MINUTES
WATER RESOURCES COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
COUNCIL CHAMBER, EIGHTH FLOOR
WAILUKU, MAUI, HAWAII
DECEMBER 1, 2009

APPROVED:
[Signature]
Committee Chair

REPORTED BY: JEANNETTE W. IWADO, CSR #135
REGISTERED PROFESSIONAL REPORTER
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IWADO COURT REPORTERS
(808) 244-9300
CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Michael P. Victorino, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Gladys C. Haisa
Councilmember Sol P. Kaho‘ohanohano
Councilmember Danny A. Mateo
Councilmember Bill Kauakea Medeiros
Councilmember Michael J. Molina

NON-VOTING MEMBERS:
Councilmember Wayne K. Nishiki

STAFF: Kimberly Willenbrink, Legislative Analyst
Tammy Frias, Committee Secretary

ADMIN: Jeffrey Eng, Director, Department of Water Supply
Herb Chang, Engineering Program Manager,
Engineering Division, Department of Water Supply
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Richard H. Pohle, Upcountry Meter List Association (UMLA)
John V. Duey
Rosemary S. Robbins, Oversight and Advisory Committee (OAC)
Sherman Dudley DePonte
Johanna Kamaunu

PRESS: Harry Eagar, The Maui News
Akaku – Maui County Community Television, Inc.
CHAIR VICTORINO. ...(gavel)... Good morning. This is the Water Resource Committee meeting for December 1st, 2009. We have a quorum present, and let me introduce all the members that are present at this time. Starting from my left, the Vice-Chair of the, the Council, Mr. Mike Molina.

COUNCILMEMBER MOLINA: Good morning, Mr. Chair.

CHAIR VICTORINO: We also have Ms. Gladys Baisa, member of the committee.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Member Sol Kahoʻohalahala.

COUNCILMEMBER KAHOʻOHALAHALA: Good morning,

Chair.

CHAIR VICTORINO: Good morning. The Chair of the Council, Mr. Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Chair.

CHAIR VICTORINO: Good morning. Another member, Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good morning,

Chair.

CHAIR VICTORINO: Aloha and good morning, thank you. These are the voting members, and I am the -- oh, and I forgot the Vice-Chair of the committee, Mr. Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning, Chair.

CHAIR VICTORINO: And I'm the Chair, Michael
Victorino. I'd like to welcome all the voting members. We do have present one non-voting member, and I'd like to thank him because he's here at every meeting, Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR VICTORINO: And before I get started introducing all the members of the Administration, I wanted to take a look, because I see some new members that are here. First of all, the Director from the Department of Water, Mr. Jeffrey Eng.

MR. ENG: Good morning.

CHAIR VICTORINO: And then we also have Herb Chang that is present also. And Herb, I always forget your title, so I'm going to apologize for that. But you're somebody, I know that. Okay, that's, that's all we need to know, Herb, thank you. And then of course from Corporation Counsel, Deputy Corporation Counsel Mr. Edward Kushi, Junior.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. Our committee staff, legislative analyst Kim Willenbrink, and committee secretary Tammy Frias. Thank you very much. Thank you for all being here this morning. With the holidays upon us it is such a nice season, and you smell all those nice pine out there when you walk around in the shopping centers and all that. It's, it's the holiday season. It's something nice
to behold.

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

CHAIR VICTORINO: Today we just have one item, WR-1 semi-colon, or parenthesis, I should say, (5), subdivision water system requirements.

Members, correspondence dated November 24th, 2009 from myself transmits a draft bill entitled, "A bill for an ordinance amending Chapter 14.05, Maui County Code, relating to public services." The, the purpose of the draft bill is to codify and, codify the rules and regulations of the Department of Water Supply regarding subdivision water system requirements. And if you turn to that page you will have a complete outline of what we will, we've been working on, and we can go over that a little bit later.

Members, although we have considered this bill in its entirety, we have not discussed response letters. And that's the purpose, response letters received from the Board of Water Supply, the Subdivision Engineering Standards Committee, and the Department of Water. You will also find written testimony from, from others that are in your binder and has been received from us this morning.
We will now take public testimony, and I would like to go over the rules, if I may. For public testimony you will be limited to today's agenda item only. Please sign up at the desk located at the front entry of the floor, eighth floor lobby. You'll be limited to three minutes and one minute to conclude. Please state your name, who you're representing.

At this time before we get started with any public testimony I would like all our members, staff, and as well as anyone in the gallery to please, please turn off any cell phone, or at least turn off any noise making device. Decorum will be followed in this chamber, and thank you very much for your consideration.

At this time I'd like to, with no objection, receive public testimony.

COUNCIL MEMBERS: No objection.

CHAIR VICTORINO: All right. We have at this time three testifiers. The first testifier is Richard Pohle, and he will be testifying on, on behalf of UMLA, and that's an organization that has come and he represents them. Okay, Mr. Pohle, you're up.

...BEGIN PUBLIC TESTIMONY...

MR. POHLE: Thank you, Mr. Chair. I'm Richard
Pohle, a Crater Road protea farmer and founder of the Upcountry Meter List Association. Please look at UMLA.WS. We are the only Maui organization representing the small landowners on the meter list want -- waiting for water service. 13 years for some of us, and we are still waiting.

This subdivision bill is fatally flawed. It is written for developers, not the people. It has a waiver section that exempts family members, but subsection four takes that exemption away by linking the paper subdivision to an adequate water supply. The DWS director has never had an adequate water supply. And why limit the waiver to family members? Maybe the Widow Brown needs to sell off a TMK parcel to keep her land. Paper subdivisions and TMK's don't require adequate water, only building permits do.

And I note you exempt large lots from the water availability requirements. When the Widow Brown applies for anything related to water, this Water Department considers her a developer subject to the, all the requirements of the bill. Perhaps she should form a corporation, drill a well somewhere, and give the water to the County in exchange for meter rights. That's how things are done on Maui for $22,000 a meter. Perhaps the widow could even make a profit selling meters to her neighbor.

Do you really think that's fair? Little people can't do that, and why should they have to? She's not a
developer, she's just a private citizen. Write the bill to
let her use her land. If this bill is passed out of this
committee it will complete WR-1, then the full Council will
probably pass it. That bill contains a section that writes
the water meter list into law. I say again the list
prevention -- provision prevents cooperation between
neighbors. This example is as simple as I can make it.

Dudley and I are neighbors on Crater Road. He's
number 76, I am 675. If the Director grants only a hundred
meters, Dudley will have to finance the entire expense of
this bill. I cannot share the expense because I cannot get
a meter. Instead, develop by zones. Allow all those in an
area to contribute to the cost of infrastructure
development.

But you say there is a drought. Nonsense. It
took me one water availability meeting to figure out there's
plenty of water on Maui. At the meeting in August in Kula
the Chair noted there was anger in the audience, and said
words to the effect, "It's not our fault." But the bill
that codifies the meter list passed out of committee on 2
June by a vote of four to nothing. The Chair voted for it.
No one opposed it. If this bill becomes law as it stands
without any provisions to help the people on the list you will
own that anger, and rightly so.

One more point. The Water Department is supposed
to maintain the meter list. Why has it not been updated since May 15th, 2008? Has no one applied for a meter recently? Please update it. We need the new members for our next mailing list. Please vote to reject this bill.

Please rescind approval of WR-1(3). If you are concerned about public anger, please hold a meeting to discuss how your constituents have been treated by this Water Department. Give me three weeks notice and I will fill, fill this chamber.

That ends my testimony, but I would like to ad lib, if I may, a, a kind word about the Maui government.

CHAIR VICTORINO: If you would, if you can conclude in one or two sentences, go ahead.

MR. POHLE: Okay. I found the Maui website to be extremely transparent, and the decorum here is very nice.

Thank you for the, that.

CHAIR VICTORINO: Thank you, sir. And let me, before I open up questions to, for our committee members to you, sir, let me inform you that the large lot that you are referring to, that part was re-committed to the committee. So nothing has come out on that one, okay. So that, I just wanted that corrected.

MR. POHLE: I will put that on my site.

CHAIR VICTORINO: Thank you very much. Any questions for the testifier?
Seeing none, thank you, Mr. Pohle. And again, happy holidays, sir.

MR. POHLE: Thank you.

CHAIR VICTORINO: Okay, next testifier is Mr. John Duey, and he's testing, testifying on his behalf.

MR. DUEY: Good morning Council Chair and Members. My name is John V. Duey, resident and taxpayer Iao Valley. Hey, my red light is blinking already. That was fast.

CHAIR VICTORINO: Kim, can you please give him at least three minutes? Okay, go ahead.

MR. DUEY: I just got this bill this morning; I didn't have much chance to read it. I hate to talk about too much personal things, but I think Mike was familiar, sort of familiar when he was the Chair of the Board of Water Supply. One of two things I have questions with about this document is 14.05.020, the second item about reservoirs. I'm, I question what the need for reservoirs are basically when you have got a -- if you have got a 10 or 12-inch water line fronting your property and there's water there, why do you need a reservoir?

The other part of this would be the next section, 30, where it requests like a 3 to 12 -- I'm being personal again. We're, sooner or later we're going to have about a five or six lot subdivision in Iao Valley, and there is a
water line going down the highway, the road, Iao Road, and
our subdivision will be a long, narrow subdivision a quarter
of a mile long. The lots are fairly shallow and, you know,
like two acre lots. So it's not like you're going to go in,
you know, a quarter of a mile to make the subdivision. Each
lot will come out to the road. So why would you have to
have a 6-inch main or whatever to feed, you know, come off
the road and feed parallel with the highway when you can
come off the highway with, you know, six connections if need
be off the highway to the, to the property?

If you had a 12 acre parcel that had to go back
off the highway quite a ways, I could maybe see it. But in
this, in this particular case, again, I'm speaking kind of
selfishly, but you've got a long quarter acre or quarter
mile run, and the lots are fairly shallow and, and two acre
lots. Why come off the road and run a 6-inch line parallel
with the highway to feed these lots where you could tie into
the same 12-inch main six different times? You use the same
amount of water. So I have a question about that.

The other question is the elevation agreement,
which is at 14.05.100. We went through this before when our
daughter built on this property. I don't understand these
elevation agreement, which we have one. But the thing about
putting the tank and the pump, if I'm not mistaken, all the
fire trucks have pumps on them, so why take a pump and pump
water to the fire truck and then the fire truck takes the
pump and pumps water out the hose to the fire? I don't
quite understand it. Why can't you take the pump, pump the
water out of the fire hydrant, and pump it to the fire? So
why do you need, why do you need two pumps?

