CHAIR VICTORINO: ... (gavel) ... Good morning. The Water Resource Committee meeting of August 4, 2009 will come to order. I’d like to now ask—we have quorum today, and I’d like to introduce all the Voting and Non-Voting Members that are present today, starting with Member and Vice-Chair Michael J. Molina.

COUNCILMEMBER MOLINA: Morning, Chair.

CHAIR VICTORINO: Also, Member and Chair of the Council, Danny Mateo.
COUNCILMEMBER MATEO: Morning, Chair.

CHAIR VICTORINO: Member and, uh, what you call...

COUNCIL MEMBERS: ...(chuckles)...

CHAIR VICTORINO: Hmm, looking at my list here. Oh, okay, I get--no wait, hang on, I got my list here and I think there’s a mistake on the list, so that’s not a problem. Member and Vice-Chair of the Committee, Budget Chair Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning, sir. ...(chuckle)...

CHAIR VICTORINO: And Member and Land Use Chair, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: They missed your name, that’s why. I was all confused for a moment.

COUNCILMEMBER BAISA: They leave me out a lot.

CHAIR VICTORINO: No.

COUNCILMEMBER BAISA: ...(inaudible)...

CHAIR VICTORINO: That’s okay, that’s okay, but I, I got ‘em, I got ‘em. And also Planning Chair for, and Member of this Committee, Sol Kaho‘olahala.

COUNCILMEMBER KAHO‘OHALAHALA: Good morning.

CHAIR VICTORINO: And your Chair, myself, Michael Victorino. A Non-Voting Member and a Member who’s here all the time is Mr. Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR VICTORINO: Thank you, Mr. Nishiki. And excused today is Member Bill Medeiros. From the Administration, right now we have from Corp. Counsel, Mr. Edward Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: And, Myles, if you’d like to come up now, you can come up. I would like to introduce Myles Fujinaka, Civil Engineer from the Engineering Division, Department of Water. He is standing in for Herb Chang, who is on vacation and well deserved. Thank you, Mr. Fujinaka, for being here. Also in the audience and may be called upon later today, from the Fire Prevention Bureau, Department of Fire and Public Safety, Lieutenant Scott English. Also,
our Director from Public Works, Mr. Milton Arakawa. Thank you for being here. And coming in to represent the Water Department is the Deputy of the, Deputy Director of the Water Supply Department, Mr. Eric Yamashige. You come in right at the right moment when I’m introducing everybody. Our Committee Staff, our Legislative Analyst Kim Willenbrink and our Committee Secretary Tammy Frias. Thank you all for being here this morning.

First of all, I’d like to say thank you very much to Mr. Pontanilla, my Vice-Chair, for standing in for me two weeks back. As you’re well aware, I was unable to attend. I was in St. Louis and had a tremendous experience with my son at the All-Star Game, and thank you to you and Mr. Mateo for allowing me that opportunity to attend that. So thank you, gentlemen, for covering for me.

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

CHAIR VICTORINO: Let me start by saying...before this Committee is a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES”. The purpose of the proposed bill is to codify the rules and regulations of the Department of Water Supply relating to subdivision water system requirements. After we receive testimony from the public, we will continue to discuss WR-1(5) relating to subdivision water system requirements. Now I was informed earlier by Ms. Baisa’s office that there was an accident up on Haleakala Highway which has lock...gridlocked traffic. So I will open up to public testimony, but I will leave it open until this one individual and maybe others who are stuck in the traffic are able to attend. So, at this time, Ms. Frias, do we have any public testimony?

MS. FRIAS: No, Mr. Chair.

CHAIR VICTORINO: None at this time. But with, with the Committee’s approval, I will leave public testimony open until these individuals have an opportunity to arrive.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you very much. So, I will, I guess when they come, I will go over the limitations and all of that. Let’s just delve into where we’re at, WR-1(5), Subdivision Water System Requirements, things that we’ll be considering today. Have you passed out the memo?

MS. FRIAS: Yes.

CHAIR VICTORINO: Okay. On your desk, you have received a memo dated August 4, 2009 explaining the revisions that this Committee agreed upon at the last meeting. For your reference, a copy of the bill is attached to the memo with those revised highlighted, revisions that are highlighted, yeah? Number two, the bill will be reviewed by Subdivision Standards Committee on August 7, 2009. We should receive their comments and suggestions shortly thereafter. The
bill is also scheduled for review by the Board of Water Supply, which was supposed to be done on the July 24th meeting; however, they ran long on a contested case. So they have, the Chair, Mr. Howden, has requested that we give them an extension until their next meeting which is August, and they will respond by us on, by August 31st. And then you might want to remember that on July 13, 2009, we did get a response from Lee Aldridge and that response was that he would be very willing to work with us and give us some ideas. So, at this time, Mr. Aldridge has some personal matters that he is in, has to take care of, but he has assured me that some time later this month, he will get back to us with his ideas and recommendations on some of the questions that was brought forward.

So, with no further questions, I will now turn to the Department and let us start where we left off. I'm sorry? I'm sorry, go ahead.

MS. WILLENBRINK: Would you like to take a brief recess?

CHAIR VICTORINO: Okay. To lower the screen, right? Okay, we going take a two-minute recess to lower the screen. This Committee is in recess, subject to the call of the Chair. . . .(gavel) . . .

RECESS: 9:10 a.m.

RECONVENE: 9:12 a.m.

CHAIR VICTORINO: . . .(gavel) . . . The Meeting of the Water Resource Committee is reconvened. We left off at the last meeting on 14.05.100, Subdivision elevation agreement. At this time, I will turn to Eric or Myles for a perspective from the Department itself.

MR. YAMASHIGE: Thank you very much, Mr. Chair, Members. This Section 14.05.100 is referring to the Subdivision eleva..., elevation agreement. This is when the system may not provide the adequate pressure to a lot or development, and this agreement allows the project to move forward and stipulates that improvements be made prior to the Certificate of Occupancy, Mr. Chair.

CHAIR VICTORINO: Thank you, Mr. Yamashige. Questions for Mr. Yamashige on this particular item? Seeing none, move on to 14.05.110, Construction agreement and bond for water system improvements.

MR. YAMASHIGE: Thank you very much. Section 14.05.110 provides for and allows the bonding of improvements to get final subdivision approval. The agreement actually refers to several different types of sureties, but this one mentions specifically the bond.

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

VICE-CHAIR PONTANILLA: Chairman, I have one.

CHAIR VICTORINO: Yes, Mr. Pontanilla?
VICE-CHAIR PONTANILLA: I don't know if it's going to be covered in B., C., but for the Department, in regards to bond, when do we give back the bond to the, the developer? After the completion of the subdivision, after all of the easements is approved, then the developer--because easements are approved by this Council and sometimes, you know, sometimes we do have some problems and issues, and when we find out that the bond had already been reimbursed, you know, the County gets stuck with additional costs to correct things. So, can you tell us when the bond is returned to the developer?

