WATER RESOURCES COMMITTEE
Council of the County of Maui

MINUTES
June 1, 2010
Council Chamber

APPROVED:

Committee Chair

TRANSCRIBED BY: CAMMIE GILLETT
Registered Professional Reporter
Hawaii Certified Shorthand Reporter #438
CONVENE: 9:04 a.m.

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

NON-VOTING MEMBERS:
Councilmember Jo Anne Johnson (in 9:18 a.m.; out 10:52 a.m.)
Councilmember Wayne K. Nishiki

STAFF: Kimberley Willenbrink, Legislative Analyst
Tammy M. Frias, Committee Secretary
Kathy Kaohu, Executive Assistant to Councilmember Sol P. Kaho'ohalahala

ADMIN: Jeffrey Eng, Director, Department of Water Supply
Holly Perdido, Fiscal Officer, Department of Water Supply (Item No. 1(1))
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Lloyd Fischel, Farmers Union (Item Nos. 1(1) and 29)
Warren Watanabe, Executive Director, Maui County Farm Bureau (Item No. 1(1))
Pamela Tumpap, President, Maui Chamber of Commerce (Item No. 1(1))
Ruth M. DePonte (Item Nos. 1(1) and 29)
Rosemary S. Robbins, Oversight Advisory Committee, Environmental Protection Agency (Item No. 29)
Additional attendees (5)

PRESS: Akaku: Maui Community Television, Inc.

CHAIR VICTORINO: ...(gavel)...

Good morning. The Committee for Water Resources will come to order. We have quorum this morning. I'd like to welcome everybody. It feels good to be back after almost a three-months hiatus.
I'd like to start by introducing all the Members that are present right now. Our Vice-Chair, Member Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning, Chairman.

CHAIR VICTORINO: The Vice-Chair of the Council, Mr. Michael J. Molina.

COUNCILMEMBER MOLINA: Good morning, Chairman.

CHAIR VICTORINO: Our Land Use Chair, Ms. Gladys Baisa.

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

CHAIR VICTORINO: Morning.

Our Chair of the Council, Mr. Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Chairman.

CHAIR VICTORINO: Our Infrastructure Chair, Mr. Bill Medeiros

COUNCILMEMBER MEDEIROS: Aloha. Good morning, Chair.

CHAIR VICTORINO: These are the -- and myself, the Chair of the Water Resource Committee, Mike Victorino. I would like to also introduce one more Non-Voting Committee Member, that would be Mr. Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good morning.

CHAIR VICTORINO: Good morning. And thank you for all being here this morning. We're -- it's five minutes
after 9:00. And we want to get started. We have a few
items today, and I want to make sure that we have ample
time. Because this afternoon, we have a Budget and Finance
meeting, and I think that's going to be a long one this
afternoon.

From the Administration, we have here Mr. Jeffrey
Eng, the Director.

MR. ENG: Good morning.

CHAIR VICTORINO: Mr. Ed Kushi, Deputy Corporation
Council.

MR. KUSHI: Good morning.

CHAIR VICTORINO: And Holly Perdido, which I think
Holly is in the Financial -- or the Finance part of the
Water Department. Is that correct? You're the Financial
Officer, or something like that?

MS. PERDIDO: Fiscal Officer.

CHAIR VICTORINO: Fiscal Officer, okay. I'm trying
to get all these names correctly, yeah?

Oh, excused at this time -- and I apologize, I
missed that. Excused at this time is Member Sol
Kaho'ohalahala. Also, my wonderful staff that is here this
morning, our Legislative Analyst, Ms. Kim Willenbrink. And
also our Committee Secretary -- which she thought I'd forget
her name -- Ms. Tammy Frias. Don't worry, Tammy, I never
forgot your name.
Okay. We have two items this morning. We have WR-1, apostrophe 1, and WR-29. WR-1 is the Water Supply Rules, a Definition of an Agricultural Consumer. This was recommitted, as you all remember. And during the period of time that we were doing Budget, I was able to meet with a number of groups: The Farm Union, the Maui Farm Bureau, the Sustainable Group from West Maui, South Maui, Central Maui, and Upcountry. And a lot of the information we'll be sharing today is some of the ideas that was transpired by them, to me and to our staff.

If you look in your binder right now, a correspondence dated May 25th, 2009--10, excuse me, from myself, transmitting a revised bill, drafted bill entitled, "A Bill for an Ordinance Amending Article 1, Title 14, Maui County Code, to Add the Definition for Agricultural Consumer."

Make certain that everybody, that you have the most recent revision. If you'd like to look -- this was recommitted on March 19, 2010, from the Council meeting regarding concerns from the public. The new -- the new bill incorporates some suggestions after meeting with these various organizations and individuals as I mentioned earlier.

Now, do you all have that area? Have you all found the --
COUNCILMEMBER BAISA: Yes.


And then on WR-29, the Upcountry Water Meter List. This one is a Bill No. 7 (2010), entitled, "A Bill for an Ordinance Amending Chapter 14.13, Maui County Code, Relating to Water Meter Issuance Provisions for the Upcountry Water System." The purpose of Bill 7 (2010) is to provide service applicants from the Upcountry water meter list a period of five years to make any required water system improvements upon receipt of a water meter reservation.

Some background. Refer back to the Committee at the second and final reading on February 19, 2010, for which this was recommitted. This was sent back because there were people that came at the very last minute to talk about a lawsuit that may be filed against us. As you're well aware, this lawsuit was filed and -- and the County has won a favorable decision. Also, the main intent of this bill was to change the current two-year, 50 percent reimbursement -- excuse me. Two year to make improvements to extend the time for the Upcountry priority list to five years before being -- um, being um -- what you call that -- requesting any extension. So they would have five years from the date of reservation versus the present two years that exists in
the Code itself.

So just a quick overview on the two items, just for historical perspective and for you to understand what we're intending to do today. I'll start with both -- I'll open testimony for both items. And at this time, I have one person who signed up -- well, actually, I got a couple more since then. Four total.

So we'll start with Lloyd Fischel. And he wants to speak on both WR-1 and WR-29. And he's speaking on behalf of the Farmers Union.

...BEGIN PUBLIC TESTIMONY...

MR. FISCHEL: Good morning, everyone.

CHAIR VICTORINO: Good morning, Mr. Fischel.

MR. FISCHEL: Thank you, Mr. Chairman. And thank you, Members of the Water Committee, for ensuring that these issues got before us today and that we're -- are thoroughly discussed. I'd like to say that we invite all of you to meet with our members to discuss these matters. And while the Committee Chair did attend one of our meetings, there really wasn't much discussion about the concerns that we're discussing here today. I'd just like to make that clear to everybody.

The issue of water is about surviving. And this is not about fairness, but about moral responsibility. The rules and regulations of the Department of Water have not
changed since 1977 in this regard. Section 1(1) reads, "These rules and regulations seek to ensure a just and fair distribution of water to the people of Maui County." Isn't that what our position is here today, just and fair distribution? Let's ask ourselves is this bill changing the standard notion of fairness and justice?

The Department's regulations set forth the premise that until today, our guiding principles, the water rates are based on amounts used and the size of the meter. When we get water, we are users. We're not consumers of water, because water is a community resource. Our law is not based on owning the water. This bill moves the concept of use to that of owning the water by creating this new identity, really a fiction.

The agricultural consumer is a fiction. While it sounds right, looking down the road with this new definition, we can see how corporations who control and use much of the waterways will think of themselves as owners of the water, a concept that is strictly against the notions of fairness, justice, and against our State law and public policy. Such thinking will affect growth in ways that are certain to have unintended consequences. We must look at cause and effect always when making law.

For example, Scott Teruya, the tax assessor, has said that taxes on ags land -- ag land will follow the
County's designation of water rates. It appears unfair and not truthful to say it is not this Committee's issue how the County decides tax rates when this is before you today. Land use tax has nothing to do with water because water is a consumer resource. It's all of ours. Creating a straw man, the agricultural consumer is inherently wrong, and the tax assessor can clamp onto this notion in taxing. It will affect all of us and our family -- family and friends.

Preservation and maintenance is your kuleana of water rights and water services, preservation and maintenance. Regulation of land use is not the kuleana of the Department of Water Supply -- kuleana of the Department of Water Supply. We are all agricultural consumers, every one of us. If not, we could not live. Attempting to define an agricultural consumer for water rates and land use taxation shows that we don't believe that we are agricultural consumers. And failure to stand up to those who are pushing for this redefinition strikes at the integrity of our political process.