That's -- I may not have made myself clear, but my
understanding is you've got a storage tank with a pump on
it. The pump is going to take the water, the storage tank is
full of water. So you have a pump there, and what's the
pump doing but taking water out of the tank and taking it to
the fire, the fire truck or fire hydrant. And the fire
truck has a pump on it and you're going to take that water
and pump it under higher pressure to the fire. So why do I
have to have a pump when the fire truck has a pump? I
already paid for that pump with my taxes, so I have to pay
again. Anyway, that's a couple of things.

I didn't have a chance to read the whole thing,
but a couple of instances that may, would affect us
personally and some other people down the line. And Merry
Christmas to you all.

CHAIR VICTORINO: Thank you, Mr. Duey, the same to
you. But hang on. Any questions for the testifier?

Seeing none, thank you, Mr. Duey. And again,

Merry Christmas.

MR. DUEY: Merry Christmas.
CHAIR VICTORINO: All right, next testifier is Rosemary Robbins, and she will be I, I guess OAC, Concerned Citizens. I'm sorry, I, I apologize if I'm not reading this little thing here. Okay, so this is what, what is the organization?

MS. ROBBINS: The Oversight and Advisory Committee.

CHAIR VICTORINO: Okay, thank you very much. Go ahead, Ms. Robbins.

MS. ROBBINS: Okay.

CHAIR VICTORINO: Good morning.

MS. ROBBINS: Good morning everybody. Nice to see you. Thank you for the opportunity to testify. I too have not had a chance to go over this very deeply, but Mr. Pohle, whom I've never met, pretty much voiced what I've been hearing from folks in the community. They're very concerned about the fact that with water we're talking about quantity and -- availability of quantity, distribution of quantity, and then also the quality that's involved.

Storage was a real issue for me when I got a chance to see this this morning. Because there are means made available as I read this that would be not limited to concrete or steel, and that certainly leaves a possibility of quantity of water with problematic quality.

So if people are going to be consuming this water
directly, either by way of consumption, food, food preparation, also by bathing and absorption, we may be ending way back where we started from with the Oversight Advisory Committee for the EPA's grant of $475,000 to make sure that Upcountry water was safe. And I just want everybody safe. Whether or not it's Upcountry is one piece of the geography that we need to be very concerned about. So also in the terms of amount of time waiting for water meters, I'm not one of the people waiting for a water meter, but I keep hearing these concerns. And when you folks were Upcountry at King Kekaulike last month or the month before there was a woman who testified she had been waiting, I don't know, longer than I've maybe been alive to get a water meter, and has spent much, much money trying to abide that time. So the community is concerned.

I'm happy to help in any way that I can. We did a lot to try and make sure that we were going to have safe water, and we don't want to see this eaten away piece by piece. Thank you.

CHAIR VICTORINO: Thank you, Ms. Robbins, Ms. Robinson [sic]. Any questions for the testifier?

Seeing none, thank you very much, and have a Merry Christmas.

MS. ROBBINS: You too.

CHAIR VICTORINO: And our last testifier who
signed up is Sherman Dudley DePonte, and Mr. DePonte is
speaking on behalf of himself.

Good morning, sir.

MR. DePONTE: Good morning.

CHAIR VICTORINO: Hang on, let's get the green
light for you. Okay, go ahead.

MR. DePONTE: Sherman Dudley DePonte, Akamai Land
Surveying, and resident of 17529 Haleakala Highway. I'm
also a professional land surveyor.

MR. POHLE: We can't hear you.

MR. DePONTE: Huh?

COUNCILMEMBER BAISA: Use your mic.

CHAIR VICTORINO: Use the mic, yes.

MR. DePONTE: Oh, Okay.

CHAIR VICTORINO: Use the mic, please. Thank you,
Sherman.

MR. DePONTE: I'm a professional land surveyor
licensed in Hawai'i, Arizona and California. Why I mention
that is because I've been doing this business for 34 years,
going on 35 now. I've seen a lot of subdivisions. I've
seen a lot of action as far as water and what's been going
on here.

I've made my voice pretty clear on many occasions
here about the department. What you have is a set of rules,
set of rules that can be pinpointed there, right there. We,
we don't have to give you the water you need, okay. Right
there, oh, there's another one. That's why we don't have to
provide you with a water meter. Oh, here's another one.
And we as the citizens are hurting, and some of you in the
Council here are hurting also. So you know what we're
feeling when we're on a list that's forever and a day.

I went into the department before I bought my
property to make sure that I could get water so that I could
make sure that I could afford to do what I wanted to do, to
give my children that piece of property. We've come to the
time, that was in 1992 before I bought it. Months before I
bought the property I made sure, okay, this is all you have
to do you have -- this is all, this little piece of pipeline
you have to do. Since then I've been arguing with that
department to get me that, just that.

So the rules that we're putting forth here needs
to be rules for the department also to follow. The
department had not answered my letter for two years that
you, the Council, advise them to do it. So without any
rules for them, we're here like okay, we're the ones that's
going to have to follow the rules. Do they have to? Not
really. And that's not fair.

Why I say that too, we have, we, we, we discuss
things here at, you know, in front of you, the members of
the Council. We also go in and, and meet with them. And
one of the things was we need a tank on our personal level,
we need a tank, a fif -- we have a 50,000 gallon tank; we
need a 70,000 gallon tank there. A deal was, was swung with
Haleakala Ranch. They're consolidating and re-subdividing
tax map key 2-3-05 parcel 12 and a portion of parcel 03.
Consolidating; re-subdividing.

Okay, they're taking one tank site where it's in
the wrong place, moving it to where it's supposed to be,
where it was for years already that the County had
prescriptive rights there. The tank was there for all these
years. That's when they built it, okay, so now they're
correcting that.

But what they're doing is they're not giving that
extra space to put another tank that the rules that you see
that's coming up front here is going to have to apply.
That's just one instance. I've got many more instances if
you guys want to hear it on, on how this department is
operating. I'm concerned.

My red shirt, I always wear it, Holy Ghost. It
was a group of people that put together the first line that
went there. A hundred, it's over a hundred years now. A
hundred years they have not solved the Upcountry water,
water problems, and we the citizens are hurting. Whereas
they can take a line from Waihe'e all the way to a place
that had no water in, in Wailea and Makena, and now you see
it with water, hotels running water all over the place.

Upcountry is still left in the dust. I think I'm over my three minutes, so I'll just -- I'll try to be a nice guy this time.

CHAIR VICTORINO: Thank you, Dudley, I appreciate it.

MR. DePonte: And Merry Christmas to you, all of you.

CHAIR VICTORINO: Yeah, same to you, Dudley. And, you know, I understand the frustration and, you know, I'm working with that. And you and I have been in constant communication.

So but questions for the testifier? Go ahead, Ms. Baisa, please.

COUNCILMEMBER BAISA: Yes, Chair, thank you very much. And thank you very much, Mr. DePonte, for being here again. I certainly understand what you're feeling. You know, you mention that it's been a hundred years. Well, you know, I've lived almost 70 of those, so I have my Upcountry history too. And I understand the frustration, and there's no where I go that I don't get this.

But I wanted to ask you a question. You mentioned in your testi -- I wanted to clarify your testimony. You made mention about a letter that you had written to the department two years or more ago and you had not received an
answer. Can you tell us what is the essence of that letter?

MR. DePONTE: That, that letter was directed to the Director, and it was because the Council at the time, Michelle Anderson and the Council requested that I forward a letter to that department requesting what would be the requirements of me for my subdivision. So now we have it on the table at this time, what is it that we have. And the Council can look at it and we can all look at it and go, okay, this is what we have.

It fell between the cracks, and I'm getting it second-hand so I'm, I'm hearing this. It's because there's no water availability, so he don't need to answer me. He don't need to even acknowledge the letter ever existed. And sometimes when we're here at the Council he don't even acknowledge that I exist or any one of the testifiers.

COUNCILMEMBER BAISA: Mr. DePonte, I don't want to get into anything personal, but I wanted to understand what the issue was about the letter. And I'll, I'll make an inquiry later.

The other thing was I -- you spoke in your testimony, and it's kind of mind boggling to me because, you know, we've been working so hard on trying to come up with water rules. It's been a long time, and we need a set of water rules. And the Chair has been working very diligently to get us something. It's kind of disheartening to me to
hear you refer to these rules more as obstacles rather than as things to help, you know, get people get water and solve the issues in our community. Is that a correct impression that I got?

MR. DePONTE: What it is is when we reach a certain level there's another level that we have to go to. 6-inch water line, now it's 8-inch. After the 8-inch it's 10-inch. My main concern on that, and I appreciate the people working together to get rules. We need rules to follow, but all of us need to follow it.

We put in a line for the Water Department in Keokea. This is an example. And why I mention about that is because we put in a line, it was an 8-inch line, 8-inch or 10-inch, whatever it was.

But what happened in is, what happened with that, and I gave the Council a letter of that, that my cousin put in for, for a water meter and to, to see if they could subdivide, consolidate and subdivide their place right there. They said the line was inadequate. Right -- they put it in there. A couple of months later it's inadequate. And they knew what the new rules was going to be. If they didn't, who would? One month. You have been working on the rules, the committee has been working on the rules for years. Now they did not know that, and they let the water line go in without upgrading it, and hurt the citizens again
in that area.

You represent different districts. As I told you before, I represent all the districts over here on Maui, and I also represent all the islands, because I do work on all islands. And that's what I see hurt, is when a person comes to me and they see that they cannot do their subdivision. Because why? The Water Department put in a water line that was inadequate already when it went in, and one month later, two months later you can't, you can't hook up to it. That's where my concern is.

The rules, yes, we do need the rules. We all need to follow the rules, not only Sherman DePonte, not only Mr. Pohle, not only Gladys, we all need to.

COUNCILMEMBER BAISA: Thank you very much. You're very clear in your testimony, I appreciate it, thank you. Thanks for coming.

MR. DePONTE: You're welcome.

CHAIR VICTORINO: Thank you. Any other questions for the testifier?

Seeing none, Sherman, again, happy holidays, Merry Christmas my friend.

MR. DePONTE: Merry Christmas to you all.

