

1 BOARD OF WATER SUPPLY

2 COUNTY OF MAUI

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10 REGULAR MEETING

11 THURSDAY, NOVEMBER 19, 2009

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16 Held at the Department of Liquor Control Conference
17 Room, David Trask Building, Room 105, Wailuku,
18 Maui, Hawaii, commencing at 9:15 a.m.

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28 Transcribed from the audio recording by Gaye
29 Hayashida, Commission Support Clerk, Department of
30 Water Supply, County of Maui.

1 VICE CHAIR LUCK: Alright, I'd like to call the
2 November 19th meeting of the Board of Water Supply
3 to order. We just squeaked by in quorum it looks
4 like here so we're good. In terms of attendance we
5 have members Patricia Eason, Donald Gerbig, John
6 Hoxie, Phyllis Robinson, myself, Scott Luck. We
7 also have attending Corporate Counsel Ed Kushi,
8 Department Director Jeffrey Eng, from the
9 Department Ellen Kraftsow, clerk Gaye Hayashida.
10 We have Deputy Corporate Counsel Mary Blaine
11 Johnston?

12 MS. JOHNSTON: Blaine Johnston.

13 VICE CHAIR LUCK: Ok. And representing the
14 Jacinthos, Matthew Pietsch, correct?

15 MR. PIETSCH: Pietsch, yeah.

16 VICE CHAIR LUCK: Ok. I was close. That's pretty
17 good.

18 MR. PIETSCH: Better than most.

19 VICE CHAIR LUCK: Ok, good. Ok, and we'll, we'll
20 get to you like within like 5 minutes or so, if I
21 can cruise through this. We do have announcement
22 regarding the public hearing.

23 MS. HAYASHIDA: Yes. Just to let the board members
24 know that the notice, the public hearing for the
25 Central District Water Use and Development Plan,
26 the Wailuku location is scheduled for Tuesday,
27 December 1st at 5:30 p.m. at the Velma McWayne
28 Santos Community Center, the main hall. That's,

1 that was the Wailuku Community Center and it begins
2 at 5:30 so, and then the Kihei one is scheduled for
3 Tuesday, December 8, the following week, at 5:30
4 p.m. and it's at the Kihei Community Center and I
5 believe I have enough people, quorum..

6 VICE CHAIR LUCK: That was gonna be my question.

7 MS. HAYASHIDA: For the Wailuku, I think, you,
8 Michael, John, Don and Ted..

9 VICE CHAIR LUCK: I think Ted, yeah, ok, so we
10 should be good.

11 MS. HAYASHIDA: Is coming, so we got, got that
12 covered. So anybody that comes after that is
13 gravy.

14 VICE CHAIR LUCK: Ok great.

15 MS. HAYASHIDA: So. And then the Kihei, I think we
16 got it covered because Phyllis will be there also.
17 So the same people plus Phyllis.

18 VICE CHAIR LUCK: Ok great.

19 MS. HAYASHIDA: Ok.

20 VICE CHAIR LUCK: What happens if for some reason
21 we don't end up with quorum for that public
22 hearing, Ed?

23 MR. KUSHI: Technically, it's not a meeting but I
24 would advise the board to take testimony anyway.

25 VICE CHAIR LUCK: Ok.

26 MR. KUSHI: But, and, but it's not a meeting so no
27 action.

28 VICE CHAIR LUCK: Ok.

1 MR. KUSHI: For all practical purposes we urge the
2 board to at least get a quorum.

3 VICE CHAIR LUCK: Alright. Sounds like we're in
4 good shape for that.

5 MR. KUSHI: What you could do is in anticipation of
6 lack of quorum appoint a committee of the board, 3
7 or less, I mean, at least 3 to conduct the public
8 hearing.

9 VICE CHAIR LUCK: So, it sounds like we're ok for
10 these 2 but when we get Lana'i that would be...

11 MR. KUSHI: Maybe, maybe that's a case here.

12 VICE CHAIR LUCK: Ok, ok.

13 MEMBER HOXIE: When are the rest of 'em scheduled?
14 Do we know that yet?

15 VICE CHAIR LUCK: We don't know. That...

16 MEMBER HOXIE: After the first of the year?

17 VICE CHAIR LUCK: I, you know, I, at this point I
18 don't know but I imagine it wouldn't be during the
19 holiday period, wouldn't make a lot of sense for
20 Lana'i.

21 DIRECTOR ENG: Yeah, if I may interject something.
22 I just want to actually, today bring up that the
23 Lana'i plan has been completed. So, I just wanna
24 ask how, if you would like hard copies distributed,
25 transmitted to you folks or, it's on the web, the
26 website. It's, it's double, double sided and...

27 MS. KRAFTSOW: I have 8 or 9 of 'em in the car that
28 we had, I just made for someone else.

1 DIRECTOR ENG: Or we can distribute at maybe the
2 next board meeting.
3 VICE CHAIR LUCK: Maybe that would be the best...
4 DIRECTOR ENG: Ok.
5 VICE CHAIR LUCK: Way to go, especially.
6 MS. KRAFTSOW: Next board meeting.
7 DIRECTOR ENG: Does everyone prefer hard copies?
8 MEMBER ROBINSON: Yes.
9 DIRECTOR ENG: Ok.
10 VICE CHAIR LUCK: Yeah.
11 MR. KUSHI: Yeah. I mean, that, that...
12 DIRECTOR ENG: Well, we'll bring some and whoever
13 wants to lug 'em home.
14 MR. KUSHI: We're up against a time limit in terms
15 of the ordinance. So, like for the Central one,
16 you all have a copy of the...
17 MEMBER HOXIE: Right.
18 MEMBER ROBINSON: Yeah.
19 MR. KUSHI: Jeff's transmittal letter and, and so
20 it's date specific...
21 VICE CHAIR LUCK: Ok.
22 MR. KUSHI: So that's when the time-clock starts.
23 VICE CHAIR LUCK: Ok, so 180 days..
24 MR. KUSHI: So, yeah, so for the Lana'i one it's
25 something similar.
26 VICE CHAIR LUCK: Ok. Ok.
27 MEMBER HOXIE: Did we get that for the Kihei plan?
28 Did we get...

1 MS. HAYASHIDA: Kihei is part of the Central.
2 MEMBER HOXIE: Ohhh.
3 MEMBER ROBINSON: Part of Central.
4 MEMBER HOXIE: Yeah, that's right.
5 MR. KUSHI: Central is your Kihei.
6 MEMBER ROBINSON: Central includes Kihei.
7 VICE CHAIR LUCK: And so we should have plenty of
8 time to do our recommendations, right?
9 MR. KUSHI: Right.
10 VICE CHAIR LUCK: Ok. Any other comments on that?
11 Alright, do we have any edits or comments on the
12 minutes from the last meeting?
13 (silence)
14 VICE CHAIR LUCK: There being none, do I have a
15 motion for approval?
16 MEMBER GERBIG: So moved, that we approve.
17 VICE CHAIR LUCK: A second?
18 MEMBER ROBINSON: Second.
19 VICE CHAIR LUCK: Excellent. All in favor? Aye.
20 (a chorus of ayes)
21 VICE CHAIR LUCK: It's unanimous. Looks like we
22 have no testimony from the public today. So we can
23 move on to our appeals. Given that I don't think
24 we need to move into executive session.
25 MR. KUSHI: No, I, I believe the parties have come
26 to some kind of agreement regarding the motion.
27 One of you wanna make a representation?