If raising money is the issue -- and I know all of us here are concerned with paying our bills, our Government bills. If that's the issue, look to the use of the water, the size of the meters. It's all there and does not need to be reinvented. Perhaps it needs to be redefined, but not reinvented. I should say refined, not redefined. Much like CAMMIE GILLETTE, RPR, CSR #438
our national debate on healthcare, instead of fixing a
problem with insurance, we're creating a whole new way to
approach water that could have many unintended consequences.

If you don't provide a moral compass to Government
right here in this room, who will? Now is the time to
address this, not after the bill is enacted. Please keep
this bill in Committee until these concerns are taken up.

And now can I address the water meter issue?

CHAIR VICTORINO: Go ahead.

MR. FISCHEL: Thank you, Chair. The job of the
Water Department is to distribute water to anyone who wants
it and can pay for it. Based on the doctrine of fairness
and justice, as I just read from our rules here, as stated
in these rules, there should be no issuance of water meters
to lots in a private subdivision until the same number of
meters is given to the people on the waiting list. Once on
the list, people shouldn't be taken off the list until that
person gets the water or removes themselves from the list.
It's not fair to take people off the list by some arbitrary
rule that we've created here. Why? Because the job of the
Department of Water Supply is to supply water, not to deny
it.

In Mayor Tavares's last dinner to supporters
before -- the night before the elections, I was there. The
first thing she said when getting up to speak was that she
was going to clean up the water meter problem. And
everybody went crazy at that dinner. Some of you might have
been there.

The rule first came -- the -- the come first rule
is -- the first come, first serve rule is not fair. It
should be when you come, you get served. But that hasn't
been the way things have gone. And now we're going in yet
another direction to make it even more difficult. In any
given year, there should be no more private water meters
given that would have been given to the public on the list.
It's kind of common sense.

This will allow regulation of water as we find the
bottom of the aquifers. And that's coming. We all know it.
We all see it. And also, fairness to the public who will
stand up for our constitutional rights when push comes to
shove in the future that's coming quickly at us. Please
keep this bill in Committee. Changing the standard of trust
and the process of fairness is against the doctrine of
fairness that is at the heart of the Water Department's
mandate.

Our vision is a land of abundance, harboring a
culture where everyone wants to grow something, a place
where there's food everywhere, a Maui where there's food
everywhere. And people around the world, when they talk
about Maui, they talk about admiration; that place is full
of food, there's food everywhere, they're growing everywhere. That's what we want in Maui, not the opposite where we're screaming. Because 80 to 90 percent of all the food we eat is imported. When gas goes to $6 a gallon -- and it's coming -- $7 a gallon, all of the people in Maui will be scrambling, including our children, our families because the cost of food will go up. That's coming. We have to plan for that now, and we can by taking steps to encourage farming everywhere.

I want to thank you very much for the time.

CHAIR VICTORINO: Thank you.

Questions for the testifier? Yes, Ms. Baisa.

COUNCILMEMBER BAIWA: Thank you very much, Chair.

And thank you for being here this morning. I wanted to ask you. You mentioned when you began your testimony that you invited all of us to attend the meetings of the Farmers Union. How do we know about those meetings?

MR. FISCHEL: If you haven't got a message, I'll make sure that all of you are put on our mailing list. Would you like to be notified by fax, e-mail, or phone call?

COUNCILMEMBER BAIWA: Actually, an e-mail would be wonderful.

MR. FISCHEL: You got it.

COUNCILMEMBER BAIWA: Then we can, you know, try and be there. It's important to work with you.
MR. FISCHEL: Thank you.
COUNCILMEMBER BAISA: Thank you.
MR. FISCHEL: We welcome you.
CHAIR VICTORINO: Seeing no other questions, thank you, Mr. Fischel.
MR. FISCHEL: Thank you.
CHAIR VICTORINO: Next testifier on WR-1 would be Mr. Warren Watanabe. And he's speaking on behalf of the Maui County Farm Bureau as Executive Director.
MR. WATANABE: Good morning, Chair Victorino and Members of the Committee. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. Just keep my comments real brief. Farm Bureau does support this ordinance -- proposed ordinance. We do support it. But I have some comments in regards to some -- some specific items. In Section 2, Section 14, Number 3, we have the comprehensive description of "commercial agricultural operations that includes:"

We kind of feel that maybe all of this criteria may not be necessary. We agree with the type of commercial operations. Anticipated monthly water usage, we have a comment that, you know, will they be allowed flexibility in this -- this number? Because especially for the veg crop producers, they do change their crops, you know, during the -- during the yearly time period. And the demand may --
may change. As you know, during the summer months, demand can increase.

The age of crop, if applicable, I think that may be covered in the waiver portion. And then the five-year time line of projected annual gross income. Again, that can change over the five-year period. You know, our farmers need to be constantly aware of change in conditions, market conditions, change in crops. And we are okay with the site plan. I think that is income -- kind of in line with what the Planning Department requests. So those are my comments. Thank you.

CHAIR VICTORINO: Thank you, Mr. Watanabe.

Questions for the testifier? Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

Mr. Watanabe, can you provide us a copy of your testimony?

MR. WATANABE: I'll have to write it up. I wasn't prepared. I didn't have a written one.

VICE-CHAIR PONTANILLA: Oh, okay. Thank you.

MR. WATANABE: Okay. Thank you.

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

Next testifier is Pamela Tumpap. She will be testifying on WR-1, apostrophe 1, on behalf of the Maui
MS. TUMPAP: Good morning, Chair Victorino and Members of the Committee. I'm Pamela Tumpap, President of the Maui Chamber of Commerce. And I'm pleased to be here before you today to testify on this bill.

We too are testifying in support of this and support the industry's recommendation and comments. We certainly appreciate the lowering of the gross annual income to $5,000. We want to see this kept as flexible as possible to stimulate new agriculture and to allow new agriculture entrepreneurs to enter the market. We appreciate the opportunity for the waiver because many crops take several times -- I mean, several years to mature before that crop can be sold. So I'm unclear and ask that you look into this issue of the waiver on how many years the waiver can apply. I'm unclear whether someone can get a waiver and then a two-year extension on that waiver, or if it can go beyond that.

Coffee can take two to three years to mature, for example. Other products might take longer. Palm trees that are grown for landscape might not be sold for many years, but might still be agricultural crop production. So we ask that that be looked into and that that be clarified, and that we provide great flexibility to encourage agricultural production. You know, we understand that maybe the ranchers
have some concerns for this, so we ask that you continue to
work with their industry and look at how to best meet the
needs of the ranchers and this as well.

And then under the waiver, one of the points that
is made, that if approved, the agricultural consumer may
reapply for two consecutive years provided that the
agriculture consumer can verify that the crop or service
will come to fruition within those two consecutive years.
That is really hard to verify. I don't know who can verify.
You know, so many things can impact agriculture. And so
that word, I guess, "verify" concerns me a little bit.

And again, we ask that you look at this with the
encouragement and allowance of appropriate ag and understand
what you're doing. And overall, we want to support this
bill and appreciate the waiver process and appreciate the
lowering of the gross annual income.

CHAIR VICTORINO: Thank you, Ms. Tumpap.
Questions for the testifier?
Seen none, thank you, Ms. Tumpap.

MS. TUMPAP: Thank you.

CHAIR VICTORINO: Next testifier will be testifying
on WR-29 and WR-1, apostrophe 1. Ms. Ruth DePonte. And
she's testifying on her behalf.

MS. DEPONTE: Good morning, Mike and everyone.

COUNCIL MEMBERS: Good morning.
MS. DePONTE: I came because I'm a protea grower.

CHAIR VICTORINO: Yeah.

MS. DePONTE: And I really don't know how we're going to make it at 5,000, which I think 5,000 is reasonable. But two years ago, our wholesalers completely bought our -- stopped buying protea. And everyone has to eat and buy food and not flowers. So right now -- at one time, I was able to sell $21,000 worth of flowers a year and employ four people. Now, it's down to -- last year, I had an income of only $7,000. This year I gave all my flowers to whatever organization, church, whoever would take flowers. We just can't sell flowers.

So I have an agriculture meter. And that's just getting me a little worried because I do agriculture. I've had the County come and check my land, the tax department came to check the land. And they were completely shocked of how much flowers and plants I have. But right now, there's nowhere to sell it. So I really would consider -- I mean, hope that you consider leaving it at the 5,000 or below -- you know, just being flexible.

And as for the water meter, everyone knows once a year, I come here and I ask for my water meter. Now, it's 13 years and I'm still 60, you know. And I don't think that in the budget I heard -- I was trying to listen really, and I didn't see any money allocated for extra water use. And
that told me right then and there, there were no water
meters going to be distributed. So I hope you consider and
think about us. But 13 years is a long time to wait for a
water meter. I've got all the infrastructure. I've got the
laterals in, everything. Just the water meter missing.
Thank you.

