CHAIR VICTORINO: . . . (gavel). . . Good morning and Mele Kalikimaka to all. This is the meeting of the Water Resources Committee, December 15, 2009. We have a quorum present and let me introduce the Members that are present. We have our Vice-Chair Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning.
CHAIR VICTORINO: Good morning. Vice-Chair of the Council, Michael J. Molina.

COUNCILMEMBER MOLINA: Good morning, Chair.

CHAIR VICTORINO: The Council Chair himself, Mr. Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Chair.

CHAIR VICTORINO: And Member Sol P. Kaho‘ohanala.

COUNCILMEMBER KAHO‘OHALAHALA: Good morning.

CHAIR VICTORINO: Good morning. And Mr. Bill Medeiros. Member Bill Medeiros will be a little bit late. And excused from today’s meeting is Gladys Baisa. We have one Non-Voting Committee Member today that is present, and I’d like to welcome Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good morning.

CHAIR VICTORINO: Good morning. Thank you for all being here. From the Administration let me start off with our Director of Water Supply, Mr. Jeffrey Eng.

MR. ENG: Good morning.

CHAIR VICTORINO: Good morning. And we also have from Corporation, Corporation Counsel, Deputy Corporation Counsel, Edward Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: We will have someone from the Fire Department a little bit later, so I will introduce them when they arrive. We have our Committee Staff. Today our Legislative Analyst is out sick, and we have a worthy, worthy substitute, Kirstin Hamman, and our Committee Secretary Tammy Frias.

Today we have two items on the agenda. We have WR-1(5), Subdivision Water System Requirements. And we have WR-9, 29, I should say, excuse me, the Upcountry Water Meter List. If you will turn to correspondence dated November 24, 2009, from myself, transmitting a draft bill entitled: A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES. The purpose of the draft bill is to codify the rules and regulations of the Department of Water Supply relating to subdivision water system requirements. Correspondence is dated December 7, also from me, relating to the refunds for water main extensions. So those both will be found in your book. And let the, the record show that Mr., Member Bill Medeiros is now present.
COUNCILMEMBER MEDEIROS: Good morning, Chair.

CHAIR VICTORINO: Good morning. And then the second item, WR-29, Upcountry Water Meter List, we will be discussing a correspondence dated December 8, 2009, from the Department of Corporation Counsel, drafting [sic] a bill entitled: A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISION FOR THE UPCOUNTRY WATER SYSTEM. The purpose of this bill is to provide water service applicants from the Upcountry Water Meter List a period of five years to make the required water system improvements, if necessary, upon receipt of their water meter reservation.

We will discuss this in more detail, but all of these, as I stated, the different dates of the correspondence are in your book. And this way I'll give you some time when we do public testimony to get to those particular correspondence.

So let's start public testimony. First of all, public testimony will be limited on the agenda items today. If you have not signed up, there's the desk located right outside of the door, in the eighth floor lobby if you can please sign up there. You will be limited to three minutes with one minute to conclude. Please state your name and who you're representing, if anyone. At this time, I would like to ask anyone in the gallery and all Members to turn off their cell phones, put them on vibrate, where we will not hear any noise. Decorum will be followed in this Chamber. With no further questions I will start public testimony without any objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. I have three testifiers who have signed up this morning. First one will be discussing WR-1(5) and that's Mr. Richard H. Pohle. Mr. Pohle, would you come forward? And he is discussing Upcountry meter...he's representing, if I should say, the Upcountry Meter List Association. Good morning, Mr. Pohle.

...BEGIN PUBLIC TESTIMONY...

MR. POHLE: Good morning, Mr. Chair. I am Dr. ...

CHAIR VICTORINO: By the way...Mr. Pohle, before you start. Mr. Pohle did give us written testimony. It's the blue sheet, yeah. Go ahead, Mr. Pohle.

MR. POHLE: Thank you. Maybe this won't stay up. I am Dr. Richard Pohle, a Crater Road protea farmer and founder of the Upcountry Meter List Association. We are the only Maui organization representing the small landowners on the meter list waiting for water service. Thirteen-plus years is too long.
Once again, the real problem is with the Water Meter List itself. It prevents cooperation among nearby landowners to join together to fund improvements of their neighborhood. Instead, we have to wait for County-funded Community Improvement Program run by a non-responsive Water Department. But money is scarce and these projects never happen. The list causes real hardship. A house in Kula Kai is being built without a meter because the only, the owner finally realized the futility of waiting. He will have his water trucked in at 10 cents a gallon. Then there’s the Haiku lady with no meter, surrounded by lots with water and great fire protection infrastructure. She cannot get a meter because she’s on the list even though she pays more taxes than her neighbors. Such are the hardships of the list, that’s why I’m speaking today.

The list rules are written for developers, not the people. The people cannot afford the large upfront cost for a subdivision even though they will be reimbursed. Developers will thank you for increasing the water line extension reimbursement from 50 percent to 75 percent, the time from two to five years, and for the recently passed exemption for their large lots. We list people cannot use these benefits because the list limits our ability to pool our resources. Developers can drill to show the water, and then sell the excess. The people cannot. Yet this Council has done nothing to help them. Have you asked the DWS what would have to be done to service the entire list? Granting half of the meters on the list won’t work. Mr. Kushi says this Council has the power to eliminate the list. Do it. I see you just passed it in February, it was a surprise to me.

At least treat the people as you treat developers. Let them pool their resources, buy water for the County, and get meter rights, or do it for them. If you cannot raise the 6K price for meters in general, then create a special meter class, available on request, at permit time for 25K each with special water pricing above 400 gallons a day. That solves the problems I mentioned above and would pay for the additional water required. The 3,000 meters from the 300, 1,312 list people would raise 75 million for our infrastructure and require only 1.2 million gallons a day, one-fifth the current Upcountry usage. Use the money to buy water from the 160 million gallons a day that costs HC&S 2/5 of a cent per 1,000 gallons. We would pay the plumbing costs.

Look, the people of Maui own the water infrastructure. Let them use it. Call it the water meter buy-in --

MS. HAMMAN: Three minutes.

MR. POHLE: program. And by the way, it is not 1,312 people on the list, as The Maui News says. That was 19 months ago. Can’t this Council even get the Department of Water to update their legally required meter list? This is the 14th time I have testified and written letters with no apparent results. I have built the site umla.ws as a convenient permanent record of my efforts, and I eagerly await for the minutes of your meeting and your votes on these issues.

But maybe I’m naïve. Perhaps the real issue here is urban sprawl masquerading under the guise of water shortage. If so, spell it out so we can discuss it in the open and vote on it. I hate the uncertainty, confusion, and mendacity of the fog of politics. Thank you very much.
CHAIR VICTORINO: Thank you, Mr. Pohle. Any questions for the testifier? Seeing none, thank you and have a Merry Christmas, sir.

MR. POHLE: Same to you, sir...and all.

CHAIR VICTORINO: Next testifier is Rosemary Robbins, and she will be followed by Ruthie DePonte.

MS. ROBBINS: Good morning, everybody. I appreciate the opportunity to be able to be here this morning. I'd like to endorse the statements of the previous speaker and just to clarify I am not somebody waiting for a water meter.

My concern is I've been to a number of meetings and yesterday was able to get down to the one on Planning. The concern grew about the fact that people are not being heard insofar as they can figure out when the responses don't come from the Water Department or from other parts of the County Council and other divisions of our County government. So in my heart of hearts I want to believe that everybody really gives a hoot and cares, and I appreciate that. We just need to see it in action to a greater extent.

On the draft document that we got for this morning, on Item B, at the bottom of Page 1, it talks in words of Prior to the installation of a water meter, the Director may require an applicant to make certain water system improvements on his/her premises and/or...(clears throat)... excuse me, and/or to the Department's water system. People are very, very distressed about the fact that what has been acknowledged as being years of letting the water system infrastructure go to pot, in some verbiage, that they should now have to be required to make up for that. Some...something's wrong with that. They're paying taxes in to be able to have these systems maintained. The neglect has happened, and now they're being asked to foot the bill for that.

So I'm really concerned that that Section B verbiage may be explained better what might be in the hearts of those who put it forth. I do think that the extension is a good idea, and I'm glad to see that that has come around. I appreciate that. Thank you.

CHAIR VICTORINO: Thank you, Ms. Robbins. Questions for the testifier? Seeing none, thank you, Ms. Robbins, and you have a Merry Christmas.

MS. ROBBINS: Likewise.

CHAIR VICTORINO: Thank you.

MS. ROBBINS: And just make sure that water doesn't come from H’Poko, not until we get it cleared up.

CHAIR VICTORINO: Until we get it cleaned up, don’t worry.
MS. ROBBINS: All right.

CHAIR VICTORINO: We won’t. Thank you.

MS. ROBBINS: Including the nitrates. Thanks.

CHAIR VICTORINO: Okay. Next testifier is Ruthie DePonte, and she will be followed by Sherman Dudley DePonte.

MS. DePONTE: Good morning.

CHAIR VICTORINO: Good morning.

MS. DePONTE: Thank you for all your time and your hard work. I’ve gone to...oh, I’m Ruthie DePonte, and I’ve gone to all of your meetings, and I’ve sat quiet, and I’ve decided, well, I’ll come down, and I’ll try again.

I’ve been on the water list for 11 years, and I am finally 60 on the water list. It started out that I did a family subdivision, and I was the last person to sit in the meeting, and granted a subdivision without a water meter, and put on stand that when the water was available I would get my water meter. I did the subdivision, I’ve got the laterals in, I’ve waited, I’ve been patient, I’ve gone through all of whatever the County had required. And Alan...David Craddick went out, and Mike Victorino was on that board then, and now the County has taken over and, I’m so nervous, the County has taken over, and I had heard...I’ve gone to see Herb Chang, Alan Murata, and they’ve told me to be patient and wait. And I have listened to some of the meetings where I have heard, let’s see on 1/7/08, at a Council Meeting, Mr. Eng admitted that there were 200 water meters given out, then another...at another meeting, Mr. Yamashita on 2/21/08, at 10:04, said there were 200 water meters given out.

My part is that I cannot understand from 2002 I was 292. I started out at 938, and then I came down to 292. Then in 2003 I was 294. In 2004, I was 186. 2004, I then dropped to 62. Now, you gave out 200 water meters or more, how could I only drop down to 60? Where did the 200 water meters go? My question is --

MS. HAMMAN: Three minutes.

MS. DePONTE: --meant that a person would have gotten 100 water meters and another, another 100 meters, so then I dropped the two numbers. I just know how hard it is to have land, have people rustle, have people put their dirt bikes in, tear down your fence, do hunting, and we cannot use our land because we don’t have water. I am hauling water to have six head of cattle in my property right now where I now am coming into a problem with agriculture. There’s no food. We’ve had to bring out the cattle. I just want water. Please help us get water. It’s hard to have land without having water.
And I can’t ask for agriculture --

MS. HAMMAN: Four minutes.

MS. DePONTE: --excuse me.

CHAIR VICTORINO: No, you can conclude.

MS. DePONTE: I can’t ask for agriculture, which is top of the list because already I’m going...I’m asking for...I have a family subdivision. The land’s been in our name for 100 years.

CHAIR VICTORINO: Thank you, Mrs. DePonte --

MS. DePONTE: Thank you.

CHAIR VICTORINO: --or should I say Aunty Ruthie. Thank you very much.

MS. DePONTE: I’m sorry for bothering you.

CHAIR VICTORINO: No. No. No. Thank you. Questions for...yes, go ahead, Vice-Chair Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chairman. Good morning, Ruthie.

MS. DePONTE: Good morning.

VICE-CHAIR PONTANILLA: Your subdivision, how many lots?

MS. DePONTE: We had 40...we had 40-acres and there were five children. My oldest brother is 86, 87, and I’m 74. And so, they’re all 8-acre lots. There was only one water meter, a $\frac{5}{8}$ water meter. So one lot has, has a water meter.

VICE-CHAIR PONTANILLA: Okay. Thank you.

MS. DePONTE: Okay.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

CHAIR VICTORINO: Further questions for the testifier? Seeing none, you have a Merry Christmas, Aunty Ruthie.

MS. DePONTE: Thank you.

CHAIR VICTORINO: And hopefully your New Year will be good for you.
MS. DePONTE (from the audience): I hope so.

CHAIR VICTORINO: Thank you. And the final testifier who has signed up is Sherman Dudley DePonte. Good morning, Mr. DePonte.

MR. DePONTE: Good morning. We have two, I guess, the WR-1 and then also the WR-29. We’ll be given three minutes for each or just three minutes?

CHAIR VICTORINO: I’ll allow you three minutes for each if you desire that.

MR. DePONTE: Yes, please.

CHAIR VICTORINO: Okay. Go ahead, Mr. DePonte.

MR. DePONTE: I’m Sherman Dudley DePonte. I’m a licensed, professional land surveyor Hawaii, California, Arizona. I’ve been doing this business for 34 years, going on 35 now. I’ve worked on the waterline from Waihee all the way to Makena when it was a desert and, and watched it grow, and now watching water get wasted over there. There’s a tropical thing over there that’s going on. It’s like, wow, you know, from way back. What we saw was desert. And I was a pro on it. I, I promoted it. I said, why not, you know, and watched what, what happened.