CHAIR VICTORINO: And our last testifier who signed up, Johanna Kamaunu, and she's also representing herself. I will remind anyone in the audience if you -- I
think I look around everybody testified that's in the audience. But if anyone else walks in the, the Chair is still open to testify. Good morning, Ms. Kamaunu.

MS. KAMAUNU: Good morning. I'm Johanna Kamaunu, I'm from Waihe'e, and I, I really hadn't planned to be here and if, but at this point something has come up that I felt I need to at least inform the Council of. And in looking over this information that's being presented, my biggest concern is that no consideration, at least not written in this portion, is made of kuleana lands and those that have kuleana water rights.

CHAIR VICTORINO: Okay.

MS. KAMAUNU: Now, according to the information that governs kuleana water, the law is really clear on this. It said that a party -- well, let's say I have kuleana water and there's another parcel next to me that doesn't have, and another parcel below him that does have kuleana. Now, the gentleman next to me that doesn't have water could get water from kuleana users, provided it doesn't affect me or the person below him in a negative way.

There's nothing that shows how the water that's going to be taken out of these valleys, no matter how it's taken out, is going to affect the consumer, the kuleana users, and no consideration has been made to ask us about that. That's, that's the thing that I wanted to bring
forward.

And like I said, normally I wouldn't be concerned about it, but I felt that whenever the issue on water comes up -- oh, I know why I did it, I don't have water today. The water got turned off for some reason. Now, the plantation told us -- oh, I should say Wailuku Water Company announced to the community they were going to turn it off December 6th to the 11th for some repairs. Today is not December 6th, and the water went off yesterday. So our wais, our lo'is are dry. But you know what I mean.

And so I'm kind of concerned that now we have this coming up. How is that going to affect me? Nobody has said. We've not been participating in any of these conversations. I suppose we should hunt for you folks for the discussions, but I haven't been able to find any. And that, that's all I wanted to do.

CHAIR VICTORINO: Okay, thank you Ms. Kamaunu.

Questions for the testifier? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

And Ms. Kamaunu, good morning, and thank you --

MS. KAMAUNU: Good morning.

COUNCILMEMBER MEDEIROS: -- for being here. You know, I got a call one time when the water was turned off up in your area, and I, I investigated it and called the company, and it was difficult to track down officials that
regulate that water. Is there an access for property owners like yourself with kuleana rights to access the company to inquire? Like you say, the notice was to be turned off December 6th, but today is December 1st. So is there a number you can call?

MS. KAMAUNU: Yes, Clayton Suzuki is the person that we're referred to and his phone number. But this is not the first time that it's happened, and I don't suspect it will be the last. The previous time that we had to contact him about it they decided that they would install temporary tanks to accumulate water for about a four or five day period, and we barely made it through the four or five day period. But that was okay, it worked.

And, you know, I figured, okay, we will give them the benefit of the doubt. But here we are a second time and the water is off again. It's not the second time, but this is actually the third or fourth time that it's happened. So the water is off again, irregardless of some of the things we set up to prevent this kind of thing happening.

And, you know, it's fortunate we have the tanks, because otherwise I would have found out in the middle of a shower that there's no water. So that's what I'm kind of concerned about.

COUNCILMEMBER MEDEIROS: Okay, the kuleana rights that you possess right now, who -- the kuleana water rights,
is that mainly for the lo'i and irrigation, or is that your
domestic water use also?

MS. KAMAUNU: It's our domestic water use also.

COUNCILMEMBER MEDEIROS: Okay. So there's no
County system in your area?

MS. KAMAUNU: There is in our area. We are not
connected to that County use.

COUNCILMEMBER MEDEIROS: Okay. So the existing
water for you has been through the kuleana water?

MS. KAMAUNU: Correct.

COUNCILMEMBER MEDEIROS: Okay. And does the
kuleana rights property owners have an association that
meets with the Wailuku Water Company to voice their concerns
like this?

MS. KAMAUNU: Actually, no. Not an organized
group, anyway. But I understand that there is one in the
process of being organized, yeah.

COUNCILMEMBER MEDEIROS: Okay. I would recommend
you, you organize a group so that --

MS. KAMAUNU: Yes, definitely.

COUNCILMEMBER MEDEIROS: So that you have a united
voice. But thank you for your testimony and for this
information.

MS. KAMAUNU: Thank you.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.
CHAIR VICTORINO: Thank you, Mr. Medeiros. Any other question, questions for the testifier? Seeing none, thank you. And you have a Merry Christmas too, my dear.

MS. KAMAUNU: Thank you.

CHAIR VICTORINO: Thank you so much. And by the way, I will send -- I will be calling and finding out from Mr. Suzuki what, what the status is up there. Even though that may not be under our purview, I still would like to know what's going on. So thank you for that information. And as soon as I get some kind of answer I will get back to you.

MS. KAMAUNU: Thank you.

CHAIR VICTORINO: Thank you. Okay, at this time I will make one last attempt -- no, you already spoke, Mr. Pohle. I cannot allow you to speak again, you know. So sorry about that. But if anybody else is in the audience. Since I see no one, I think everyone has spoken. So with no objections I will close public testimony for this morning's meeting. No objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections, thank you.

...END OF PUBLIC TESTIMONY...
CHAIR VICTORINO: Okay, ladies and gentlemen, at this time if I may, Members, I would like to bring you up to speed. So let's turn to correspondence in your binder dated November 24th, 2009, okay. And this is from myself to you and incorporates the draft bill and the revisions that this committee has agreed upon since Department of Corp Counsel submitted the proposed bill on June 29, 2009.

Director Eng has transmitted a correspondence dated July 8th requesting the changes reflect the department's new minimum sized standards for water mains and the draft bill incorporate those changes that the committee has already agreed upon.

So has everyone found the correspondence dated July 8th from the Director? Do you have it? I just, I don't want to move on until everybody has, kind of trying to keep that together. I do admit we do have a lot of information in the binders, ladies and gentlemen.

Has everybody got it? If not, I can have Kim help you with that. Okay? And at this time I will ask Mr. Eng if he would like to comment on his response on June 29, 2009. This we already agreed upon, but is there any questions for Mr. Eng going back to that July 29, 2009 correspondence?

MS. WILLENBURK: It's two parcels.

CHAIR VICTORINO: Pardon me?
MS. WILLENBRINK: It's two separate.

CHAIR VICTORINO: And then the response that he transmitted, a response on July 8th. That was the request for the changes.

COUNCILMEMBER MEDEIROS: July 8th. Mr. Chairman, I have a question.

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER MEDEIROS: Mahalo.

Director Eng, part of the committee Chair's letter of November 24th, 2009, item one talks about water main sizes, and several of the testifiers this morning talked about water main sizes. Does the size of the water main takes into consideration the requirements of the fire department and hydrants?

MR. ENG: Mr. Chairman?

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

MR. ENG: Member Medeiros, yes, the size of the water mains are primarily to, to address fire flow requirements.

COUNCILMEMBER MEDEIROS: And is the -- for a full sized standard water hydrant, is the required size of the pipe 8 inches, is that the minimum size?

MR. ENG: I think it's 6-inch water line, because it also services the hydrant.

COUNCILMEMBER MEDEIROS: It's sufficient.
MR. ENG: Yes.

COUNCILMEMBER MEDEIROS: I see. The other question one testifier asked is why is it required, and I'm not sure if this is a part of this letter, Mr. Chairman, but you let me know if it isn't.

CHAIR VICTORINO: Yes, go ahead.

COUNCILMEMBER MEDEIROS: I wanted to know, he, he, he talked about why is it necessary to have a pump at the tank and the fire truck pumping the water. My experience in the fire department having, you know, fought some fires in Kula where there's not a very good volume flow from the tank to the, to the hydrant, is that the fire truck sucks it at a rate where the gravity flow from the tank can't keep up the volume. Is that why the requirement is for the tank to have a pump to pump it to the hydrant and the truck when they tie up pumps it to the fire scene?

CHAIR VICTORINO: Mr. Eng.

MR. ENG: Member Medeiros, you know, I might have to ask Mr. Chang to, to correct me if I'm wrong, but I believe the pump is more to pump the water to the tank.

COUNCILMEMBER MEDEIROS: Oh, I see.

MR. ENG: And allow gravity to, to flow down.

So I think that's the purpose of the pump that's described in this chapter.

COUNCILMEMBER MEDEIROS: I see. Okay, thank you
for that clarification. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you. Questions on this particular area for Mr. Eng? And we have Mr. Chang here also. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: So questions would come from public testimony, because I have one that I want to ask the department.

CHAIR VICTORINO: Is it related to this area or something further down?

VICE-CHAIR PONTANILLA: Something that one of the testifiers brought out which kind of probably related to, to this here.

CHAIR VICTORINO: Okay, go ahead.

VICE-CHAIR PONTANILLA: Okay. And the question is, you know, that we do have engineering standards for subdivisions. I was just, when I asked the department if they have any engineering standards regarding the size of water lines, the size of anything to do with water in regards to the engineering aspects when, when, you know, people are doing designs.

CHAIR VICTORINO: Either Mr. Eng or Mr. Chang, whoever would like to respond to that question, you may go ahead.

MR. ENG: Okay, I'll go as far as I can with this response.
CHAIR VICTORINO: Okay, Director Eng.

MR. ENG: Mr. Chang will be ready to jump in at any moment to save me. But most of the standards, engineering standards for water lines are mostly based for proper fire flow. So therefore within certain like residential subdivisions you often see the 8-inch water line to again to address the proper fire flow requirements.

VICE-CHAIR PONTANILLA: So what we see in the proposed ordinance are basically your standards with regards to designing water line and to meet fire flows?

MR. ENG: No. Basically it's the fire flow requirements that the fire department has adopted in their code, as well as what we are planning to adopt with our new stand, with our new chapters, our rules and regs. So therefore, it's nothing that anyone has arbitrarily invented, it is based on these, again, the fire code, fire code fire flow requirements that we want to be consistent with the fire department.

VICE-CHAIR PONTANILLA: One last question, Chairman.

CHAIR VICTORINO: Go ahead.

VICE-CHAIR PONTANILLA: Does the department have a committee similar to the standards, Engineering Standards Committee that we have for the County of Maui, meaning a committee that look into design of water lines or water
requirements?

MR. ENG: Member Pontanilla, no, we do not have a committee for that. Again, for water line sizing and standards that pretty much doesn't change too much. That would only change if the fire flow requirements were to change. Then we may have to revisit our sizing.