1 MR. PIETSCH: Um, yes, we've agreed that we'd like
2 to have the matter continued until the next board
3 meeting so that I can have an opportunity to
4 respond in writing to the recent brief that was
5 submitted by the Department.

6 MS. JOHNSTON: Ok, that's correct. I was under the
7 impression that we're gonna be submitting
8 supplemental memos at the same time but Mr. Pietsch
9 called me and said that he, something about to that
10 would I agree that he could have time and I think
11 that I have no dispute to his having that extra
12 time. It's an important issue and I think it
13 should be given a full briefing.

14 VICE CHAIR LUCK: Ok.

15 MS. JOHNSTON: So it's fine with me.

16 MEMBER GERBIG: I move...

17 VICE CHAIR LUCK: Alright, do we have a...

18 MEMBER GERBIG: That we...

19 VICE CHAIR LUCK: We continue.

20 MEMBER GERBIG: What's the terminology?

21 VICE CHAIR LUCK: I think it's a continuance.

22 MR. KUSHI: Continue.

23 MEMBER GERBIG: Postpone.

24 MR. KUSHI: Yeah. Ah, Now Mr. Chair for the
25 record, the next, next meeting to discuss this
26 matter would be when?

27 MS. HAYASHIDA: December 17.

1 MR. KUSHI: December 17. And Mr. Pietsch, you
2 gonna submit some sort of response to this
3 supplemental memo by within 2 weeks of that date
4 would be ok?

5 MR. PIETSCH: Ah, how about 10 days?

6 MR. KUSHI: 10 days or whatever day is, December
7 12th, ah 10th?

8 MR. PIETSCH: Ok.

9 MR. KUSHI: And that would be the last memo for the
10 Board. From the Department, you plan on submitting
11 anything else? 'Cause we can't let this thing go
12 back and forth, back and forth.

13 MR. PIETSCH: I do not, no.

14 MS. JOHNSTON: Well, normally the course of this
15 kind of motion in court the movant puts a motion
16 in, the opposing party puts the answer in and the
17 movant's given a chance to reply and so this,
18 ordinarily the, I would have, should have an
19 opportunity to reply to Mr. Pietsch's supplemental
20 memo. And kind of..

21 MR. KUSHI: And what if he wants to reply to yours?

22 MS. JOHNSTON: Ok.

23 MR. KUSHI: When do we stop this?

24 MR. PIETSCH: Yeah, it was my understanding at the
25 last hearing that basically the arguments had been
26 closed, now I'm not objecting to the Department
27 submitting addition, that her, their supplemental

1 brief but I, I agree that at some point it becomes
2 overkill...

3 MS. JOHNSTON: Yeah.

4 MR. PIETSCH: And, and you know, my client has
5 limited resources. This is a fairly
6 straightforward request for a water meter and, and
7 I don't think that we need to beat this to death.

8 MR. KUSHI: With that being the case, Mr. Chair, I
9 would suggest that you ah, you ah, instruct the
10 parties accordingly that Mr. Pietsch has until
11 December 10th to file a responsive memo to the
12 Department's memo dated on November 13th and that
13 they, that ends the filing of the memorandum.

14 VICE CHAIR LUCK: Ok.

15 MR. KUSHI: And then we take the matter up on
16 December 17. Now I'm looking ahead, assuming the
17 motion is denied, when is the hearing?

18 MS. HAYASHIDA: January 28.

19 MR. KUSHI: January 28.

20 MR. PIETSCH: So that would be the evidentiary
21 hearing then?

22 MR. KUSHI: That would be the hearing on the
23 merits.

24 MR. PIETSCH: Right.

25 MR. KUSHI: So this body needs to make a decision
26 by December 17 to at least let the appellant know
27 whether to come or not.

28 VICE CHAIR LUCK: Ok.

1 MEMBER GERBIG: Is there a second to my motion to
2 postpone...

3 VICE CHAIR LUCK: Do we have...

4 MEMBER GERBIG: For reply for anything?

5 MEMBER HOXIE: Ah, second.

6 VICE CHAIR LUCK: Ok. All in favor? Aye.
7 (a chorus of ayes)

8 VICE CHAIR LUCK: It's unanimous. So the
9 continuance has been granted. You have until
10 December 10th to file the memo in reaction to the
11 Department's November 13th memo.

12 MR. KUSHI: Then we will have again oral argument?

13 MS. JOHNSTON: I believe so, at least I should be
14 able to...

15 MR. KUSHI: Yeah, we'll have...

16 MS. JOHNSTON: Respond orally to any arguments...

17 MR. KUSHI: We'll have argument on the motion at
18 December, December 17.

19 VICE CHAIR LUCK: Ok, great. Thank you very much.

20 MR. PIETSCH: Thank you.

21 MS. JOHNSTON: Thank you.

22 MR. KUSHI: Thank you.

23 MEMBER ROBINSON: So is this (inaudible).

24 VICE CHAIR LUCK: Yeah.

25 MEMBER ROBINSON: As long as we (inaudible).

26 VICE CHAIR LUCK: Yeah, good question. Ok, why
27 don't we move on to, there's no Unfinished
28 Business, I believe. So moving on to 8A, Other

1 Business, Discussion of the Water Use and
2 Development Plan for Central District Final
3 Candidate Strategies Report, which I believe we
4 all, we should all have copies of. And this will
5 be the subject of the hearings that will be
6 December. I think we've clarified now we have 180
7 days from November 4th to respond to the Council
8 with our recommendations so if our meetings are the
9 first and the eighth in the beginning of December
10 we probably can make a, we can meet and discuss a
11 recommendation at the next regular meeting. So I
12 suggest we put that on the agenda. And hopefully
13 we'll have time to be able to do that.

14 MS. HAYASHIDA: For the December 17th meeting? Ok.

15 VICE CHAIR LUCK: Yes. If we end up that we're
16 crunched because of other agenda items then we may
17 have to come up with an alternate plan which might
18 be a special session but we might as well get it
19 over with as quickly as possible and, and everyone
20 can take action.

21 MEMBER HOXIE: Can I ask you a question?

22 VICE CHAIR LUCK: Absolutely.

23 MEMBER HOXIE: What's the purpose of the public
24 hearings on this plan? Are, what, what is our
25 responsibility?

26 VICE CHAIR LUCK: So, I, I think that it's
27 basically to give the public an opportunity to
28 speak their point of view on the recommended

1 strategies and so we can take that into account
2 when we make our final recommendations. It, it's
3 giving the people a chance to be heard more than
4 anything. It's our legal responsibility as well.

5 MR. KUSHI: Yeah, by, by the ordinance.

6 VICE CHAIR LUCK: Yeah, so.

7 MR. KUSHI: Then...

8 MEMBER GERBIG: May I ask a, as far as that
9 ordinance, does that, is that ordinance in effect
10 only for this, this review or for every future
11 water plan from now forever?