MR. YAMASHIGE: Yes, Mr. Pontanilla. The bond is returned upon final subdiv... no, completion of the improvements, because final subdivision approval was granted based on the bond. So once all of those things are completed, then we return the bond.

VICE-CHAIR PONTANILLA: So, I got a question for Corporation Counsel. Because we got stuck, I think we going to get stuck with one of them, one of the projects, can we hold a bond until final approval is, final approval on the easement is granted by the Council?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Member Pontanilla, final approval on the easement? I'm not familiar with the Public Works system of holding bonds until the easements are granted. But for Water, easements are...as you may know and Chairman Mateo knows, for Water Department, easements are accepted by the Department, it doesn't come here. So, it's a little different situation and I think in, as a practical matter, the Department would release a bond when the, when the project is, is done, including acceptance of easements and acceptance of the improvements. There's also a section--I'm not sure if it's in here--but once the improvements are ready for...to be accepted, there's a one-year repair and replacement agreement entered into by the developer and they put 10 percent down as a guaranty that the improvements will be okay for one year. So, it's a little different from what the Public Works does.

VICE-CHAIR PONTANILLA: So there's...for a developer then, he would need to provide several bonds, am I right? One for Public Works? One for Water?

MR. KUSHI: Yeah, the bonding situation can be, can be confusing. There's bonded final subdivision approval, then there's bonded, there's a bond for completion and repair and replacement and there may be other types of bonds by Finance, but from the Water Department side, we only deal with bonded final for improvements and, and after acceptance there's another bond or security agreement for 10 percent.

VICE-CHAIR PONTANILLA: So all of the bonds are not compatible between Water, Public Works, Environmental Management, in regards to when a bond is returned to the developer?

MR. KUSHI: In, in my, my, my actual experience, there might be differences.
VICE-CHAIR PONTANILLA: Is there a way to make it consistent?

MR. KUSHI: Again, in my experiences, I've had no problems, no, no really concerns between the two departments.

VICE-CHAIR PONTANILLA: Okay.

MR. KUSHI: Again, you have to understand, final subdivision approval is granted by Public Works, not the Water Department.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Any other questions for Corp. Counsel or the Department in this area, Construction agreements and bond water, bond of water system improvements? Okay, let's move on to...okay, 14.05.120, Construction plans. Mr. Yamashige?

MR. YAMASHIGE: Thank you very much, Mr. Chair. Construction plans are quite self-explanatory. It is required that a licensed professional engineer registered in the State of Hawaii prepare those plans and submit it.

CHAIR VICTORINO: Thank you. Questions for Mr. Yamashige on that particular chapter? Yes, Chair Mateo?

COUNCILMEMBER MATEO: Mr. Chair, thank you. If we could just go back to the section that, that we just passed, on that last item, and...

CHAIR VICTORINO: So we’re going back to 14.05.110?

COUNCILMEMBER MATEO: Yes.

CHAIR VICTORINO: That’s, that’s the area you’re referring to? And what--

COUNCILMEMBER MATEO: Correct, and Number 4, the, the last--

CHAIR VICTORINO: Number 4 would be on Page 8, right?

COUNCILMEMBER MATEO: Yes.

CHAIR VICTORINO: And that’s one, if I’m correct, in lieu of surety bond or cash deposit?

COUNCILMEMBER MATEO: Correct.

CHAIR VICTORINO: Okay, go ahead.
COUNCILMEMBER MATEO: Maybe if the Department--it also references other negotiable instruments or securities that’s acceptable by the Department. Is that other inclusive of land or can you tell me exactly what other securities is being referred to in this particular passage?

CHAIR VICTORINO: Either Mr. Yamashige or Mr. Kushi, if you guys want to answer Chair Mateo’s question?

MR. KUSHI: Mr. Chair, I’m sorry. Member Mateo, what, what section are you looking at, C.?

COUNCILMEMBER MATEO: Um...

CHAIR VICTORINO: Page 8, go to Page 8.

COUNCILMEMBER MATEO: Number 4.

CHAIR VICTORINO: On the top of the page, Number 4, In lieu of surety bond or cash deposit, a subdivider may deposit with the Department other negotiable instruments or securities acceptable to the Director, and reviewed and approved by the Department, Department of Corporation Counsel.

MR. KUSHI: Yeah. Mr. Chair, Member Mateo, this would include but not be limited to letter, letters of credit, irrevocable letters of credit, certificate of deposits.

COUNCILMEMBER MATEO: Okay. So it would not be inclusive of land and the value of that land?

MR. KUSHI: Again, in my experience, I’ve never had a situation where land was offered.

COUNCILMEMBER MATEO: Okay.

MR. KUSHI: And again, you know, it would, it would then entail a whole slew of other issues like appraisals, et cetera, and we’re really not in the mortgage business.


COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Mateo.

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: Yes, Ms. Baisa?
COUNCILMEMBER BAISA: Thank you very much. Just an observation. I’m noticing that this piece you gave us for today, the whole, most...well, I can’t see any part that’s not underlined --

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: --which implies to me that this is all new, because this is, when we underline, that means we’re going to try to suggest to put it in, or is this that we’re building or correcting something that was before? It’s kind of unusual that the whole piece is new. We didn’t have these rules before?

CHAIR VICTORINO: Okay. Ms. Willenbrink, would you like to address that for me, please?

MS. WILLENBRINK: Yes, Mr. Chair. This will be a new chapter in the Code; however, it is existing right now in the Department’s Rules and Regulations. That is why it’s all underlined. And the revisions we are making week-to-week will also be underlined if it’s new material, but after all the deliberations are over, we’ll send it back to Corp. Counsel and get a new bill showing all these revisions that the Committee has agreed upon. Does that make sense?

COUNCILMEMBER BAISA: Well, what I’m trying to figure out is, you know, if this is all new, how did we operate until now? Because, you know, we must have something we’re going by.

MS. WILLENBRINK: This is--

COUNCILMEMBER BAISA: But this is just new in this particular place where we’re going to put it now?

MS. WILLENBRINK: It’s in the Department’s Rules and Regulations --

COUNCILMEMBER BAISA: Right.

MS. WILLENBRINK: --but it’s never been codified.

COUNCILMEMBER BAISA: In the County Code?

MS. WILLENBRINK: That’s correct.

COUNCILMEMBER BAISA: I see. Okay. I was just trying to figure out, you know, if it’s all new, how did we operate up until now. Thank you very much.

CHAIR VICTORINO: That’s a good question, Ms. Baisa, and I’m sorry I failed to explain that earlier. So, yes.