VICE-CHAIR PONTANILLA: Because we have so many questions regarding the differences, you know, every year that people come for approvals that maybe, you know, the possibility of taking a look and trying to have a water com -- standard committee for water des -- well, similar to the Subdivision Standards Committee.

CHAIR VICTORINO: Before -- I want to stop you right here, because I think we're going too far. The Water Board, for many years when I served, did some of this exact stuff that you're talking about for which the department and the consultants would bring forward for us to work with.

VICE-CHAIR PONTANILLA: Okay, thank you.

CHAIR VICTORINO: So that's basically where that would go, you know what I mean?

VICE-CHAIR PONTANILLA: Yeah. But, you know, when I look at the Engineering Standards Committee there is a criteria on the people that serve on the committee. Similarly, you know, if that type of people or, or professionals, you know, serve on a water committee, because
I don't know who sits on the water com -- the Water Board. When you look at the Standards Committee it's, it's basically engineers.

CHAIR VICTORINO: That's correct.
VICE-CHAIR PONTANILLA: Professional engineers.
CHAIR VICTORINO: That is correct. And, and, and, you know, later on we will be going to the Engineering Standards Committee's review. They did also answer us in that area. And you know, I'm not exactly, you know, I know what you're trying to get to, Mr. Pontanilla. I'm not objecting to what you're saying. But I also feel like now we're going to start, you know -- how can I say this? If we're going to specify committees for every department with engineers, now to find engineers we're already having a hard time with our Engineer Standard, Standards Committee. I think then you may cross into another area where we may have difficulty in filling. So I don't want to get into this discussion, it's an idea that we can look at.

VICE-CHAIR PONTANILLA: Thank you, Chairman. You know, and again --
CHAIR VICTORINO: It's a good idea.
VICE-CHAIR PONTANILLA: And again, just for my concern regarding, you know, a lot of questions regarding the Water Department and how they approve things and, you know, engineering standards change all the time. So that's
the, that's the reason why, you know, I asked the department
if they do, do have a committee of that sort. So thank you,
Chairman.

CHAIR VICTORINO: Yeah, thank you. And I think
your, your, your comments and your concerns are well
received, you know. I think it's something that in the
future some kind of incorporation with the standards com--
standards, Subdivision Standards Committee may be something
we can work out for them to work closely, submit, and then
come back. So I, I, I think you have a valid point and it's
something to look into, yeah.

Okay, other questions for the department in this
specific area? And I'm trying to stay by area so that when
we move on we're clear and we move on to the next area.

COUNCILMEMBER MEDEIROS: Mr. Chair?

CHAIR VICTORINO: Yes, go ahead.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

I'm looking at your November 24th letter which we are
referencing, is that correct?

CHAIR VICTORINO: Yeah, yeah.

COUNCILMEMBER MEDEIROS: And attached to it is the
ordinance. So are you allowing us to ask things that are
attached to it or only what's on your letter?

CHAIR VICTORINO: Well, first of all, I'm just
going to follow this format so that we can -- this is stuff
that we have already agreed upon. So if there's any
questions in this particular five points then I want to
cover that, and then we can go into the specific ordinance
itself.

COUNCILMEMBER MEDEIROS: Okay. I, I'll wait until
a later time to ask my question.

CHAIR VICTORINO: Okay, thank you. If no other
questions in this area -- yes, Mr. Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.

I guess I wanted to raise the, the issue that was testified
to earlier about the requirement for the 6-inch in the case
that was represented that the property runs parallel to the,
to the water line or the water main. But this requirement
would re -- would impose upon the landowner to install that
6-inch, 6-inch versus his idea of connecting in six
different places. So any comments on that?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you. On the scenario that
was given by the testifier that there's an existing water
main basically fronting the properties, again, if it's
already a sufficient size then another 6-inch water line
most likely wouldn't be required. So that was a pretty
simple illustration. You need, you just come off of that
with a service lateral to the water meter.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So where in
this then it allows for those kinds of -- because not, I
mean we're trying to, to find standards that are going to
meet every situation, but here is an instance that's being
presented that doesn't necessarily fit. So where do you
allow for that, is that going to be at, at your discretion
then?

MR. ENG: That is already allowed. If,
again, a sufficient size water main is right there fronting
the property, then that's how you would obtain water
services just by the installation of a service lateral.

COUNCILMEMBER KAHO`OHALAHALA: Okay. So if they
look at this and they are in a unit, two unit subdivision
and they look at the requirements of this, and then are they
going to be expected to then comply with what you have here?
How does, how does the owner themselves come to that
conclusion that you just said that you wouldn't be required
to put in this?

MR. ENG: Most likely the owner would hire a
consulting engineer who already understands our, our
requirements. I mean not many lay persons try to figure
things out on their own. It can be very complicated. But
again, if it's a two lot subdivision and both lots are
fronting let's say the roadway that has a water main in
place, then each of those lots would install a service
lateral. It would be no requirement to put in an additional
COUNCILMEMBER KAHO'OHALAHALA: Okay. And then there was other testimony that was sent in that, by Mr. Rezents whose concern was for the requirement of the 6-inches for the two lot subdivision. And showing an example of why he felt that this was placing a, a burden upon that, that family or the subdivider of those two units. So do you have any comments on that?

MR. ENG: You know, I really haven't had a chance to review Mr. Rezents' letter. If you give me a moment or do you want to come back to this?

COUNCILMEMBER KAHO'OHALAHALA: Okay. I'm just making sure since we're on this particular subject that I'd at least put on the table some of those that are --

CHAIR VICTORINO: We'll come back to that. And, you know, Mr. Molina has a question. So Mr. Kaho'ohalahala, if you hang on that one.

Mr. Eng, if you would go and read that letter and, and make sure you're abreast of what he's requesting or what he's brought forth. Mr. Molina, go ahead.

COUNCILMEMBER MOLINA: Thank you, Chairman. My question relates to the removal of pipe sizes 6 inches or less. Why was that being considered, and would it I guess increase the cost for a, a landowner? I mean if by with this provision in there if we remove the, you know, minimum
size of 6 inches there must be some kind of, you know, engineering reason for it. So maybe if Mr. Chang could --

CHAIR VICTORINO: Mr. Chang, do you want to take a stab at that, please?

MR. CHANG: The reason why we had the 6 inch as the minimum size water main that would be reimbursable is it kind of goes along with the 6 inch requirement for ag zoned subdivisions, and when you go up to urban it's usually 8 inch and commercial is 12 inch. So the idea is that the 6 inch would be the only pipes, 6 inch, 6 inches and on up would be the reasonable fire protection size. So it would be fair we're not -- based on that, anything lower than that wouldn't be real of a value for fire protection, and therefore we shouldn't really be reimbursing anything.

COUNCILMEMBER MOLINA: Okay. And, and, and I bring that up, Chairman, because of, you know, the cost that the, you know, landowner could, could bear. But if it's because of fire protection reasons and that that is why your recommendation basically --

MR. CHANG: Usually it's -- sorry for interrupting. But the requirements of the department very rarely would we have a 4 inch or, you know, something less than 6 for fire protection. And if it, if it was, it would probably be very, very short length. It would be insig -- insignificant amount of money relatively.
COUNCILMEMBER MOLINA: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Molina. Other questions?

If not, Mr. Eng, have you had a chance to read that letter from Mr. Rezents?

MR. ENG: Yes, I did. And I, I guess it really goes along with what Mr. Chang had mentioned and explained, is if you look at the, you know, you don't have to look at it now, but we are proposing to adopt the minimum fire flow requirements that the Fire Department currently has codified. And for most of these areas that are rural and residential, the minimum fire flow is a thousand gallons per minute. And therefore, you would need a 6 inch water line or larger to meet that fire flow requirement.

So the smaller water lines, like 4-inch, and I think the older rules had even smaller, you wouldn't even be able to meet any fire flow protection requirements. So why, why even allow those type of water lines if they don't serve their purpose?

COUNCILMEMBER KAHO`OHALAHALA: Okay. So that's how we're going to apply the 6 inch as a minimum requirement, and it's going to be because of fire flow.

MR. ENG: I think that is an overriding purpose, is for adequate fire flow protection.
COUNCILMEMBER KAHO`OHALAHALA: Okay. Now, Chair, I don't know if, if I can continue with the questions if it's in, it's in a relevant area. But as was testified earlier about the cost sharing of these installations where one person has testified in written testimony here was higher on the waiting list versus another that was lower, but they're still looking at the same, you know, water main I guess to their property. So is, is it appropriate?

CHAIR VICTORINO: Go ahead and go ask the question, please, Mr. Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: So I, I think the, the testifier brings up a, a real important question about who bears the burden of that installation of, of the water line when they're all going to be beneficiaries of that same water line. And could you not consider looking at simply just a hui of cost, you know, to make it manageable for all of them. Because they, their intent is to be users of that same, that same line, but the burden right now is placed on the person that's sort of the top of the line or the head of the line versus that who is behind. So any thoughts about that?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you. Well, currently --

COUNCILMEMBER KAHO`OHALAHALA: If you look at it comprehensively, you know, you look at the whole thing, the,
the larger picture.

MR. ENG: Yeah, well, you know, as currently how the system is set up, you know, the first to act, you know, does installation. And if that main line extension will serve to benefit others then there is that 50 percent reimbursement. Again, as an example that the testifier pointed out, if he knows that there's another future customer that wants to put in a line and would benefit, they certainly can work mutually and have them installed. And we could probably maybe work out a reimbursement to, you know, they can split the reimbursement also. So maybe those two parties should start talking and work again mutually for this, you know. It could be that the other guy's waiting for the other person to go first.

COUNCILMEMBER KAHO'OHALAHALA: Okay. But, you know, I guess the, the concern also is that if we're trying to codify these, these kinds of rules, where in our rules does it accommodate those kinds of situations? And if it's not there, then who makes that decision?

MR. ENG: I'm not quite certain what you mean by if it's not there in the rules.

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

MR. ENG: Again, as rules currently stand, you know, the, the person that initiates the construction of the water line, main line extension, then does receive the
reimbursement.

COUNCILMEMBER KAHO'OHALAHALA: Okay. But --

MR. ENG: We don't know what other parties
are doing out there, you know, we only are aware of the
party that comes in with the plans to construct the water
main.