12 MR. KUSHI: Any, any future updates. Which will
13 include..

14 VICE CHAIR LUCK: Any future update in every
15 district.

16 MR. KUSHI: Every district.

17 MEMBER GERBIG: They, they will have public hearing
18 where we will have to conduct the Board of Water
19 Supply (inaudible).

20 VICE CHAIR LUCK: Right, so there will have to be a
21 hearing covering Lana'i in the very near future
22 given that the report has been submitted.

23 MEMBER GERBIG: Yeah, understand. Thank you.

24 MEMBER HOXIE: I, I've been to a couple of
25 Upcountry meetings. Have there been those in other
26 areas already or is that only happened in the
27 Upcountry plan? Do you know?

28 MS. KRAFTSOW: Yeah.

1 VICE CHAIR LUCK: I don't.

2 MS. KRAFTSOW: There have been meetings for Central
3 Maui for a few years...

4 MEMBER HOXIE: Yeah.

5 MS. KRAFTSOW: Already...

6 MEMBER HOXIE: Ok.

7 MS. KRAFTSOW: And then we've had a few meetings in
8 Lahaina and East Maui and Molokai as well...

9 MEMBER HOXIE: Yeah. So, why, why are we doing it
10 again then? Is that just because of the ordinance?

11 VICE CHAIR LUCK: This, well it could be but it
12 also involves this particular board and we're
13 required to give our recommendations on this. So
14 it gives us an opportunity to get the feedback
15 given that...

16 MEMBER ROBINSON: Peer group.

17 VICE CHAIR LUCK: I know I haven't been at any of
18 those meetings and I think other than Michael...

19 MEMBER ROBINSON: I haven't either.

20 MEMBER HOXIE: Yeah.

21 MS. KRAFTSOW: (inaudible) committee meetings,
22 they're open but they're...

23 VICE CHAIR LUCK: So, it's, it's kind of, ok we met
24 a lot now here's, let's wrap this thing up.

25 DIRECTOR ENG: Yeah, but as Ellen mentioned, the
26 other meetings were more the various advisory
27 committee as well as open to the public. So now

1 this is really, their task has been completed, the
2 committee's announced it to the public.

3 VICE CHAIR LUCK: Right.

4 DIRECTOR ENG: And the public will have ample
5 opportunity to express their comments as it goes
6 even before the Water Resources Committee and, and
7 the full Council too so.

8 MEMBER HOXIE: But in reality, it's gonna be the
9 same people again.

10 VICE CHAIR LUCK: Probably.

11 DIRECTOR ENG: Most likely, yeah.

12 MEMBER ROBINSON: So what is it that the public
13 actually gets to comment on? Do they, they...?

14 VICE CHAIR LUCK: Well, they have, they have access
15 to this on the, on the website.

16 MEMBER ROBINSON: Ok and that is, there's a
17 newspaper announcement, some kind of cover story
18 that says...

19 VICE CHAIR LUCK: The notice.

20 MS. HAYASHIDA: The notice.

21 MEMBER ROBINSON: If you wanna...

22 MS. HAYASHIDA: Yes, we have published it in the
23 newspaper December 1st and December 8th, I mean, for
24 December 1st and December 8 meetings. Also it is on
25 our county website.

26 MEMBER ROBINSON: Uh huh, ok.

1 MS. HAYASHIDA: And also we, just before the
2 meeting happens we're going to be putting it in the
3 newspaper under County In Brief...

4 MR. KUSHI: Good.

5 MEMBER ROBINSON: Good.

6 MS. HAYASHIDA: To let people know.

7 MEMBER EASON: That's good.

8 MS. HAYASHIDA: Yeah.

9 VICE CHAIR LUCK: And I think our role is primarily
10 to facilitate.

11 MEMBER ROBINSON: So are we formally facilitating,
12 in other words are we gonna be, is there gonna be a
13 chair, someone who's...

14 MS. HAYASHIDA: Well, someone, yeah, you'll have
15 someone conduct, run the meeting. And at that
16 point I think my understanding is you're gonna be
17 gathering the information from the public testimony
18 and review it and then come up with some kind of
19 recommendation to the Council based on the public's
20 input, your input, you know.

21 MEMBER ROBINSON: So the, so it's our job..

22 MS. HAYASHIDA: It is your job.

23 MEMBER ROBINSON: Whoever shows up at that meeting
24 to choose someone who will facilitate the
25 discussion?

26 MS. HAYASHIDA: Well, well, the chair will be there
27 so I'm going to assume that the chair..

1 MEMBER ROBINSON: Michael, Michael would be doing
2 that.

3 MS. HAYASHIDA: Will be facilitating..

4 MEMBER ROBINSON: Ok.

5 MS. HAYASHIDA: The discussion and..

6 MEMBER ROBINSON: And, ok. And we may be helping
7 him in some way. Is this usually done with, with
8 some kind of hand out that people get or, or..

9 MS. HAYASHIDA: Well, that's up to the board but I
10 was thinking that maybe Mr. Freedman could come
11 back and give a short powerpoint presentation..

12 MEMBER ROBINSON: Ok, good.

13 MS. HAYASHIDA: Again.

14 VICE CHAIR LUCK: That's a great idea.

15 MS. HAYASHIDA: And then just to refresh people's
16 memories..

17 MEMBER ROBINSON: About what the candidates are for
18 the..

19 MS. HAYASHIDA: Yeah, about, yeah and then, then
20 we'll take it from there.

21 MEMBER ROBINSON: Great, great. And has it in the
22 past been where people go into small groups and
23 they discuss something and then they come back and
24 or is it just..?

25 MS. HAYASHIDA: At the time of the..

26 MEMBER ROBINSON: People stand up and give
27 testimony? So someone will be noting, noting that.

1 MS. HAYASHIDA: We will have a court reporter on
2 hand.

3 MEMBER ROBINSON: Ok, good.

4 MR. KUSHI: Good.

5 VICE CHAIR LUCK: And our rule isn't really to
6 comment positive or negative on the public comment,
7 it's just really to hear, correct?

8 MR. KUSHI: To take testimony and then it'll, it'll
9 work like this and, and please understand this is
10 the initial process. And for the Board's
11 information this update is updating the existing
12 codified adopted plan, Water Use and Development
13 Plan, covering the whole county and is dated 1990.

14 VICE CHAIR LUCK: Right.

15 MR. KUSHI: Ok.

16 MEMBER ROBINSON: So this is an update.

17 MR. KUSHI: So we're almost 20 years behind.

18 VICE CHAIR LUCK: Right.

19 MR. KUSHI: And we tried to update it in 1992 but
20 for whatever reason that didn't fly. So these
21 updates are updating a plan that's almost 20 years
22 old. And, and now we're at the point where we're
23 gonna go by districts or water systems and so I
24 think the procedure is like what Gaye says, the
25 Board holds the public hearing, takes public input
26 and then after the public hearings the Board should
27 come back at a separate, separate meeting,
28 subsequently, and do it's own recommendations based

1 on the public input. And then submit the plan to
2 the Council with the public comments as well as the
3 Board's own recommendations, if any.