But what, what we’re seeing happening now is our reefs going to the pot, because there’s a lot of water that’s getting wasted, going into fertilizers, and going down and wasted. What, what that brings all to mind is the Water Supply Rules. The rules, rules that we the people have to follow. I’m looking at also the Department. We need rules for the Department to follow, and I’ve been, you know, back and forth, but this being the holiday season I’m going to try to keep it cool, relax, and work on the eggnog.

In any case, I’m, my questions yesterday was, you know, what am I going to say here? What am I going to do? I got to keep, I keep coming down here. It takes me 45 minutes down in traffic, get down here, come and testify, go back home. Same, same idea. We do it. We keep doing it. The people doing it. To see Aunty come over here now, it brings tears to my eyes. It just, it just hurts to see that people Upcountry is getting hurt. And she’s one of many that I’ve seen come up and testify in force, you know, come up. And we’re not great speakers. We just come out and try to speak and get, get something going for the County.

Why I said the rules for the Department also is because when you put in a waterline, and it’s outdated a month after you put it in, that’s not fair to the people. Correct it, help the people, work with the people, answer the people’s questions, answer their letters, listen to them when they testify, be responsive, be more open government. That’s what we’re looking for. The people voted change this year. We want change. How many…my question was last night was how many Administrations are we going through before we get it? How many Council Members have we gone through to get to these rules? And I commend you guys for working hard to getting it, every one of you, you know, pushing forward, listening to our testimony, and keep on
pushing forward. And you, Mr. Victorino, especially you, for being on the board way back and pushing to get something rolling so that we the Upcountry people, we...all the people of Maui can enjoy the freedom, the water, what this island has to offer us, and at the same time protect.

MS. HAMMAN: Three minutes.

MR. DePONTE: And that rules...and enough for the rules...is basically the well and H'Poko. If it’s contaminated, as I said at the meeting, it’s contaminated. Leave it, leave it be. Let it die. Let that dead dog die, get another well. Drill another well. There’s many more places to go. I’ll let that one go.

The next one is the Water Meter List. I’ve been on the Water Meter List since 1999, and people keep waiting for the water meter. Again, it goes to water resources, getting us there, but it’s not really. We can have all the water, we can have enough water for all, all of our people, and we’re still going to have a problem in the Upcountry area. The people don’t understand it, but our water are not...we’re not...we cannot get the water meter until we fix the infrastructure which the County is supposed to be doing that. They’re required by law, supposedly, to provide us with fire protection. Where is the fire protection in this area? I brought it to, to in fact in 1992 before I brought my, bought my property, fire protection, and I wanted to be on this list. I didn’t know that I had to put in an application. I did up in 1999, finally got on the list, went in, had deals struck, and deals struck down. So being on that Water Meter List don’t give you the water when it’s there, available. We need to get that infrastructure in to help the people, again, so that they get the water.

My question and has always been on the CIPs, where are we on the CIPs? And I, I’m sure a lot of the other people want to see that too. Where are they on the CIPs so that...let’s see, when is this going to get done? Is it going to get done or are we getting blackballed? And I say, blackballed, harsh term, just basically shut down. Reason: we just had a deal on Ulupalakua...I mean Haleakala Ranch here that I mentioned at the last meeting, they...we needed...we need the extra space for an extra tank. It was said, no need to the head of Haleakala Ranch.

Now, we need answers. We need people accountable for making that kind of decision that do not help the public. That is cutting me down, and cutting my neighborhood down, and a lot of other people. What else is getting dealt behind the closed doors that we don’t know about? We needed...we need this County account...accountable, that Department especially, please. And, again, many, many Administrations we went through. Let’s see if we can solve this now. As Mr. Victorino told me, we want to look back on this as being just a hard time, and we’re going to move forward, and Maui’s going to be better for all this. That’s all I can say about that. If you guys have any questions. And I want to wish you all a very Merry Christmas and let’s hope for a better, better New Year.

CHAIR VICTORINO: Thank you, Mr. DePonte. Questions for the testifier? Member Medeiros, please?
COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman and good morning, Mr. DePonte. Thank you for being here as you have many times before. You say you’re on the water list. Can I ask you what number you’re at now?

MR. DePONTE: I think I’m number 76.

COUNCILMEMBER MEDEIROS: And originally when you first started what number were you at?

MR. DePONTE: I was about 289 or some, somewhere’s in there.

COUNCILMEMBER MEDEIROS: And how long has it been since you’ve been on the original…I mean when you first got on the list until you got to number 76?

MR. DePONTE: Well, 76 has been holding all the way up until about 2002, 2003. I’m not positive of the date when I got moved. I was…basically, I was waiting to get a letter, and I was being…my concern on it, finding out where things were at and what was going on was because I bought this property in ‘92, and all the way up until now no improvements on the lines. I was hoping that the County would do the improvements on the lines and that we wouldn’t have…we the public wouldn’t have to be spending to service everybody in the area. So what happened is on that list, you know, I was worried that I’m going to come up, there’s going to be water available because Mayor Apana had, had that well that was going to come in and take care all of Upcountry’s water list, and I was kind of, like, wow, okay, where…what’s going to happen to me once I get on…once the water’s available I have one year to fix that infrastructure?

But when I found out about that infrastructure, I had to go into the Water Department with my lawyer to challenge them, and, and basically say what is it that you want me to do at that time, not, not this Department, not this Director or anyone yet. But what happened is getting up to that list was I had one year to do my improvements and probably would be two years before…they would give me an extension of two years to get it. That’s why, you know, this water, water safety rule, the rules are giving it…

COUNCILMEMBER MEDEIROS: Mr. DePonte, I think you answered my question. Let me ask you the next one.

MR. DePONTE: Okay. Go ahead.

COUNCILMEMBER MEDEIROS: And the water meter that you’re waiting for, is it for a single-family residence, multiple homes, or a subdivision?

MR. DePONTE: It’s, it’s going to be a subdivision, family subdivision, three, three meters I’m waiting for.

COUNCILMEMBER MEDEIROS: So three meters for how many lots?
MR. DePONTE: Four lots altogether. I have one meter already.

COUNCILMEMBER MEDEIROS: Okay. Thank you for your testimony and for your responses. Mahalo, Mr. Chairman.

CHAIR VICTORINO: You’re welcome. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Thank you, Mr. DePonte, for being here this morning. What I’m hearing from you is that should the County have water to provide for Upcountry residents, that our infrastructure may not be able to provide you that water. Did I hear right?

MR. DePONTE: Yes, that’s correct. And, and, for me to get water I’m just one individual. You know, when, when I’m coming up here to speak, I’m, I’m speaking Dudley DePonte, and that’s what I put on the paper, but when you look at all the different subdivisions that I handle in the office, and I handle a lot of subdivisions, they’re all held up with water improvements. You had Mrs. Lu, Bernice Lu that came up and spoke, and she, she did it, and Mrs. DePonte here that came up and spoke also, they put in the infrastructure. Some people did the infrastructure beforehand and put it all in. Some people cannot afford it, to put it in. And what happened is before they get their water meter they will have to do that infrastructure.

Now, for mine it’s like I gave you 1.2 million. If we have to buy the land, you can, you can imagine what it’s going to be more. It’s...1.2 was just for the pipes and the water tank to be to County standards. And it’s, and it goes on. It blows up from there if you look at the system. That’s why I mentioned the CIPs. Where is all this little things on the CIPs so that the Council can look at it and go, we need money to appropriate for that? How are we going to get that money? Where we’re going to get it? And how far we can go with this? What’s going to be best for us?

I worked on a 12-inch line up in Upper Kula from Waikamoi all the way up past my house for the farmers, so the farmers could get extra water. There’s a 12-inch line in there. Gravity flow from Waikamoi there, that’s no, not treated water supposed to be coming over to the farmers.

VICE-CHAIR PONTANILLA: Right.

MR. DePONTE: Did that get connected? It’s not. It needs to be. Our farmers need, need, need our help. They need water.

VICE-CHAIR PONTANILLA: Okay. I, I think you answered my question in regards to the lack of infrastructure and probably the lack of infrastructure that we the County or the State need to provide the people Upcountry. So thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Further questions for the testifier? Seeing none, again, Dudley, thank you very much for your continued persistence, and I really appreciate your help, and you have a Merry Christmas. And hopefully we’ll have a better New Year.
MR. DePONTE: You’re welcome, and Merry Christmas, Happy New Year to you and your family.

CHAIR VICTORINO: Thank you. I will offer one last opportunity. Anyone who has not signed up in the gallery, who would like to give public testimony, I would welcome you now at this, this time to come down. Seeing none, with no objections, I will close public testimony on both Items W-29 and W-1(5) [sic].

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you.

ITEM NO. 1(5): WATER SUPPLY RULES (SUBDIVISION WATER SYSTEM REQUIREMENTS)

CHAIR VICTORINO: Okay. We will now start with WR-1(5), Subdivision Water System Requirements. The Committee is in receipt of the following: correspondence dated October 11, 2006, from the Department of Corporation Counsel, transmitting a bill to codify the rules and regulations of the Department of Water Supply; two, correspondence dated November 24, 2009, from Michael P. Victorino, Chair of the Water Resources Committee, transmitting a draft bill entitled A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES. The purpose of the draft bill is to codify the rules and regulations of the Department of Water Supply relating to the subdivision water system requirements; and, three, a correspondence dated December 7, 2009, from Michael P. Victorino, Chair of the Water Resources Committee, transmitting suggested revisions to the draft bill to establish a subdivider should be refunded 75 percent of the cost of the water main extension, instead of 50 percent provided in the draft bill. Also, the Committee may consider the recommendation of the passage of the draft bill on first reading, or with or without revisions. The Committee will make...also consider all other related actions.

So you have the attachments dated September 24, 2009 [sic], from myself. If you would turn to that correspondence and the correspondence dated December 7, 2009, to discuss the revisions. Let us look at some of the response letters we have received. If you will look in your book on August 11, 2009, in response to the concern ...(end of tape, start side 1B)... of appeals, the Board of Water Supply has provided us a matrix of appeals and have scheduled since the Board has been given appeals authority. I have looked them over, and to me it seems that the entire process now has began [sic] to level off. The Board staff also reminded me that many of the delays were due to attorneys of appellant needing or to be rescheduled, and the appellants from the mainland that are needing to schedule trips. The Board staff also noted that each of the appeals required a minimum of three meetings to be completed. May I also say that while...this related Water Supply Rules, it does not relate to this particular bill.
So what I’m trying to say, basically, is that the appeal process is working and as you look on the, the matrix they’re not far beyond. In fact, they’re pretty much up-to-date. And the delays have been, basically, attorney-related in trying to get people from the mainland here and other testifiers to testify on behalf of the, the complainant [sic], yeah.

So I open the floor to discussion, but before I do that I would like to do two things. I will let Mr. Eng open up with some comments, and, secondly, I, I see in the audience, and I’d like to call him down, Lieutenant Scott English from the Fire Prevention...from the Fire Department, Fire Prevention Bureau. And if you would join us, Mr. English, I would appreciate it. . . .Thank you, Mr. English, for being here. I know you’ve been many times with us, and we do appreciate your attendance. Mr. Eng, would you like to start the proceedings please? And we’re on W-1(5) [sic], yeah.

MR. ENG: I just want to refer to your latest communication to the Committee.

CHAIR VICTORINO: Okay.

MR. ENG: And this is in regard to your proposed revisions.

CHAIR VICTORINO: That is correct.

MR. ENG: And that is to the mainline extension reimbursement.

CHAIR VICTORINO: The 75 percent within two years, yes.

MR. ENG: Right.

CHAIR VICTORINO: Thank you.

MR. ENG: Right, and if I may mention, currently there is a 50 percent reimbursement that is reimbursed over a five-year period. Many of these kind of revisions, amendments do affect our bottom line needs for revenue. We currently budget $500,000, per year, to pay for the reimbursements on the current schedule of 50 percent over five years. With the Chair’s proposal of 75 percent over two years, it will definitely impact our budget, basically, our revenue requirements. Just a basic calculation that I made; the proposal would require, in itself, a 3 percent increase in revenue, which can relate to a 3 percent rate increase. And as we all know, given the state of the current economy, and our proposal for next year’s fiscal year budget, we’re doing all we can to minimize any kind of rate impacts even though there may be some slight increases that we will not be able to avoid, but we are looking at a number of different budget options. But this particular proposal would require a 3 percent additional revenue from the Department. So I just wanted to inform you of that as you deliberate this proposal. Thank you.
CHAIR VICTORINO:  Mr. Eng, if I may ask this question before I open the floor to questions from the Members? What does that specifically mean in dollars? You give us 3 percent, and I understand what the rates are, but what does that actually mean, set aside amounts, specifically, if we were to change this from the 50 to 75 and go from the five-year reimbursement to two-year reimbursement? What will be the dollar figure you would have to set aside, in your best estimate?

MR. ENG: Thank you, Mr. Chairman. It’s actually not setting aside monies. It’s actually having to receive additional revenue through rates, and that amount would be about $1.38 million per year.

CHAIR VICTORINO: And that’s versus the 500,000 that you presently budgeted?

MR. ENG: That is correct.