CHAIR VICTORINO: Thank --

MS. DePONTE: See you next year.

CHAIR VICTORINO: Thank you, Auntie Ruthie. Well,
one of these years, you're not going to have to come back.
But anyhow, any questions for Ms. DePonte?

COUNCILMEMBER NISHIKI: Yeah, I've got a question
for Ruthie.

MS. DePONTE: Yes.

COUNCILMEMBER NISHIKI: Good morning.

MS. DePONTE: Good morning.

CHAIR VICTORINO: Before I let you go, Mr. Nishiki,
my -- my way is always to make sure other Members who are
Voting Members have questions. Is that -- Mr. Pontanilla.
Then you can go after that. Go ahead.

VICE-CHAIR PONTANILLA: Thank you.

Good morning, Ruthie.

MS. DePONTE: Good morning.

VICE-CHAIR PONTANILLA: You know, last year we went
to King Kekaulike High School in regards to, you know, water
meter issue. And at that meeting -- and I'm hoping that, you know, we can resurface that particular issue regarding the use of the Pookela Well, as well as, you know, pumping more water from the ditch to compensate for emergencies. So hopefully, we can talk about it again in the meeting setting. Because I think it is a good plan that would provide, you know, people Upcountry with water meters. I know you've been waiting, what, 16, 17 years now? And that's a long time. And we should act. And I'm hoping that the Water Department, as well as the Chairman, would bring that forward again. Thank you.

MS. DePONTE: Thank you.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

CHAIR VICTORINO: Thank you.

Yeah, Mr. Molina, go ahead.

COUNCILMEMBER MOLINA: Thank you, Chairman.

Good morning, Auntie Ruthie.

MS. DePONTE: Good morning.

COUNCILMEMBER MOLINA: Thank you for sharing your concerns with us. I know the water meter thing is just -- never ends, yeah? My question is with regards to the bill for the income level. And you mentioned your income is way down in regards to the proteas. How -- you support the bill as it is at 5,000, or are you looking at a number lower than 5,000?
MS. DePONTE: You know, like last year, I brought in 7,000. So I would qualify. This year my sales probably are lower, but I'll go with the 5,000, not the 10,000 and the 20,000. That, I was saying, I -- I had even spoken to -- oh, God. Who was it that suggested the 10,000? And we had a lengthy meeting, and then he said 10,000. We can't make it.

COUNCILMEMBER MOLINA: Yeah, I think that was Mr. Hashimoto.

MS. DePONTE: Yeah, Hashimoto.

COUNCILMEMBER MOLINA: Right, okay. Okay. Thank you for clarifying your position on that.

Thank you, Chairman.

CHAIR VICTORINO: You're welcome.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair.

And thank you Auntie Ruthie for being here. I'm sorry about your annual pilgrimage. But, you know, we have a lot of company of people who are desperately waiting for those meters. I just wanted to clarify the record that the meeting that Mr. Pontanilla spoke about when we went to King Kekaulike was about the use of the H'Poko Wells --

MS. DePONTE: Yeah.

COUNCILMEMBER BAISA: -- if I remember correctly.

MS. DePONTE: Uh-huh.
COUNCILMEMBER BAISA: And, of course, that's a very controversial issue. But if we brought it back, the Director had mentioned to us that we might be able to issue a number of issues -- of meters. And you would be, I think -- what's your number?

MS. DePONTE: Sixty.

COUNCILMEMBER BAISA: So you would be -- I think he mentioned something like 200 meters or something. And so you would benefit from that.

MS. DePONTE: Another point. You know, I went down to our lower property yesterday. It is so dry. There is just dirt. You -- we are -- oh, my God, it looks like Makena in the old days. No dirt -- no grass. Nothing. Dry, dry.

COUNCILMEMBER BAISA: Yes. I'm very afraid about all that dry grass. We have lots of it, you know, Upcountry. And, you know, the threat of fire is really bad. But I did want to ask you. There is a proposal floating around in regards to the Upcountry meter list to pay more money for a meter. How do you feel about that?

MS. DePONTE: I feel sad. I went to the meeting, and I've gone to a lot of the meetings. You see me at all the meetings, and I don't say anything. But we shouldn't have to be looking at someone that has a well to sell us a meter for $22,000. You know, and that was just -- it --
it's not right. We have the County of Maui, and you supply us our water.

COUNCILMEMBER BAISA: Well, thank you very, very much for being here this morning. I really appreciate your steadfastness, and I'll stay with you. Thank you.

MS. DePONTE: Thank you.

CHAIR VICTORINO: All right. Now, I'll recognize Member Kaho'ohalahala, who is here at the meeting. Thank you for being here, Mr. Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. I just wanted to know -- you know, we're talking right now looking at trying to meet some kind of measure for sales at 5,000. But what is your water use? Does the water just --

MS. DePONTE: I'm all drip system.

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

MS. DePONTE: I -- I -- so I conserve water. I rolled the waterlines with my father in the '30s. So I know how to conserve water. My lawn is dry. And I have all the proteas on drip system. During the winter, I don't use much water. I don't know what I'm using. I have only one water meter that is on agriculture.

COUNCILMEMBER KAHO'OHALAHALA: Okay. But you're trying to employ conservation measures --

MS. DePONTE: Yeah.
COUNCILMEMBER KAHO'OHALAHALA: -- with water use?
And, you know, how the bill originally began was looking at
if you used in excess, you know.

MS. DePONTE: Yeah. I wish I had those figures for
you --

COUNCILMEMBER KAHO'OHALAHALA: Okay.

MS. DePONTE: -- you know.

COUNCILMEMBER KAHO'OHALAHALA: I think that that
would be helpful. Because I think we need to be mindful of
the fact that if some of these farmers are in fact
conserving water and then getting no benefit because they
conserve water, it would seem funny that we would give a
benefit to someone who is using in excess of. So I'm trying
to find where's the balance and what do we look at? You
know, is it just the amount of water used or time plus
sales? Or are we looking at other kinds of formulas that
consider those who are not necessarily selling all of their
produce at that level and actually conserving water?

So there should be some way to try and balance that
out. So I was just interested to see how much water. And
I'm glad to hear you say you're conserving water. So thank
you.

MS. DePONTE: Yeah.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair.

CHAIR VICTORINO: Any other Members? And if not,
I'll recognize Mr. Nishiki.

Go ahead, Mr. Nishiki.

COUNCILMEMBER NISHIKI: No, I -- I. It was that same question that Sol has. Because I was looking at the chart. And I thought at one time we had the amount of people specifically that fell in certain categories. And I think we were look -- I was looking at 0 to 30,000 for a two-month billing period. And it's the same rate for an ag user and a general rate payer. However, when it goes from 30 to 50 on a two-month --

MS. DePONTE: Yes, then it changes.

COUNCILMEMBER NISHIKI: -- then it is considerable. So I was curious where you fell into, what category?

MS. DePONTE: I'm in agriculture.

COUNCILMEMBER NISHIKI: Thank you. I'm done.

MS. DePONTE: Thank you.

CHAIR VICTORINO: Okay. Thank you. Any other questions for the testifier? Seeing none, thank you.

The last testifier who signed up for today is Rosemary Robbins. And she will be speaking on R -- WR-29. And she's part of the Oversight Advisory Committee that was set up by the EPA.

MS. ROBBINS: Good morning, everybody.

CHAIR VICTORINO: Good morning.

MS. ROBBINS: Glad to be able to be here. Water.
Same -- same reality; quantity, quality. And this is the side that needs to come first. We're talking about measuring things by way of money, measuring things by way of land use, measuring things by way of longevity on a committee. They all tie in. And when we know that we're short on water and long on a history of waiting, something is wrong when we continue to perpetuate that process.

I know the people who were here under this ceiling today are not the people who began this. I'd love to see us be the people who wrap this up, make a decision. I testified at the December meetings at Paia for the Water Use Commission. I testified again this past week for them. As long as we continue to not make decisions, we continue to be part of the problem, all of us. So I'm asking to have people not be afraid to face the facts that are already in the law that are already supertestified [sic] about for years on here.

As far as the water meter reality is, I don't need a water meter, just -- my land grows rocks, it seems. So -- and I'm not trying to cultivate anything, that's just fact. But we have so many people who run into those of us who served on the Upcountry Oversight and Advisory Committee for the EPA who are hearing from folks at the hardware store, at the grocery store, at the gas station -- what is the heck is up? Why can't we get the decision that's going to indeed
solve the need -- whatever the need is that comes under those capacities?