4 VICE CHAIR LUCK: Right.

5 MR. KUSHI: Maybe you just want to say ok...

6 MEMBER ROBINSON: Sounds good.

7 VICE CHAIR LUCK: Yeah.

8 MR. KUSHI: Submit as is what the...

9 VICE CHAIR LUCK: But given that there are
10 candidate strategies as...

11 MR. KUSHI: Right.

12 VICE CHAIR LUCK: Variety we could at least express
13 our opinion in which ones...

14 MR. KUSHI: Of course.

15 VICE CHAIR LUCK: Ok, to prioritize.

16 MR. KUSHI: Again, the, the final decision maker is
17 the Council.

18 VICE CHAIR LUCK: Yeah, absolutely.

19 MEMBER ROBINSON: The County Council. Ok.

20 VICE CHAIR LUCK: Ok. Any other comments? I don't
21 think we need to actually comment on the document
22 yet. We'll take that opportunity when we formally
23 meet to form our recommendations.

24 MR. KUSHI: Right.

25 VICE CHAIR LUCK: So, I guess no other comments.
26 We'll move on to the next item and I think I'm
27 gonna actually turn this over to Donald. This is
28 his item. The potential action on Proposed Meeting

1 Agenda Guidelines. I think that there, his
2 recommendations are included in here but I'd like
3 to give him the opportunity to give us some
4 background on where this is coming from.

5 MEMBER GERBIG: Ok, this is agenda item B, Board
6 Agenda Guidelines. It's on page 4 through 6, page
7 4, you know behind the agenda; 4 is actually what
8 I, reason I, I went into this, I thought we had all
9 this testimony that we had no authority over and it
10 was confusing and I thought maybe we could revise
11 our guidelines, whatever they had called them or if
12 they're, anyway if for speakers or for testifiers'
13 agenda, kinda clarify everything and little more
14 clearer that when people did come in to testify on
15 the carpet sales in Wailuku then we, Gaye could say
16 well, no that's not part of our agenda, we're not
17 gonna take testimony on that and it's only on
18 agenda items. So basically, what, what I propose
19 is in the agenda item, item policy is that the
20 agenda item will reflect, say the legal
21 responsibility of the Board and the pages 5 and 6
22 are really taken out of the code and, and the, and
23 the ordinance. So, oh, page 6 is another
24 recommendation but page 4 I'm recommending the
25 proposed change in the agenda item policy. When we
26 put an item on the agenda, reflect the legal, it
27 should reflect the legal responsibility of the
28 Board not anything else outside their

1 responsibility. The schedule item presentations
2 I'm saying must list the agenda item with a
3 description, little description of what the item is
4 gonna be. Not just the word "discussion" but maybe
5 a little more clarification. The presenter's name
6 and, and their affiliation if they are affiliated
7 with an organization. And the submitted agenda
8 items not meeting these requirements of the Maui,
9 the codes and all the regulations would not be
10 applicable. It would have to be under our
11 authority. If we go back to the last page number 6
12 to, the purpose is to eliminate testimony that does
13 not pertain to the agenda item; out of the realm of
14 our responsibility. So, I, I put in the testimony
15 of the current agenda policy testimony the way it's
16 written and I thought I'd, maybe we could clarify
17 it little more and call it, same title, Testimony
18 from the Public. All testimony shall be relevant
19 to the meeting's agenda specific items and pertain
20 to the, the articles and codes and etcetera. And
21 then priority shall be given to testimony on
22 appeals and testimony related to the appeals shall
23 take precedent over other agenda items first. And
24 no agenda items testimony will be, non-agenda items
25 will be accepted. And then the policy on
26 presenting agenda item testimony, the Board first
27 receives the testimony, well it just follows
28 through the, the standard that we already have

1 under policy presenting testimony that the Board
2 will receive the testimony, testimony forms fill
3 out, 3 minutes to give your testimony, the chair
4 can grant extended time, and if a person's
5 testimony forms are submitted after the meeting
6 convenes, before the portion may be allowed,
7 etcetera, that's the same thing we got in there
8 now. So basically I was just trying to clarify the
9 agenda items that when we talk on the agenda that
10 there're little more description, not the word
11 "Discussion" because I think what got confused
12 about the Na Wai Eha thing is it just said
13 "Discussion" and they mentioned Na Wai Eha and
14 everybody just "wow, that's what we're coming in
15 for" and really we have no authority over what was,
16 all what testimony that was presented.

17 MEMBER ROBIBSON: Was that at the last meeting or
18 the one before that?

19 VICE CHAIR LUCK: The one before.

20 MEMBER ROBINSON: Oh, so that's...

21 VICE CHAIR LUCK: Yeah, yeah.

22 MEMBER GERBIG: The one before...

23 MEMBER ROBINSON: I just wanna be sure that I'm...

24 MEMBER GERBIG: Yeah, that one. I just thought
25 that we have no authority over that. We shouldn't
26 have all that testimony but maybe we need to
27 clarify it up front in the write-up somehow. And
28 I'm not saying this is what we got to do it today;

1 I just thought this would, throw that out, look at
2 it, see what you think but I'm just looking for
3 more clarification...

4 MEMBER ROBINSON: Sure.

5 VICE CHAIR LUCK: Yeah.

6 MEMBER GERBIG: And for the public too that Gaye
7 can point to it well our, we use that, we're on
8 agenda items and then our authority is only
9 whatever...

10 VICE CHAIR LUCK: Yeah.

11 MEMBER GERBIG: We can't be taken things on we have
12 no authority.

13 VICE CHAIR LUCK: Right, ok.

14 MEMBER ROBINSON: Uh huh.

15 MEMBER GERBIG: The only thing out of our authority
16 that I've put inn here; it's in here someplace;
17 I've said that if an item, an agenda, it could be
18 an agenda item, that pertains to a board's, it
19 would aid in the board's education in carrying out
20 their fiduciary responsibility we could accept
21 agenda items like that that may not be specific to
22 our responsibility. But it would be for...

23 MEMBER ROBINSON: Education purposes.

24 MEMBER GERBIG: Yeah, a benefit to the board in
25 carrying out their responsibilities. Like if
26 somebody wants to come in or we want somebody to
27 come in and give us an overall spread; I'll use the
28 example, of all the water systems or, well, we

1 don't have responsibility over it but yet I think
2 it pertains to our...

3 MEMBER ROBINSON: Absolutely.

4 MEMBER GERBIG: Something like that. Or in other
5 things it pertains to, that we would, it would help
6 us to make better decisions. That's all.

7 MEMBER ROBINSON: Right.

8 VICE CHAIR LUCK: Thank you.

9 MEMBER GERBIG: So think about it, I'm not asking
10 for a vote.

11 MEMBER ROBINSON: Yeah.

12 VICE CHAIR LUCK: Yeah, I think that...

13 MEMBER GERBIG: Let everybody...

14 VICE CHAIR LUCK: Yeah, I think it will be good to
15 have the full board or more, a better
16 representation...

17 MEMBER ROBINSON: I agree.

18 VICE CHAIR LUCK: When we do have the, a formal
19 discussion...

20 MEMBER ROBINSON: Discussion.

21 VICE CHAIR LUCK: I did want to ask Corporate
22 Counsel if there're any concerns or if there're
23 procedural matters that we have to take into
24 consideration and make the change, any type of
25 changes.