COUNCILMEMBER BAISA: Thank you.
CHAIR VICTORINO: Thank you. Okay, moving right along. Any other questions in both 110 or 120 of the rules? If not, I’m going to complete three more and then I’m going to stop, have the screen raised and we’ll take some public testimony. The person who called about the accident has arrived. So, well, let’s finish three more and then we’ll move on and take a quick break and then have public testimony. Let’s move on to 14.05.130, Materials and construction standards. And I think this is the question that came up earlier in some other areas we were discussing. Mr. Yamashige?

MR. YAMASHIGE: Yes, thank you, Mr. Chair. I do believe that it’s mentioned earlier reference to the 2002 Water System Standards, and in there, there is a approved material list. So what’s mentioned here is a part of what’s included in those standards.

CHAIR VICTORINO: The 2002?

MR. YAMASHIGE: Yes.

CHAIR VICTORINO: Thank you. Questions for the Department or Corp. Counsel in regards to this section?

COUNCILMEMBER BAISA: Chair.

CHAIR VICTORINO: Yes, Ms. Baisa?

COUNCILMEMBER BAISA: So we have then in this version of what we’re trying to adopt decided that there’s no more “may”. It used to say pipes may be ductile iron. So now we’re saying pipes “shall” be?

CHAIR VICTORINO: That is correct.

COUNCILMEMBER BAISA: Okay, because that was a question that I was asked.

CHAIR VICTORINO: That’s right.

COUNCILMEMBER BAISA: Okay, thank you.

CHAIR VICTORINO: That was one of the changes. We’re taking “may” out and “shall” is inserted. Any other questions? Okay, seeing none, 14.05.140, Installation of water systems, water service--I’m sorry, sorry--water service. Mr. Yamashige?

MR. YAMASHIGE: Yes, Mr. Chair. This one is short and quite, it’s self-explanatory. Thank you.

CHAIR VICTORINO: Yeah. Again, you don’t mind, I just trying to go one-by-one so that we cover everything and then later on, you know, somebody can’t say I didn’t. Any questions for the
Department on the installation of water systems [sic]? Okay, seeing none, moving on to 14.05.150, Inspection of work. I think this is important. Go ahead, Mr. Yamashige.

MR. YAMASHIGE: Yes, thank you, Mr. Chair. We, we do have water system inspectors as part of our Engineering Division that does inspect the installation of improvements that are turned over to the Department. This simply identifies the request for those services.

CHAIR VICTORINO: Okay. Questions for the Department?

VICE-CHAIR PONTANILLA: Yeah, Chairman.

CHAIR VICTORINO: Yes, Mr. Pontanilla, go ahead.

VICE-CHAIR PONTANILLA: Thank you. Our normal is Monday thru Friday, and then Saturday, Sunday, holidays, I guess the developer pays premium time to the County?

MR. YAMASHIGE: That’s correct.

VICE-CHAIR PONTANILLA: Okay. So the County…well, he pays all the costs, right?

MR. YAMASHIGE: Yes.

VICE-CHAIR PONTANILLA: Okay, thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla, that was my exact same question. Okay, other questions? If not, the last one I’ll cover is 14.05.160, Repair and replacement of improvements. Mr. Yamashige?

MR. YAMASHIGE: Thank you, Mr. Chair. This is what was briefly discussed earlier. Previously, we discussed the subdivision agreement and bond surety. This is the warranty and guarantee of the improvements, actually called the repair and replacement of improvements, that are being dedicated to the Department.

CHAIR VICTORINO: So this is the one Mr. Kushi made reference to --

MR. YAMASHIGE: That, that’s right.

CHAIR VICTORINO: --earlier?

MR. YAMASHIGE: Yes.

CHAIR VICTORINO: Okay. Thank you. Questions for the Department on this particular section?

COUNCILMEMBER MATEO: Chairman.
CHAIR VICTORINO: Yes, Mr. Mateo.

COUNCILMEMBER MATEO: Maybe the Department can provide a response. It, the verbiage used says at least 10 percent. At least means that is, is there anybody who determines whether or not the required amount that they put, that, that they bond is less than 10 percent? Who makes that determination? Because the verbiage says that they should be putting up at least 10 percent. Is that the minimum?

MR. YAMASHIGE: Yes, 10 percent is the minimum.

COUNCILMEMBER MATEO: So, but that’s the norm as well?

MR. YAMASHIGE: That is the norm.

COUNCILMEMBER MATEO: So why are we saying “at least”, where, where it should read they should be putting down 10 percent.

MR. YAMASHIGE: We cannot think of any instance where we ask for more than 10 percent, but 10 percent is the minimum. . . .(chuckle). . .

COUNCILMEMBER MATEO: Minimum and maximum?

MR. KUSHI: Okay. Mr. Chair.

CHAIR VICTORINO: Yes, Mr. Kushi, go ahead.

MR. KUSHI: I recall in one instance we went 20 percent.

COUNCILMEMBER MATEO: Okay, and that is at the call, the Director’s call?

MR. KUSHI: Yes, because there was some inspection timing problems on the, not on the Department side.

COUNCILMEMBER MATEO: Okay.

MR. KUSHI: So...

COUNCILMEMBER MATEO: Thank you.

CHAIR VICTORINO: So let me, let me go and, and chime into this one specifically. At least or if, if--and maybe you can help me, Ms. Willenbrink--would it be more appropriate instead of putting at least, then putting something like the approved security shall be a “minimum” of 10 percent, because then it leave...that’s the bottom line. I mean, you cannot go less than
10 percent, but now the way it reads, approved security that shall be “at least” 10 percent. I think, I don’t know, I may be wrong, but, Ms. Willenbrink, what do you think about inserting minimum of 10 percent instead of at least 10 percent? Committee, what do you think on that? Go ahead, Ms. Willenbrink.

MS. WILLENBRINK: May I defer to Corporation Counsel?

CHAIR VICTORINO: Okay. Ed, Mr. Kushi?

MR. KUSHI: In my mind, it doesn’t make a difference.

CHAIR VICTORINO: It doesn’t make a difference?

MR. KUSHI: At least or minimum.

CHAIR VICTORINO: What would the Committee feel more comfortable with?

VICE-CHAIR PONTANILLA: As is.

COUNCILMEMBER BAISA: I don’t have a . . . (inaudible) . . .

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER MATEO: Chairman, Chairman, Corporation Counsel doesn’t have a problem with the verbiage and it will be Corporation Counsel that will have to defend the County when there is concerns. So if Mr. Kushi is comfortable with it, you know, I think, I think we can, we can live with it.

CHAIR VICTORINO: Okay. I just wanted, just to present it and, and see what you, what the feeling of the body was. That’s fine. Okay. So if there is no further questions or discussion, I will take a quick recess to lift the, to allow the lighting to come back on. A two-minute recess and then we’ll call for public testimony. This meeting stands in recess. . . . (gavel) . . .