CHAIR VICTORINO: Okay, go ahead. Miss Baisa, go
ahead.

COUNCILMEMBER BAISA: Yes, Chair, thank you very
much. We've arrived at the point where I have a great
interest. I have in our binders a copy of a letter from Mr.
Eng to us dated October 29th, because I had already asked
this question in regards to there being this huge cost and
one person having to bear it. And the answer I got to that
question was, "I believe this question is intended to refer
to property owner installing a new water line to serve his
property. The department believes that a method to allocate
the cost among current and future users of the new water
line may be possible. However, the accounting could be
complicated and very time consuming."

You know, it appears that from the testimony that
we have received about people that are akamai and concerned
about this issue, this is a very big issue, and it's a huge
issue for the people in my area as well as people everywhere
who want to do stuff. And I would like to see this dealt
with, because I'm reluctant to go ahead and approve the rules the way they are with the idea that, well, maybe we can work something out, because it doesn't say any, anywhere that we can work something out.

And, you know, future people sitting behind these desks will not know what was said here. All they're going to have is they're going to pick up the rules, and what they see is what they see. And so it concerns me. I think we have to make some kind of a provision while we're doing this.

CHAIR VICTORINO: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: On a side note in regards to what Member Baisa had told us, if the department can take a look at the other utilities, the electrical as well as the telephone utilities, they have a provision with the public utilities, a line extension, and these are for customers that go beyond the service of the telephone lines or the electrical lines, and they pay a fee. And in that provision, whoever comes on the line, you know, at a future date -- of course they have a time certain, five years -- each person that comes on, you know, pay a reimbursement for that line extension. So, you know, I would like to suggest that the department take a look at what the telephone company has as well as Maui Electric. Thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla, and
I'll make a note of that. And I will sit down with the department and ascertain that, and see if we can come up with a viable, viable solution to be put in incorporating what you just suggested, what Miss Baisa has suggested, what Mr. Kaho'ohalahala has suggested, and what I think all of us want.

VICE-CHAIR PONTANILLA: Okay, one more question.

CHAIR VICTORINO: Is it a question or a statement?

VICE-CHAIR PONTANILLA: For the department.

CHAIR VICTORINO: Okay, go ahead.

VICE-CHAIR PONTANILLA: When, when you plan for, or do we plan for growth? Like say if we do have an existing area that we know that, you know, some growth would occur because of ohanas or, you know, the like, do we plan for growth in the, in the sense that whatever pipe was put in when the subdivision was first constructed, because now we have additional units coming on to that particular area, do we plan for growth?

CHAIR VICTORINO: Mr. Eng.

MR. ENG: Thank you, Mr. Chairman. Member Pontanilla, we try to plan for growth. If we anticipate a development in the area where there might be other future developments we, in the course of putting in new water lines, we may ask the developer to put in larger size water lines in which we will participate in that cost, the
additional cost.

And in fact, that's one of the reasons why we are recommending the minimum size 6 inch water line, because that indeed is what has happened in many areas. You know, someone puts in a small water line and then later on somebody wants to come in and connect to it. So it is probably prudent to just have something that is sufficient to begin with. So where we can plan for growth, we do that.

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

CHAIR VICTORINO: Thank you, Mr. Pontanilla.

Other questions specifically in this area? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

Just one quick scenario question for Director Eng. So any pipe or water main less than 6 inches that is extended will not be reimbursed, is that what exists today?

MR. ENG: I don't --

COUNCILMEMBER MEDEIROS: Because this letter says that in item five, "There will be no reimbursement for a water main extension of less than 6 inches in diameter." So if it's a 4 inch that exists and they want to extend that, there's no reimbursement, is that correct?

MR. ENG: Mr. Chang is looking that up right now. But, you know, you'd think that is a reasonable thing,
because the extension of a 4 inch line probably just only
serves that one property owner.

COUNCILMEMBER MEDEIROS: And while you're looking
that up, you know, my question is for a small family
subdivision or, or for say two properties that front the
highway and the water main, and if it's less than 6 inches
could they extend that water main to serve their properties,
that is 6 inch connected to a 4 inch, so that they can
receive a reimbursement?

CHAIR VICTORINO: Mr. Chang or Mr. Eng.

MR. ENG: I'm sorry, could you repeat that?

COUNCILMEMBER MEDEIROS: Okay. A 4 inch water
main exists now.

MR. ENG: Oh, okay.

COUNCILMEMBER MEDEIROS: The property owners
decide they're going to, they want to connect the two
properties along the highway to that water main. A 4 inch
extension doesn't get any reimbursement. If they decide
and, and, and considering their cost to do so, that they
want to extend that 4 inch but extend it with a 6 inch pipe,
would that be allowed or what would be the reasons why it
wouldn't be allowed? Because the 6 inch pipe would receive
a reimbursement, is that correct?

MR. ENG: Yeah, you're correct. But most
likely that would not be allowed because of the fire flow --
COUNCILMEMBER MEDEIROS: But it --

MR. ENG: -- requirements.

COUNCILMEMBER MEDEIROS: But it increases it.

MR. ENG: Yeah, but it, a 4 inch section is decreased, it's, it's minimal. So, you know, it's -- have you come upon this, Mr. Chang? I'll let him.

COUNCILMEMBER MEDEIROS: As a property owner I would try to do that.

MR. CHANG: Yeah, let me try to answer the question. If, if someone were to subdivide, one of the criterias would be adequate fire protection. And if the requirement is for a 6 inch then one of the -- I'm sure the response from the department is saying the existing 4 inch is inadequate, therefore you have to pretty much abandon the 4 inch.

COUNCILMEMBER MEDEIROS: And so --

MR. CHANG: --and replace it with a 6 inch.

COUNCILMEMBER MEDEIROS: So a property owner say for a single or maybe two lots that wants to connect would have to replace the entire 4 inch in order for them to receive a water meter for that area? And that 4 inch can be miles long.

MR. CHANG: If that's the case, in order to provide adequate fire protection.

COUNCILMEMBER MEDEIROS: Right. So what you're
saying is the 4 inch is, that exists would be inadequate
fire protection for the properties that already draw water
from that water main.

MR. CHANG: For instance, to be more specific, if
the fire flow requirements say like 500 GPM, the 4 inch is
not able to provide.

COUNCILMEMBER MEDEIROS: So those properties
would, would be receiving inadequate water flow for fire
department standards from the 4 inch already?

MR. CHANG: Correct. That's the existing
condition.

COUNCILMEMBER MEDEIROS: Okay. All right, thank
you for that response. Mahalo, Mr. Chairman.

CHAIR VICTORINO: You're welcome. Thank you
Mr. Medeiros. Other questions for the, for the department?

COUNCILMEMBER MATEO: Chairman.

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

COUNCILMEMBER MATEO: Chairman, thank you very
much. And I guess this, I guess the question is going go to
Mr. Chang, and it's going to be based on, on ignorance
because I'm not an engineer nor do I understand the fire
flow requirements that the County has adopted as measurement
for the 6 inch requirements.

The Insurance Service Office Guide for
determination of required fire flows in essence serves only
as a guide. So somewhere along the line either your department or the Fire Department accepted those numbers given to us as a guide for measurement of what now determines the size of the extensions required.

I mean is that something that your department adopted, you adopted this guide given by the insurance office as the standard, or was it the Fire Department that accepted it as the standard? And I don't know what it means in terms of how we just adopted it as the appropriate guide for this County, because I don't even know what the hell the numbers are that dictates what the flow measurements are based on. Can you guys help us?

MR. ENG: Let me --

CHAIR VICTORINO: Mr. Eng, go ahead.

MR. ENG: You know, basically the County of Maui adopted the water system standards back in 2002. Each of the counties did so. And, and that's basically where the fire flow requirements are derived that the Fire Department has codified and that we are planning to do also. So it really wasn't so much a department thing, but in here again it's the amount of fire flow requirement, minimum fire flow requirement, minimum fire hydrant spacing. And so once you establish these flows, the pipe diameters and sizes just fall from that.

So even like for rural and residential, the Fire
Department currently requires a thousand gallons per minute, and we will too. You basically only satisfy that with an 8 inch water line. So it's, it's not so much really the water, the pipe sizes are, are directing things. It's really the fire flow requirements are directing the size of the pipe that are, that we are requesting.

COUNCILMEMBER MATEO: Okay. And my only reason for asking is because, you know, simplistic as the response is, because based on, you know, your interpretation, the reality is it has major implications on cost factors for every resident wanting or needing a hookup. So I think it's important for me to understand the connection between the increased size that we're heading towards, in addition to what it means in terms of dollars and cents for the public that now needs to hook up because 4 inches is no longer going to be a consideration.

So I just needed to understand the connection between the two, because initially the insurance company's determinations was offered as a guide for consideration, and all of a sudden that guide has become the rule. And because it is the rule it's, you know, I just need to understand how in fact it did become a rule, because you're looking at your urban and rural standards.

So I'm just a little bit confused with looking at cost factors I guess now based on increased sizes. And it just
seems to be very difficult, because I have a hard time getting away from the very premise on who is actually responsible to provide the adequate water, and that would still be us. It would still be the County. So I, I just have, I just have issues Mr. Eng. Thank you very much.

MR. ENG: Thank you.

CHAIR VICTORINO: Thank you, Chair Mateo.

COUNCILMEMBER NISHIKI: Chairman.

CHAIR VICTORINO: Yes, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah, I, I, I, I think what Danny is alluding to, Jeff, is really important. In other words, prior to 2002 when we adopted this service guide, or whatever you're alluding to, which now you're saying is 6 inch, how was the sizing of the pipes that the County had that existed, was it 4 inch? And has the County made a concerted effort to change those pipelines without making private owners upgrade the sizing?

And what now do we have in inventory of water line that are 4 inches that the County has not upgraded to 6 inches? I mean that's important, because now if you're saying that the private owners have got to pay for this, I think it's totally unfair.

CHAIR VICTORINO: Mr. Eng, if you'd like to respond to that question.