When I came in this morning, there was a gentleman up here -- I'm sorry, I didn't catch your name -- but who was talking about be careful of effecting straw capacities that are going to open up other avenues that will be available for delay rather than for decision-making. When I tested at the -- when I testified at the Water Commission, I testified to the fact that there are not just two realities that need to be -- entities that need to be addressed in here. It's not just A sugar company, it's not just the folks over on the Koolau side of the island that are dealing with streams. We have the Upcountry farmers spoke on behalf of what Mr. Watanabe was saying and the people who just plain live Upcountry. It never occurred to me to have a doubt in the decision-makers that everybody would be accommodated timely. It needs to happen.

So I thank you for the work that you do put into this. I ask you to make sure that we don't just keep continuing on as we have continued on. Thirteen years, Auntie Ruthie is dreadful. And you are aware that there are people who have longer time than that. So you're speaking not just for yourself, you are speaking for other people that you also run into. So I would ask that -- that we get on with dealing with the realities, including the law, that
we already have.

When you talk about H'Poko Wells, that is not wise dealing. There's a reason that those wells were declared contaminated. I was on that Oversight Committee at that time. And the EPA, which has limited authority to make things happen within its limited scope, said you can't keep using water like that. So the water got shut off. Bringing it back now is certainly going to require a current EIS. So when we talk about the safe drinking water provisions and the money that's available through Federal funding coming through the Department of Health, whether or not we are consuming --

CHAIR VICTORINO: Ms. Robbins, can you conclude in the next 30 seconds, please?

MS. ROBBINS: We'll do. Whether or not we're consuming out of a glass from the tap or whether or not we're spraying that all over the things that we're going to be eating is a pretty fine line.

So I thank you for the time that you do put in. I ask you to make decisions that are going to take into account all four of the entities that are talking about the quantity of water.

CHAIR VICTORINO: Thank you.

MS. ROBBINS: I'd be happy to answer any questions.

CHAIR VICTORINO: Questions for Ms. Robbins.
Seeing none, thank you, Ms. Robbins, for being here.

MS. ROBBINS: Thank you.

CHAIR VICTORINO: That was the last testifier to sign up. I will give anyone in the gallery an opportunity who has not testified, an opportunity to testify.

Seeing no one rushing down to the podium, I will ask for the Committee's with no objection to close public testimony on both items.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you.

...END OF PUBLIC TESTIMONY...

ITEM NO. 1(1): WATER SUPPLY RULES (DEFINITION OF AGRICULTURAL CONSUMER) (C.C. Nos. 05-46 and 06-228)

CHAIR VICTORINO: Let us start with WR-1, apostrophe 1, Water Supply Rules (Definition of an Ag Consumer). Again, as I mentioned earlier, a correspondence dated May 25th, 2010, from myself, transmitting a draft bill entitled, A Bill for an Ordinance Amending Article 1, Title 14, Maui County Code, to Add the Definition For an Agricultural Consumer.

I will have to ask at this point in time, if you went to 14.10.010(B), apostrophe 3, apostrophe a, I would like to change that with -- if, you know, we can get
consensus. And that, at this time, says the type of agricultural operation. Right now, it states, "The type of commercial operation." I would like to -- that's a. I'm sorry -- Section A, yeah? It says, "The type of commercial operation."

I would like to change that to "type of agricultural operation" because I have incorporated community gardens, which is not under the scope of a commercial. And that would also give others who are in the -- growing small farms also an opportunity to fall under that definition of an agricultural operation. So that is what I'm asking. If there's no objections, I would like to change a from "The type of commercial operation" to "The type of agricultural operation." I'm looking for consensus. Or you have questions in that respect?

Yes, Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Chair, I just need you to help me understand that one more time, please.

CHAIR VICTORINO: Okay. I'm looking to change -- right now at presently, under a, on page 1, you go down about two-thirds of the page. After 3, you have A, b, c, d, e. Right? Under a, right now, we have "Type of commercial operation." And I'm asking to change that from type of agricultural app -- operation.

Because if you look under the page 2 under H,
Community gardens may qualify for agriculture water rates, provided that the community garden attaches the information required under Section 14.10.010(B), apostrophe \(3\), apostrophe \(a\); and 14.10.010, apostrophe \(B\), apostrophe \(3\), apostrophe \(A\), for this charter -- this chapter for their annual application. And because they are not -- I repeat, are not a commercial venture, I wanted to change this to instead of commercial operation, change it to agricultural operation.

COUNCILMEMBER KAHO'OHALAHALA: Okay.

CHAIR VICTORINO: Are you clear with that, Mr. Kaho'ohalahala? Ms. Baisa?

COUNCILMEMBER KAHO'OHALAHALA: Thank you.

(Inaudible).

COUNCILMEMBER BAISA: Mr. Chair, not to be nitpicky.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: But I think the confusion is we're looking at the parentheses, not apostrophes.

CHAIR VICTORINO: Oh, parentheses, yeah.

COUNCILMEMBER BAISA: So we're trying to find it in here. And we're looking for --


COUNCILMEMBER BAISA: It just helps us.
CHAIR VICTORINO: Thank you. You know, when you've been off for so many months, now getting reacquainted to everything again. I apologize.

COUNCILMEMBER BAISA: I totally understand.

CHAIR VICTORINO: Yeah. We'll all have our turn the next few days. Right? Start all over again. So again, I apologize for that mistake.

So are we clear on where -- what specifically I'm asking to change?

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: And do I have consensus that that change would be allowed?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Yes? I see shaking heads yes. Yes?

COUNCIL MEMBERS: Yes.

CHAIR VICTORINO: Okay. Okay. I just want to make sure I get consensus. I don't want to do anything and -- and -- and -- okay. So -- so we will stand that under a, "The type of agricultural operation," not commercial. Okay?

Ms. Kim, are you clear with that one?

And also -- I'm sorry. For the site plan, which would be e -- I apologize. Under e, the site plan, it has commercial agricultural operation. We would also change that one -- excuse me -- to agricultural. I mean, just
delete commercial, right, and put just agricultural operation? So my -- my -- my changes would be under a, changing that from commercial operation to agricultural operation. And under e, change -- deleting commercial and just leaving agricultural operation.

Are we okay with that? Gentlemen -- ladies and gentlemen?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: I -- I see some Members still flipping through. So -- okay.

Okay, Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah, Chair. I just wanted to go back.

CHAIR VICTORINO: Yes.

COUNCILMEMBER KAHO'OHALAHALA: On Number 3, the section you're looking at on making these language changes.

CHAIR VICTORINO: Yes.

COUNCILMEMBER KAHO'OHALAHALA: You still have a title that says, "comprehensive description of commercial agricultural operations." So are you saying, then, that these are all commercial?

CHAIR VICTORINO: Ms. Willenbrink, Mr. Kaho'ohalahala is asking under Section 3, "A comprehensive description of a commercial agricultural operation that includes," okay. And so now we're looking at

CAMMIE GILLET, RPR, CSR #438
changing that also? Should we change that one to make it agricultural operation so that everything will be in conformity?

MS. WILLENBRINK: May I defer to Corporation Counsel on that?

CHAIR VICTORINO: Mr. Kushi, could you address that, please?

MR. KUSHI: Yes. Mr. Chair, are you talking about Section (B)(3) --

MS. WILLENBRINK: (B)(3).

CHAIR VICTORINO: (B)(3), that is correct.

MR. KUSHI: -- which reads, "A comprehensive description of the commercial agricultural that includes"?

CHAIR VICTORINO: That is correct.

MR. KUSHI: Well, to be consistent with your -- your previous amendments, I would knock out commercial.

CHAIR VICTORINO: Okay.

MR. KUSHI: Again, I would also knock out comprehensive because it's really a -- doesn't make sense, and a through e is comprehensive enough.

CHAIR VICTORINO: Okay. So the changes you would recommend to us under 3 is to change from what it presently reads, "A comprehensive description of a commercial agricultural operation that includes," to "A description of an agricultural operation --
MR. KUSHI: Agricultural operation.

CHAIR VICTORINO: -- that includes"?

MR. KUSHI: Correct.

CHAIR VICTORINO: You would delete "comprehensive" and you would delete "commercial"?

MR. KUSHI: Correct.

CHAIR VICTORINO: Members, are we clear with that?

COUNCILMEMBER KAHO'OHALAHALA: Yes.

COUNCILMEMBER BAISA: Try run that by me -- I'm lost. I'm sorry.

CHAIR VICTORINO: Okay. On line 3.

COUNCILMEMBER BAISA: Line 3 of?

CHAIR VICTORINO: Of the same area that we're talking about, under --

COUNCILMEMBER BAISA: Okay. Now I see it.