CHAIR VICTORINO: So approximately 850, or close to $850,000 more based upon the proposal?

MR. ENG: No, if I may correct you.

CHAIR VICTORINO: Yes, okay.

MR. ENG: It’s going to be $1.38 million more than the current $500,000.

CHAIR VICTORINO: So you’re looking at 1.825 million increase to, to take care of this change, approximately?

MR. ENG: Well, I’m looking at a total budgeted amount of 1.88 million --

CHAIR VICTORINO: Okay.

MR. ENG: --which is about a $1.38 million increase over the current budget.

CHAIR VICTORINO: Thank you for that clarification, I appreciate that. I do open the floor up to questions from the Members? Mr. Pontanilla, followed by Chair Mateo.

VICE-CHAIR PONTANILLA: So the increase in revenues to...by 1.38 would satisfy 75 percent reimbursement for two years rather than five.

MR. ENG: That is correct.

VICE-CHAIR PONTANILLA: Okay. You know, you sent us a letter dated December 14, regarding all of the undersized infrastructure that we have and, you know, to, to replace 6-inch lines throughout Maui County we’re looking at $165 million. My question to you is that do you have a priority list in regards to authorizing the areas that we need to replace rather than, you know,
get a big number of 165 million? In other words, if we were to target from year 0 to year 15 to accomplish this, do you have a priority list as far as, you know, what we do first?

MR. ENG: Member Pontanilla, yes, we do. The Planning Division has a list of priorities, and we do review them annually as we develop our capital replacement plan.

VICE-CHAIR PONTANILLA: The other question I had, have is that, you know, we had two testifiers talking about their subdivision. One of them I really understand, the one along Haleakala Highway, Mr. DePonte, but the other one that I want information on is Ruthie DePonte. In regards to her testimony she had already put in her infrastructure within the subdivision. My question to you is that the infrastructure to feed that subdivision is it undersized or does it meet the minimum requirements to provide additional water to that five-lot subdivision?

MR. ENG: Member Pontanilla, I’d have to familiarize myself with her subdivision application, and we can get back to you on that.

VICE-CHAIR PONTANILLA: Okay. Thank you. And, and probably if it does need replacement, probably it would be on your priority list, and I hope so. Thank you. Thank you, Chairman.

CHAIR VICTORINO: Thank you. Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you. Mr. Eng, the, the $500,000 that you budget a year for reimbursements, how much of that is normally expended in a year?

MR. ENG: I think currently it’s been about 400,000.

COUNCILMEMBER MATEO: Okay. And the, the $400,000 has that been…that has been able to take care or service, would you know, what kind of areas?

MR. ENG: You know, it could be a wide array of waterline extensions. Many of them could be larger developers as well as a smaller family subdivision. So it encompasses the whole…

COUNCILMEMBER MATEO: The whole gamut of them. Okay. And the potential change at this particular point in time does the, does the Department put aside or recognize a specific fund for source development?

MR. ENG: We do have funds for source development from our water system development fees.

COUNCILMEMBER MATEO: And, and that source development funds, would it be able to be utilized not only for actual drilling of holes for water search but for this kind of infrastructure assistance as well?

MR. ENG: The water system development fees are usually for new source, new transmission, new storage. So generally we are not…would not use those funds for replacement infrastructure. We
do have a separate fund, our Capital Replacement Fund. And as we’ve talked before, we’ve been trying to fund about $3 million worth of replacement projects per year. So that’s a source of funding for something of what you are describing.

COUNCILMEMBER MATEO: Okay. So I think, I think in order for us to be able to now take a look at providing assistance to so many of our residents—when the resident themselves have to put in their laterals that in the long run has multiple benefits, because additional homeowners will now have opportunities to, to tap into the laterals that they, they put in, would that not be an assistance to us so that we would not have to, in the long run, be able to actually install these, these, lines?

MR. ENG: You know, you know, we have to evaluate each of these projects on a case-by-case basis. You know, some of them will, you know, allow opportunities for others to hook up. Some of these mainline extensions really serve just a very few or a couple parties. So...but, but...and that was the purpose of the reimbursement to begin with, I think, and that is the principle behind that. Again, what you folks are looking at right now is whether we want to expand that reimbursement. And, again, it all comes down to the amount of revenue and that we are required to fund it.

COUNCILMEMBER MATEO: Okay. So, you know, I guess, I guess, for me we’re looking at how to...we’ve been, we’ve been stuck in a box for so long, and I think it’s time for us now to take a look at outside the box of how to start to creatively use our monies in all meeting similar objectives. And the objectives we need to do is, in fact, if it is the County’s responsibility to provide a system for fire protection primarily, you know, fire protection and the Water Department should be working together to try to see how we get the bigger bang for our buck, our limited buck.

So, you know, I think it’s time for us to, to be creative in taking a look at how we’re expending our monies so that we don’t get, you know, like separate projects moving forward when we can utilize our limited resources once and provide the systems that our residents do need. For myself, I think my most difficult part today is listening to Ruthie. For the last 12 years or 11 years now, for me, you know, we’ve heard this woman continuously come down and virtually beg. And that for me hurts. Our people should not be begging. Our people should be working with us. And that is really hard for me to look at somebody like Ruthie. I mean this is, this is what we’re doing. We’re trying to assist the family subdivision. We’re not looking at the large-scale developer, and when they have to come to, to us and beg, we’re not doing anybody any services.

And my plea to you is we need to make things happen. We need to take a look at how to creatively start to utilize our monies. If there’s CIPs that is not ready to move, can we utilize those funds? If there’s, there’s special fund monies that could be used to assist in, in either the reimbursements, in either the implementation and construction of lines, can we take a look at those sources. The answer, you know, for a lot of our requests is increases. And I think we’ve reached a point where we’ve got to look beyond that. I just don’t know how we can continually, year after year, listen to the same response year after year. The time is now, Mr. Eng, and you
are challenged, and you are, you are charged with, with an insurmountable task, but your Administration made commitments, you know, to deal with infrastructure. Water systems is part of that infrastructure, and you need to collectively work with this Administration to find out exactly how they intend of dealing with infrastructure. We no longer can have our people coming to us to beg anymore. It's over. Thank you, Mr. Eng. Thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. Mr. Eng, do you have any response?

MR. ENG: Thank you, Mr. Chairman. No, I do appreciate the Chairman's remarks. You know, I think you have kind of touched on the challenges that we're facing. You know, right now we are still working on our next year's...Fiscal Year 2011 Budgets, both operating and CIP, and we have to look at a lot of options. You know, I mean the first thing we’re working on is maintaining just current level services. And, obviously, current level isn't good enough. But even just maintaining current level services we may be looking at a proposed rate increase. Now, we’re challenged of how do we avoid any rate increase?

So the options we can only look at is where do we cut current level services? And it's really difficult, because we hear the public, we hear you folks, and we’re trying to be responsive, and we’re trying to be creative. And I think we are very creative given what we have to work with. So I appreciate your comments. You know, I take them to heart. You know, and I just want assure you that we are doing our best to address them. Thank you.

CHAIR VICTORINO: Thank you. Before I recognize Mr. Nishiki, let me say that I've been around this water issues for the past, almost ten years now, nine, nine years or so, and I will take one issue, and I will address that issue and that's the only issue I’ll address, is that many of the problems that exists did not just start with this Administration. It’s been a long time in coming, and it’s been a negligible work by not only this County, but by the Board of Water Supply when it was autonomous and by other entities. Okay. So everything falling on your shoulder, Mr. Eng, is not totally fair, and I’ll say it that way. I do admit, Mr. Eng, you can do a lot more, and I hope you start doing more, but I cannot blame you entirely because 11 years you’ve not been in that seat; am I correct in saying that? And also, we’re talking something that’s been going on for the last 30 years. We’ve had droughts Upcountry for many, many years. I lived up there and every year I lived up there for the 14 years we had droughts. To some degree or another we had droughts. And I think Mr. Molina can attest to that because he’s lived up there, and many of us have lived up there at an extended period of time.

But the time has come to find solutions, I agree, but also I won’t throw all the blame on your back, Mr. Eng, and this Administration. But I think this Administration can accelerate, and I think it has opportunities, and I hope you can really think out of the box and let’s find ways of solving these problems, because I would like to make 2010 a year for Mr. DePonte and Ms. DePonte, and all the rest to have a good prosperous year by being able to get their water meters. Whether it’s H...Hamakuapoko or whatever, we will work on every possible solution. There's nothing off the table and that's the way I work. I will look for the best solution with all
of their help and the Administration’s help. That much you got our promise. That’s it. Okay. Enough with the political speeches, moving right alone. Mr. Nishiki? Thank you.

COUNCILMEMBER NISHIKI: Thank your, Mr. Victorino, Mr. Chairman. Hey, Jeff, I, I got a question with this reimbursement, and it kind of coincides with Danny’s saying, well, I’ve listened to Ruthie speaking. The money that you talked about having to...if we use these calculations and what is being revised here is an additional $1.38 million. But my question is this, because it kind of coincides with somebody waiting on a meter list, okay. Is the money that we spend to make infrastructure improvements, does it coincide with number one and number two on the meter list? You know what I’m saying?

MR. ENG: Yeah, I understand what you mean.

COUNCILMEMBER NISHIKI: You know, we’ve got people waiting --

MR. ENG: And no, it doesn’t.

COUNCILMEMBER NISHIKI: --and we’re going...we’re going to do...they’re number one and number two, so we got to fix their infrastructures or whatever we got to bring in. Is that how we work?

MR. ENG: Member Nishiki, no it does not work like that, at all.

COUNCILMEMBER NISHIKI: Oh, okay. So that, that is a problem I see. So say...let’s say...take Dorothy [sic], she’s 60-something, okay, it could be then that you may bring in an infrastructure improvement to her, okay. So therefore, now, because you’ve put in that line or whatever and made...and now she can connect, she’s the one that can now be taken care of and not number one and two because for them it may be a more expensive infrastructure improvement. So we’re not guarantying because you’ve got a number that you become eligible because that infrastructure may not be improved.

MR. ENG: That’s absolutely correct.

COUNCILMEMBER NISHIKI: Is that true?

MR. ENG: That is absolutely correct.

COUNCILMEMBER NISHIKI: Right. And the other question I have is when Dorothy [sic] says that she’s 62, but she says that she has a family subdivision of four and, and she has one, so she needs three, does 62 mean that you eliminate three meters, or you just give her one meter? So now you got...(inaudible)... 

MR. ENG: We’d have...I’d have to look at her application for meters. Many times people in their application do request multiple meters.
COUNCILMEMBER NISHIKI: Oh, okay.

MR. ENG: Yeah.

COUNCILMEMBER NISHIKI: So that means that...

MR. ENG: So hopefully she did request the appropriate number.

COUNCILMEMBER NISHIKI: If she’s 61 or 62, it could be that that number 62 may represent three or four meters.

MR. ENG: That’s correct.

COUNCILMEMBER NISHIKI: Wow.

MR. ENG: Hopefully it does in her case.

COUNCILMEMBER NISHIKI: Okay. So, so, Mr. Chairman, this is the problem. I mean despite that we may want to change these calculations, and it may mean an increase in, in water rates, this water meter number that we’re talking about, it really doesn’t mean that this Administration is working with number one to fix their infrastructure to give them that meter first, and I think that’s a problem. That’s a real problem, Jeff, yeah? And, you know, it’s, it’s like, I like to hear, you know, for the number one, and number two, and number three, and number four, even let’s take the ten places. I want to hear from Jeff when he looks at those people that are from one to ten, how much money we need to spend to, to give them the, those meters.

CHAIR VICTORINO: Let me, let me bring you back to where we want to be. First of all, until water becomes available infrastructure is not the issue; right? The Water Meter List was built for...wait a minute, now, let me finish, Mr. Nishiki. Water has to become available. Water has to become available and all of them will attest to that. What I mean by water, either Hamakuapoko, Pookela, or some source has to become available to start working on the, the meter list; am I not correct, Mr. Eng?

MR. ENG: That is correct.

CHAIR VICTORINO: Okay. A source now, okay.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR VICTORINO: Now, we’re talking. . .I get water, somehow we find water, Mr. Nishiki, and the water becomes available, and now we can run through 200 people, like Aunty Ruthie mentioned, 200 people. The problem comes up if your system is not up to snuff, then the County requires you to make that infrastructure improvement. Okay.
So we have two issues. Now, first of all we got to find sources of water so we can work on the list, but once we get there, then if your system, your pipes are not to standard, then we require you to make it to hook up. So there’s two different issues now, okay, Mr. Nishiki.

COUNCILMEMBER NISHIKI: . . .(inaudible). . .project.

CHAIR VICTORINO: Yeah, but wait a minute. There’s two different issues, so I just want to clarify that to you.

COUNCILMEMBER NISHIKI: Okay.

CHAIR VICTORINO: Okay. So that...just...we’re not getting into a debate or anything, I’m just saying...okay, yeah.

COUNCILMEMBER NISHIKI: No. No. No, I’m just saying that there’s other ways to paying...