RECESS: 9:29 a.m.

RECONVENE: 9:32 a.m.

CHAIR VICTORINO: . . . (gavel) . . . The meeting of the Water Resource Committee, August 4, 2009 meeting will be reconvened. As I mentioned earlier, I was going to open or I’ve left open public testimony and we have one individual who signed up for public testimony, and at this time, I would like to allow that individual the opportunity to give public testimony. This morning we have Mr. David Goode from KSD Hawaii and the Maui Contractors Association, and he would like to speak on behalf of those organizations. Mr. Goode?
MR. GOODE: Thank you, Chair. Thank you, Members of the Committee, for allowing me to come a little late. There was a little jack-knifed truck on Haleakala Highway. It didn’t look like anybody’s hurt, but there is fuel spill, lots of firemen, et cetera, so it took me a little while to get around that. So, again, thanks for the consideration. Looks like I’m the only one testifying. So, I want to start by saying thanks again for, for continuing this work, it’s very important, and it seems like some of the comments I made previously were incorporated and I appreciate that. I do want to make a general comment regarding the Ramseyer format. It’s really hard to read with everything being underlined. The, the communication I saw originally, I think it was 6/29 or something from the, after the previous meeting, there were changes made. I, I couldn’t even find them. So all I could do was just kind of look at my previous comments, see what got incorporated. So I ask somebody to figure out a better way to, to do this. And I see the one that you handed out today is bold where you added and then the deletions are bracketed. But I think, I remember Council Chair Mateo, when he did the workforce housing, he had like, you know, a date at the top, you know, the bills, this is the June 29th version. It was easier to track, so I’m just throwing that out there and I’m wasting part of my three minutes --

COUNCIL MEMBERS: . . .(Chuckles) . . .

MR. GOODE: --but it is hard for the public to read. I had a hard time. Okay. So hopefully you’ll give me an extra minute. Okay. I had...what I want to do is to go over the comments I gave previously and just kind of run them down real quickly. In 14.05.010, I still feel there needs to be some kind of definition of an adequate and sufficient water supply. That’s kind of the basis for this whole Chapter and I feel strongly there should be a definition. The second one I had was about the easements and that, that looks like my concerns have been addressed in the 6/29 draft. So mahalo. The next one is back to the ductile iron pipe and I’ve handed out today something that I received last week actually, and I really think that--as the Department mentioned two things. They’re incorporating the 2002 development standards which do say ductile iron. Of course, that’s now seven years ago. And recently, the State House passed a resolution in this last legislative session asking that all of the water supplies for all four counties, you know, strongly consider the use of other pipe that are very good pipes that have been used throughout the nation for many years and are way more cost effective. Those cost savings go to the end users. So, we think there’s a really good case to use C900 pipe in particular. It’s approved by the Department of Health, our Department of Health. If you’re doing private work, it’s all in C900. For instance, I talked to somebody the other day who said, oh, they did King Kekaulike. Once it gets into the school, it’s all C900. They don’t use ductile iron. It’s approved by the Department of Health. The legislators asked that we consider it. The standards are seven years old now. Let’s have a full and open discussion about it. And let’s consider it because those are cost savings that gets passed on to the end user, and I know the City and County of Honolulu uses it all over the place. I don’t see why we can’t use it.

My next item was 14.05.190(B) [sic], Family subdivisions. It looks like some language got incorporated there. Thanks for that. There’s also language that I saw in the 6/29 version that
said, but the Director shall not approve a deferral, which I believe is for family subdivisions but also may be for large lots, if the water needed by the subdivision is not available. Well, that makes sense. You can't build if it's not available, but you can still defer it. Say, okay, you can have it when it's available. So allow the deferral agreement which allows the land to be created, whether it's to pass down to family or create large lots, but be clear about it and say, yeah, you cannot get water until it's available.

The next item I had just had to do with timeliness and I didn't see any changes in the 6/29 version, and this is regarding HRS 91-13.5, which to my understanding says, hey look, if you're doing a development-related permit, there needs to be time constraints. I didn't see anything in the revised version and I think you need an opinion from Corp. Counsel as to how 19...excuse me, 91-13.5, how it's to be incorporated. Is it already incorporated? How are we abiding by the State law in this particular instance?

And I had one final comment if I may, Mr. Chair? Maybe I'm asking for too much, but you just had a discussion about the 10 percent repair and replacement bond, and the Department mentioned we do it different than Public Works. Well, Public Works doesn't require it. So they require repair replacement bonds for the roads, the sidewalks, the sewer lines, the drain lines. They require a written agreement that it will be fixed, but that 10 percent bond is yet another cost that gets passed on . . .(end tape 1A, start 1B)... And I don't know the Department's experience with how often they got to come out and fix pipes that are leaking or what have you that are, you know, way less than a year old. But, again, it's another cost, it's another time-consuming process for the Department and their staff and us and delivering product. So Public Works doesn't need it for sewer and drain. Maui Electric doesn't require it for their utilities. Only the Water Department requires it. I would consider, why have it? So, I'm throwing that out there. How many instances have they had to go out and call the bond, you know? What are we protecting here while we're adding another layer of paperwork and costs?

Alright, that's all I have. Again, thank you very much. I can't stay to hear more of your deliberations today. So thank you.

CHAIR VICTORINO: Before you leave, Mr. Goode, let, let me ask the Committee, first of all, anyone has questions on Mr. Goode's testimony? Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you very much, Mr. Goode, for getting here. I realize it must have been kind of traumatic. I hate being stuck in traffic on the hill, but thanks for giving us a heads up.

MR. GOODE: Sure.

COUNCILMEMBER BAISA: Not to belabor this point, but I, I'm interested in your comments about using the ductile iron or the C900 and you say the C900 is more cost effective? Can you give us an idea of more-or-less like how much is a piece of ductile iron, how much is a piece of C900?
MR. GOODE: I, I can’t remember off the top of my head...

COUNCILMEMBER BAISA: Or in a home, what does that mean? Is it thousands of dollars? Is it hundreds of dollars? What is it?

MR. GOODE: Well, the last I looked, I believe, it was around a third of the cost, so a 20-foot section of pipe, C900 versus ductile iron, so about a third of the cost. It’s easier to handle. It’s a little lighter. So again, it goes to the field quicker, it’s still buried to the same depth, et cetera. If you actually look at the cross section of C900, you’ll be surprised at how thick it is. It’s actually pretty heavy, but it’s not as heavy as ductile iron. So you save in installation costs and you save on the raw cost. The trench is basically the same size and you got to backfill it the same way. So, you know, if you save, you’ll probably save 20 bucks a lineal foot. So on a 1,000 lineal feet, you save $20,000, maybe 30 with the labor savings.

COUNCILMEMBER BAISA: So it’s a significant amount then, especially for us that are talking about affordable housing?