CHAIR VICTORINO: Yeah. Now you see it, Ms. Baisa? Okay. Are we all -- all on the same section? I just want to make sure everybody is on the same section.

So the change would be, with your consensus, removing the word "comprehensive," removing the word "commercial," and changing that line 3 to read, "A description of an agricultural operation that includes," and then also deleting under a, "commercial operation," and changing that to "agricultural operation." And going to e and deleting the word "commercial." Those are the -- the
three changes -- or four changes, actually, that I'm recommending. Any questions on that?

Mr. Kushi?

MR. KUSHI: Yes, Mr. Chair. Also, along those same lines -- and, please, Members, understand that this bill is not from my office. I haven't looked at it. But I -- I did review it.

In line with the amendments on your initial definition of agricultural consumer on the top, Section 1, would you want to delete the word "commercial" also, where it reads, "aquaculture for commercial food production"?

CHAIR VICTORINO: I got no problem with that. I think that would make it all coincide, yeah? Would all be -- would you say that that would make it now more uniform as far as the way it's presented?

MR. KUSHI: Well, again, you know, you have the amount of 5,000.

CHAIR VICTORINO: Right.

MR. KUSHI: But, again, you can get -- I guess the -- your intent is to get around it on the next page, Section 3 -- whereas, you know, a nonprofit organization can -- if they can show a charitable donation --

CHAIR VICTORINO: Right.

MR. KUSHI: -- they wouldn't be really income producing.
CHAIR VICTORINO: Right.

MR. KUSHI: Along the same lines, Mr. Chair, the definition of agricultural consumer, I recall that you previously wanted to strike the word "food" in -- in -- in the previous bills. Because if you put commercial food production, all of the previous descriptions of -- of ag activities would have been for food only.

CHAIR VICTORINO: Uh-huh.

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Ms. Willenbrink, please.

MS. WILLENBRINK: I believe the way it reads, because there's not a comma, it's or aquaculture for commercial food production.

COUNCILMEMBER JOHNSON: Just say food production.

MS. WILLENBRINK: So that the food production only refers to the aquaculture.

MR. KUSHI: Well, Mr. Chair, if that's the case, as long as it's in the record that that's the intent of the Committee.

CHAIR VICTORINO: I think that was the intent from the beginning, yeah? Because that was one of the changes we made. But thank you.

Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Chair, we're striking out this "commercial" word, and yet,
we're talking about a sum of money that one has to be able
to document, whether it's income or whatever it is. How do
we define commercial? In my mind, if you're selling it,
then it's commercial. What -- what does commercial mean and
why are we taking it out?

CHAIR VICTORINO: Well, for -- under this
description, because we have included nonprofit in the back,
nonprofit organizations, and as well as community gardens,
okay. And what we are trying to do is get -- what I call
concurrency so that these people would also qualify in that
regard, that they would be a part of this whole program as
far as an agricultural consumer so they could -- could
qualify for ag rates as far as water rates are concerned.

COUNCILMEMBER BAISA: Correct, I understand what
you're saying, that it wouldn't necessarily be an exchange
of a hard dollar, but there would be a value placed on what
is donated or what is exchanged or whatever. And that would
still, you know, comply with commercial.

As soon as you put a value on something, you're
talking about, you know, having some kind of value attached
to it. So I don't have really an issue with commercial
unless your definition of commercial is large scale.

CHAIR VICTORINO: I don't think that was our
definition.

COUNCILMEMBER BAISA: I think that's the definition
we're trying to get away from.

CHAIR VICTORINO: That is correct.

COUNCILMEMBER BAISA: Because that is what was suggested. And, you know, there's been a ton of testimony in opposition to that, and it all makes sense.

CHAIR VICTORINO: Right, right.

COUNCILMEMBER BAISA: You know, I received a ton of testimony over the weekend, a lot of it from Upcountry. And there's a huge objection to, first of all, putting a value in here. And then the value of 5,000 even bothers a lot of people. And they would prefer that we go with the U.S. Government's definition, which is the thousand dollars.

CHAIR VICTORINO: Fine. I mean, you know, I -- I'm open to ideas. I mean, again -- again, this is a starting point. I go back to the word starting point, okay. And I have gone and met with the sustainable group. I've been meeting with a number of people, okay, trying to find a happy medium or a balance for all of this, okay.

Despite testimony saying that we don't need this, I have had many years of complaints. And you have all heard the same complaints of what is truly agriculture, you know, and these gentlemen estates and all these other stuff that we've gone through for many years. And so it's my attempt to try to correct the situation. So I'm open to ideas. I have listened to many. I've tried to incorporate many of
the nonprofit community gardens, you know, trying to bring all of this together.

The 5,000 was better than the ten, because the ten I thought was very unfair. It wasn't something I encouraged. But that's what you folks had decided on and that's what the Committee brought forward, so we went ahead. Now it's been sent back. You know, if you guys want to make it 1,000, that's fine with me too. I could care less what we end up with so long as there's equity for this community. And that's all I'm looking for.

COUNCILMEMBER BAISA: Chair, I share your concern. I too have listened to and attended many, many meetings on this subject. And there is a huge difference in where people are at. You know, people talk about 20,000, 10,000, 5,000, 1,000, no money. And the question that was given to me -- and I think it's a question for all of us to ponder -- is what is the purpose of this legislation and will it -- if it is an attempt to curb fake farms receiving water rates, will it be able to do that even if we have a dollar amount? Because those dollar amounts can be finagled by people that know how. And this is what I'm getting.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER BAISA: What is the Department's response to that?

CHAIR VICTORINO: Mr. Eng, would you like to
respond to that, please?

MR. ENG: I'd love to. Thank you, Mr. Chairman.

Member Baisa, I -- I think we're, you know, coming from the same direction. You know, we just want to legitimize what is agriculture that would benefit from these ag rates. I know this is all -- these revisions are all new to most of us here today, but whatever we can do. And I'm also review -- reviewing Member Johnson's proposed motion that I think further legitimizes the definition of ag and what we want to see.

So yeah, I appreciate your discussion. I think we're all here with the same understanding. Not everyone can get ag rates in this community, you know. But I think as we -- you know, I would like to see limitations in the definition. The times -- sometimes by limiting the definition, we seem to even be expanding it just by, you know, all -- all the things that we want to incorporate in the definition. But I think you folks are going in the right direction.

COUNCILMEMBER BAISA: I think one of the other things that I haven't mentioned that was thrown out in some of these conversations was the idea of a farm plan like they use in Planning. And then, of course, that involves some follow-up in order to ensure compliance with that farm plan. So again, it comes down to who monitors and who is sure that
what is being put on paper is correct. And I know that's a challenge for you guys.

CHAIR VICTORINO: You want to respond to that, Mr. Eng?

MR. ENG: Thank you. Yes, it is a challenge. I mean, you know, looking at all your ideas that you have today, you know, and they're all very good. I think it's our viewpoint, Holly's and mine, is how do we administer it, you know, appropriately? I mean, if we're going to have all this additional requirements to review, you know, I do have to see how we're staffed appropriately.

I think in all this, the key thing for -- for us right now is really having some kind of annual income or, as Ms. Johnson's pointed out, income and expense requirement. Again, I think if we have an opportunity to review her proposed amendment -- again, I think it further legitimizes what ag is. And that always it's a gross income. It could be a number of expenses that are incurred. Expenses would also, in my mind, legitimate the activity.

COUNCILMEMBER BAISA: So then what I'm hearing in a roundabout way -- and that's part of all this documentation; I have many, many of them -- comes the issue of being able to produce a Schedule F from your tax return, which would do exactly what Member Johnson is suggesting, which is show your income, show all your expenses and your net. And that
net might be zero because your expenses are higher than your
income.

MR. ENG: Yeah, I think the IRS Schedule F or even
the State GET requirement, the G-45 Form is -- is
appropriate to confirm the activity. Yeah, so that's all I
have to comment on that.

COUNCILMEMBER BAISA: Okay. Well, obviously, this
is not a simple issue as we always think it is.

Thank you very much, Chair.

CHAIR VICTORINO: Mr. Eng, let me ask you a
question. Do you not require at this time either or of
those two forms for ag rates?

MR. ENG: Mr. Chairman, you are correct, we do
require them at this time.

CHAIR VICTORINO: So these basically are on file,
as far as your Department is concerned, for review? Right?

MR. ENG: Yes.

CHAIR VICTORINO: For you guys to review?

MR. ENG: Yes, uh-huh.