CHAIR VICTORINO: Well, I’m must saying...well, right now what I’m trying to address is if water becomes available for any of these parties, instead of them not being able to do it, if they could get the money to do it we now reimburse them 75 percent, which is a big chunk of the, the expense, and we do it within two years not five years. So that was my intent with this, to help expedite anybody who has water availability and have to do any kind of infrastructure.

The other issue about us doing the infrastructure improvements is another discussion, something that we’ve neglected for a long time. Okay. So there’s two different issues, and I hope I, I made that perfectly clear. I’m not debating about what is important, but the Water Meter List was derived from the lack of source availability for the Upcountry area and that’s what that was derived for, that was what that list was made for.

Now, we have another discussion where if water becomes available, and Aunty Ruthie’s on that list, and then we say, Aunty Ruthie, here you go, here’s your meters. Oh, by the way...or, Dudley, oh by the way, you got to a put quarter mile of extension 6-inch ductile iron and pipes to hook up. Now, that expense they have to bear. That was why my other issue about five years, five years from the moment they are notified that they got their meter, five years, they have the right...they have the ability to wait either for the Department to do the infrastructure improvement or them to put the money together to do that infrastructure improvement and still get back 75 percent.

So I try to take a dual-edge sword and try to make it to the most common denominator, is the little guy is the guy that’s hurt the most, not the big developers, it’s the little people. And I want them protected. I want them to have enough time and enough opportunity to have their money returned to them. And if that means a small rate increase, Mr. Nishiki, well, then that’s something we have to look at, but, again, we’ve got to be creative. But, again, Water Meter List, before we get all confused, was created because there was no source available to the Upcountry
residents back then. And still then...still till today, even though Pookela came on, H...Hamakuapoko was taken off, so now Pookela is considered a backup; is that correct, Mr. Eng?

MR. ENG: That is correct.

CHAIR VICTORINO: Okay. So we cannot use that to issue meters because it is considered a backup. In drought condition we run that, that, that well. Now, have I clarified everything, gentlemen? Okay. Thank you. I just wanted to make sure.

COUNCILMEMBER NISHIKI: Oh, okay.

CHAIR VICTORINO: All right. So then we don’t want to get confused. Mr. Nishiki, thank you very much for your patience.

COUNCILMEMBER NISHIKI: I just found out what I need to know.

CHAIR VICTORINO: Thank you. Any other questions? Oh, Mr. Medeiros, go ahead, I’m sorry.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

COUNCILMEMBER MOLINA: . . .(Inaudible) . . . have to yell.

CHAIR VICTORINO: Okay. If everybody wants to ask...you, you have something, Mr. Molina?

COUNCILMEMBER MOLINA: . . .(Inaudible) . . .

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

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Continuing on the same line of questions even, you know, with the information you provided, and thank you for providing that information, Mr. Chairman. One of the things I wanted to ask the Department, Director Eng, is one of the testifiers brought up that Ag water system for subdivisions up there as far as using it for Ag purposes. My research on that revealed that that Ag system has been put in by the Federal and State and that the people responsible to issue the water meters for that system is the State Department of Health; is that correct?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Mr. Chairman. Member Medeiros, I, I think it’s...it would be the responsibility of the State Department of Ag regarding those meters.

COUNCILMEMBER MEDEIROS: Okay. But it’s not the County?
MR. ENG: No, it isn’t.

COUNCILMEMBER MEDEIROS: Right. But the County, once that system is completed, will have the responsibility to maintain that system; is that correct?

MR. ENG: That is what I am aware of, yes.

COUNCILMEMBER MEDEIROS: Right. Okay. Thank you, because I, we hear a lot in the meetings having to do with water, about that ag system, and my understanding is that ag system has been in construction for about five years, and the projection is another five years to be completed; is that correct?

MR. ENG: That is probably correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you. I want to find out, is the Upcountry water system integrated with other systems, like Central Maui and South Maui?

MR. ENG: No, it is not.

COUNCILMEMBER MEDEIROS: They’re all separate systems?

MR. ENG: That’s correct.

COUNCILMEMBER MEDEIROS: So water couldn’t be diverted from another system to Upcountry for their needs and to increase the delivery of meters to them?

MR. ENG: No.

COUNCILMEMBER MEDEIROS: Okay. In, in, in the case of Ms. DePonte, you know, she said she was number 62 currently, but in 2004 she was about 186, and her question was when the Department told her that 200 meters...200 water meters were issued, why didn’t her number go down or why, why wasn’t she included in that number? And hearing from your earlier response, some applicants have multiple meter requests.

MR. ENG: That is correct.

COUNCILMEMBER MEDEIROS: And are developers on that list also --

MR. ENG: I’m not aware of any...

COUNCILMEMBER MEDEIROS: --with multiple meters?

MR. ENG: I’m not aware of any large developers at this time or any large projects, but there are even some family subdivisions that have a significant number of multiple meters.
COUNCILMEMBER MEDEIROS: And, and so, having known that list from the time you’ve been in your position, has the list...the movement of that list been significant and, and what is your average estimate of...what is the most meters you’ve seen required by an applicant on that list?

MR. ENG: Well, to respond to your first question, the last time, again, meters or reservations were issued was, I believe, in the year 2006, and I think we’ve discussed this earlier. That was in, in anticipation of Pookela coming online. There was the delay in, in getting that well online until it was about May of 2007, but there were 200 meters or reservations issued prior to that. There hasn’t been any movement on that list. And can you repeat your second question?

COUNCILMEMBER MEDEIROS: Well, I, I think you answered basically what I wanted to hear. So there doesn’t seem to be any projection of movement on that list until, I guess, as the Chair has mentioned, that a source be secured that would increase the availability of water to issue those meters?

MR. ENG: Or if the possibility of H’Poko being available.

COUNCILMEMBER MEDEIROS: Okay.

COUNCILMEMBER MEDEIROS: Okay. All right. Thank you, Director Eng. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Medeiros. Mr. Kaho‘ohalahala, you have...oh, you have something now, Mister...

COUNCILMEMBER MOLINA: Yeah, I’ve been waiting...two times.

CHAIR VICTORINO: I’m sorry. I asked earlier, you said no. I’m sorry. Mr. Molina, go ahead.

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Kaho‘ohalahala. I’ve been waiting patiently.

CHAIR VICTORINO: Okay. Thank you.

COUNCILMEMBER MOLINA: I, I know it’s tough be here on this left way over here. But my questions for the Director regarding to your proposed recommendation, Mr. Victorino ...(end of tape, start side 2A)... you know, we’ve heard you during the budget sessions say, you know, just to keep the lights on we need rate increases and so forth. And you mentioned that if we consider this reimbursement change from 50 to 75 percent we’re looking at about an additional 1.38 million, which could result in a...well, maybe it might be kind of putting you on the spot now. With this upcoming budget session are we...is the Department going to ask this Council to consider a rate increase? Can I ask that question at this point?
CHAIR VICTORINO: Mr. Eng?

MR. ENG: Mr. Chairman. Thank you, Mr. Molina. Our current projections, in order to keep current level of service, is...

COUNCILMEMBER MOLINA: Keep the lights on, so to speak.

MR. ENG: ...yes, do call for some type of rate increase, excluding this potential 3 percent on top of that.

COUNCILMEMBER MOLINA: So this potential...this is on top of what you’re going to ask us to consider, if, if we pass this?

MR. ENG: That is correct. So but we are looking at options to, to cut some services. I mean we have to explore everything at this time. We don’t want to, but, you know, that’s the facts we’re facing in this economy. You know, it’s something that the Department needs to explore how we can maintain current services and maybe look at some cuts.

COUNCILMEMBER MOLINA: Can you give us some specifics that if we, if we consider this change, 1.38 million, and during the budget session we don’t go for a rate increase, then what kind of cuts or delays could the public expect, as it relates to water?

MR. ENG: Well, Member Molina, one thing, you know, we’re still looking at all the various options. One definitely could be in the area of CIP, Capital Replacement Projects, and this is the Chair’s favorite topic, but, you know, because those are cash-funded projects. If we have to reduce our cash requirement, that would be an obvious place to cut from. We don’t want to do that because we always hear your messages, but it’s cash. You know, if we have to look at it, that’s one of the top options.

COUNCILMEMBER MOLINA: And the other proposal from Mr. Victorino is to, I guess, give the subdivider less time to pay back. So I guess in exchange for paying less for the infrastructure from, you know, they get reimbursed 75 percent instead of 50 percent, and now they would have, what is it, two years to pay back rather than five years. What would happen if the subdivider does not make that payment within the two-year time period?

CHAIR VICTORINO: We paying you back.

COUNCILMEMBER MOLINA: Oh, okay, I’m sorry.

CHAIR VICTORINO: We paying them back.

COUNCILMEMBER MOLINA: Oh, okay, I’m sorry. I got it mixed up.

COUNCILMEMBER MOLINA: Oh, I see. Okay, well, well, can scratch that question.

CHAIR VICTORINO: Go ahead, Mr. Molina.

COUNCILMEMBER MOLINA: No, no, thank you. Thank you. Thanks for that clarification. Okay. Scratch that question then. So, as I understand it now, if we, you know, don’t go for this...you know, ‘cause I, I can sort of side with Mr. Victorino’s intent. I’m always looking for maybe some type of compromise. Maybe instead of 75 percent maybe 60 percent, which I guess would mean an adjustment in, in your figures, your forecast of what our shortfall would be.

So, Mr. Chair, you know, in light of what’s going...coming our way during the budget session from the Department, as far as proposed increases on top of this, I’m siding with, you know, the subdivider as well. So maybe we can look for an additional number to consider...a different number to consider because I guess we got to...you know, it’s a tough balancing act, the way I see it. So I can appreciate the Director’s concern at what we’re looking at, but at the same time too, you know, we need to do our best to move on these CIP projects and when we get to the issue on the water meters, that as well.

So like you, I’m hoping 2010 can be a somewhat happy one for, for a lot of people, because a lot of people have been waiting a long time and have been suffering. And, you know, it will provide some type of ray of hope with all of the problems that we’ve experienced here in 2009. So I just throw my, my thoughts out to you on this particular amendment and thank you for at least, you know, putting something out for us to discuss with regards to the reimbursement. Thank you.

CHAIR VICTORINO: Thank you. And, again, it’s open. I’ve left it open. But, again, I needed to start somewhere and that’s always been my premise to start somewhere that we can open discussion with that. Also, the everyday people that are affected that if they have to put it in, I want them to get their lion’s share back. One of my thoughts in the future, and I, and I’ll just say it, futuristic thought is that when a line is put in by a private person, by a family, or something, that anyone that connects in the next 10 or 15 years, and that’s something I’ll propose much later, is that they pay a proportion back to the County, an extra fee for connecting after that. Because they get the benefit for which the individual paid the lion’s share and this County paid the lion’s share.

And I, and I, and, let me make one more clarification. I heard people say we’re taxpayers. Remember water is still an enterprise fund run basically by the revenues brought in by that fund. Okay. Other than bonds, and even bonds are paid back from that fund, it is separate from land tax, from your real property tax. Okay. So there is a separation in that respect. I just want all of that clarification because we talk about many issues, but I want to make sure the public understands that this is an enterprise fund. The money put in there does all of the maintenance, repairs, upgrades all come out of that fund and that’s where the cost of water is involved in. The transmission cost is what you pay for, not the actual water. The water itself belongs to the
people, but you've got to transmit it. Like you said, Mr. Molina, to turn on the lights cost money and from that point forward all the maintenance people.

Do we want to be like Oahu? I heard again this morning three water main breaks this morning in Oahu. Do we want to wait until we get to that point? I don't think so. So this is one means that we can all work together. Those who need their meters, we get sources, your meters become available. If you have to put out money, I want most of it to go back to you because that's part of our responsibility and as quickly as possible. Now, I don't care what figure we use, gentlemen, that, that is, that's something the Committee can decide. The timeframe, again, is up to the Committee to decide. But I'm looking for some positive alternatives so when water becomes available and someone like Mr. DePonte or Auntie Ruthie wants to move, that they know they've got time, and they've got the resources to retrieve their investment so that their subdivisions would come to fruition. Questions, Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair. I wanted to ask the Director, under the section that we were talking about in the increase percentage from 50 to 75, 14.05.050, reimbursement for water main extensions, if I look under (B), it says that: The subdivider shall be reimbursed for the cost of the main extension in accordance with this section, and then the next sentence says: However, no reimbursement shall be made if the main extension will only service areas under the same ownership as the subdivision under construction. I, I heard you say earlier that depending on who's going to be serviced by that extension. So is this a section under which you're making reference to?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Yes, thank you. I believe that's what I was kind of referencing is that if it only serves the developer, the subdivider only, then they won't receive the reimbursement. It has to benefit others.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. So they can move to, to do the extension according to the requirements, but they will not be eligible for any reimbursements? And then...

MR. ENG: That is correct.

COUNCILMEMBER KAHO‘OHALAHALA: It says in no case a reimbursement for water main extension be made for any portion of the cost of the main unless a 6-inch for ag. So you've even made a requirement for, for what would be the requirement to put that in. My question for you is in the presenters that came forward, Ms. DePonte, is she a person that would be looked under this section?

MR. ENG: That I don't know. I'd have to look at her file to see if...potentially if there is an extension or upgrade requirement, if it does benefit others.
COUNCILMEMBER KAHOʻOHALAHALA: Okay. And then Mr. DePonte, is he a person that would be subject to this?