MR. ENG: Thank you, Mr. Chairman. Your
1 first question is regarding the, the 4 inch water lines?
2 COUNCILMEMBER NISHIKI: The upgrading. If we had 4
3 inches and now we've adopted 6 inches. So I think it's the
4 County's responsibility to put in that infrastructure to 6 inches.
5 MR. ENG: A lot of the smaller water lines that we
6 find are out there in the rural areas, the remote areas or in
7 the older areas of town. Again, in earlier times out in the
8 rural ag areas, you know, maybe there's so few dwellings
9 that maybe back then smaller water lines was enough to, to
10 serve the needs of the community. I don't know how they
11 address fire protection. Maybe they didn't address it at
12 all, you know.
13 As far as the Water, Water Department is doing, we
14 are trying to address some water line replacements as we
15 can. Again, we attempt to fund about $3 million a year for
16 exactly that, replacement projects. We have completed some
17 projects in the older parts of Wailuku. Some of them off of
18 Lower Main recently. I think we have another one soon to
19 be, to be done, a water line replacement off of Mill Street.
20 We've done some in Lahaina last year. Slowly where we can
21 we're trying to address it. You know, it, it's going to be
22 a very difficult task to address everything. But, but we do
23 what we can and what we can fund. It all it takes really is
24 a whole lot of money, you know.
25 So we do have a, a survey, our planning division
has a survey of probably those size water lines, a map that
we could provide you. It could show you probably some, some
lines of inadequate size. Maybe older materials that we
would like to replace. So we do have that information
available.

COUNCILMEMBER NISHIKI: Yeah. And, and, and Jeff,
I guess the concern has to be now that the Water Department
is, has adopted the 6, 6 inch, which you say now if anyone,
any of you guys are coming in you're going to have to do 6
inches because you're going to have to meet fire flow
requirements. This could be a burden on a lot of people
that may be on 4 inch lines right now. And we don't know
what the run of that line would be, is going to cost the
person wishing to upgrade it to meet these fire flow
standards.

And I think that's what Mr. DePonte was probably,
was alluding to. And I don't know. But tell me what I need
to do so that I can satisfy what your requirements are. And
if you don't, and then come out later and change the rules
then, you know, maybe in his monies that he's going to need
to finance the project he won't be able to.

So Mr. Chairman, I, I, I, I, I'm curious, you
know. I, I, I appreciate Jeff's honesty in, in it. But how
much do we have to move in, in, in the, in our own
infrastructure to update many of our lines that are not 6
inches? I'd like to know how many places we have before we
start putting the burden on --

CHAIR VICTORINO: We can --

COUNCILMEMBER NISHIKI: -- other people.

CHAIR VICTORINO: We will request that from the
department as far as that information is concerned, and get
that for you and the committee members. But let me say it
this way. I know there are still many sections right here
in Wailuku that only have 4 inch lines. You know, remember
now, we have gone and changed so radically. And this 2002
standards that was accepted by all the counties, including
ours, were new standards to protect people and property, okay.

Now, you have all these old systems right here in
Wailuku. I have more old systems per inch than many other
areas in this County. And so even to change a lot of these,
or for people to even build here, they've had to put in fire
hydrants and 6 inch lines. So it is a part of the reality
we face. Now the problem comes up Upcountry is generally
long stretches, whereas in town it's usually short
stretches. There is a difference in that. Am I correct in
saying that, Mr. Eng and Mr. Chang?

MR. ENG: Yes, sir.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR VICTORINO: Yeah, okay. So the demographics
makes a difference also. But we will get that information
so that you can see more clearly how many old lines we still exist. The other fortunate part about Wailuku and Kahului and Kihei and West Maui is development has been rampant in these areas, so many improvements were done by developers. So those areas are benefiting. Whereas Upcountry may not have had the same benefit because of the water meter list. So there are all kinds of interesting dynamics that are going on. But what we're trying to do more than anything else is get to a point where the rules will be specific so people understand what they need to do if they're going to expand.

And I wish we had unlimited resources, Mr. Nishiki, so we could say fix up all the lines, end of story. Unfortunately, that's not, that's not the reality we live in, but we're working towards it. Miss Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair. And I'm going to refer one more time to that letter, response received October 29th. The last statement, number four, "Does the department have any suggestions that might assist water service applicants to offset the high cost of water system improvements?"

And the suggestion of course was caveat emptor, buyer beware. That works if you're going to buy something. Many of us are not buying something. Many, many local residents are receiving land through inheritance, and it's
probably old, you know, old stuff that's been around for a
long time. So this is not a good suggestion where one is
inheriting property, because what do you do? You tell your
parents, "I don't want your house and your land because it
has 4 inch water lines." So, you know, that's, that's not a
practical thing.

Have we considered that we apply this
prospectively to people that are going to buy or acquire or
build subdivisions, or whatever it is they're going to do,
but there be some accommodation for retrospectively looking
at this, or some kind of grandfathering particularly in old
properties that are handed down in families?

CHAIR VICTORINO: That could be, that could be
looked at. And I tell you, I think that's not a bad idea.
But again, I would have to say unequivocally buyer beware,
inheritor beware. Because, Miss Baisa, if you go with a 4
inch line and you do that, and there is a fire and there's
not enough flow at that point in time, then you must know
that and your, your heirs must know that.

So the safety aspect is still another issue that
we are not going -- we are unable to address, because
there's differences in today's standards than there were 20
years ago, 10 years ago, whatever.

COUNCILMEMBER BAISA: Nobody has an argument with
that.
CHAIR VICTORINO: So the system --

COUNCILMEMBER BAISA: The argument that we're

trying to talk about, Mr. Chair --

CHAIR VICTORINO: Yes, yes.

COUNCILMEMBER BAISA: -- is the cost, the cost to our

low income residents and families who cannot afford to put

out the kind of money that they need to put out so they can

build affordable housing for their families. If we talk

about affordable housing, the truest affordable housing is

when you don't have to pay for land that you inherit from

your family.

CHAIR VICTORINO: Absolutely, absolutely. And

you're, you're very true in that. Unfortunately, in my

lifetime I've never had that benefit, because I don't know

what that means. So I'm --

COUNCILMEMBER BAISA: Well, I have.

CHAIR VICTORINO: I'm just being honest, you know.

When you say that, I'd have to start from scratch and build

everything and pay for everything. But, you know, I

understand those who have, we've got to try to see what we

can do. So I'm open to ideas as far as that, so long as the

County will not be liable. And that's why I'm saying

inheritor beware, because I do not want to see a council 10

years from now or 20 years from now in litigation because we

allowed something to occur knowing that this was not the
standard, and something happens at that point. So --

COUNCILMEMBER BAISA: Our issue is --

CHAIR VICTORINO: So as long as we can work it in, I’m fine.

COUNCILMEMBER BAISA: Our issue is not the standard. We understand that there is a fire, fire need and there's a rule that says you need to upgrade these things to 6 inches.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: The discussion we're having is how do we pay for it, and who pays for it, and can that cost be spread. That's the issue we're looking at. We do not have an issue with fire safety, don't get me wrong.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER BAISA: Also, I want everybody to know I also bought and paid for a house, spent 30 years paying for it. But I was fortunate enough to also inherit some land that I would like to pass on to my children so they can have affordable housing. So I understand how these families feel.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: Thank you.

CHAIR VICTORINO: Okay, thank you. Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Before we take our break this morning, when you write the letter to the
department regarding the old lines.

CHAIR VICTORINO: Uhm-hmmm.

VICE-CHAIR PONTANILLA: If there can be some cost estimates on those lines that need to be replaced. I know it cost the County quite a bit of money to replace all of those lines on the side streets too on, along Lower Main. And it's mind boggling. So, you know, it's a reality check. How much money do we need to replace all of this 4 inch line to accommodate, you know, fire flow and the like. So thank you.

CHAIR VICTORINO: Okay. Miss Willenbrink, you got that? Okay, thank you. Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Short question. Thank you. Just following up on some of the questions that have been asked of the Director. I, I just wanted to find out, Director Eng, because, you know, cost has been mentioned a lot. And, and we can appreciate your response that it takes a lot of money to do, you know, to replace infrastructure, especially water mains. How successful was the department and the County in receiving any stimulus funds for infrastructure replacements within your department?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Mr. Chairman. Member Medeiros, we're actually pretty successful.

COUNCILMEMBER MEDEIROS: Can you give us a --
MR. ENG: For water line replacement projects we had one that had most of observe on Vineyard Street that is about, what, 90 percent completed now, or something like that. It's going real nicely. Very complex, complicated. We also have a water line project on Kihei Road. That's has been awarded. I think it's soon to go out, soon to begin construction. We're hoping to get another water line project in Makawao, and it's just in reference to the ARRA funding projects. We do have a west Olinda tank project that was funded too. So we're really quite pleased and successful with that.

COUNCILMEMBER MEDEIROS: So the projects that you mentioned just now, are they replacement infrastructure or upgrades or new installations?

MR. ENG: The Vineyard is a replacement, the Kihei Road is a replacement, and the west Olinda tank is a replacement.

COUNCILMEMBER MEDEIROS: Okay. And --

MR. ENG: And the Makawao water line will be I think mostly new. It's an upgrade, upsizing of the water line.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that response. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Other questions for Mr. Eng in this, in this area?
Okay, seeing none.

And it was mentioned to me by Mr. Pontanilla that we haven't had our break and it's almost 10:30 and we're getting long on due on that. So if it's all right with the committee we will be in recess until 10:35. This meeting will be in recess. ...(gavel)...

COUNCIL MEMBERS: No objections.

RECESS: 10:22 a.m.

RECONVENE: 10:38 a.m.

CHAIR VICTORINO. ...(gavel)... The meeting of the Water Resource Committee will reconvene. And I want to thank the members for taking that break, because I think it was very important at that point in time.

As you can well see, as we move through these rules many, many issues come up. And all this Chair is trying to do is find the best resolve for all these issues, okay. And let me make that perfectly clear. I, I along with all you committee members have been working on, on these codifying rules one year, we're at the point of one year, and we've made progress. But like every time we make progress there's other things that come up, okay.

And so I want you guys to be clear that I do not, and I really mean do not, take and want to make anybody
offended. But at the same time I'm trying to work the best I can with the rules that are given to us. And we can make changes as we go along. I've told you guys that from the beginning. And if you have suggestions, please forward them. I appreciate any suggestion or any idea that we can work with the department for. With, I should say, excuse me.

So please, ladies and gentlemen, this is not easy, but we are trying to accomplish one thing. Have rules so that Mr. Dudley Sherman [sic] and others in this room or have been in this room can one day start building their homes, start dividing their family subdivisions so they can take care of their family. And what we use the word in this chamber all the time, affordable housing, right. That's what this is all about, okay.