CHAIR VICTORINO: Okay. Thank you. I just want to
make sure that was clear. And I do -- you know, I did make
sure I followed up with Schedule F, you know, Tax Form. And
it incorporates just about everything and anything you can
think of as far as that is concerned as far as expenses and
income.
Mr. Pontanilla?

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

Mr. Eng, before we made all these friendly amendments, can you give me your comments on -- except for the dollar amount, can you give me comments in regards to what is being proposed without the amendments that, you know, we friendly, friendly amendments?

MR. ENG: Well, as the draft bill for an ordinance currently reads -- and again, I have done my best to review it and understand it. You know, there are some things probably as I review it further, I'll find more things. Overall, I think we can live with it. You know, there is a waiver opportunity. And also, if a person that seeks a waiver isn't pleased with our ruling, they always have an opportunity to appeal this to the Board of Water Supply. So I think it is fair in that regard.

The only thing that stands out immediately for me is in the definition section. And that is under community garden. I don't know what that means as it reads. You know, it's a parcel of land gardened collectively by a group of people. So are we three here a community garden? You know, I would like to put a little bit more specifics in that definition.

And if I may offer some ideas, I think there should be a minimum parcel size. And I would suggest a minimum
half acre, or 22,000 square feet, of net cultivated area. And I also would have just liked to see a minimum number of actively engaged participants. And I'll throw out a number of ten actively engaged participants in a community garden. Thank you.

VICE-CHAIR PONTANILLA: Thank you. And thank you for your comments. And hopefully, you got them in writing. You know, I -- I -- I think we want to make sure that it's okay with you, number one, that you're comfortable with it.

The other thing that I heard this morning is in regards to the dollar amount. And that's something that we got to contend with. Yeah, we do have something that was passed out by Member Nishiki from the NRCS which says $1,000 is the minimum and a proposed amendment by Member Johnson. Again, like you stated, $10,000, you know, you show your profit and expenses, it might end up minus. So those are things that we need to consider.

Let me ask you this question, though. Have your Department worked closely with the Real Property Tax Department with Mr. Teruya in trying to come out with some kind of definition? Because I understand that they're going out and investigating the so-called farmers.

MR. ENG: Member Pontanilla, my Department has only worked with Mr. Teruya only to the extent at the various meetings. And I think there were a few meetings with
Planning, Real Property, and our Department. Again, I think the conclusion was is we all have our individual interests and needs, so they didn't come up with a consistent definition.

VICE-CHAIR PONTANILLA: You know, I come from an environment where, you know, if there's a question or if there's a goal to be achieved and it does involve several departments, then what's -- what's the possibility of the Water Department, Planning Department and Finance Department working as a team to come out with some solution in regards to what we are discussing this morning?

MR. ENG: Member Pontanilla, as it has been reported to me, the results of the meetings of the various three departments, I believe, has concluded that that probably won't work out, trying to come up with one definition, again, because everyone has a different interests. You know, ours are for rates. You know, Real Property is for property taxes. And Planning is for other matters, such as approving farm plans. I don't believe at this time that we're going to get anywhere continuing to meet is what I understand.

VICE-CHAIR PONTANILLA: If we have a goal to attain and -- and we -- we need this -- you know, people to work together to achieve that. And this is not the only thing that, you know, I'm -- I'm concerned with. There's other
things that, you know, a lot of departments need to talk --
talk story, meet in regards to solving some of the problems
that we have in this County.

So I thought I'd, you know, try to get some answers
from you, you know. And -- and you told us this morning
that all three departments have met and couldn't come up
with any kind of solution. So I guess it's going to be up
to us to whatever we can come up with, which is -- it's not
sad. But, you know, it would have been nice if, you know,
the Administration would take the bull by the horn and come
out to some kind conclusion. Thank you.

CHAIR VICTORINO: Thank you. And I -- I think I
have to agree with Mr. Eng, Mr. Pontanilla. This is a
difficult situation. Because the ultimate goal or ultimate
end result is -- not extremely difficult, but very
different. And that makes it different -- difficult.
Because it's not like saying this is the way and everybody
falls under that because of the variables that are involved,
whether you're talking Planning, whether you're talking Real
Property, or you're talking Water. They really are some
tremendous differences.

And I've sat down with the various departments. I
met with Mr. Teruya last week. And he -- he explained many
of the differences. And I think you have met with him on a
number of occasions, and that makes it difficult. So I see
it -- I go back again focusing on water rates and water usage. I mean, that's -- that's what this Committee does.

And -- and it would be nice if one day we could come with an overlying definition, and then you have all the A, B, C, Ds, whatever for each various departments so that maybe we can get a definition of what a -- a consumer is, whatever it may be. And then, you know, A, B, C, D, E, F would be different for Land Use, different for Water, different for -- for Real Property. So that's possible, you know. But I guess right now we're trying to work towards that. But again, I'm trying to keep it back on the focus of water rates and being fair to everybody.

Any other Voting Members have questions for the Department at this time? Mr. Molina, please.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman.

Question for Director Eng.

Good morning, Mr. Eng. Thank you for highlighting your concerns with regards to community gardens being that it's, you know -- it -- it's a movement that's starting to pick up, all in line with the issue of sustainability. So you're looking for more clarity in the definition for water community -- what constitutes a community garden? You've given us a number of, I guess, participants, which would be ten, and maybe a possible rate to consider. So I was wondering if you could provide that in writing to us as well
so the Committee has a full understanding of where you're coming from?

And -- and -- and I know Mr. Kushi mentioned that he didn't have a chance to review the proposal. Did you also not have a chance to review the proposal? Or have -- have you already had, I guess, some knowledge of the -- I guess, the additions to the bill?

MR. ENG: I have had an opportunity to review this draft bill for an ordinance.

COUNCILMEMBER MOLINA: Okay.

MR. ENG: Again, I'm certain as I read it further, I'll come up with other ideas. But again, my -- my primary comment, as indicated earlier, was the community garden definition and for us to take a closer look at the income/expense requirements.

COUNCILMEMBER MOLINA: So -- so you feel that if we were to pass it out today, there may be -- may generate some issues?

MR. ENG: Certainly.

COUNCILMEMBER MOLINA: Because I certainly wouldn't want to, you know, put something out and then, you know, we have to end up recommitting and so forth. So just -- just so we can make sure we can get all the --

MR. ENG: Yes, I --

COUNCILMEMBER MOLINA: -- all your concerns.
MR. ENG: Thank you, Member Molina. Yes, I mean, the community garden definition is very broad, you know, as it reads. "'Community garden' means a parcel of land gardened collectively by a group of people." That could include most of our families working in our backyard. So I think we have to again be more specific with that definition.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Chair.

CHAIR VICTORINO: Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair.

Member Molina, not speaking to Director Eng. But apparently, we have the same concerns about the community gardens. I know it's a noble cause and noble movement, but we have some concerns in that ways of -- collectively, so you're inferring a group. But again, the parcel in question is owned by one person, you know, be it Maui Land & Pine or A&B or some benefactor, and which I'm assuming allows these people to come in and grow the crops for their own -- own use. So the -- the meter would go to the parcel owner, not to these individual gardeners. Again, that's one concern.

So it's not the community garden itself, it's the parcel owner. So I'm assuming that -- maybe I shouldn't assume. But these parcel owners already have ag water rates or already qualified for ag water rates. So it may be a
moot question, a moot -- moot issue. If they don't, then
just by -- by the intent of the -- the bill, they may
qualify without producing any income if that's the intent of
the legislation.

COUNCILMEMBER MOLINA: Okay. Thank you.
Thank you, Chair.
CHAIR VICTORINO: Thank you.
Any other questions? Yes. Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah, just to follow
up on that. Director Eng, when you are making these
recommendations for the size of a community garden, which
you had suggested so many square feet, and then you
suggested ten. What I would like is that as you make those
recommendations, if you could justify why the -- those
numbers and, in your view, what makes that identifiable as a
"community garden," you know, so that I have a good
understanding of what it is other than just throwing out
numbers. Okay?

MR. ENG: Do you want that in writing or may I
address it now or --

COUNCILMEMBER KAHO'OHALAHALA: Yeah, so the Members
will have the benefit of that.

MR. ENG: Okay. In writing?

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

MR. ENG: Okay.
CHAIR VICTORINO: Okay. Thank you.

Any other questions?

Seeing none. Ms. Johnson? And, by the way, Ms. Johnson, just so you understand. My way of doing business in this Committee was to recognize all Voting Members for their questions first, and all Non-Voting Members who come in, I address them at that time. So go ahead, Ms. Johnson.