MR. ENG: I’d have to look into that too.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. I just want to ask because while those are criterias for ineligibility, according to this section, in (C) below, while we’re looking at changing the percentages, Chair, you also have a lot of discretionary kinds of powers in here where under (D), in the same area...well, let, let me step back first. Under (C), while we’re looking at perhaps amending the percentage of cost for reimbursement in (C)(1), it says here that there has to be some agreement, formal agreement, in writing, before any of the reimbursement will be considered. And then it says that the agreement may, at the discretion of the Director, be terminated.

Okay. So if the subdivider has not substantially complied with the terms of the agreement within one year, from the date thereof, then you have the discretion to terminate that. So that, that’s one area of concern. So the agreement itself is something that you would be developing with the applicant then, and that agreement comes in any shape or form? It’s just something you and the, the landowner comes to...

MR. ENG: Yes, the Department has pretty much of a standard agreement to work off.

COUNCILMEMBER KAHOʻOHALAHALA: You have standard agreement form?

MR. ENG: Yes.

COUNCILMEMBER KAHOʻOHALAHALA: So that doesn’t change from one applicant to another applicant or from one agreement to another?

MR. ENG: Maybe some of the details related to the project, but, but basically it’s, it’s the standard agreement.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. And then if I go down to No. 3 of that same section, we are going to look at perhaps the change in the installments. And then under 4, it says that: The Department shall make the final determination as to the cost of the sites. And, and, again, you have discretion here in making some determination. And this is over and above the agreement? Does the agreement not outline these things?

CHAIR VICTORINO: Mr. Eng.

MR. ENG: You know, generally the waterline extension, water main extension would be put in by a contractor. So we normally require an affidavit of costs to prove costs. So that’s all we’re looking at. We’re not arbitrarily estimating costs. We, we’ll look at a actual cost from the contractor generally.
COUNCILMEMBER KAHO'OHALAHALA: Okay. And then if I go to (D), under the same section, it says: Where large quantities of water are required or a large investment is necessary to provide service, the subdivider shall be informed as to the conditions under which reimbursement for offsite water mains may be approved. So, again, who makes...you make these determinations then?

MR. ENG: I'm not certain how we would administer this, but, again, it does indicate we need to communicate with the subdivider to make sure that they’re aware of, you know, and we are aware of their water demands, you know, they’re fully aware of any kind of cost requirements, any special conditions. There might be some elevation issues, you know. . . .

COUNCILMEMBER KAHO'OHALAHALA: Okay. So as I’m looking at this one section alone, my thought is that there’s a lot of discretionary decision making on the part of yourself, the Director, and for me, maybe we need to define more of these rather than leave it more discretionary. Because perhaps in the definition or in making it more clear, we won’t be left with these perhaps ambiguous areas where we’re not clear about what the intent or what the language is referring to by leaving it really up to the discretion of someone else. And I, I’m just wondering in a section like this there is, there are many instances of discretionary power. So I want to be able to, to address those kinds of things and, and find more precise language, perhaps, rather than leaving it as ambiguous, in my view. So, Chair, that’s my only thought about this one section, that there’s so many areas that’s undefined or left to some other discretion.

MR. ENG: And, Mr. Chairman, I don’t have a problem with that. You know, I think if any of the Members want to propose some language, that would be, that that would be appropriate.

CHAIR VICTORINO: Thank you. Mr. Kushi, at this time, I’ll call upon you. You know, when you just heard Mr. Kaho‘ohalahala’s concerns, can you address those concerns from your point of view, because you’ve been instrumental in helping us put this together?

MR. KUSHI: Yes, Mr. Chair. In my experience...I mean this, this section, (D) as in dog, large quantities or large investment, that section was historically in the rules for...forever, but I can see it applying to big projects, like, not the usual run-of-the-mill subdivisions. For example, I can see it being applied to any Maui Lani big project subdivision, Hale Mua subdivision, Kehalani extension subdivisions. Several of those big projects already have separate agreements regarding offsite improvements and reimbursables; Maui Lani as well as Kehalani. We have yet to get into a big agreement with Hale Mua. We are proceeding on, on that project. So these are the projects where I would see this section being applied.

Now, what you, what kind of oversight or language you want to add, again, I, I concur with the Director and, you know, take your best shot, and we’ll proceed from there. But, again, if you want to be very specific, we might get into a ten-pager. But, again, this is from where, where I see this section would apply.
CHAIR VICTORINO: Mr. Kahoʻohalahala?

COUNCILMEMBER KAHOʻOHALAHALA: Yeah, I, I think what you point out is the obvious. We can clearly identify who is that large, but, but when you come down to the opposite end of the spectrum, at which point do you determine one to be large and one to be a small? In the case of a family subdivision development, if you’re looking at that development as a large development and within what parameters, how are you defining that, or are they considered to be a small development? By, by what standard do you use?

So I’m, I’m hearing what you’re saying for the obvious. What I’m talking about as we get down the spectrum to the other end, where is that line that determines whether or not the person would be subject to these conditions?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Mr. Chair, I’m responding to Member’s…request.

CHAIR VICTORINO: Go ahead.

MR. KUSHI: In my experience, situations would arise where, for example, a subdivider would have to…that the Department’s facilities in the area is definitely non-existent or inadequate, the subdivider would be required to put a storage tank, you know, a storage tank and pay for it. I mean, obviously, it’s going to serve not only his project, but some other project. In that case, he, he should be, get a reimbursable, but, you know, that, that situation. Situations where large quantities of water over and above the Department’s standards, they have various standards for, you know, residential areas, commercial areas, and based on the project’s anticipated demand, yeah, you know, they…it’s, it’s, it’s not the run-of-the-mill, it’s a big one, we get into separate agreements in that situation.

COUNCILMEMBER KAHOʻOHALAHALA: Okay. But where is that, where is that defined? Where is that in the, in the, in the Code? You see what I’m saying, is that you have experiences, but how you’re applying them and how others from the community come to understand that we will be applied to these standards. If they’re not written anywhere, is my concern. It’s left to discretion and that’s where, I think, a lot of the, the perceived problems or what I’m hearing are stemming from is that no one has a clear understanding of how it’s being applied to that.

MR. KUSHI: Again, in, in trying to respond, for example, in Section 14.05.020, under...entitled: Reservoirs/Storage Tanks, you know, it says the subdividers shall install storage tanks, appurtenances, pipelines, et cetera. So, again, in that case...I mean that’s very, in my mind, unusual. It has to be, again, in an area where the Department’s facilities are either non-existent or very inadequate, and the Department will require the subdivider to actually construct a storage tank for his project.
COUNCILMEMBER KAHO‘OHALAHALA: Again, that section also has the clause that it’s at the discretion of the Director, approved by the Director. So, again…

MR. KUSHI: Right, in accordance with construction standards.

COUNCILMEMBER KAHO‘OHALAHALA: As otherwise approved by the Director.

MR. KUSHI: Right. So, again, you know…

COUNCILMEMBER KAHO‘OHALAHALA: And even below that, storage with a capacity, blah, blah, blah, and other materials as approved. So, again, there is a lot of this movement to discretionary decisions in, in all the processes. So I want to understand it as we go into the entirety of this document, let’s really take a look, closer look at, at how we might further clarify these things. So as to discretion, that it’s clear to the community what…that’s all, that’s all I’m raising is that those questions about where it’s ambiguous, where I don’t clearly understand how this is going to be applied, can we not look at further clarifying those?

MR. KUSHI: Okay. Mr. Chair, finally --

CHAIR VICTORINO: Go ahead.

MR. KUSHI: --for final response and hopefully we’ll put this to bed.

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

MR. KUSHI: Member Kaho‘ohalahala is correct. I see no problem in defining what the parameters of the Director’s discretion would be or standards. Again, it may take you the next two years to do it; however, you are entitled to do it because you are now enacting a code. I would like to remind this body also that when you pass this Title 14 in Article I, Water, you authorize the Department to do administrative rules to clarify all of these, these ordinances. Again, you know, you could do a step-by-step. You are codifying the Department rules into ordinances now. Next step would be if there’s any ambiguity not resolved in the ordinances, you have authorized the Department to do administrative rules by State law. Again, the administrative rules, you guys don’t get to see it. So there’s a give and take on that. But, again, there is an alternative.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. I appreciate that. Thank you.

CHAIR VICTORINO: Any other questions?

COUNCILMEMBER KAHO‘OHALAHALA: No other questions.

CHAIR VICTORINO: Okay. Thank you. And yes, Mr. Medeiros?
COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Since we have Lieutenant English, I wanted to ask him some questions. So and it’s regarding...

CHAIR VICTORINO: Are we staying on the same subject matter right now, before we... 

COUNCILMEMBER MEDEIROS: It’s on your correspondence --

CHAIR VICTORINO: Okay. At this point...


CHAIR VICTORINO: Thank you. And I’m going to ask you...we’ll start back with you, Mr. Medeiros, but it’s 10:30, and we’re going to allow a ten-minute break because some Members are giving me the high sign. So we’ll take a break and return at 10:40 if that’s all right with the Committee.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: If that’s all right with you, Mr. Medeiros? You’re going to start off...

COUNCILMEMBER MEDEIROS: You’re going take a break now?

CHAIR VICTORINO: Right now.

COUNCILMEMBER MEDEIROS: Oh.

CHAIR VICTORINO: If you don’t mind, please?

COUNCILMEMBER MEDEIROS: No.

CHAIR VICTORINO: Thank you. This meeting of the Water Resources Committee will stand in recess till 10:40. . . (gavel) . . .

RECESS: 10:28 a.m.

RECONVENE: 10:44 a.m.

CHAIR VICTORINO: . . . (gavel) . . . I’ll reconvene the meeting of the Water Resources Committee. Thank you for that break. Mr. Medeiros, as I had ended the recess...prior to the recess with you, I will recognize you first, and you had specific questions for Lieutenant English from the Fire Department, Fire Prevention Bureau. Go ahead, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And, yes, I bring the Members back to what we were referencing, your letter of November 24, 2009 and the bill that is so connected to
that. And on Page 5, under Section 14.05.090, Fire Protection, I wanted to ask...and we did have discussions in previous meetings on this, but I want to be able to ask Lieutenant English, as the representative from the Maui County Fire Department, a few questions on this.

First of all, Lieutenant English, we talked about the minimum size pipe being 6 inches and does this size pipe meet the fire standards nationally, or Statewide, or our County, whichever ones we are following right now? Does that size meet the standards required for the fire flow that the Department needs in order to...for their operations, firefighting operations?

CHAIR VICTORINO: Lieutenant English?

MR. ENGLISH: Thanks, Chairman Victorino. Mr. Medeiros, right now, based on the subdivision fire protection water requirements on agricultural zoning, our current code requires 500 gallons a minute, and that would be a minimum 6-inch waterline to provide that 500 gallons a minute. Once the...any other subdivision next in line would be residential, would be 1,000 gallons a minute. Normally, that would be served by a minimum 8-inch waterline.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that.

MR. ENGLISH: A 6-inch would be like a minimum to satisfy the agricultural district.

COUNCILMEMBER MEDEIROS: Right. And, and we, we inquired...I inquired with the Director on that, and I think you were not available at that meeting, so he concurs with that. Now, does the Fire Department, in establishing their fire flow requirements, follow the Insurance Services Office’s Guide for Determination of Required Fire Flows or do you follow a fire code that’s established and adopted by our Fire Department? Because under that guide that I just mentioned, there’s a breakdown on the next page of, you know, the zoning district, the gallons per minute, and the hours that it needs to sustain that gallons per minute. So are we following that or are we following a National Fire Code?

MR. ENGLISH: Okay. That I’ll give you a two-part answer.

COUNCILMEMBER MEDEIROS: Okay.

MR. ENGLISH: Okay. First of all, when we adopted the 1997 Fire Code, we amended our section of the Code to address the water requirements which was taken out of the 2002 Water Standards in the State of Hawaii. So we followed those water standards and that is for subdivision or land use. So that’s the minimum fire flow. Okay. On the, on the fire protection side, on commercial buildings, the Fire Code does request that the fire flow available in the area will allow the size and the construction type of certain buildings. So a certain building will have...maybe will have a fire flow of 2,500 gallons a minute that exceeds 2,000 gallons a minute for light industrial. So that developer needs to either show me that we have enough water, sprinkler the building to reduce the fire flow, or change construction type. So it kind of, it’s a kind of two-part question that you had.
COUNCILMEMBER MEDEIROS: Okay. Thank you for that. So how does the pipe diameter size factor into the required minimum fire flow? Does the Fire Department have a formula for that that you coordinate with the Water Department on establishing that or you just go with that minimum 6-inch if it's Ag, 8-inch for other.

MR. ENGLISH: I guess probably it's like a rule of thumb. Like a 6-inch waterline will provide a maximum of 700 gallons a minute, 8-inch, 1,500 gallons. It's kind of a rule of thumb that we use.

COUNCILMEMBER MEDEIROS: Okay. And the reason I asked about the diameter pipe size is you can put a 12-inch pipe, but if you don't have that pipe full with water, and it's just one-third full, you don't have the same flow and pressure as you would have a 12-inch full with water. So does the Fire Department do periodic fire flow tests and pressure tests to determine or to at least track that?