So I open the floor for more questions or else we can move on to the next area. Do you have any more questions in this particular area? Yes, Mr. Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Yes, thank you, Chair.

Director, I'm going to go back again to the question about connecting to the water main and the requirement for the 6 inch. If someone is quite a distance from that 6 inch, maybe in a remote area and would like to be hooked up, then the only way to do so -- let's say it's
several miles from there. It would be required then by this
to put in a 6 inch line to their property just to serve
their, their one single home, that small home.

CHAIR VICTORINO: Mr. Director?

MR. ENG: Thank you, Mr. Chairman. That is
correct. If they want water service they must put in the
water line to serve them, yes.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And then the
justification we have is that that's really the requirement
and standard for, for fire safety. Could we look at a, at a
provision or consideration for a homeowner that is -- I mean
if they have to figure out how much a 6 inch line is going
to cost for them to move it to their home. A provision to
allow for waivers from fire safety. What are your thoughts
about that? So that rather than putting in a 6 inch, that
they only would require a minimal amount of water to
sustain, you know, their, their home.

CHAIR VICTORINO: Director Eng.

MR. ENG: Thank you. I believe this calls
for an invitation to the Fire Department if we're going to
talk about any waivers. So I can't really address it at
this time.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. I'm, I'm
just asking a question so, you know, I wanted to find out
what we would --
MR. ENG: Sure.

COUNCILMEMBER KAHO'OHALAHA: -- be able to, to consider, you know. Okay.

MR. ENG: Thanks.

CHAIR VICTORINO: Miss Willenbrink, will you make a note of that? I will write a letter to the Fire Department requesting their presence, requesting consideration of waivers, sprinklers and other issues that we have discussed in the past. And we will put that on as a part of the agenda on our next, at our next meeting to answer Member Kaho'ohalahala's questions. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Maybe Corporation Counsel can provide us with some inputs regarding waiver and, and, and the liability against this County should we have, you know, waivers considered.

CHAIR VICTORINO: Mr. Kushi, would you like to attempt or would you prefer waiting for the Fire Department? Go ahead, Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair. Member Pontanilla, this new subdivision code has deleted a provision, an existing provision that allowed the department to consider modifications to subdivisions. We took it out. In a sense left the department no discretion to modify subdivision requirements, which requirement, which, which requirements may have included domestic irrigation as well as fire flow.
So we took, took that out.

In terms of waiving, waiver of fire protection requirements in general, of course our office would, would not recommend that. Some waivers are as good as the paper it's written on. In the past I understand that our office did sign off on the fire protection agreements which specifically waived, you know, "You want a building permit, there's no fire protection, go ahead. But you, you hold the County harmless." That practice was discontinued approximately ten years ago.

So in, in, in, in, in answer to your question, waiver of fire protection is very, very tenuous. I, I hate to say that, you know, recently there was a fire up in the Upcountry way in the boonies someplace and unfortunately, you know, the, the place burned down and there were some deaths involved. So that that kind of situation always concerns our office.

So from the subdivision aspect, just so that, that you know, we deleted the Director's discretion to waive subdivision requirements. Now, that doesn't mean that's the end of the world, because there is a provision in, in, in the general water rules that any applicant dissatisfied with the Director's decision can appeal to the board. So that's the, the not saving grace, but the other alternative.

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

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Miss Baisa, I thought you had your hand up earlier. I apologize I missed you, I apologize.

COUNCILMEMBER BAISA: It's okay. I had my hand up pretty much to ask the question that Member Kaho'ohalahala asked.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: But, you know, in regards to what Corp Counsel has just shared with us about waiving stuff not, you know, I've always been told that, you know, hold harmless waivers are really not worth a whole lot. So I understand where he's coming from.

But, you know, this idea of going before the board for an appeal, it really doesn't make me comfortable because, for one thing, the board is extremely busy. I understand they have a huge amount of appeals. And I may be wrong, but I understand, you know, there's, there's a hard time getting there.

Also, it's little comfort to the person who wants to plan their life to say well, you know, you can go before a board and get an appeal. I really would like us to do what Director Eng is suggesting and let us get the Fire Department in here and let's have a full discussion about this issue. But again, my issue is not with fire safety. I
understand the need for fire safety. My concern is how do we pay for the stuff so that we don't kill our little homeowners. Thank you.

CHAIR VICTORINO: And I think maybe that's where the convoluting is really becoming the challenge, because you really have two different issues, but it's kind of intertwined, the two issues. And I think this is what's caused us to kind of go here and go there. And I understand, and that's why I'm trying to say to all of you, discussion is good but we really have two separate issues, fire flow and cost. And, and I don't know how to resolve it, but I think that's trying to keep it -- keep it separate has been the challenge. Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

I'd like to ask Director Eng, you know, I asked you, Director, earlier about the pump at the tank. And during the break I, I read the section over and over again to see if I understood it. And I think --

CHAIR VICTORINO: If you could specifically tell us what section so all of the Members can join you, please, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Oh, attached to your letter of November 24th.

CHAIR VICTORINO: Okay.

COUNCILMEMBER MEDEIROS: It's on page 6 and it is
Section 14.05.100, Subdivision Elevation Agreement.

CHAIR VICTORINO: Okay, Members, are we on that page? Okay. Go ahead, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chairman.

Director Eng, my, my question is the response was that the pump at the tank is usually used to fill the tank with water, okay. In, in here though it says, "Owner shall agree to construct and maintain at the owner's expense a tank, a pump with a tank, or other appurtenances as may be required by the department, which shall be of sufficient capacity and ability to furnish an adequate supply of water in the event the pressure in the department's water mains is inadequate."

The, so with that statement is it saying that the pump is going to use to supply the, the inadequacy of the transmission lines so that the County -- the Fire Department has adequate pressure at the hydrant? And if it's saying that, then the pump being described here is not a pump that fills the tank, it's a pump that supplies additional pressure to the lines. So can you clarify that for me, please?

MR. ENG: Yeah, I can give it a go, Member Medeiros. When I read this, again, you know, maybe I'm visualizing this differently than others, but basically we need a storage tank with a certain amount of capacity to meet the proper fire flow requirements. So let's say for a
residential property you need a thousand gallons per minute for two hours. Okay, so you'd need 120,000 gallons of storage, okay. But it's taking it off let's say a water main that may not have sufficient or probably has sufficient pressure in that water main, but let's say it's -- from the water main it's going into a smaller tank from which the pump pumps from to the big tank.

So you have a tank, as it says, then you have a pump and a tank. Because the pump wouldn't pump directly from the water main, from the water main to a smaller tank, and then it's pumped to the large storage reservoir. So that's how I visualize this description. We might be able to do a better job with that, but is that what you, Mr. Chang?

MR. CHANG: Yeah, yeah.

COUNCILMEMBER MEDEIROS: Okay. So the pump and tank combination that you explained is a supplement to the main tank that pumps water up to the main tank from that smaller tank. And then the main tank is what supplies the water to the hydrant, is that correct?

MR. ENG: And the pressure.

COUNCILMEMBER MEDEIROS: And the pressure. Okay. So the inadequacy of the pressure that's identified here is just that the water tank isn't maintaining a capacity so that you can continue that pressure. Because, you know, I,
I, again, I refer to, you know, fighting a house fire in Kula when I was there, and the water couldn't keep up with our fire truck. We would suck it so there's like, you know, like a vacuum in between the lines, because it just couldn't keep up with our truck pumping. Because a truck can pump a lot of water, you know, with their pumps.

So I just want to be clear. I understand this, that the water tank and pump being described here at the owner's expense is a supplemental tank and pump to put water into the main tank, is that correct?

MR. ENG: That is correct.

COUNCILMEMBER MEDEIROS: Okay, thank you for that clarification. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros.

Questions from the committee members?

Okay, seeing none, we will move on to -- I think we've talked about the minimum size water main already. So moving on to number three, the final paragraph in 14.05.030 which clarified all water mains shall be water pipes of 6 inch in diameter, diameter, or larger. I think we got that one done.

Moving on to four, revised Section 14.05.040(C) to state that there will be no reimbursement for increased water main extensions if the main is less than 6 inches. I think we've beaten that one. And again, number five, revise
Section number 14.05.050(B) to state that there will be no reimbursement -- oh, I just said that. Oh, wait a minute.

That there will be no reimbursement for a water main extension of less than 6 inches in diameter. I think we just said that, didn't we? Oh, four and five is a, well, yeah, one is Section B and one is Section C. I'm sorry. Okay, I just wanted to make sure I read all of that. I wanted to make sure I got everything covered, okay.

And ladies and gentlemen, I, I am at this point going to ask one more time if you have any relevant or ideas that we can enhance these rules, please forward them to Kim or myself at your earliest convenience. I, I would like to have some substantiating ideas so that when we come here we're really working towards closure on some of these ideas that you have brought forth today.

Mr. Pontanilla on the utility, we will look into that, you know. Miss Baisa, as far as the water lines and, and how we can look for cost and how we can incorporate cost, we will look into that. Any other ideas you have, please, please if you can email or send it to us via letter, whichever, so that we can take those suggestions and incorporate them. My hope is that the next meeting we will be able to close this chapter, if at all possible.

Yes, Miss Baisa, I, I know you will not be here. Now, that wasn't a reflection on you not being here, I
apologize.

COUNCILMEMBER BAISA: Well, unfortunately, I'll be in Mexico.

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: And the water there is a whole new subject, another subject.

CHAIR VICTORINO: Well, let's not talk about that.

COUNCILMEMBER BAISA: But anyway, what I wanted to clarify before we end this meeting.

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: Because I want it very clear in everybody's mind. It is not clear in my mind.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: You know, as chairs of committees we sit up there and we say if you have any ideas or any information or suggestions or whatever, please let me know.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: We also are told that we have limitations on how much we can discuss things with people before meetings, our amendments, ideas, whatever. Could somebody please clarify for me what those legal limits are so that I know what I can, you know, send you an email about or send you a proposed amendment about, or how do we deal with that so that when we come to this meeting we're
not sitting here surprised. I would ask Mr. Kushi if he
could help clarify that.

CHAIR VICTORINO: Mr. Kushi, would you like to
endeavor?

MR. KUSHI: Yeah, let, let me try and take a
crack. I, I think, Member Baisa, you're referencing the
Sunshine Law?

COUNCILMEMBER BAISA: Correct.