COUNCILMEMBER JOHNSON: That's fine. And, you know, I just want members of the public to know that I have been in attendance this morning at the meeting even though it was not acknowledged that I came into the meeting. So I've been observing at least what's been going on. So I -- I can't make a motion on the item that I have thrown out there, but I did make a commitment that I would try to put some ideas together.

And because I was born and raised in farm country -- my family did not do active farming, but we worked with the farmers in the community in Wisconsin where I lived. One of the issues that always comes up, of course, is what is legitimate farming? Now, because this spills over somewhat, even though now we're focused on the ag water rates, we still have to, in my Committee -- and we were kind of waiting for a definition from the Administration for agriculture as such. I wanted to try to be as consistent as
possible and not create huge conflicts with these definitions.

And over time, because of my conversations with the farming community and those individuals who many times are putting in crops that, for years and years, they're not going to come to fruition. Keeping that in mind, I wanted to try to throw my ideas out there because I think it does bear discussion. My concern about the direction of where this income is going is that in certain instances, one of the examples that I have been given in the economic sector has been the gentlemen farming.

And one of the examples was that you could have one very expensive tree or bush, or whatever it is. Some rare ornamental. That plant alone, if it comes -- you know, maybe it takes years to produce or whatever it's going to do, it might mean that you would sell that as -- as a -- for replanting, or whatever. Some of those go for as much as $1,000 a piece. So if you set the income at $1,000, does that mean that if the guy raises one very unique tree and sells it, that he meets that definition under agriculture? And I realize that's an extreme situation, but it does exist. Because there are tremendous prices even for some very rare ornamentals.

So my concern was that being consistent with State law -- State law basically says that you have to have 51
percent of your lot in agricultural production. That's what
the State law basically says in order for you to be
consistent with zoning laws under the State law. So if
you've got acreage and you have 51 percent of your lot in
some type of agricultural operation, if it's legitimate, I
can't conceive of anybody, even if they have like a tree
farm, not spending -- whether it's on labor or fertilizer or
just pruning and all these things, I can't conceive of
somebody not having $10,000 worth of expenses per year.
Because in order to be legitimate under State law for what
the actual use of your land is, you've got to be spending
money on it.

So I'm going by what I know about the State land
use laws. But I'm also looking at if somebody is not going
to be receiving any income for a substantial period of
time -- and even if, let's say, they have a bad year, there
may be years where the person spends a whole bunch of money
and they have a huge crop loss. Like what's going on in the
Big Island right now with some of the flower farmers and the
volcanic vog -- they're suffering devastating losses.

So that's why I am trying to be fair about it. I
think 5,000 per year is too little because if the principal
activity on the land, consistent with State law, and 51
percent of your lot has to be in some type of ag activity,
any dwellings that are on that land which must be in support
of the ag activity on your land, if you're not spending 10 grand a year, to me, you're not a legitimate farmer. Because I know that people -- yeah, they have a rough time coming up with that amount of money, but that's what farmers do. Farmers struggle.

So I'm throwing it out there. I'm muddying the waters perhaps with regard to State law. But I think from everything that I have heard on the economic development side, from all of the land use laws that we have in existence -- and we cannot be more liberal on the County side. We can be more restrictive, but we cannot be more liberal. That's why I'm putting this idea forward. And whether it gets a motion or it doesn't get a motion, I think it's worthy of discussion.

So that's where I'm coming from, Mr. Chair.

CHAIR VICTORINO: Thank you. And I appreciate the -- the consideration.

I will also recognize Mr. Nishiki because you're a Non-Voting Member, but you're here all the time. And you come from the very beginning of the meeting. Here, you go ahead and introduce your report that you have from the NRCS. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. And -- and -- and my question was to the Corporation Counsel in the last paragraph. It says if the proposed bill, agricultural water
rates, places a higher minimum farming income requirement for farmers, limited resource farmers and -- ranchers, beginning farmers/ranchers and socially disadvantaged farmers/ranchers, it is regrettably in conflict with the National USDA Farm Bill guidelines, the customers that we serve, and the food, fiber produced for Maui County. Should this happen, the farmers/ranchers will not be able to afford the water, produce agriculture commodities for Maui County, and implement the practices which is contractual with the Farm Bill Program.

In it, Mr. Corporation Counsel, we're talking about -- in the fourth paragraph. Currently, the 2010 EQIP funding reserved for the island of Maui is $1,467,595. That is a substantial amount. And also, again, as Gladys pointed out, in the para -- paragraph prior to that, subsistence producers engaged in agricultural production are eligible to produced food and fiber and may be used to document $1,000 for primary family consumption and use -- or use in barter or trade.

Now, Gladys brought up that it may be -- I don't know if it is true or not -- a Federal law. But if the point, Mr. Chairman, is to try to help agriculture -- and that was the bottom line that this bill was going to do -- then I see the income qualification of 5,000, whatever, as being not consequential. And I think we need to look at it
from a point of what was the bottom line of the bill? And I think it was to try to catch -- as Jo Anne has pointed out -- people that are cheating. And, hey, if somebody's going to cheat and they're going to try to be a little slicky dick, they're going to do it anyway. I -- I would hope that we not look at the cheaters, but look at those that are trying to do agriculture and trying to help them.

So as Sol pointed out, Mr. Chairman, when I looked at the numbers and -- that was passed out to us on March the 2nd, from Eric Yamashige. And you will find it -- oh, from your new draft bill, because there's no date on it, but it is a chart. I looked at the amount of people receiving agriculture water rates. And they total 725, Mr. Chairman. Then I went to the far right to look at what we subsidize, the amount of money we subsidize these people. And it totaled $2.7 million. And then when I looked at the amount of customers in the one, two, three, four -- fifth column, you got a number. And then it says c-u-s-t. That 725 doesn't equate to many.

And so when I look at those using 30,000 gallons or below -- and I don't know what the new water rate is. I asked the Budget Chairman, Mr. Chairman, Mr. Pontanilla what the consequences are. But as you can see, there's no subsidy there, Mr. Chairman. Then when you look at 50,000 and below, then we subsidize up to $15,467, of which 91
people are included in that. But I think that's what we
should really be looking at, Mr. Chairman.

And Joe brought it up, you know, the need for more
coordination because of the different departments because of
what we're trying to do with this bill. If it is to help
agriculture users, then I think that the income number
should not be a concern. If it is to catch those that are
not really doing agriculture, then, again, as Mr. Pontanilla
pointed out, the different departments needs to put their
heads together and figure out where the loopholes are. And
I don't know if this bill is addressing that concern.
And -- and -- and the question is, is it? Is it?

And as -- as Gladys said, she's got a whole bunch
of e-mails and all of these people want to do agriculture.
And -- and if we want to help them, then obviously one area
that they need help in is in their water bill. That's
probably the most basic thing that they're going to need to
create agriculture. And -- and -- and how much they make is
inconsequent -- is inconsequential.

So, Mr. Chairman, I -- I ask the Corporation
Counsel, is there a -- or could there be a conflict with
some of the Federal mandates of which Maui County receives
over a million dollars in aid to try to encourage -- to
encourage, again, Mr. Chairman, people to farm? And in it,
it says $1,000 as the minimal requirement. Mr. Corporation
Counsel, the answer? Or maybe you may not have it.

CHAIR VICTORINO: Mr. Kushi, if you would, please?

MR. KUSHI: Yes, Mr. Chair.

Member Nishiki, while you're reading it -- I just got a copy of it. So I'm looking at it.

COUNCILMEMBER NISHIKI: Oh, okay. I'm sorry.

MS. WILLENNBRINK: Chair?

MR. KUSHI: But anyway, I don't know anything about this Farm Bill Program, Environmental Quality Incentive Program from the NRCS. But just reading the letter itself, it seems to say that the County is getting some kind of funds or grants to do I don't know what. But it also seems to say that to be considered an agricultural producer, you have to make an minimum annual -- annual minimum income of $1,000. That is to qualify for I don't know what.

COUNCILMEMBER NISHIKI: Yeah.

MR. KUSHI: But I -- I -- I sure seems -- it seems to me, it doesn't conflict with what you're doing here. We are establishing water rates. Whether they qualify or not for this Federal program, I think are apples and oranges.

COUNCILMEMBER NISHIKI: Yeah.

MR. KUSHI: Unless the Government comes in -- unless the Federal Government comes in and tells us you are preempted. And this letter doesn't seem to say that.

COUNCILMEMBER NISHIKI: Yeah. And -- and -- and --
and I guess the whole thrust of the question, Mr. Chairman, as Mr. Kushi said, what are we really trying to do? Are we trying to encourage or discourage people from engaging in agricultural pursuit? And if it is to discourage, then I would think that that money amount that we place here is a big discouragement.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I would like to clarify what I was talking about when I mentioned a Federal law.