CHAIR VICTORINO: Mr. English?

MR. ENGLISH: Thank you, Chair. Normally, we...our engine companies do random test certain areas in question. I have a lot of fire flow information come to me by engineers who are sprinklering [sic] the buildings. They have to provide me the street information in order to design their sprinkler information, but normally it's done more by the engine companies in their districts. They randomly test hydrants to provide...to find out available fire flow in that area.

COUNCILMEMBER MEDEIROS: Okay. Okay. Yeah, thank you, because, you know, I know in my experience in the Fire Department there were many areas that we went to that we didn't have that kind of pressure or...and mainly, you know, Upcountry, Kula, and areas like that. But thank you for your responses and for the information. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you. Any other questions for Mr. English, Lieutenant English? Yes, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah, I, I, I just wanted to ask the question, Lieutenant English, and maybe Jeff could chime in if it also is something that the Water Department deals with as you work together. In an existing subdivision where a waterline is not 6 inches and now someone wants to go and do a family subdivision, will...because it's not 6 inches, and do we...I guess the question is do we have those kinds of circumstances and when a subdivision now is wished to proceed, what will those requirements be?

MR. ENGLISH: We have cases that were brought forward to our Department on that. Normally, they would have to upgrade the waterline to meet the minimum fire flow at the time they applied for the subdivision. In some areas we have 4-inch waterlines --

COUNCILMEMBER NISHIKI: Right.
MR. ENGLISH: --serving residential lots that now require a 1,000 gallons a minute, so if they want to subdivide they will have to upgrade the line and provide the 1,000 gallons a minute that is required in today's codes.

COUNCILMEMBER NISHIKI: Okay. So, Jeffrey, is it my understanding that in areas where we have a lot of 4-inch line, the Water Department is not bringing those lines up to fire standards? We're not spending any money to do that?

MR. ENG: Not necessarily so. We have done some areas in the older areas of Wailuku town, Lahaina --

COUNCILMEMBER NISHIKI: Okay.

MR. ENG: --in recent years that we have upgraded small lines such as that. I think the big challenge, as Lieutenant English understands, is out in those rural Ag areas, you know, again it was formally basically farm lands, you know, and now they're building larger homes and subdivisions. So we do see a lot of challenges out there. And we're really not focused on doing those replacements. Generally, we would leave that up to the subdivider.

COUNCILMEMBER NISHIKI: Okay. But we are making an effort in what, more urban areas, I guess.

MR. ENG: That's correct.

COUNCILMEMBER NISHIKI: Okay. I'm done. Thank you.

CHAIR VICTORINO: Thank you, Mr. Nishiki. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. I guess you and Mr. Victorino, Chairman Victorino . . . *(end of tape, start side 2B)* . . . reimbursement and the two-year payment...of two payments annually. And my question is how will that affect the Department other than the $1.38 million increase to your annual budget? What I'm curious about is how many of these reimbursements do we, on an average annually do we provide to whoever upgraded our facilities?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Mr. Chairman. Member Pontanilla, you know, I can get that information to you. At the end of each fiscal year I do approve the reimbursements. I know there is a small stack of things that I have to sign off on. Again, we also might want to keep in mind that, that given that we might be giving a larger reimbursement that may, may give some interest to other developers to, to go forward with some of their projects of water main extensions, so it may cause even more activity too in that area.

VICE-CHAIR PONTANILLA: Yeah, I can see that now.
MR. ENG: Yeah, especially the larger developers, you know, that that may be very cost effective for their projects to go forward.

VICE-CHAIR PONTANILLA: And can the County, you as a Department, withstand that kind of a pressure knowing that...you know, developers knowing that you’ll reimburse them 75 percent of the cost within two, two payments? I don’t think the Department can stand that if you have, you know, more than three of these big developers coming in to you folks to, to do infrastructure improvement on behalf of probably themselves as well as the County. So can you comment on that?

MR. ENG: Well, you’re absolutely right. I mean even this $1.38 million increase that I calculated was only based on the current level of water main extensions applications that we’re receiving. So, therefore, if this draws more interest to this program, our revenue requirement may be higher still yet. We don’t know that, though.

VICE-CHAIR PONTANILLA: Yeah, and, and I think part of our responsibility is to look at not only the consumers themselves, but, you know, the Department themselves, the County, in regards to the kind of money that we need to provide, you know, to outlay, you know, for future requests. So I think we need to take a look at the 75 percent, two year. We got to make sure that those are the right numbers that we want to work with.

The other question that I had is in regards to private developers. I know we, you know, signed some agreements with these private developers and I understand that some of the developers Upcountry had already discovered water source. And I don’t know what kind of agreements...if we had any agreements with any of them in requests...in regards to what will be provided to the County and if any water is provided to the County, because of the new source, how do we distribute the new source to the Water Meter List?

CHAIR VICTORINO: Mr. Pontanilla, I going to stop you at this point --

VICE-CHAIR PONTANILLA: Oh, okay.

CHAIR VICTORINO: --because I think we going off on another tangent, and I, I want to keep on what we’re discussing, please, if I may and that would be another conversation --

VICE-CHAIR PONTANILLA: Oh, okay.

CHAIR VICTORINO: --as far as how that priority list would be worked out, when and if we got new sources, but I prefer staying in the area that we are talking about right now, the reimbursement for the extensions and the 6-inch requirement, which is what we’re trying to discuss at this point. If you don’t mind, please?
VICE-CHAIR PONTANILLA: Okay. Yeah, I was going to ask another question regarding that Upcountry waterline that is funded by the State as well as the Federal. Should I wait on that one? And I think it's basically what I’m trying to head for, yeah.

CHAIR VICTORINO: Okay. I’ll allow you that question if we just stay on that issue please, on that, that…

VICE-CHAIR PONTANILLA: Oh, okay.

CHAIR VICTORINO: You talking about the dual line...the Ag, Ag line, right, you talking about?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: Okay. Go ahead.

VICE-CHAIR PONTANILLA: Okay. On the dual-line infrastructure that we have, have Upcountry that’s been ongoing for the last, what, five years, the source for that Upcountry line is basically the same source that we utilize for providing service Upcountry; am I right?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Yeah, that is correct. The source is our Upper Kula system, which is basically the Kahakapao Reservoirs.

VICE-CHAIR PONTANILLA: And, basically, the only savings that we probably realize from that is the savings of, I guess, disinfecting the, the water for consumption?

MR. ENG: Yes, and also the overall microfiltration process is saved.

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

CHAIR VICTORINO: Yeah, so in other words, you wouldn’t be, and if I may clarify that, you’re using raw water direct from the system versus the filtered and cleaned-up water that we would use for potable purposes, which is now being used by, by many of the ag farmers; is that correct, Mr. Eng?

MR. ENG: That is correct.

CHAIR VICTORINO: Thank you.

MR. ENG: Okay.

CHAIR VICTORINO: I appreciate that. Yes, Mr. Mateo first, and then Mr. Medeiros.
COUNCILMEMBER MATEO: Thank you, Mr. Chairman. Mr. Eng, going back to Mr. Pontanilla’s question, earlier question, if the application of the 75, 75 percent reimbursement based on two years for repayment, if that was applicable only to small family subdivisions and not to overall development projects would...what kind of impact would that still have on, on your Department, if it’s applicable only to small family subdivisions?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Council Chair, that’s a good point. I’m glad you brought it up. I haven’t looked at the breakout of larger developers versus family subdivisions, but I think I will, based on current level of interest in this program. I think that would be very beneficial to supporting this methodology. I would like to look at it, and I can get back to you on that.

COUNCILMEMBER MATEO: Thank you, Mr. Eng. Then, then for Corporation Counsel, would that kind of specification, to make it applicable only to small-family subdivisions, would that be any kind of a legal issue for us? And it would be indicative of whatever number, you know, we choose, whether it be 75 percent or, or 60 percent, or whatever that number is. Are there legal implications on us by making it applicable only to a specific group of people?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yes, Mr. Chairman. Chairman Mateo, off-hand I don’t think it would. You may want to check with the attorney who, who handles your Budget Committee, but as long as you have a basis for it. If your basis is fiscal, for example, that you can’t afford to give everybody, that you want to give it, narrow it down to a limited number, I would think that would pass muster. If your basis is to distinguish between family subdivisions and all other subdivisions, non-family, there may be a problem. But if it’s a fiscally related rationale, you’ve done it before.

COUNCILMEMBER MATEO: Thank you. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you for that answer. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director Eng, I turn your attention to Page 6, Section 14.05.100, Subdivision Elevation Agreement, which we touched on in a previous meeting. And kind of towards the middle of that paragraph: 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. Now, how is the size of the tank determined? What they would be required to construct or provide?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you. Again, it depends on how many properties are served, but generally it’s based on the amount of storage required to meet fire protection. That’s the primary purpose for that storage capacity.
COUNCILMEMBER MEDEIROS: Okay. And now the pump we’re talking about is going to be located within that water source system to pump the water uphill to the tank for storage.

MR. ENG: Yeah, I believe that’s what we spoke about earlier.

COUNCILMEMBER MEDEIROS: Right.

MR. ENG: Yes.

COUNCILMEMBER MEDEIROS: Right. And...but it’s not a pump at the tank to create more pressure for the Water Department?

MR. ENG: No.

COUNCILMEMBER MEDEIROS: From the tank to where the Fire Department connects will be by gravity flow?

MR. ENG: Yes, from the tank it’s all gravity --

COUNCILMEMBER MEDEIROS: Right. Right.

MR. ENG: --we’ll get the pressure ...(inaudible) ...

COUNCILMEMBER MEDEIROS: So, Lieutenant English, were you a part or the Department a part of formulating this section, you know, as far as providing a pump and a tank to provide, you know, enough fire flow?

CHAIR VICTORINO: Lieutenant English?

MR. ENGLISH: Thank you, Chair. Mr. Medeiros, on the private sector we allow...we have subdivisions that are served directly from a pump to fire hydrants or standpipes because on a smaller group of subdivider, they don’t have the elevation or the land to put tanks on different grades to provide a gravity flow. We would like it that way. Gravity flow is a more reliable source, but because these smaller subdividers don’t have that opportunity we have systems directly from a tank to a pump to our fire hydrants.

COUNCILMEMBER MEDEIROS: Okay. Then let me ask the Director, as associated with this, was there any consideration or contemplation about reimbursing the owner for this infrastructure that’s required, the pump and the tank?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: No, Member Medeiros, because you only…it would only provide a benefit to the owner.
COUNCILMEMBER MEDEIROS: Okay. Even though that may be a part of a subdivision where there’s more than one lot?

MR. ENG: Generally, it would be only one developer... (inaudible)...

COUNCILMEMBER MEDEIROS: One developer, which could be a subdivision.

MR. ENG: So, therefore, it’s only benefiting that developer. So we do not consider that, no.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Director Eng. Thank you, Lieutenant English. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you. Further questions for the Department? Seeing none, I’m going to make a recommendation, and my recommendation, in light of a few other issues that have come up, I’m going to defer this matter to our next meeting in January, and I will add some more verbiage that we have discussed and come up with some numbers as far as what a small, small family subdivision is, so I think that would make all of us feel comfortable. And, and as far as percentage, once Mr. Eng gets back to us...I won’t change the percentage or the reimbursement period at this time. I’m going to keep that until we see more numbers from you, Mr. Eng, if that’s all right with you. And then, you know, we’ll talk about what small-family subdivision would constitute. I will direct a letter to Finance, through Mr. Pontanilla, to get an answer back from that Department as far as the fiscal part of this issue, yeah. So with no objections, I’m going to defer matter W-1...WR-1(5), with no objections.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GCB).

VICE-CHAIR PONTANILLA: Chairman?

CHAIR VICTORINO: Okay. Wait. Wait, hang on. Yes, you had a question, Mr. Eng...I mean Mr. Kushi?

MR. ENG: You go first.

CHAIR VICTORINO: Yeah. Go ahead.

MR. KUSHI: Yeah, Mr. Chair, I, I, I thought I’d bring this up now before you get into further discussions, but I have a concern about, you know, assume...let’s assume this, this bill progresses. On the effective date of the bill, the Committee may want to decide...you know, generally ordinances are effective upon execution.

CHAIR VICTORINO: Right.
MR. KUSHI: But, again, this bill changes the standards for subdivisions. The Committee may want to consider, you know, grandfathering or, you know, make this bill retrospective, or whatever, and, and designate a trigger when this bill becomes effective.

CHAIR VICTORINO: Okay.

MR. KUSHI: For example, in the “Show Me the Water” Bill it was effective for projects that did not submit construction...subdivision construction plans.

CHAIR VICTORINO: Oh, I see where you’re leading.

MR. KUSHI: There was discussion about exempting anything that had preliminary subdivision approval.

CHAIR VICTORINO: Okay.

MR. KUSHI: You know, so those kind of target dates you may want to consider.

CHAIR VICTORINO: Okay. With the permission of the Committee I will work on that and bring that forward so that we have a specific timeframe to work from, if that’s all right with the Committee...with no objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. Mr. Ponta..., oh, okay. Mr. Eng first, and then Mr. Pontanilla. Maybe he’s answering the question.