MR. KUSHI: It's been awhile since I looked at it,
but my recollections would say that I think any two of you
can get together and discuss Council business as long as you
don't in the discussion agree to vote a certain way. That's
my understanding.

Now, that being said, there is some, some
variations to that two or more or less, because I think if
let's say Member Nishiki for whatever reason discusses
something with one of you, then goes on and discusses the
same thing with each other one of you, then they're called
serial discussions.

COUNCILMEMBER BAISA: Correct.

MR. KUSHI: And again, I think the Office of
Information Practices discourages that kind of serial
discussions. So that's my take on it.

COUNCILMEMBER BAISA: Thank you very much. I
think my understanding is clearer. However, I didn't get
discouraged, I got prohibits, us doing that.

The other thing was, we were told awhile back and maybe earlier this year that if we wanted to propose an amendment that the earliest it could be seen by anyone else was when we sit down at the beginning of the meeting that we're going to actually talk about it. Is that correct?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: I, I don't know anything about that.

That's your Council rules.

COUNCILMEMBER BAISA: But the reason why I bring this up is these rules have a way of inhibiting us in preparing for these meetings. So I understand the Chair's frustration because he would really like to have a leg up as to what we're going to bring up here so that he could be prepared or possibly look for alternatives. But what we do is we do it here, and it's because of this rule. And I want people to understand that this is what is going on. It's not that we come here to try and frustrate Mr. Victorino, who is trying to get something done. We're operating in a process that we use, and it's a very frustrating process.

CHAIR VICTORINO: Well, and I thank you for that clarification, and, and I think I'd like the public to understand that, you know, we're all trying to accomplish one goal, what is right for the people of Maui County. It's not an easy goal, and every one of us sitting in this
chamber at every meeting, and I don't care which committee
meeting, and we go through the same line of questioning and
the same frustration, yeah. And I think this is what I'm --
I don't think I'm any more frustrated than Mr. Pontanilla.

COUNCILMEMBER BAISA: Oh, yeah.

CHAIR VICTORINO: Or yourself, Miss Baisa, or Mr.
Nishiki. I, I, I mean I pick any name. I think I can say
unequivocally we all feel the same frustration. Because if
we know that I could have the Fire Department here. Let's
use that as an example. And we have to call all these
various departments in for their valuable time and have them
sit there and never call upon them. Is that fair with these
austere times we are moving into right now?

So this really ties our hands, okay, and I want
the public to understand. The peoples' work is very
cumbersome, whether Miss Robinson [sic] and your over --
oversight committee Upcountry thinks it or not, we are trying to
do what is right for Upcountry. We are trying to do what is
right for Central Maui. And it's really a difficult task,
but yet we haven't lost sight of it. And, and, and, I don't
want to lose site of it.

And so when I try to bring us back, and I
apologize sometimes if I seem to be pushing an issue to get
back to where I want to be, it's just to keep us focused.
And that's, that's the main thing. We had really one real,
real hassle today was the money versus fire flow. It really
was all convoluted together, when they're really two
separate issues. And I was trying to keep it separate, and
I apologize, sometimes it got tied up together.

The other reason why I, if I had information or
things that needed to be researched I could have the
department walk in with the answers instead of, "I'm not
sure, I've got to look it up" and whatever, you know. So
that's another reason why I ask for questions or ask for --
I can get it to the department. "Department, this is a
question from Member Medeiros. Can we get an answer?"
"This is Member Molina's question. Can we get an answer?"
So when you come here they're prepared with answers okay.

Again, the Sunshine Law I understand, and I'm, I'm
all transparent, I mean I love transparency, but it does
hold us back. So I just want everybody to understand that
the frustration I feel I know every one of you in this room
feels the same thing. And I want the public to hear that we
are trying.

But, you know, I go out there in the public, you
know, they say, "Why can't you do this? Why can't you do
that?" The process. And they say, "Well, that process,"
well, we have a process and we've got to follow it. If we
don't, we end up in court with litigation, and we don't need
to spend your money that way. So --
COUNCILMEMBER BAISA: Chair, thank you, thank you. And I thank you for indulging me. But I think it's important that the public understand why we do things the way we do, because sometimes they don't. And I don't blame them for being frustrated. So thank you, and I'd like to thank Corp Counsel also for the explanation. Thank you.

CHAIR VICTORINO: And I wanted, before I recognize you, Mr. Pontanilla, if I may, please.

Miss Willenbrink, you had something that you wanted to -- yes, go, go right ahead, please.

MS. WILLENBRINK: Thank you, Mr. Chair. I just wanted to mention that sometimes when we leave meetings we've got these half thoughts that come to fruition later on. And just to feel free at any time to contact the research section and we could draw up an assignment form and say, "Could you research and to this possibility, or am I really just going down the wrong avenue?" And that would not be any kind of Sunshine Law violation, and we'd be happy to be of assistance that way.

CHAIR VICTORINO: Thank you, Ms. Willenbrink. I think that also opens the door for more research, and I think that's really important. Because again, the more information we have here then we can make good decisions.

Mr. Pontanilla, go ahead, I'm sorry.

VICE-CHAIR PONTANILLA: Thank you. Thank you,
Kim, for that offer. And Chairman, you know, I've got to say this, you know. You're trying to get these things going again and, you know, I commend you for taking this water rules during your tenure, because we've, we've been trying for seven years to get these water rules in place.

But one thing that you mentioned in regards to, you know, if we do have any issues or questions, that we write to you. One of the things that, you know, as sitting members on the Water Committee we listen to public testimony. And sometimes the public testimony, you know, doesn't pertain to what you want to cover, you know, at the start of the meeting. You know, I think all of us has an obligation to ask those questions to the Administration or yourself.

So please don't, you know, hold us back in regards to, you know, asking the department questions on what has been said on public testimony.

CHAIR VICTORINO: And again I, I, I, I will say yes, I think all of us as chairs face the same situation, right. And sometimes they come up with something that oop, we didn't even think about, now all of a sudden it's part of the discussion.

So grant you, I cannot and you cannot and every one of us as chairs cannot cover every possibility. Isn't that a fact? However, you know, the more we have
information, and then when the public comes what they bring up may be lessened because maybe we have the answer already. Maybe we have that question or that area covered by the department or by the Fire Department.

But again, I need and all of us I think work on the same premise, we need to know who has to be here to answer what question, and that's the hardest trick, finding that right balance so that we don't waste the department's valuable time.

So again, I thank you guys very, very much, all the ideas. And again, you know, it's the holiday season, so I want to make sure everybody leaves with a good feeling. And then, you know, I, I will ask Member Medeiros, you know, and I know this is out of, out of, out of order, actually, but I'm going to ask him before I defer this matter. In fact, can I defer this matter with no objections?

COUNCIL MEMBERS: No objections.

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Okay. There you go, Kim. Kim is giving me the eye, like don't forget to do that. You know, don't.

But at this time I would like to ask Member Medeiros to say a few words on a tragic event that happened
this past weekend. I think we're all aware of it, but I think, you know, knowing this family -- and I didn't know them real, real well, but I've known them in the last few years because I've dealt with them -- I would like Member Medeiros to speak about the Lindquists and real quickly. You know, just say a few words if you don't mind, please.

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chairman, for this opportunity. Yeah, I'm, I'm sure everybody's aware of, of the incident through the reports in the paper. But as of yesterday the search for the Lindquists were suspended because there was no evidence if they could find anything else except the discovery of the car in the stream bed. And the car has been identified as their car.

And the circumstances was that, you know, they went to dinner at the hotel Thursday night, Thanksgiving dinner, and the last person to see them spoke to them in the parking lot of the parking of the hotel as they were leaving to go home. And in speaking to my sister, who's my information channel in Hana, is that the person asked them to stay, don't go home because of the weather.

My sister said 8:00 Thursday night it started storming. The rains were very heavy, there was thunder and lightening. And because of previous rains the ground was saturated. So when you get rains, the water flows very quickly. And apparently, even though there's no witnesses,
they may, they must have gone home.

And where they live is a very remote area by the
Hana Airport, and the entire area is covered with heavy and
old trees and foliage, and it's an unpaved road. There's no
street lights. In fact, there's no utilities down there.
And so in that darkness, even though they may have crossed
those rivers that crossed the road to their home
many, many times, it might, must have been a different
situation for them that night.

But the community, even though the County assets
have been suspended as far as the search, the community
members are still and family are still looking and, and
hoping that somehow they're found alive. And that's what
the community and the family is asking everybody, is to
remember them in their prayers, that somehow they can be
found alive.

So that's the latest I have on that, Mr. Chairman.

But the Lindquists were very important people in our
community, especially Carl Lindquist. He sat on many
organizations in Hana, including the Governor's Advisory
Committee. He was a member of that. And he and I were on a
committee, and still are, working towards affordable housing
and a senior day care center for seniors in Hana. So he was
very involved, and so was she, his wife Rae.

And so our prayers go out to their families and,
and to them, that if there's a remote possibility hopefully they could be found alive. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros. And our prayers with the family and the community of Hana at large.

And just one quick reminder to the public at large. These are winter months. We do have torrential rains that come in and out real fast. Just the other evening up at my house within 10 minutes I had a river coming down my, my driveway. I mean the rain just, it just poured. And it was a short time, but it just, well, I just stepped out and I told my wife, "Wow, look at that river in the front of our driveway."

And so these are dangerous times, so please exercise caution when you're out there. You know, you get caught up in the holidays and the festivities and you go out and have fun and with family and friends. Please, ladies and gentlemen of the public and all those who are watching, please, please exercise caution. We really, really, really don't need any more tragedies in our community.

And, and you know, as far as drinking and driving, I'll close with please, if you're going to drink, don't drive. That's all I ask anyone to do. Have a great time, but don't drive.

With those two notes, because Mr. Med.--Mr.
Molina worked real hard and we want to make sure that Doris Todd and every school has a safe area. And I thank you for that yesterday, and I thank Member Kaho'ohalahala and what he tried to do yesterday. Because again, we're all trying to work together to get things accomplished.

And Chair, I know I've gone too far. Sorry about that, I apologize, but you can scold me later.

With that, I will close. Meeting adjourned.

...(gavel)...
CERTIFICATION

I, JEANNETTE W. IWADO, Notary Public for the State of Hawaii, certify:

That the proceedings contained herein were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

Dated the 15th day of December, 2009

[Signature]

NOTARY PUBLIC, State of Hawaii
My commission expires 2/5/12