MR. GOODE: Yeah, and that’s why in private water systems, it’s almost universally used. Why, why go to ductile iron if you’re not getting any added perceived benefit?

COUNCILMEMBER BAISA: Thank you very much. Thank you, Chair.

CHAIR VICTORINO: You’re welcome.

VICE-CHAIR PONTANILLA: Chairman.

CHAIR VICTORINO: Yes, Mr. Pontanilla and then Mr. Kaho‘ohalahala.

VICE-CHAIR PONTANILLA: Thank you. Thank you, David, for this information. In regards to the life of the material compared to duct line, I’m assuming that C900 is a polyvinyl chloride pipe that you talked about.

MR. GOODE: That’s correct.

VICE-CHAIR PONTANILLA: So, what’s the difference in life span between duct line and polyvinyl chloride pipes?

MR. GOODE: I’m not aware of any noticeable life difference. Some of it may be dependent on, you know, the temperature of the water and the soils that surround it, but I can get some more information and bring it back to the Committee.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: You’re welcome. Mr. Kaho‘ohalahala?
COUNCILMEMBER KAHOʻOHALAHALA: Thank you, Chair. Mr. Goode, I was just wondering whether or not you know if the C900 that you make reference to, the PVCs, are there any issues with the leaching of any toxins...toxic chemicals into the water itself?

MR. GOODE: And again, I'm, Mr. Kahoʻohalahala, I'm not aware of any and the fact that it's been approved by our State Department of Health, Safe Water Drinking Branch leaves me to think that it's not an issue.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. Do you know if there were any studies done, though, on the pipe itself?

MR. GOODE: I'm pretty confident there has been. The C900 is, I think through the AWWA, has done exhaustive studies on it.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. So there should be some information available?

MR. GOODE: Yeah, and I can help --

COUNCILMEMBER KAHOʻOHALAHALA: Okay.

MR. GOODE: --locate that.

COUNCILMEMBER KAHOʻOHALAHALA: Thank you.

CHAIR VICTORINO: Any other questions for the testifier? Seeing none, and I know you have a busy schedule, Mr. Goode, thank you very much and --

MR. GOODE: Yeah. Thanks again for allowing me to speak.

-END OF PUBLIC TESTIMONY-

CHAIR VICTORINO: --appreciate you making that effort to be here today. Thank you. Seeing no one else coming down for public testimony, ah, I'll just leave it open for now just in case somebody who might have been stuck in the Upcountry area shows up. So, I'll leave public testimony open if it's okay with the, the, the Committee. Any objections to that?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Okay, you know, at this point, I would like to go back, I guess, on the ductile iron pipes and give the Department an opportunity to chime in on what has been presented to us on House Bill No. 52. Mr. Yamashige, would you like to address some of the questions that were brought up as far as, first of all, cost; secondly, the life expectancy of these various types of materials used for pipes?
MR. YAMASHIGE: Yes. Thank you, Mr. Chair. I really wasn’t prepared to address this, but let me just say that ductile iron pipe, you know, is the preferred material for the Department. It’s very difficult to mess up the installation of a ductile iron pipe because of just the properties of that pipe. The, the negative side of ductile iron is the potential for corrosion, but there are, there is something called polywrap, which is a plastic covering that goes outside of the pipe that does protect the pipe and it’s proven to protect the pipe. The Department, when you look at this House Resolution, references made to the high density polyethylene pipe, the Department has used that and we have had problems with that. So it’s, you know, it’s great when these products come out, but it doesn’t mean that it has that history or that proven history. PVC has been around for a while. It is, is a proven material, but in the high pressure, I guess, realm in water distribution, I’m not sure that we have a lot of history on it. Certainly, we’ve, I’ve seen construction where, where the backfill hasn’t been controlled as well as it should have, and you actually get a perforation of that plastic because there was a rock placed against it. You hardly ever see that happen to ductile iron. At this point, the Department is still very supportive of ductile iron.

CHAIR VICTORINO: Okay. Thank you, Mr. Yamashige. Questions for Mr. Yamashige in this particular area? Ms. Baisa?

COUNCILMEMBER BAISA: Oh yeah, thank you. I think before we make a decision one way or the other, it would be nice if we could get more information and we could take a look at what Mr. Goode promised he would supply us with, and then we’ll feel more comfortable in deciding once and for all.

CHAIR VICTORINO: That’s fine. I will...and I’m right now on the AWWA website and I will ascertain more information from a non-biased source like the AWWA, and that way you will have that information. So, I don’t know if I can pull it up all now, but probably by our next meeting, I will do that. Mr. Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Victorino. Just a follow-up on Member Baisa’s question, if also you could, we could get, find out other municipalities who are using this type of material as well, I think it will help us determine if this is something, you know, we can strongly urge the Department to consider. Because I know sometimes change is hard to consider when you’ve been using same product over the years, but we have to factor in cost and efficiency. So I think there’s nothing wrong with exploring these other types of materials.

CHAIR VICTORINO: Well, I can answer that question about other municipalities that are starting to use the--that I think you got to go back to Mr. Yamashige’s earlier comment, that track record. Most of these types of piping have been out in the last 10, 15, 20 years and there’s not a lot of track record; whereas, ductile iron has been around for a long time. So I think the track record is a little bit. . .(inaudible). . .at best right now. However, there are more municipalities out in the United States that are starting to look at these to make changes, (a) just what you were referring to, cost; and (b) the type of soil they have may not be as--what do you call the word I’m trying
to...?--not has pressurized, you know. In other words, a lot of them have like dirt or sand type of bases. Like, for example, in Arizona where I was, they do a lot of their diggings...are just sand. You know, you go down 5-6 feet, all you got is soft sand or, or, or sand rock and that's it; whereas, you know, here, we might have rock as being an issue, as Mr. Yamashige--but let me go find out and then I'll bring back that information to you by our next meeting.

COUNCILMEMBER MOLINA: Thank you.

CHAIR VICTORINO: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, Chairman. Mr. Yamashige, presently, you know, our people that do repair work, installation work, they kind of familiar with the PVCs?

MR. YAMASHIGE: Thank you, Mr. Pontanilla. I’m not familiar or I’m not aware of any place in our system right now that we’re using PVC. We do have the high density polyethylene pipe and our, our guys are familiar with repair of that.

VICE-CHAIR PONTANILLA: So we do have inventory on the high density pipes then?

MR. YAMASHIGE: We have a little bit. It’s not the product that we want to use.

VICE-CHAIR PONTANILLA: So most of your materials are duct line?

MR. YAMASHIGE: That’s correct.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Any other questions? If not, then I’ll do some research and, and try to ascertain with the various questions that have been asked. Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Yeah. Chair, I just wanted to add that, you know, aside from the fact that we want to find out whether the materials are cost effective, safe, I think--

CHAIR VICTORINO: Environmental? Yeah.

