, therefore, I can’t do my subdivision? Has there been situations like that?
MR. ENG: I'm not aware of any, but I would like to defer this to Mr. Chang to respond to. Thank you.

CHAIR VICTORINO: Mr. Chang.

MR. CHANG: These situations where the Department has to increase tank size doesn’t come up very often, and the majority of the time it’s just with, you know, the larger developers. But it kind of goes back to coordinating the project. If, if there is any delays, it probably can be avoided by proper, you know, correct planning, project planning. If the developer and the Department were to coordinate more, more to get the paperwork completed, you know. . .you know, in a more timely manner, it does help. But in general, as far as complaints, I don’t believe we get too many complaints at all for payments for upsizing tanks. It’s more of the other things, like reimbursement for water pipeline extensions. Those are more. . .we, we deal with not only big developers but the smaller families. And but those. . .again, like Director Jeff Eng said, it’s the paperwork, sometimes if you don’t push for the paperwork in a timely manner, it does delay the payment, the reimbursement. But as far as tanks, no. . .(inaudible due to interruption). . .

COUNCILMEMBER NISHIKI: Not tanks. So what area did you say where the small man’s kind of pushing you people for action?

MR. CHANG: This would be the mainline extension.

COUNCILMEMBER NISHIKI: Mainline extension.

MR. CHANG: So, I think we’re coming up to that pretty soon.

COUNCILMEMBER NISHIKI: Okay, thank you.

CHAIR VICTORINO: Thank you. Any further questions in this particular area? Okay, moving on. We go to D. . .and, Mr. Chang or Mr. Eng, would you like to explain D.?

MR. CHANG: Okay. Paragraph D. covers the situation where a subdivision is not required to construct a tank. So what happens when the. . .and when a water meter’s applied for, they are, part of the water meter fee, the water system development fee is, is for. . .providing money for the Department to build new tanks in the future. So that’s the general idea on this paragraph D.

CHAIR VICTORINO: This is in regards to the assessment of storage assessment fees?

MR. CHANG: Yes, and that’s charged under the Water System Development fee, the water meter fee.

CHAIR VICTORINO: And what would that be, Mr. Eng or Mr. Chang, if you guys know that number?
MR. ENG: Thank you, Mr. Chair. We currently have an Administrative Rule in the Water Department entitled “Rules for Water System Development Fees”, and this will be a rule that will eventually be codified.

CHAIR VICTORINO: Yes.

MR. ENG: . . I understand.

CHAIR VICTORINO: Uh-huh.

MR. ENG: And we do have the breakdown of the water system development fees into the source component, transmission, and the storage. So, for example, for a 5/8-inch meter, in the total water system development fee is about 6,030. The storage component is 1,140. So there is a, currently a rule that we will have codified and it will . . . indicate the breakout of the various fees.

CHAIR VICTORINO: So, Mr. Eng, if I’m correct, you’re saying the total is 6,000, or is 6,000 plus the 1,000?

MR. ENG: No, the total for source, transmission, and storage is 6,000, and the storage portion only is 1,140.

CHAIR VICTORINO: Okay, thank you. Questions in that area?

COUNCILMEMBER NISHIKI: Mr. Chairman?

CHAIR VICTORINO: Yes, Mr.--

COUNCILMEMBER NISHIKI: Yeah. We don’t have these in front of us, Jeff, the fees that you said are administratively applied, but they will be codified. Has there been any concern as to the amount that we’re charging?

MR. ENG: No, there hasn’t been to my knowledge. In fact, there shouldn’t be because they may be a little bit on the low side.

COUNCILMEMBER NISHIKI: On the low side.

MR. ENG: We’re, we’re evaluating.

COUNCILMEMBER NISHIKI: Okay.

CHAIR VICTORINO: Okay.

COUNCILMEMBER NISHIKI: Thank you.
CHAIR VICTORINO. Thank you. Any further questions on that particular section? Seeing none, I’ll move onto E., the storage assessment fund, and that’s the question I raised as far as how do they determine the storage assessment fund. And I think you try, you can give us a better clarification on that one, Mr. Eng.

MR. ENG: Okay. As we collect water system development fees, and again that’s storage portion, it is pretty much we, we classify it as a restricted fund. And this, basically, then explains how we can utilize those water assessment funds, and it specifies that they may be used for any public reservoir or storage tank, related construction, or maintenance within the County. But primarily those fees are reserves set aside to develop additional storage for the County. So it is pretty much of a restricted funding.

CHAIR VICTORINO: Questions for the Department in regards to Section E., storage assessments?

COUNCILMEMBER MATEO: Chairman.

CHAIR VICTORINO: Yes, Mr. Pontanilla, followed by Member Mateo. Go ahead.