MR. ENG: Thank you, Mr. Chairman. I just want to make a remark. I know you, you’re requesting me to kind of, kind of evaluate what we currently have as far as water main reimbursement participants in the program, but...

CHAIR VICTORINO: At this...yeah, you’re...that was Mr. Pontanilla’s...

MR. ENG: And I’d like to get back to you with an idea of large developers versus the smaller subdivisions. I probably, though, would need a preliminary definition from you as far as the breakpoint of those two categories. So if you can get back to me on that --

CHAIR VICTORINO: Okay. I’ll do that.

MR. ENG: --and I can proceed with my analysis.

CHAIR VICTORINO: I’ll do that.
MR. ENG: Thank you.

CHAIR VICTORINO: Thank you. Yes, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. And along with that 75 percent, two payments, if you can provide...I know you talk about reducing some of your CIP just to, to, to keep the rate the way it is, but if we were to go ahead and do the CIPs to correct some of the problems we have, what would be a more likely rate increase for the consumers --

CHAIR VICTORINO: Okay. Mr. Eng, you understand the question?

VICE-CHAIR PONTANILLA: --to cover that costs?

MR. ENG: Okay. Can you, can you kind of repeat that one more time for me?

VICE-CHAIR PONTANILLA: Okay. You mentioned earlier that as much as possible, you know, we’re going to reduce CIPs so that we could keep the rates the way it is today, but if you cannot and we continue to do our CIPs or increase our CIPs and, and continue to reimburse, by adding $1.38 million to your reimbursement, what would be the rate increase, should we have one, to cover some of these costs or all of the costs?

CHAIR VICTORINO: Okay. Mr. Eng.

MR. ENG: Okay. I can do that. Thank you.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR VICTORINO: Thank you. Other questions for the Department? Seeing none, thank you very much.

ACTION: DEFER pending further discussion.

ITEM NO. 29: UPCOUNTRY WATER METER LIST (C.C. No. 06-279)

CHAIR VICTORINO: And then we’ll move on to our second item, which was WR-29. Okay. And WR-29, again, if we will go to correspondence dated December 8, 2009, from the Department of Corporation Counsel, transmitting a draft bill entitled: A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER METER, WATER SYSTEM. The purpose of the draft bill is to provide service applicants from the Upcountry Water Meter List--okay, lost my paper, excuse me--a period of five years to make required water system improvements upon receipt of the water meter revisions. The current rule allows all water
service applicants to make improvements within two years. Upcountry Water Meter List applicants should get more time before they are removed from the list.

In other words, gentlemen, what I had...what I’m proposing is right now presently and, Mr. Eng, you can correct me if I’m wrong, if I am given notice that water has become available and that I have to make any improvements to the system to connect to my home, or project, or subdivision, I have two years and upon request you will give a year...a year extension, if I come back again another year’s extension; is that correct, Mr. Eng?

MR. ENG: Mr. Chairman, yes, pretty much like that. You get two years, and then we can tack on a couple of six-month extensions.

CHAIR VICTORINO: Six-months extensions.

MR. ENG: And at times, we even go beyond that if progress is being made.

CHAIR VICTORINO: So this change would guarantee five years upon receipt of the notice that you now have water available for your project, or your subdivision, or your home and still after that time period if I came, and I couldn’t have...I didn’t get it done, you still have the six-month extensions available thereafter, Mr. Eng; is that correct?

MR. ENG: That is correct.

CHAIR VICTORINO: Thank you. So that’s the bill change, to take it from two to five to ensure anyone if water sources become available in the Upcountry area, and we’ve talked about these improvements, that they have some time to either put the money together, or maybe a CIP project will finally be done in their area, so then they have to put no money out. But they’re not pressed within a two-year period. So this is what this proposed change in the Upcountry Water Meter List is proposing. Questions for the Department? Go ahead, Mister...

COUNCILMEMBER MEDEIROS: I’m sorry, Mr. Chairman, can you reiterate the date of the correspondence?

CHAIR VICTORINO: The correspondence was dated December 8, 2009.

COUNCILMEMBER MEDEIROS: Okay. Thank you.

CHAIR VICTORINO: Mr. Molina, you had your hand up?

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Chairman. For the Director. With the, I guess, the extension for now up to five years, what kind of impact would it have on others who are currently waiting? You know, for example, you issue out 200 meters, you got 500 people waiting. So...and then you have a number of people that could potentially have up to five years. Do you see any negatives? Well, what has happened, in most cases, though, people, once
they’ve been, you know, they get their meters, they’re notified, they pretty much get it within that two-year frame; right? You have very few that...have you ever seen or heard of people not ready to, to accept their water meters? Is there a large number or a percentage . . . (inaudible) . . . percentage?

MR. ENG: Mr. Chairman and Member Molina, you know, most of this...you know, the Department, first of all, supports this proposal. It makes a lot of sense to us because most of the need to improve infrastructure to serve a property once it is informed that it has a water meter or water meter reservation is occurring Upcountry. So for the benefit of those potential customers, giving this extension of time does make a whole lot of sense to allow them to plan their project to, to get the financing they may need. So and I don’t see any negative impacts to anyone else on the list or anyone else.

COUNCILMEMBER MOLINA: Okay. Yeah, and that was my concern, you know, to try and solve one problem you potentially maybe create another, but being that, you know, that you seem comfortable with it and, you know, I wouldn’t want to hear somebody saying that, oh, you know, I’m being pushed further back or being made to wait later because the person in front of me now they’re requesting, you know, the additional time. So I mean either way as long as...

MR. ENG: It won’t affect anyone else waiting on the list.

COUNCILMEMBER MOLINA: Okay.

CHAIR VICTORINO: You got to remember too, Mr. Molina, this is already...you’re given the reservation. So, in other words, that water is set aside for that reservation. In other words, you’ve got the meter. But now like in Mr. DePonte’s case, he has to make that extension from where the source is to where he needs it to go, to become up to fire flow standards, as we were talking. So this would give them five years to plan it out to be able to give these people the time to get this done and not be pressed in two years, because two years run pretty quickly as you’re well aware, sir.

COUNCILMEMBER MOLINA: Yeah. Yeah.

CHAIR VICTORINO: So I think that’s the intent. The whole intent is to give the Upcountry people...once they get their reservation they know they’ve got five years to get it done. The water is set aside for them already, so it’s not like if you were behind me, and now you’re going to wait another six months, or another year or two because I am, I’m getting more time to put my reservation. My reservation took up that chunk of water, so hopefully you’ll come up real quick. And then if you need to do anything, you’d be treated the same way.

COUNCILMEMBER MOLINA: Yeah, so they have a...yeah, sometimes, you know, how people get complacent. You give them a little bit more time, then they take their time. So hopefully it doesn’t have that kind of effect, but highly unlikely because, you know, people Upcountry have
been waiting for years. They’ll just jump at the chance and get, get cranking on it, you know. So...

CHAIR VICTORINO: This is just, I was hoping, our way of saying to those people that if you don’t have the financial resources right this very moment, that you’re not pressed within two years and hoping for extensions from that. You’ve got five years. And I’m hoping...you know, like you say, people will jump upon it. I think Aunty Ruthie would jump on it so fast, she’s got everything ready, boom. There’s not going to be a wait in that respect, but if there is I want to be fair to them also.

COUNCILMEMBER MOLINA: Yeah, and, and I see a win-win too because in light of the financial times we live in right now, money is a little bit more difficult for, for people to come across in a timely manner.

CHAIR VICTORINO: Thank you, Mr. Molina, for your questions.

COUNCILMEMBER MOLINA: Yeah. Thank you.

CHAIR VICTORINO: Any further questions? Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Yeah, the question that I asked about earlier, I don’t know if Jeff heard the question regarding agreements that we make with private developers that created water source. How do we handle...in this case here, if it’s Upcountry, how do we handle a Water Meter List in regards to providing water to that list?

CHAIR VICTORINO: Mr. Eng, would you like to clarify that with Mr. Pontanilla, please?

MR. ENG: Yes, I can. Thank you, Mr. Chairman, Member Pontanilla. If the County does strike a deal with a private developer for a new source, there is an allocation of water that the developer receives as well as what the County would receive. The allocation that the developer receives can be utilized by the developer as he so desires. The allocation the County receives will apply to the priority list in a priority from the top of the list down.

VICE-CHAIR PONTANILLA: Okay. Thank you. Thank you, Chairman. One more question.

CHAIR VICTORINO: Yes, go ahead.

VICE-CHAIR PONTANILLA: So the priority list that you have right now, based on infrastructure needs to provide the consumer with that service, that’s where you’re going to provide services in taking care, taking care of the, the list itself. If the infrastructure is there, okay, number one, you get your service or your water meter.

MR. ENG: That’s correct. And if the infrastructure is not available when your, when your number comes up, then this ordinance would apply that you would have five years --
VICE-CHAIR PONTANILLA: Five years.

MR. ENG: --to put in the appropriate infrastructure. So in the meanwhile you do get a reservation so that capacity is set aside for you.

VICE-CHAIR PONTANILLA: So on, on that five years, though, whoever is going to, you know, extend that line does have a reimbursement presently, based on your comments earlier, you do set aside half a million dollars if, if the line's going to be shared, you know, along that particular route?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Okay. I think we're kind of combining both of these ordinances together.

VICE-CHAIR PONTANILLA: Yeah. Yeah, right. Right.

CHAIR VICTORINO: Okay. So, let's, let's keep it…

MR. ENG: You know, and they're both five years that we're talking about, but they do kind of go hand in hand, you're right. But in the case of the, the ordinance we're currently looking at, the Upcountry Water Meter List, and the extension of the amount of time that an applicant is allowed to put in the infrastructure, again, we support this. It makes a lot of sense for the Upcountry potential customers and if…you're right, if that extension requirement does benefit others, then they would be able to also fall under the reimbursement program.

VICE-CHAIR PONTANILLA: Okay.

MR. ENG: Yes.

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

CHAIR VICTORINO: Okay. Thank you for that clarification. Mr. Mateo, you had your hand up first, and then Mr. Medeiros.

COUNCILMEMBER MATEO: Thank you, Mr. Chairman. Regarding the draft copy under B, 1(B), it indicates that the Director shall annually update the priority list of premises applying. In that actual addition of verbiage, annual update, would the annual update also clarify what that list is? In other words, if you've got, you know, 1,300 people on the priority list, what does that equate to in number of meters, because it is not 1,300?

CHAIR VICTORINO: Mr. Eng?
MR. ENG: We, we keep some internal information of what that list represents. I think if you go to our website it basically, I believe, gives you a tax map key number and your priority list number. We keep it fairly simple, you know, but we have more detailed information internally to get an idea of what that would represent as far as water demand and a detailed list of how many meter requests per application. And, again, we, we will be required, I guess, to update it annually. You know, the list hasn’t really changed, so we haven’t put a lot of time in that. It does take an engineer some time to update it. So we’ve had a lot of other higher priorities in recent months. So...

COUNCILMEMBER MATEO: Okay, and in accordance with the draft copy then, the, then the updated information is made available to whom? Is it just for Department’s information or this is information that will be updated on your website or...

MR. ENG: Yes.

COUNCILMEMBER MATEO: You know, if you’re going to require an annual update, who is the update, update going to be provided to?

MR. ENG: Okay. It will go onto our website.

COUNCILMEMBER MATEO: Okay.

MR. ENG: So anyone who has an application can see where they stand on the list.

COUNCILMEMBER MATEO: Okay. And the website, as you indicate, has both the number on the priority list as well as what that number actually indicates?

MR. ENG: I believe right now we just limit it to just the priority list number and the tax map key. So...

COUNCILMEMBER MATEO: So, so then...which is why questions arise, you know, as to numbers. I think we need some kind of clarification what that priority list number actually means in terms of the number of meters.

MR. ENG: I think we can expand on that, yes. Yeah.

COUNCILMEMBER MATEO: Okay.

MR. ENG: Thank you.

COUNCILMEMBER MATEO: If that can be considered. Thank you.

MR. ENG: It will. Thank you.

COUNCILMEMBER MATEO: Thank you, Mr. Chairman.
CHAIR VICTORINO: Thank you, and I will, I will forward a letter requesting that information be transmitted to all of you. And if that's all right with you, Mr. Eng, I will ask you to give us a better idea of that 1,300-plus on the waiting list, approximately how many meters would be derived out of that. And so that we have a better understanding what we're talking when we're talking meters --

MR. ENG: Okay.

CHAIR VICTORINO: --not just the waiting list, yeah.

MR. ENG: Sure.

CHAIR VICTORINO: Mr. Medeiros, you had a question.

COUNCILMEMBER MEDEIROS: Yes. On that draft also, at 14.13.060, which is on the front page of the draft, Section B, can the Director or Corp. Counsel define for me what they're referring...what this draft refers to in the second sentence when it says certain water system improvements to the premises? The premise is the property that the applicant has described, or is it the County right-of-way?

CHAIR VICTORINO: We're looking at the front page of the proposed draft, Section B, where it says: Prior to installation of a water meter, the, the Director may require the applicant to make certain water system improvements to the premises and/or to the Department new water system. That's the sentence he's referring to, and I think, Mr. Medeiros, you're referring to the --

COUNCILMEMBER MEDEIROS: The word...