COUNCILMEMBER KAHO‘OHALAHALA: --yeah, we want to look at safety --

CHAIR VICTORINO: Yeah, yeah.

COUNCILMEMBER KAHO‘OHALAHALA: --and health as, as another component of that.
CHAIR VICTORINO: Yeah. All of those will be a part of the components, Mr. Kaho‘ohanala. I, I won’t leave any one, one area out, you know. Yeah, to be cost effective and then to have health issues later, it just would make no good sense. So --

COUNCILMEMBER KAHO‘OHANA: Okay, thank you.

CHAIR VICTORINO: --yeah. So, I will make sure what we incorporate and, Ms. Willenbrink, keep making notes on that, so we will try to ascertain that information and provide it at our next Committee meeting. Any further questions in this area? If not, then I will, you know, again, we’re not going to shut this off and we’re going to continue moving on. And so, let us get back to--where did we leave off?--oh, okay, 14.05.170. Oh, I got to take a quick recess 'cause we got to put the screen up again. So you know what, let’s take our morning recess. Let’s return at 10 o’clock. The Water Resource Committee will stand in recess till 10:00 a.m. ...(gavel)...

RECESS: 9:50 a.m.

RECONVENE: 10:03 a.m.

CHAIR VICTORINO: ...(gavel)... The meeting of the Water Resource Committee will come to order. At this time, we will dim the lights and proceed on our rules, and we are now at 14.05.170, Ownership of installed water system improvements. Mr. Yamashige?

MR. YAMASHIGE: Thank you, Mr. Chair. This section addresses systems that are actually dedicated to the Department for operation and maintenance, and mentions that prior to that dedication, the system needs to be approved.

CHAIR VICTORINO: Thank you. Questions for the Department? Okay. Ms. Baisa?

COUNCILMEMBER BAISA: No, I was just trying to see --

CHAIR VICTORINO: Oh, sorry.

COUNCILMEMBER BAISA: --if we could move up so we can see the whole thing.

CHAIR VICTORINO: Could we, could we move that up, please --

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --Ms. Willenbrink? Oh, I see, yeah, because --

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --it’s --
COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --two pages.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: I see, yeah. I’m sorry. Is there any way you can balance it so that it’s up a little, see if we...

COUNCILMEMBER BAISA: Oh, it’s too big.

CHAIR VICTORINO: Just so we have everything in one. I think that’s it right there, yeah?

MS. WILLENBRINK: That’s it.

CHAIR VICTORINO: Egress is the end, yeah, ingress/egress. Okay, that’s the end of the entire Chapter right there, or the entire section. Any questions, ladies and gentlemen? Seeing none, we move on to Deferral... 14.05.180, Deferral, and I think this one we’ll have some discussion. So, if you’d stop right there, Ms. Willenbrink, and I guess we can’t get the whole page because we’re still missing, I think, one line, two lines after that? Because there’s one more line after that. Can you go up one more? Let’s see, one more. There you go. That’s it. Okay.

MR. KUSHI: Mr. Chair?

CHAIR VICTORINO: Yes, Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair, excuse me, but I, I feel I need to say something here at this point in time in the interest of full disclosure and clarification.

CHAIR VICTORINO: In what respect, Mr. Kushi?

MR. KUSHI: Yes. The previous draft of this bill in your binders, Members, is dated May 27, 2009 under WR-1(5).

CHAIR VICTORINO: That was modification of requirements?

MR. KUSHI: Correct.

CHAIR VICTORINO: That is correct.

MR. KUSHI: It was a, the transmittal to you was dated May 27th. In that draft, we had a subsection between, before this Deferral section, and that was Section 14.05.180 at Page 13 of that.

CHAIR VICTORINO: That was modification of requirements?

MR. KUSHI: Correct.

CHAIR VICTORINO: Okay.
MR. KUSHI: Now pursuant to our meeting between staffs and your office, the decision was made to delete the entire section.

CHAIR VICTORINO: Okay, if you would go to the correspondence dated May 27, 2009 in your binder, ladies and gentlemen. I’ll give you a moment, yeah. And then if you would then turn to Page 13 on the draft document and it’s numbered 14.05.180, Modification of requirements is the title, and if I would ask Ms. Willenbrink if she would...Ms. Willenbrink? Oh, okay. Mr. Kushi?

MR. KUSHI: Yes, yes.

CHAIR VICTORINO: Would you do me a favor? Would you read for the public’s information 14.05.180 so that the public is aware of what we’re discussing at this time?

MR. KUSHI: Okay, Mr. Chair. Again, this, this section is currently in the Department’s rules.

CHAIR VICTORINO: That is correct.

MR. KUSHI: So, and again, the bottom line is that we decided to submit to the Council to delete the entire section. It reads as follows: Modification of requirements. When conditions pertaining to a subdivision are such that the lots to be created by the subdivision may be properly provided with water service and fire protection without being in full and strict compliance with the requirements of this chapter, or where the subdivision site or layout is such that the public interest will be adequately protected, and such modification is reasonably necessary or expedient, and not contrary to law or the intent and purpose of this chapter, such modification may be granted by the Director; provided, that any modification from the full and strict compliance of the requirements of this chapter shall not jeopardize nor affect water service or fire protection to the exist..., to existing customers in the applicable service area.

CHAIR VICTORINO: Okay.

MR. KUSHI: So, Mr. Chair, in essence, by deleting this section, there is no discretion by the Department to modify any requirements.

CHAIR VICTORINO: And I think that was what I kept hearing from some of the Members, that too much discretion to the Department and the Director, and this was one of the areas which we felt that we could eliminate and start into the process. So are there any questions in regards of eliminating this particular Section, 14.05.180? Yes, Ms. Baisa?

COUNCILMEMBER BAIWA: Thank you very much, Chair. I, I will concur that we have said maybe too much discretion and kind of ad hoc decision-making without rules or following rules or whatever, but have we swung the pendulum too far so that there is no discretion or no opportunity for the Director to waive requirements should some unique situation lend itself to that?
CHAIR VICTORINO: Well, I don’t think so, but I will defer this question to Mr. Yamashige and/or Mr. Kushi for a response. Maybe, Mr. Kushi, would you like to respond to that question from Member Baisa?

MR. KUSHI: Um, I’ll, I’ll try.

CHAIR VICTORINO: Okay.


MR. KUSHI: I think that the discussion that we had and the rationale of the directors of Public Works as well as Water and, and, and let me, let me also clarify this. The Department of Public Works Director has no such provisions in his bible. So, again, to be consistent, one. Secondly, it’s a two-edge sword, you know, if we, you know, leave this in. And thirdly, is that this body also gave the Board of Water Supply jurisdiction to appeal the Director’s decisions. So in this case there is, it’s not an absolute. If an applicant feels that, you know, without this section, he’s stuck, and the Director is just applying the rules or the Ordinance as, as adopted and feels unjustly, unjust, he can always appeal to the Board of Directors, I mean, the Board of Water Supply. So, again, the, the, the staff felt that taking this section out, we can...they will just say, you know, these are the rules. This is, this is what we play by, not play by, but what we apply in reviewing, in reviewing your application and if you’re dissatisfied, appeal it to the Board.