VICE-CHAIR PONTANILLA: So this assessment funds can be used for anywhere in the County of Maui, not only the area that this subdivision or whatever is coming up?

MR. ENG: That is correct.

VICE-CHAIR PONTANILLA: Okay, thank you.

CHAIR VICTORINO: Mr. Mateo.

COUNCILMEMBER MATEO: Thank you. And these funds are not considered or part of that reimbursement fund that goes towards the subdivider. . . well, what the Department is using to refund or provide that lump sum refund?

MR. ENG: You are correct:

COUNCILMEMBER MATEO: It’s a different fund?

MR. ENG: Yes, it is.

COUNCILMEMBER MATEO: Thank you.

CHAIR VICTORINO. Thank you. Any other questions? Seeing none, I will at this point stop discussion and we will, hopefully, resume on 14.05.030 at our next meeting. Right now is 10:23, and again to get started and halfway, end halfway in a, in a, in a subject matter would not be appropriate. I will ask all Members and Non-Members for that case of the Committee, to please forward an specific questions. Take your time now, you have a few weeks. But I would like, no
later then July 7th, any specific questions you have in any particular section of these rules that we are reviewing. Because that would help us get the Department. . .ability to get answers for those questions, so we were not trying to grapple along here at the meeting itself. So, I would ask all that favor of all the Members and Non-Voting Members, Mr. Nishiki, and anyone. If you have specific questions on the rules that are, we are going to be covering, then I would like that in writing so that I can then look to get answers to you. Now I’m going to apologize in advance to the Fire Department, Mr. English, for being here and not being called up. I will request your visit, your presence at our next meeting in July. And same thing with you, Mr. Nagamine, I do apologize that we didn’t call upon you, but I will request your presence if that is. . .are you able to be here or some representative from your Department. And I will thank the Department, the Water Department for working with us. There’s still a lot more to be done. I think we are moving in a positive direction. Remember now, we are trying to make sure that these rules are user-friendly, that they’re very specific, but gives latitude to the Department and the Director for things that sometimes come up that none of us can anticipate. I don’t want to be to regimented, yeah. So, I wanna thank all of you for being here. I will also call upon--

ITEM NO. 5: "READY TO GO" WATER-RELATED PROJECTS (C.C. No. 09-49)

CHAIR VICTORINO: I closed testimony. Oh, yeah. Okay, thank you. I gotta close. Would you indulge us real quickly? I need to close testimony on WR-5, even though we didn’t even get to it. With no objections, can I close public testimony on WR-5, the second item?

COUNCIL MEMBERS: No objections.

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

CHAIR VICTORINO: Thank you. Thank you for reminding me, Kim. Again, I would hope at our next meeting we can progress along and if you have specific questions, I ask you to please put it in writing so that we can have answers for all of the Members in their specific concerns.

I will address a letter to Mr. Aldridge, because I have a lot of respect for Mr. Aldridge. I’ve worked with him. He and I worked three years together on the Water Board or two years, two or three years we worked together, and the man has an immense amount of knowledge. I will ask him for his comments on this particular rules to satisfy the request that was made by our public testifier. Without any further ado, any other comments, questions? Seeing none, I would like to defer this matter if it is okay with the Committee.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: BM).
ACTION: DEFER pending further discussion.

CHAIR VICTORINO: No objections. Thank you very much. Ladies and gentlemen, I wish you a, a good morning. I will see all of you at a later get-together, an important meeting we’ll be having. And then this afternoon. . . Mr. Pontanilla, we have Budget and Finance, right?

VICE-CHAIR PONTANILLA: Yes, we do.

CHAIR VICTORINO: At 1:30?

VICE-CHAIR PONTANILLA: 1:30.

CHAIR VICTORINO: Right here in the Chamber?

VICE-CHAIR PONTANILLA: Yes.

CHAIR VICTORINO: And you would ask everybody not to be late also, right?

COUNCIL MEMBERS: . . . (chuckle) . . .

CHAIR VICTORINO: Thank you, Mr. Pontanilla. . . . (chuckle) . . .

VICE-CHAIR PONTANILLA: Thank you.

ITEM NO. 5: “READY TO GO” WATER-RELATED PROJECTS (C.C. No. 09-49)

CHAIR VICTORINO: And also, I have to request. With no objections, may I defer the second item, WR-5?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: BM).

ACTION: DEFER (no discussion).

CHAIR VICTORINO: Thank you. The meeting of the Water Resource Committee will now be adjourned. . . . (gavel) . . .

ADJOURN: 10:25 a.m.
WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

June 30, 2009

APPROVED:

[Signature]

MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:090630

Transcribed by: Joy Tesoro
CERTIFICATE

I, Joy Tesoro, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 13th day of July 2009, in Kahului, Hawaii.

Joy Tesoro