26 MR. KUSHI: Yeah well, I wasn't really up on this.
27 I just kinda looked at it yesterday but now I know
28 why, what the intent was and, and from who it came

1 from. Basically what it is here is already covered
2 as far I'm concerned. Boards and commissions are
3 governed and run by the Hawaii Sunshine Law, HRS
4 and we've incorporated it, all these things into
5 your, your, your rules of procedure and practice
6 too. So maybe, and it's reflected in that. Again,
7 general rule is any testimony before the board
8 should be on agenda items. Like in, like, like Don
9 says carpet sales in Kahului should not be
10 involved, allowed. However, again, our office has
11 always been of the opinion give, give these guys
12 some leeway. If they can connect it to some sort
13 water issue let 'em go for 3 minutes but stop 'em
14 if they get off the wall. Again, I would say where
15 the agenda item was Na Wai Eha; that attracts
16 everybody but again it's water related but don't
17 let 'em foam at the mouth. Give 'em their, their...

18 MEMBER GERBIG: What I was, yeah, what I was
19 stating and that is that if we clarify these agenda
20 items a little more clearly; just don't put the
21 word "discussion"...

22 MR. KUSHI: Yeah, yeah but again...

23 MEMBER GERBIG: We're gonna talk Na Wai Eha
24 specific the water treatment plant or something
25 like that or whatever but not just to, yeah.

26 MR. KUSHI: But as your advisor I would, I would
27 caution against cutting them off.

28 MEMBER GERBIG: Oh, I'm not, yeah.

1 MR. KUSHI: If you cut 'em off and they say "well,
2 you know, I have a right to testify" but only on
3 agenda items, it becomes a blowing in the wind
4 contest and I'd rather just advise you allow it, 3
5 minutes, no questions and that's it. But again,
6 the Sunshine Law does delegate or does delineate
7 the responsibilities, the parameters of what the
8 board can hear. As the charter says you guys are
9 advisors to the department, the mayor and the
10 council on all issues regarding water. So,
11 technically you could hear anything, if you list it
12 on the agenda, ok?

13 VICE CHAIR LUCK: Right, so if part of the
14 responsibility is just back on us to make sure
15 we're, we provide that clarity in the agenda item.

16 MR. KUSHI: Right. So you know like what has been
17 happening, I think Gaye has also have this, where
18 you ask for testimony and you say, "Mr. X is gonna
19 testify on agenda item whatever it is", right?
20 That, that should be, you know, understood.

21 VICE CHAIR LUCK: Do we, do we formally ask for
22 their affiliation if they have any?

23 MS. HAYASHIDA: Well, they suppose to fill out a
24 form..

25 MR. KUSHI: A form.

26 VICE CHAIR LUCK: Yeah, ok.

27 MR. KUSHI: The council meetings are very strict,
28 they, they say, what are you gonna testify on? If

1 they have 2 items, they have 3 minutes on each
2 item.

3 VICE CHAIR LUCK: Well, part of what happened at
4 that particular meeting was there were 2 different
5 items that were being discussed...

6 MR. KUSHI: Correct.

7 VICE CHAIR LUCK: And part of the public got
8 confused when we were talking about one and we were
9 done with the other one and they still wanted the
10 chance and we didn't really guide that as well...

11 MR. KUSHI: Yeah, right.

12 VICE CHAIR LUCK: As perhaps we could have.

13 MEMBER HOXIE: Could, could I comment? I, I, I
14 kinda like what Don is saying. My, my concern is
15 how we use our time. It seems like we get off on
16 all these people talking and we can't do the things
17 that we're really here for.

18 VICE CHAIR LUCK: Yeah.

19 MEMBER HOXIE: And that's what my concern is, you
20 know, I've, there's a lot of things I still wanna
21 know about but we run out of time.

22 VICE CHAIR LUCK: Yeah, I sure liked to..

23 MEMBER HOXIE: So how do we manage it? And maybe
24 this is just part of it. And I understand what Ed
25 is saying too.

26 MEMBER ROBINSON: Well, well, generally, I mean my
27 experience, I'm still fairly new to the, to the
28 board, I mean I've been on a couple years but is

1 that there was, there's suppose to be a formal
2 orientation for new board members where, and we got
3 to have a tour of the water facilities so you know
4 it's sort of like learn as you go and you kinda
5 start feeling up to speed and so, so to say that,
6 that the public being able to speak to us isn't our
7 business I think is not correct because I mean this
8 is an opportunity for the public to have, be heard
9 with a limit and with a clear explanation of what
10 it is they want to talk about. So, and, and also,
11 to educate the public maybe with a few words by our
12 chair as to what our power really is. 'Cause a lot
13 of times people come in here thinking that we have
14 more power than we actually have. And if they
15 understand the limits to our power they may not go
16 on so long. So, so.

17 MEMBER GERBIG: I agree. That, that's, that's...

18 VICE CHAIR LUCK: Yeah.

19 MEMBER GERBIG: I don't mean to say just limit
20 everything but the point is that if they know say
21 up front, they know that our powers are limited
22 that may, like Phyllis has, that may limit some of
23 this on and on and on thing.

24 VICE CHAIR LUCK: Right.

25 MEMBER GERBIG: But also like Mr. Kushi said if
26 it's on the agenda clarify...

27 MEMBER ROBINSON: What it is.

1 MEMBER GERBIG: Yeah, then they ought to understand
2 too, that'll help them.

3 VICE CHAIR LUCK: That event from 2 months ago was
4 pretty rare, from the time that I've been on the,
5 on the board.

6 MEMBER GERBIG: Hmm, ok.

7 VICE CHAIR LUCK: It kinda stands out. Usually
8 it's somewhere in between this and, and that but,
9 but that was pretty, pretty unique and I think it
10 was 'cause of the subject matter. So maybe there
11 are 2 things we could do. One is try to provide
12 the clarity so it's more clear what it is, what
13 our, what we can do for the people and then if it's
14 a really sensitive topic like that maybe we just
15 need to build in a little bit more time. Because
16 that one we probably could've anticipated there
17 would be a bit of a public show, showing for it.
18 Many of the other items is gonna be like this, so.
19 But what I think we should probably do is push
20 this, further discussion of this on to the next
21 meeting as well and we can hopefully get some of
22 the other members' opinion as well.

23 MR. KUSHI: Just wanted to make one, one
24 clarification, when it comes to the board's
25 activities as far as agenda items, generally or
26 like you know, versus specific contested case
27 hearings, appeals, appeals are different. Appeals
28 are like a, a semi court case; Planning Commission

1 contested case hearings. So you know, testimony on
2 appeals that shouldn't, I, I imagine somebody could
3 testify in the Public Testimony portion on an
4 appeal. But the board should not even consider it
5 'cause they're not under oath. But once an appeal
6 has, we start the appeal we put all witnesses under
7 oath.