CHAIR VICTORINO: Thank you, Mr. Kushi, for your explanation. Ms. Baisa?

COUNCILMEMBER BAISA: That’s what I was looking for. I’m looking for some discretion somewhere because, you know, it’s always good to have some provision for appeal or waiver somewhere in our rules because we can’t think of anything, everything when we make them. Thank you.

CHAIR VICTORINO: No. Thank you. And I, I, I can honestly say that the Director, Mr. Eng, was involved in these discussions and he felt very comfortable with that. He thought sometimes that may lead to too much of him being bombarded with people saying, well, you can do this under the modification. So he felt comfortable with that idea. So, I think it’s one of those that I think we’re not swinging the pendulum too far to the other side. I think we’re trying to balance it better than it has been in the past. So, any other questions for the Department? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. This is in regards to, you know, should modification need to be done for fire protection, I guess he can go appeal to the Board of Water Supply. But if I can have some comments from the Fire Department regarding this particular area in regards to fire protection.

CHAIR VICTORINO: We do have Mr. English here. Lieutenant English, would you like to step forward and address Mr. Pontanilla’s question?
VICE-CHAIR PONTANILLA: We need to be comfortable in regards to fire requirements.

CHAIR VICTORINO: Yeah, and that’s why we have the departments here today, Mr. Pontanilla. Mr. English, would you like to respond or would you like the question restated?

MR. ENGLISH: Yes, Mr. Pontanilla, can you restate the question?

VICE-CHAIR PONTANILLA: Sure. By eliminating this modification of requirements, not giving the Director the ability to make modification--and I don’t know how closely you work with the Water Department regarding fire protection. Without this modification requirements, of requirements, how that will affect your Department in regards to fire protection?

MR. ENGLISH: Okay. Mr. Pontanilla, for a, it’s probably like a two-part question for us because basically we have codes that deal with just subdivision and then we have codes that deal with building permits. Okay. As far as a subdivision, if it’s a new subdivision, they would have to meet our standards which is right now a little different than the Water Department standard and until this one gets adopted. So it depends when the subdivision applies, we will enforce today’s requirements. As far as building permits, residential, our Code requires them to be so far from a fire hydrant, 500 feet, and this is where we have problems with Water Department. They’ve been inconsistent. Our Code allows fire sprinklers if you’re too far from a fire hydrant or if you want to reduce your fire flow, and right now the Water Department’s rules and regs in certain areas don’t allow the fire sprinklers in lieu of fire protection, and that’s during the building permit phase. So...

VICE-CHAIR PONTANILLA: So by not having this then there’s a possibility of fire hydrants not being placed 500 feet spacing, but rather than utilizing of sprinklers within the house to cover their fire protection?

MR. ENGLISH: Correct. See, our Code allows the fire sprinklers and the Water Department doesn’t have that section in the Code, so they can have the applicant increase the fire lines or fire mains to provide their, the fire protection. That’s why they...there’s still inconsistency, we’re still working together on our new codes to be more consistent with their and this Code here to be more consistent with ours.

VICE-CHAIR PONTANILLA: So, for instance, like say standpipes, you know, we always have issues regarding standpipes and between the fire, not fire, but Water Department are requesting if there is a need to increase the fire flow for fire protection. Most standpipes are being asked to be replaced with fire hydrants. So, you know, looking at this modification of requirements, you know, I, I, I...the way I see it, you know, standpipes will remain, which will, I guess, support some of the families that want to increase their additions to their property and in turn utilize sprinklers to get their proper fire protection.
MR. ENGLISH: Okay. Right now, I mean, in the current Code that we’re in now, standpipes will still be allowed in ag, Agriculture District, because basically at 500 gallons a minute, standpipes can still provide that fire flow. The water main still remains 6-inch minimum size per our Code. On the...I won’t consider non-conforming areas if--I mean, I’m thinking maybe this Council can look at it, how we’re going to retrofit it. There’s gonna be, once this Code is adopted, there’s going to be a lot of areas that are non-conforming to these standards. How we’re going to bring it up to the standards is gonna cost money. Who’s going to pay for it? Are we going to leave it as grand...so-called grandfathered, or we’re going to wait for some developer to come in, okay, now we’ve gotta upgrade this fire line? It’s, it’s a tough question. We still have that problem with building permits on buildings that are not sprinklered, but was built to Code back in the ’70s, and till today when they want to make a modification and the building requires sprinklers, okay, now they got to sprinkler the whole building to bring it up to Code. I mean same situation, just I mean whether we’ll be upgrading that waterline or upgrading the Building Code.

VICE-CHAIR PONTANILLA: Okay. So is the Fire Department comfortable with removing this 14.05.180 as dated May 27th from this proposal?

MR. ENGLISH: I’m okay with them removing that section. Like I said, when an applicant come in, in an area that is non-conforming, they will have to bring it up to conform for whatever proposed development they want to do.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Other questions for Mr. English since we have him here in this particular area? Seeing none, thank you, Mr. English, for...Lieutenant English, for being here and if you’ll standby just in case we need you for further clarification, I’d appreciate that. Okay, any other questions for the Department in regards to this elimination of 14.05.180? Seeing none, thank you very much, ladies and gentleman. Now we’ll move over--and thank you, Mr. Kushi, for bringing that to my attention. I appreciate that. Now we’ll move to 14.05.190, Deferral and, Mr. Yamashige, would you like to work on that one? We’ll start with you and then if Mr. Kushi want to add anything, you may.

MR. YAMASHIGE: Yes, thank you very much, Mr. Chair. This refers to the family subdivision deferral of improvements. It, it allows the subdivision of property for conveyance to family members and the deferral of subdivision improvements that would have otherwise been required prior to subdivision approval to be deferred.

CHAIR VICTORINO: Thank you and, and let me make one correction. By eliminating the other part of the old rules, the Deferral became 14.05.180. So let me make that correction and I apologize for that error, because I was reading off the old form, but under the new draft, this Deferral now becomes 14.05.180. Questions for the Department? Seeing none, I’ll move on to our final chapter to review, our final Section, 14.05.190, Violations and penalty. Mr. Yamashige? Pretty easy, that one.
MR. YAMASHIGE: Yeah, it simply refers to another section for penalties that are actually identified in the budget process.