CHAIR VICTORINO: --improvements to the, to the premise?

COUNCILMEMBER MEDEIROS: Just, just the word premises.

CHAIR VICTORINO: Premises.

COUNCILMEMBER MEDEIROS: Yeah,

CHAIR VICTORINO: Okay. Mr. Kushi?

COUNCILMEMBER MEDEIROS: What does that describe?

MR. KUSHI: Mr. Chair, premises are, are referring to, or intended to refer to the boundaries of the property of the subdivided, subdivision.

COUNCILMEMBER MEDEIROS: So boundaries of the property of the applicant?
MR. KUSHI: Right.

COUNCILMEMBER MEDEIROS: Okay. So...okay. Not including the County right-of-way where improvements may go?

MR. KUSHI: No.

COUNCILMEMBER MEDEIROS: Okay.

MR. KUSHI: But it's covered by the and/or.

COUNCILMEMBER MEDEIROS: Okay. And then also in that same Section, but under No. 3, is this the same word being used in the last paragraph of No. 3, where it says: And the premise shall be removed from the priority list. Meaning the property will be removed from the priority list or will the applicant be removed from the priority list? How is premise used there?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yes, it may be sloppy language, but it's intended to apply to...(end of tape, start side 3A)...by TMK.

COUNCILMEMBER MEDEIROS: Okay.

MR. KUSHI: And let's say Mr. Pontanilla is listed on No. 50 on the TMK. Now, if he sells it to Mr. Mateo, Mr. Mateo inherits that number. So it's referenced by...it's not by applicant, not by ownership, it's by premise.

COUNCILMEMBER MEDEIROS: Okay. So the premise, in the wisdom of Corp. Counsel, was better than saying property?

MR. KUSHI: Well, I, I think the definition of the priority list in itself--

COUNCILMEMBER MEDEIROS: It describes premise.

MR. KUSHI: --is by premises.

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

CHAIR VICTORINO: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Jeff, maybe I shouldn't be using personalities, but it has been represented that people that may want to find out what it would take them to make a connection
to the County for water service, and it was brought up basically that the inability sometimes for them to find out exactly what the Water Department is requiring. Has this been a problem?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Mr. Chairman. Member Nishiki, if it has been a problem, at least in the recent few years, I haven’t been made aware of it. Again, a lot of prospective applicants for service, many of them do seek advice from a consultant engineer. Most of the local consultant engineers are very familiar with our standards and generally that’s what most applicants do. You know, again, you know, with our workload my staff can be available for meetings to do some preliminary consulting, but for most applicants I would advise them to, to seek, you know, a local consulting engineer. They’re very familiar, and they get the service a lot quicker too. But, again, if... (inaudible)... if they’re willing to maybe wait a little bit for services, they can meet with us.

COUNCILMEMBER NISHIKI: Well, the, the questions that came up, I guess, is... and I don’t know what the process is, whether a person asking to be connected, then you’ll tell them what they need to do. Okay. Now, how many personalities does this person face before he finally gets a laundry list of this is what you need to do, Mr. Nishiki, to connect to the County water?

CHAIR VICTORINO: Mr. Nishiki, I, I going stop you there only because you’re going off subject matter, first of all, and I would prefer not to be saying personalities. Let me be...we all understand what’s going on, but what I think is fair is what questions or what procedures should the consuming public follow?

COUNCILMEMBER NISHIKI: Yeah, Mr. Chairman, let me, let me refer back to (B) 14.13.060. Prior to the installation of a water meter, the Director may require an applicant to make certain water system improvements to the premises and/or to the Department’s water system, provided that...and then it sets forth four different areas, Mr. Chairman.

CHAIR VICTORINO: Criterias, yeah, okay.

COUNCILMEMBER NISHIKI: And that’s, and that’s what I’m saying.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER NISHIKI: Because we’ve heard from some people that, you know, what I was told, or what I was not told, or what I was able to get and what I was able not to get. Jeff, the question is, is that what is a reasonable amount of time that somebody can be given a laundry list of what he, or she, or they need to do so that they know that this is what is going to be required, so, therefore, this is the final list and, and, and now I can go about figuring out how I’m going to get my financing? I think that’s what some people were saying --

CHAIR VICTORINO: Okay. If that’s the question...
COUNCILMEMBER NISHIKI: ... (Inaudible) ...

MR. ENG: I can address that.

COUNCILMEMBER NISHIKI: ... (Inaudible) ...

MR. ENG: I can address that.

COUNCILMEMBER NISHIKI: --the inability for them to make an appointment and, and, and talk to someone.

CHAIR VICTORINO: Okay--

MR. ENG: Okay. Member Nishiki, and I do understand people's frustrations--

COUNCILMEMBER NISHIKI: Yeah.

MR. ENG: --and, you know--

CHAIR VICTORINO: Go ahead, Mr. Eng.

MR. ENG: --again, a lot of it is just to see how you, you know, the public can work with the Department to be as efficient as possible because that's what we all want to see. I would advise anyone that realizes that they need to do some infrastructure improvements to seek, you know, an outside consulting engineer, because that person would be actually designing the construction plans anyway. So that applicant, with his or her consulting engineer, should meet with my engineers. My engineers are there not really to design the system, but basically provide advice as to our standards. So the ideal situation is the applicant, the applicant's consulting engineer, and one of my engineers, and it could go very efficiently, and smoothly, and very timely. Too many times people were coming in, I believe, and trying to have my staff design their improvements. If we have time we can, you know, and, and lot of my engineers are very helpful in doing that, but, you know, we have to leave that up...and that responsibility to the applicant and to utilize the services of local engineers.

COUNCILMEMBER NISHIKI: Well, well, that is fine. I guess my, my, my concern is just as we're giving people a time limitation, Mr. Chairman, and increase in it, which is good, don't we have a responsibility also, once an applicant asks for a laundry list, that the Department should and can respond? And if they can't, fine, but at least they should have a time limitation also. What if you're giving somebody five years, but you don't get a laundry list for two years, or, or there's
some debate about it? To me, the onus should be put also on government to be able to give an applicant an answer within a time limitation. Is that unfair, Jeff?

MR. ENG: No, it isn’t, Member Nishiki.

COUNCILMEMBER NISHIKI: Okay.

MR. ENG: In fact, I think, again, as I described the process it would be most efficient if the applicant, you know, hired a consulting engineer, came in, and met with my engineers. It could move really quickly and efficiently. Again, too many times the expectation of the public is that, oh, our engineers will design my project. Well, we’re not going to, you know, or they come in and try to do it themselves, you know, and, and they just don’t have a concept of understanding the standards that we work by, you know. So, again, it would be most efficient if they hire a consultant civil engineer, come in, and make an appointment with one of my engineers, I think the process can move real quickly and efficiently.

COUNCILMEMBER NISHIKI: Yeah, and, and, and, and, and, and, and, and, why I say this, and, and I’m glad I hear Jeff addressing this is people from the general public are always complaining that government dilly dallies, and I don’t get answers and everything else. Hey, this is a challenge for us in Maui County to now get back to the inquiring public and give them an answer, and give them a time that they should receive an answer. What’s wrong with that? Makes our County government more efficient. So maybe, Jeff, you could think about that time that one can expect to get an answer of that laundry list once he asks for it.

CHAIR VICTORINO: Thank you. Other questions for the Department? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I, I just wanted to follow through on my previous question, and I thank you for this second opportunity here, because in my previous question the response from Corp. Counsel was that these water meter requests are listed not as applicants, but as premises. And just for consistency purposes, if you look at the front of the draft ordinance in the (A) Section it deletes “applicant”, and it deletes “for a premise”, but then in other sections it all refers to applicants. So how is it listed? Is it listed by applicant or premise?

CHAIR VICTORINO: Mr. Kushi or Mr. Eng, go ahead?

MR. ENG: I’m going to try it. Member Medeiros, okay, basically, you know, someone is applying for a meter, so in essence the person applying for the meter is the applicant.

COUNCILMEMBER MEDEIROS: Right.

MR. ENG: But he’s applying for a meter for his premise or a premise. So in the list it is as Mr. Kushi pointed out a TMK number.
COUNCILMEMBER MEDEIROS: Okay.

MR. ENG: So once the application is submitted it’s really the premise that is on the list.

COUNCILMEMBER MEDEIROS: And that’s how it’s identified when you’re on the list.

MR. ENG: Therefore, you know, because the premise is on the list, the priority number really runs with the premise, with the TMK. It doesn’t run with the person’s name or applicant. In other words, let’s say, like, you’re No. 10 on the list, your TMK, and you sold that property. The new owners would really acquire the premise and wouldn’t lose the No. 10 position on the priority list. Whereas, let’s say it was in your name. You know, then, then, you know, you’re…one could say, well, I want to apply for any kind of TMK, and that wouldn’t be appropriate. So we try to keep it to the premise.

COUNCILMEMBER MEDEIROS: And, and that makes sense. So if the applicant sold their premises to a new, that new owner inherits that premises and that number on the list; is that correct?

MR. ENG: Currently that’s how it’s applied.

COUNCILMEMBER MEDEIROS: I, I think, Mr. Kushi, yeah, for me, just trying to be as clear as we can and as consistent as we can would make it more understandable for the person out there in our public, our constituents to understand it better. And, and I agree with you this is a draft. So I just want to bring that to your attention.

MR. KUSHI: Thank you.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Kushi. Mahalo, Mr. Chairman.
CHAIR VICTORINO: Thank you. Any other questions for the Department? Seeing none, Mr. Kushi, what I would recommend if...you know, based on that change if you would incorporate that change, and I will defer this matter to our next meeting, the first meeting in January, so we can make other revisions. And also the bill number now would go from 2009...year 2009 to 2010, that's another change that has to occur because we're moving this on. I will defer this matter to our next meeting with no...I'm sorry, go ahead, Mr. Kushi.

MR. KUSHI: Mr. Chair, before that, two more corrections.

CHAIR VICTORINO: Sure, go ahead.

MR. KUSHI: Under Section 3, bottom of the first page --

CHAIR VICTORINO: Right. Okay, go ahead.

MR. KUSHI: --Section 14.13.060, paragraph A, where it says, the third line: priority list up to the average, and then it deletes "day" and it says daily capacity. I believe the Department in my notes said that, you know, the term "average day capacity" is a so-called departmental term of art.

CHAIR VICTORINO: Right.

MR. KUSHI: So it shouldn't say "average daily". It would..."daily" replies to, you know, layman's understanding --

CHAIR VICTORINO: Right.

MR. KUSHI: --the Department. So I would omit that insertion to leave it as "average day --

CHAIR VICTORINO: "Average day capacity" --

MR. KUSHI: --capacity".

CHAIR VICTORINO: --because that's the term the Department uses.

MR. KUSHI: Correct. On the next page --

CHAIR VICTORINO: Okay. Go ahead.

MR. KUSHI: --under Subsection 3 --

CHAIR VICTORINO: That's the one also we talked about, yeah.

MR. KUSHI: --water meter reservations affecting so and so.
CHAIR VICTORINO: Okay.

MR. KUSHI: Under the third line where it says, of the issuance of a water meter reservation to make the water system improvements, I would strike “to make”, and insert “to complete”.

CHAIR VICTORINO: Okay.

MR. KUSHI: It’s just --

CHAIR VICTORINO: Grammatical change.

MR. KUSHI: --grammatical.

CHAIR VICTORINO: Okay.

MR. KUSHI: That’s all I have.

CHAIR VICTORINO: Okay. Are we clear with that, all those changes? Yes, Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHALA: Chair, just a question then. Perhaps “average day” needs some kind of definition so that people understand what that means. If we’re not referring it...

CHAIR VICTORINO: We will have that for you, Mr. Kaho‘ohalahala, and the rest of the Committee Members.

COUNCILMEMBER KAHO‘OHALAHALA: Okay.

CHAIR VICTORINO: Okay, Mr. Eng. Thank you. Any other questions for the Department? Seeing none, I will, with no objections, ask to defer this matter until our January...our first January meeting in 2010.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GCB).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Thank you. As you can see, gentlemen, this is not an easy task, and we keep changing things as we go along, which is good, which is all good. I will thank you all for being here today. I will also thank the Department and our, our Committee Members that are here. Thank you very much to all of you and to the public-at-large. And, and all the people that were here today, I wish you a very Merry Christmas and a happy and prosperous New Year. Please be
safe. Our highways are busy, and everybody’s in the, into the spirit of moving around quickly for various functions. So please be safe. And I will wish all of you here, our Committee Members, that next year we’ll get this one done and along with other things. And if you have, again, suggestions or ideas, please forward it to the Committee Staff or myself so that we can incorporate it, if that’s possible. Other than that, if there’s no other announcements, this meeting of the Water Resources Committee, the last meeting of 2009, December 15, is now adjourned.

ADJOURN: 11:40 a.m.

APPROVED:

MICHAEL P. VICTORINO, Chair
Water Resources Committee

Transcribed by: Jessica Cahill
CERTIFICATE

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

DATED this 5th day of January, 2010, in Wailuku, Hawaii.

Jessica Cahill