8 MEMBER GERBIG: Uh huh, yeah.

9 MR. KUSHI: So, that's a little different, yeah.

10 MEMBER GERBIG: Appeals are over here.

11 VICE CHAIR LUCK: Yeah.

12 MEMBER GERBIG: This testimony over there, 2
13 different, I understand.

14 MR. KUSHI: So but aside from that I mean it's all
15 basically, I understand the intent and I think your
16 rules also provide for it, your existing rules
17 provide for it. The Hawaii statute requires it.

18 VICE CHAIR LUCK: So, in your opinion we don't
19 necessarily need a formal change of the rules, we
20 just need to change kinda how we enforce 'em?

21 MR. KUSHI: Yeah, I mean, you know maybe a
22 stricter, more concise agendas, more specific about
23 all that stuff.

24 VICE CHAIR LUCK: Ok.

25 MR. KUSHI: And again, whoever's chairing the
26 meeting has got to control.

27 VICE CHAIR LUCK: True. Ok, so we will discuss
28 that further at the next, unless anyone else has

1 comment. Do we have any other agenda items for
2 December, right? I believe we now have, we have
3 this, we have...

4 MS. HAYASHIDA: We have the Water Use and
5 Development Plan...

6 VICE CHAIR LUCK: The Water Use and Development...

7 MS. HAYASHIDA: And the Motion to Dismiss.

8 VICE CHAIR LUCK: Right, which will that have
9 further testimony at the next meeting, the Motion
10 to Dismiss? Or is it...

11 MR. KUSHI: I think they'll just do some arguments.

12 VICE CHAIR LUCK: Ok.

13 MS. HAYASHIDA: That's it.

14 VICE CHAIR LUCK: Then it should be relatively
15 quick work.

16 MR. KUSHI: Right.

17 VICE CHAIR LUCK: As opposed to a full hearing.

18 MEMBER HOXIE: So, what are the items again for the
19 next meeting?

20 VICE CHAIR LUCK: So we, we're gonna hopefully
21 discuss the Water Use and Development Plan
22 recommendations for Central District so we can
23 formulate our recommendations to the council. The
24 Jacintho appeal...

25 MS. HAYASHIDA: Motion to Dismiss.

26 VICE CHAIR LUCK: Motion to Dismiss and the third
27 one is this latest item about whether we wanna...

28 MEMBER HOXIE: Ok.

1 VICE CHAIR LUCK: Act on it.
2 MEMBER HOXIE: Meeting guidelines.
3 VICE CHAIR LUCK: Yes.
4 MR. KUSHI: Mr. Chair, Gaye can you give us the
5 time line for this Water Use and Development Plan?
6 180 days from November 4th. What, what is our
7 deadline?
8 MS. HAYASHIDA: 6 months, yeah?
9 VICE CHAIR LUCK: That'll be May.
10 MR. KUSHI: That'll be pretty enough time.
11 VICE CHAIR LUCK: Yeah, that should be plenty of
12 time.
13 MS. HAYASHIDA: We have until June.
14 MR. KUSHI: June?
15 MS. HAYASHIDA: June 1st.
16 MEMBER HOXIE: To, to respond to this one?
17 MS. HAYASHIDA: Yeah.
18 VICE CHAIR LUCK: My, my preference would be to try
19 to knock it out.
20 MS. HAYASHIDA: Well, actually, I'm sorry, May,
21 sorry.
22 MR. KUSHI: May?
23 MS. HAYASHIDA: 'Cause we received the official
24 transmittal November 4th, so May.
25 VICE CHAIR LUCK: Right.
26 MR. KUSHI: So, you're gonna discuss it on December
27 17th?

1 VICE CHAIR LUCK: It, I think it should be an item
2 that if we have the time to do it we should
3 certainly do it.

4 MS. HAYASHIDA: I think it should be something like
5 an ongoing agenda item for now.

6 VICE CHAIR LUCK: Yeah. And then it may take us a
7 couple meetings to come up..

8 MR. KUSHI: Yeah.

9 VICE CHAIR LUCK: With a recommendation.

10 MR. KUSHI: You probably want the board members to
11 look at the transcript of public testimony.

12 MS. HAYASHIDA: Yeah.

13 VICE CHAIR LUCK: And then as long as we don't get
14 bogged down with too many appeals we should be able
15 to easily read the time..

16 MS. HAYASHIDA: Yeah, because I don't think the
17 court reporter will be able to get the transcripts
18 by the December 17th meeting.

19 VICE CHAIR LUCK: Ok, that's a good point.

20 MS. HAYASHIDA: But we can certainly discuss it.

21 MR. KUSHI: Yeah.

22 MS. HAYASHIDA: Keep it on the agenda.

23 VICE CHAIR LUCK: Yeah. It may be a brief
24 discussion where we just say we're gonna wait for
25 the..

26 MS. HAYASHIDA: Yeah, I mean because then that way
27 you guys can refresh each other's memory as to what
28 you remembered.

- 1 VICE CHAIR LUCK: That's, that's true and there'll
2 be members who weren't able to attend we can bring
3 them up to speed.
- 4 MEMBER ROBINSON: Exactly.
- 5 MR. KUSHI: So, maybe an unofficial tentative date
6 would be like February? That'll, that'll be way
7 within the time limit.
- 8 MS. HAYASHIDA: Oh, yeah. February. February 25th
9 is board meeting day.
- 10 VICE CHAIR LUCK: Is, was there appeal already...?
- 11 MS. HAYASHIDA: Yeah, we've got appeals until June.
- 12 VICE CHAIR LUCK: Ok.
- 13 DIRECTOR ENG: And maybe I should get some input as
14 far as when you folks want the Lana'i Plan
15 officially transmitted. And maybe we can talk
16 about that, Gaye. I don't want to...
- 17 MS. HAYASHIDA: Ellen's gonna drop off the books to
18 my office so I told her I'll just wait for your
19 letter...
- 20 DIRECTOR ENG: Ok, we'll probably pick a suitable
21 date.
- 22 MS. HAYASHIDA: Yeah, and not too soon.
- 23 DIRECTOR ENG: Yeah ok.
- 24 MEMBER GERBIG: Are any of these new appeals gonna
25 be ready by December or?
- 26 VICE CHAIR LUCK: There's none in December other
27 than the Jacintho matter.
- 28 MS. HAYASHIDA: Yeah.