CHAIR VICTORINO: So just for the public’s information, Violations of this chapter shall be subject to Section 19.530.030 of this Code, and that’s already existing. So, thank you, Mr. Yamashige. Any questions as far as the violations and penalties section? If not, then I would like to ask you to turn back to page, on the revised section, page, I believe it’s Page 4, 14.05.050. No, is that the one? Hang on, hang on a second. It might be--oh, no, my apologies, wrong page. It’s actually Page 2 and it’s 14.050.020, Reservoirs and storage tanks, and then I would go down to Section C., and Whenever a subdivider is required by the Department to install a reservoir or storage tank, this section and C., D. and E. along with 14.05.030, I think Member Kaho‘ohalahala had some questions and that’s why we had that in bold so that we ...(end tape 1B, start 2A)...

Member Kaho‘ohalahala, if you’d like to revisit this at your request?

COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair. I think this particular section, my question was how we based our criteria, yeah, for the, the requirement for storage? And you had...each of those sections had a different criteria and then that was my, my main concern there, is what is the criteria for storage that you are providing for in a subdivision? And, Chair, in your updated, the bolded section in here --

CHAIR VICTORINO: Yes.

COUNCILMEMBER KAHO‘OHALAHALA: --is just restating the, the text that’s in the original, let’s see, what date is this, the June 29th [sic].

CHAIR VICTORINO: Yes.

COUNCILMEMBER KAHO‘OHALAHALA: So nothing, nothing has changed in the language, it’s just been bolded and--

CHAIR VICTORINO: That’s right because you had--and we did that specifically so we’d go back to it. That was a reminder for myself to go back to it to discuss it. And I apologize, I wasn’t at that meeting so I’m not specific on your questions, but according to our notes, you had some questions in this, in this area.

COUNCILMEMBER KAHO‘OHALAHALA: ...Yeah. Chair, I need to go over this a little bit closer before I can ask the Department--

CHAIR VICTORINO: Okay, what, what I’ll do is I will leave this open for our next meeting and if, Mr. Kaho‘ohalahala, you could...Member Kaho‘ohalahala, if you could come back to us and...or you could even address in writing your concerns so that maybe the Department can have that information available for you and, and for the Members at our next meeting. I would appreciate that.
COUNCILMEMBER KAHOʻOHALAHALA: Okay, thank --

CHAIR VICTORINO: Okay.

COUNCILMEMBER KAHOʻOHALAHALA: --you, Chair.

CHAIR VICTORINO: Thank you. Before I move on, is there any specific questions in any area that any Member in this section which, the sections which we have covered both at this meeting and our meeting of two weeks ago, is there any specific questions or concerns that you have? Yes, Ms. Baisa.

COUNCILMEMBER BAIWA: Chair, just one thing I wanted to bring up before we end today --

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAIWA: --'cause I didn’t want it to be lost.

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAIWA:: Mr., our testifier --

CHAIR VICTORINO: Mr. Goode.

COUNCILMEMBER BAIWA: --yeah, mentioned something about timeliness and he wanted that to be addressed somewhere and mentioned that we’re not in compliance with State law. So I wondered if anybody could comment on that?

CHAIR VICTORINO: Mr. Kushi, are you prepared to comment on that?

MR. KUSHI: Mr. Chair, not really. I think it’s important enough that you send a request to our office and we’ll respond in writing, but I do want to preface my understanding of what Mr. Goode is talking about. It’s a section in Chapter 91, HRS, which requires approval of business-related permits and applications --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --and it requires an agency that issues such permits or applications to either approve or disapprove the application within a maximum time period. It’s been our office’s position, not formally because I haven’t seen any, any opinions to that effect, but again, our office position is that it applies to various boards and agencies like the BVA, the Board of Water Supply...these, these boards and agencies that take up contested case hearings, for one. Secondly, clearly agencies that issue, issue permits. How it applies to the Department of Water Supply and what you’re doing here is questionable. I, I personally question his, his contention that it applies to what you’re doing here. You’re enacting ordinances and specific codes regarding subdivision
review by a, a department. Again, the Department, the Water Department, anyway, does not issue any permits. The permit, what we’re looking at here, is a subdivision application and a, an application which the Department of Public Works—I’m sorry, Mr. Arakawa—but again your Department issues the subdivision final approval. As part and parcel of that, the Department of Water Supply reviews the application. My understanding is that the Title 18, Subdivision Ordinance does have some time periods stated in its Code provisions, so to that extent it complies with the State statute. Again, Mr. Chair, that is my understanding of what Mr. Goode is referencing. I’ve never seen it in an ordinance, in a code setting. I’ve seen it in rules and regulations applying to boards and commissions.

CHAIR VICTORINO: Thank you. Yes, Ms. Baisa?

COUNCILMEMBER BAIWA: Yes, thank you very much and thank you, Mr. Kushi, for your words, but maybe it wouldn’t be a bad idea for us to get some kind of written response. I think what I’m hearing and I don’t know because I’m not involved and I don’t follow it, but I’ve heard people say that the concern they have is not only about answers on many things but with the appeals. I don’t know for sure, but I’ve heard it mentioned that the Board of Water Supply is backed up quite a ways. Can somebody kind of update us as to how far the appeals are backed up?

CHAIR VICTORINO: What I’ll do is I will send a letter to the Board of Water Supply requesting that information. I know they’ve had some very contentious appeals in the last few months. I’ve been told that. I have not really kept track as far as the numbers and how many and how long. So I will ask via writing to Mr. Howden, the Chair, to give us an update as far as that is concerned and I’ll have that available to the Members at our next meeting.

COUNCILMEMBER BAIWA: Thank you very much. I think that will be really helpful to put this to bed.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAIWA: Thank you.

CHAIR VICTORINO: You’re welcome. Other questions for the Department or Mr. Kushi or Mr. English from Fire Prevention? And I even have Mr. Arakawa sitting here if anybody has any specific questions for Public Works. If not, okay, let me see....you know what, with the lights off, I cannot see what I’m looking for. . . .(chuckles)... I apologize. Okay, before I adjourn this meeting, I failed to close public testimony. So with your permission, I’d like to close public testimony with no objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Okay, if there’s no further discussion, then I would recommend this item be deferred with no objections?
COUNCILMEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: BM).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Thank you, ladies and gentlemen. It's 10:30 and I thank you very much for your cooperation. Please, if you have any specific questions that you need answered, please if you could send it in writing so that I can forward it to the departments so that those answers can be provided at our next meeting. I'd like to try to finish this section so that we can move on to the next section of our rules and regs.

So with no further discussion, this meeting of the Water Resource Committee, August 4, 2009 meeting is adjourned. . . (gavel) . .

ADJOURN: 10:30 a.m.

APPROVED:

MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:090804

Transcribed by: Kandi Ayakawa
CERTIFICATE

I, Kandi Ayakawa, 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 18th day of August, 2009, in Wailuku, Hawaii.

Kandi Ayakawa