- 1 MEMBER GERBIG: Well, they're all 3 after, after
2 the first of the year.
- 3 VICE CHAIR LUCK: Yeah.
- 4 MEMBER GERBIG: Ok, so they're not, not...
- 5 VICE CHAIR LUCK: And there's a gap in there too.
- 6 MS. HAYASHIDA: Yeah, I have to put gaps in...
- 7 VICE CHAIR LUCK: Yeah.
- 8 MS. HAYASHIDA: Just for instances like this where
9 they postpone.
- 10 VICE CHAIR LUCK: Ok, any other agenda items for
11 the next meeting.
- 12 MEMBER HOXIE: I have one agenda and I've talked
13 about this before but I'd like to get some kind of
14 a report on the Waikamoi system. You know, what's
15 happening, what's the condition; I'd really like to
16 know what's happening on the Waikamoi system now.
17 Next meeting we're not gonna have time so I don't
18 know whether we need to do this as a separate
19 issue; that's just my particular interest, and so...
- 20 VICE CHAIR LUCK: Well it depends partially on the
21 degree of detail that you want I have a feeling.
- 22 MEMBER HOXIE: I wanna know how the system is
23 working, is functioning, is it working, what's
24 falling apart, what needs to be done? That's all.
- 25 VICE CHAIR LUCK: I think we could put it on the
26 agenda item for...
- 27 MS. HAYASHIDA: Director's Report?
- 28 DIRECTOR ENG: It can be a quick discussion.

1 MS. HAYASHIDA: Under Director's Report.

2 MEMBER HOXIE: I'd like to see some pictures.

3 DIRECTOR ENG: Sure.

4 VICE CHAIR LUCK: Ok.

5 MEMBER HOXIE: And do we measure how much water
6 comes in there?

7 DIRECTOR ENG: We know how much generally is, comes
8 into the plant, yeah. Yeah, we have...it'll be an
9 interesting discussion. I recently toured the
10 first time only about 2 and 1/2 months ago, one
11 Sunday. We had the key to the EMI gate. I
12 actually was only going to inspect the lower dam.

13 MEMBER HOXIE: Yeah.

14 DIRECTOR ENG: And you know it was a nice day and
15 my wife with me and said let's walk. But it, it
16 was a pretty dry day and everything. It's a,
17 certainly needs to be addressed.

18 MEMBER HOXIE: I haven't been there for about 15
19 years so that's why, interested.

20 DIRECTOR ENG: In fact that's what's happened this
21 afternoon. Herb Chang and I, we're gonna meet up
22 with Garrett. Garrett just did a repair on one of
23 the Lowry Ditch flumes. Just completed last week
24 so he called me yesterday saying, "hey", 'cause I
25 told him I wanna see what you guys done. Since
26 Garrett's gonna be on vacation next week and this
27 afternoon. Just to give my engineers an idea if we
28 could opt to go in-house. There's a complicated

1 way in going out for bids and I'm thinking after
2 walking it, god, why can't we do something in-
3 house.

4 MEMBER HOXIE: Ok, that's kinda what I'm interested
5 in.

6 VICE CHAIR LUCK: Are you interested in details
7 down to like production numbers and what's capable
8 and what's historical?

9 MEMBER HOXIE: Well, no I, I'm you know, I mean if
10 you can't measure it you can't manage it is my
11 philosophy and you gotta have some measurement...

12 DIRECTOR ENG: And, and it really varies the amount
13 of water flow too.

14 MEMBER HOXIE: Yeah, it depends on the rainfall.

15 DIRECTOR ENG: The elevation of the intakes are so
16 high, 4,000 foot elevation, you need unique rain
17 cloud system. Generally, you're over the rain
18 clouds. Most of the clouds really serve more of
19 that Piiholo-Lower Kula system. Once you're at
20 4,000 you have some limitations on the amount of
21 rainfall.

22 MEMBER HOXIE: Anyway, I'd like to see some kind
23 of...

24 DIRECTOR ENG: We'll talk about it. I'd love to
25 talk about it, yeah.

26 VICE CHAIR LUCK: Ok, any other items?

27 MEMBER GERBIG: I don't mean to, Phyllis mentioned
28 something about the new members got tours or you

1 had some tours or, is that, I'm just talking; is it
2 a possibility that you could offer tours to those
3 Board of Water Supply members that are available at
4 that time to tour different systems or water
5 treatment plants?

6 VICE CHAIR LUCK: What was the rule on that? Can
7 only be 2 members or was it...

8 MEMBER HOXIE: Can't be more than 3 I think, Ed
9 said something like that.

10 MR. KUSHI: Yeah, yeah. 3 or less.

11 VICE CHAIR LUCK: Which would work.

12 MS. HAYASHIDA: That's why we did it in shifts,
13 remember?

14 VICE CHAIR LUCK: Yeah, I remember. I know I was
15 with one other.

16 MEMBER GERBIG: I don't know what maybe, maybe you
17 could come up with a list...

18 DIRECTOR ENG: Maybe we could work out some kind of
19 schedule and you know.

20 MEMBER HOXIE: I think people...

21 MS. HAYASHIDA: Yeah, with Paul.

22 DIRECTOR ENG: That'll be great.

23 MEMBER HOXIE: People have different interests.
24 I'm interested in Upcountry, you know Don's maybe
25 interested in that side.

26 VICE CHAIR LUCK: Yeah, I wouldn't mind seeing, I
27 didn't get to see that side either.

- 1 MEMBER ROBINSON: And our old, yeah, and I haven't
2 seen the Westside systems.
- 3 MEMBER GERBIG: Yeah, so we're all interested in
4 something. So, I, maybe you could give us a list
5 of possible, I mean, we're not gonna go to Waikamoi
6 at 4,000 feet and look at...
7 (several people speaking at the same time)
- 8 VICE CHAIR LUCK: Yeah, we did do that last time.
- 9 MEMBER ROBINSON: Yeah, we did.
- 10 DIRECTOR ENG: They're all interesting. I enjoy...
- 11 VICE CHAIR LUCK: You're not supposed to say you
12 walked the flume though.
- 13 DIRECTOR ENG: My wife enjoys going for the ride
14 but I love on weekends to see things that I can't
15 get out to during the week.
- 16 MEMBER GERBIG: Could you give us a list of systems
17 that we could possibly...
- 18 DIRECTOR ENG: Sure.
- 19 MEMBER GERBIG: Get to in a reasonable, in within a
20 day and back and we could kinda choose what we
21 would like or you could schedule it...
- 22 DIRECTOR ENG: Yeah, yeah, we could just pick a day
23 when we're adequately staffed and we could free up
24 someone to show you around and it could be, there's
25 no minimum number, is, it's just a maximum..
- 26 MEMBER EASON: Three.
- 27 CHAIR LUCK: Yeah.
- 28 DIRECTOR ENG: Maximum number but no minimum.

- 1 CHAIR LUCK: No.
- 2 DIRECTOR ENG: Like even if something like in your
3 Westside, Don, if you wanted to maybe check out the
4 Mahinahina facility or Lahaina.
- 5 MEMBER GERBIG: But I mean if we had a list we
6 could kinda pick and choose and if there was, if
7 Phyllis wanted to come to the Westside where
8 there's a lot sun and it's beautiful that she could
9 have...
- 10 MEMBER ROBINSON: I live in Kihei. We got lots of
11 sun. It's beautiful. I'd just like to see the
12 system.
- 13 (laughter)
- 14 DIRECTOR ENG: I'd love to comment because I, I
15 find all the facilities fascinating so.
- 16 VICE CHAIR LUCK: It was, it was an eye-opening
17 experience.
- 18 MEMBER GERBIG: But anyway that would be something
19 to look at. I, I, I, I'd be interested.
- 20 DIRECTOR ENG: Yeah, for John's case, yeah, we
21 could maybe do Waikamoi.
- 22 MEMBER EASON: That's where I'd like to go.
- 23 DIRECTOR ENG: Little bit wet right now.
- 24 MEMBER ROBINSON: So, so the water treatment plants
25 are under the public, Public Works, right?
- 26 MEMBER GERBIG: No, Department of Water.
- 27 MEMBER ROBINSON: No, I, waste, waste treatment.
28 Waste treatment is...

1 MS. HAYASHIDA: Under Environmental Management.

2 MEMBER ROBINSON: Right, right. 'Cause you know,
3 I'd like to, I'd like to see how that can help with
4 our water issues but I know that's under a separate
5 department but.

6 VICE CHAIR LUCK: Ok, any other agenda items.

7 MEMBER GERBIG: I move that we adjourn.

8 MS. HAYASHIDA: No, we're not finished.

9 VICE CHAIR LUCK: Well, we do need, we have a
10 couple of things.

11 MEMBER ROBINSON: There is a division report.

12 VICE CHAIR LUCK: But thanks for helping me try to
13 set the record.

14 (laughter)

15 VICE CHAIR LUCK: We don't have any Communications
16 I believe but we do have Director's Report. Or do
17 you have any...

18 DIRECTOR ENG: I really don't have any thing else.
19 If you'd like to go over any of our operational
20 reports, if you have any questions I...

21 VICE CHAIR LUCK: Well, just the, great, the rain
22 is great, the reservoirs are filling up.

23 DIRECTOR ENG: Yeah, maybe we can look at the
24 Upcountry water report.

25 VICE CHAIR LUCK: We just need another reservoir.

26 DIRECTOR ENG: We're really pleased how things have
27 kinda turned around in recent days.

1 MEMBER ROBINSON: Boy, they sure haven't turned
2 around over on us, on the dry parts of the island.

3 DIRECTOR ENG: Yeah, but we've been really lucky,
4 again, I was telling some of the members earlier,
5 we're trying to help Garrett Hew and EMI 'cause
6 they have a big project coming up December 7th at
7 our Kamole fore bay, again that's we take our water
8 into our Kamole Treatment facility. It's like a
9 one week project. So, the Wailoa Ditch will be
10 down for one week. So that's why it's really
11 important if you look at the Piiholo Reservoir
12 column, that's about the sixth or so over, how
13 that's increased to just about full capacity.
14 'Cause we need a lot of water in that...

15 VICE CHAIR LUCK: Yeah.

16 DIRECTOR ENG: When we shut down Wailoa, 'cause
17 then everything for mid-level Kula, Makawao,
18 Pukalani is gonna be basically coming off of that.
19 And then, and then even, 'cause everything is so
20 good, the Pookela Well has been running. I, I
21 ordered people shut it down as of yesterday. We
22 can save some electricity but keep an eye on
23 Piiholo Reservoir, 'cause we need to keep that
24 full. We will be, and also because Kahakapao now
25 has got pretty full. Those reservoirs now we're
26 going to go back to chloramines. So we're going to
27 basically serve all of the Upper Kula off of just
28 that system with chloramines, so. Yeah, this is

1 something that we're all kinda look at religiously
2 everyday and it's a key tool.

3 VICE CHAIR LUCK: Yeah, and it's always nice to see
4 the triple digits, mgd for Wailoa Ditch.
5 Percentages are up in the 90's.

6 DIRECTOR ENG: Yeah, yeah, so we, it seems this
7 whole calendar we never dipped down as low as last
8 year, summer of 2008, when that Wailoa Ditch on
9 some days got below 10 mgd. It's like Garrett's
10 saying it was the lowest in his career at HC&S, so.
11 So, yeah it's looking better overall for the time
12 being, so we're pretty happy.

13 MEMBER ROBINSON: So the drought watch is still in,
14 in effect up there, then.

15 DIRECTOR ENG: Yeah, yeah.

16 VICE CHAIR LUCK: Alright, any thing else?

17 DIRECTOR ENG: That's all that I have. That's it.

18 MEMBER HOXIE: I, I have a question.

19 DIRECTOR ENG: Sure.

20 MEMBER HOXIE: What, what's happening with H'poko
21 wells and moving that forward, running Pookela,
22 getting more meters issued and that kind of thing.

23 DIRECTOR ENG: Ok, well that's still on the table.
24 We recently had a meeting with the chair of Water
25 Resources Committee, Mike Victorino. I think he
26 will be bringing it back to his committee shortly,
27 hopefully in a month or so. So, there'll be
28 further discussion. There is a lot of support to

1 utilize those wells. We know we have some work to
2 do to convince the public. And so we will do all
3 the adequate amount of testing that's reasonable to
4 do because we know, who've operated a granular
5 activated carbon treatment facilities that it
6 works. So now we need to just prove to the public
7 that it works too. We'll do that. I'm hoping that
8 we can be able to utilize those for, even for full
9 time purposes 'cause operationally we talk about
10 utilizing it just on backup emergencies, any kind
11 of emergency but because of the nature of the
12 carbon vessels you really got to keep water flowing
13 through them. If you don't then you can get
14 bacterial growth and that's a key. So ideally
15 operationally, you wanna operate those full time
16 and maybe continue to use your Pookela as your
17 backup and work off of that. So I kinda threw that
18 out to Mr. Victorino the other week. Just to keep
19 that in mind too that we have some operational
20 issues too to consider. But again, for the sake of
21 expenses, the carbon costs, the replacement costs
22 are covered by this DBCP settlement, the chemical
23 manufacturers so.

24 MEMBER GERBIG: How long does that go on?

25 DIRECTOR ENG: It terminates in 2039.

26 MEMBER GERBIG: 2039?

27 DIRECTOR ENG: Yeah, it was a forty year settlement
28 agreement started in 1999. So we've gone all these

1 years without even utilizing it too. We do have
2 though a Napili A well that we have carbon and we
3 do replace that from time to time. Doing it about
4 every 16 months or so.

5 MEMBER GERBIG: But the department has pays for?

6 DIRECTOR ENG: Well, we get reimbursed by the
7 defendants, the chemical companies.

8 MEMBER ROBINSON: The chemical companies who caused
9 it.

10 MEMBER GERBIG: Even the ones out in Napili?

11 DIRECTOR ENG: Yeah, yeah.

12 MEMBER GERBIG: That too gets reimbursed.

13 DIRECTOR ENG: There are a number of county owned
14 wells and even future wells that are covered by the
15 settlement agreement. So we should be taking
16 advantage of that too.

17 VICE CHAIR LUCK: Any comments on the Division
18 Reports?

19 (silence)

20 VICE CHAIR LUCK: Alright, I'd like to wish
21 everybody a Happy Thanksgiving holiday.

22 MR. KUSHI: Same to you.

23 VICE CHAIR LUCK: Thank you and we'll see you in
24 December. We are adjourned.

25

26 (The meeting adjourned at 10:03 a.m.)

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Prepared and submitted by:

Gaye Hayashida
Commission Support Clerk

Approved on: _____