In 1975, the Office of Management and Budget, OMB, and the U.S. Department of Commerce's U.S. Census Bureau agreed on a definition of a farm that is still used today. It says, "A farm is currently defined, for statistical purposes, as any place from which $1,000 or more of agricultural goods (or crops or livestock) were sold or normally would have been sold during the year under consideration. USDA's National Agricultural Statistics, NASS, also includes government payments as sales. In other words, a farm is defined as any place with a combination -- any combination of sales, potential sales and Government payments totaling at least $1,000."

"The phrase 'normally would' aims to ensure the inclusion of farms that do, or could, contribute to agricultural production, even if they did not have $1,000 in
sales. Farms might experience adverse events, such as
droughts, hurricanes, fires, or disease that destroy the
farm's production in a particular year (or several years).
Some commodities require a long production cycle before
sales are realized. For example, a new orchard will
typically require several years before the trees mature and
harvest can begin. Even for crops with annual production
cycles, crops might be harvested and stored, with no sales
recorded during a year."

So that's what I was talking about in regards to
that definition. But I think there's another issue that's,
you know, part of the discussion today. And it's the --
it's the community's perception. You know, we've been kind
of focused on the farmer. But maybe we want to take the
perspective of the broader community. Because what we're
doing here is we're saying the general community gives the
farmer a subsidized rate because we believe that it is
really important to help farmers and that farming is really
important. And the question is what does the community get
by subsidizing farmers?

And it -- it's really a philosophical issue, but
it's also a practical issue. Because if the farmers don't
farm and we don't have food and we don't have green open
spaces and, you know, all these wonderful things that we
know as sustainability, and in a crisis, what do we do?
Then we want to subsidize water rates so people will farm. I think where we're strung up on is what is a farm? And it's already been defined by people with a much broader perspective than us.

COUNCILMEMBER NISHIKI: Thank you.
CHAIR VICTORINO: Yes, Ms. Johnson.
COUNCILMEMBER JOHNSON: One of the things that I don't see -- and I don't even know if it's an issue. But many times, because people have difficulty owning land, farm land, what they'll do is they'll go in maybe with an elderly person who no longer can farm, or they'll come out and they'll lease for -- in some cases, a minimal amount. But when they go in and they lease the land to farm it, one of the things that they first need is they need water. So what happens to the individual who owns the land who has a tenant on it who he wants to help, but maybe that guy that owns the land needs that water in order to provide that to the farmer/tenant and he doesn't want to gouge the tenant farmer.

So is there any mechanism within either this legislation, or is there already something on the books that addresses the type of water usage where you are not -- you're not the direct farmer, but you're providing an opportunity -- maybe somebody has lost their job at Maui Land & Pine -- to come on to that land? You're doing...
legitimate farming. The land is being properly, I guess, cared for and all the other things are going on. But I just don't know how that plays into this conversation too.

Because I want to provide opportunities for the people that have lost jobs within the ag community. But where the person who lives on the land legitimately, either they don't want to farm, they don't know anything about it, they're too old to farm, or there's other circumstances where they want to provide an opportunity to that individual. And that's the only thing that I -- I'm not sure if that is addressed anywhere within this, or if it's already addressed within water use.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yes, Mr. Chair.

Member Johnson, I think it's addressed currently under existing rules, Code 14, Section 14.10.010F, as in Frank, states that "Water service requests by property lessees or licensees may be granted: One, if requested and guaranteed by the fee owner, fee simple owner of the property; or, two, a lump-sum payment equal to two billing period estimate must be deposited with the Department as collateral for future billings."

COUNCILMEMBER JOHNSON: So, if I understand, Mr. Kushi, what you're saying, that doesn't address specifically, though, these definitions within an
agricultural context?

MR. KUSHI: Well, it would be my position. If water service requests, whether to be a general consumer or an agricultural consumer, would -- would cover that.

COUNCILMEMBER JOHNSON: Okay.

MR. KUSHI: But they would have to qualify under the definitions.

COUNCILMEMBER JOHNSON: Yeah. And so what you're saying, though, if I understand you correctly, it -- it addresses the application for whatever the water use is, but it doesn't specifically say what rates you qualify under. Is that correct?

MR. KUSHI: No, it doesn't say.

COUNCILMEMBER JOHNSON: Okay.

MR. KUSHI: But I would opine that if they are actively -- the tenants, the lessees or licensees are actively engaged in ag on that leasehold property --

COUNCILMEMBER JOHNSON: Okay.

MR. KUSHI: -- and if they can prove it, fine.

COUNCILMEMBER JOHNSON: Okay. So --

MR. KUSHI: Provided the fee owner guarantees payments.

COUNCILMEMBER JOHNSON: Yeah. And -- and so would that also be consistent, though, with whatever the definition that's adopted here, that they must be -- either
the owner, who's going to guarantee the payments or their
person who is actually doing the activity, leasing the land,
that they would, by definition, meet this ag requirement?

MR. KUSHI: If they qualify.

COUNCILMEMBER JOHNSON: If they qualify.

Okay. Well, that, Mr. Chair, then, would be the
only thing. I don't know if it's got to reference back to
this, if we need another section in there to say that -- you
know, specifically the section that Mr. Kushi is talking
about, that that applicability would also, I guess, carry
over into this definition. Because I just wanted --
whatever you do, I want it to be consistent.

So anyway, that -- that's just my question on that
area. Thank you.

CHAIR VICTORINO: And I think under -- under B.
And the one, two, three, and all the adjacent inclusions
that we have proposed, I feel all of that has been covered
by that.

So at this point, we've gone for an hour and a
half. I'm going to take a ten-minute recess, ask everybody
to return more like -- well, let's say, 10:45. And that
way, everybody has the time to do their personal needs.

So this Water Resources Committee stands in recess
until 10:45. ...(gavel)...

RECESS: 10:33 a.m.
RECONVENE: 10:48 a.m.

CHAIR VICTORINO: ...(gavel)... Thank you, Members. The meeting of the Water Resources Committee is reconvened.

I'm going to ask for deferral of this for a number of reasons because a number of questions have been raised and some answers have to come in writing. Also, a little more work needs to be done. So I feel that we're getting closer. But before I do anything in that respect, I'm going to ask across the board, starting with the Voting Members, the only question I want -- and it's just one answer. I don't want a long dissertation. Just one quick answer. What is your income threshold that you would like to see in this bill?

Starting with you, Mr. Molina? Just one quick question -- answer, not a long dissertation.

COUNCILMEMBER MOLINA: Oh, okay. Well, that --

CHAIR VICTORINO: It's not one trick question now, I promise.

COUNCILMEMBER MOLINA: Well, first of all, I appreciate the intent of the 5,000. But upon hearing testimony this morning, and Mr. Nishiki's letter, I'm looking at something between 5,000 and 1,000. Because based on the letter from the -- of -- which was based on the Federal Farm Bill --
CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER MOLINA: -- having spoken to a Member earlier this morning, sometimes I wonder if the Federal guidelines, they take into consideration the challenges we have here in Hawaii for farming. You know, we're not like Nebraska or Idaho or Iowa. So sometimes I wonder if that 1,000 minimum is -- you know, when looking at it here and the challenges, costs of living here, if they take that into consideration. So I would be open to a figure somewhere --

CHAIR VICTORINO: Somewhere between 1,000 and 5,000?

COUNCILMEMBER MOLINA: -- somewhere between 1,000 and 5,000.

CHAIR VICTORINO: Okay. Thank you.

COUNCILMEMBER MOLINA: Thank you, Chair.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: To make my answer really short, I agree with Member -- Member Molina.

CHAIR VICTORINO: Thank you.

Ms. Johnson?

COUNCILMEMBER JOHNSON: Do you want to hear from the Voting Members first or --

CHAIR VICTORINO: Well, I'm going right down the line.

COUNCILMEMBER JOHNSON: Okay. All right.
CHAIR VICTORINO: So you're -- you're --

COUNCILMEMBER JOHNSON: I don't care about the income. Because for me, it's mostly expenses.

CHAIR VICTORINO: Thank you.

Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah, Chair. I'm just going to agree with looking at the Federal guidelines.

CHAIR VICTORINO: Okay.

Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah, I -- I'm going to set the range like Member Molina, five to five -- one to 5,000.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER MEDEIROS: But I don't want mine to be only income. I want mine to be a combination of income and expenses.

CHAIR VICTORINO: Okay.

Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. Mr. Chairman, you know, Mr. Molina brings up a really good point. The fact that in most other states, they subsidize free water for agriculture. And that's really, really big. So I would say 1,000 or below.

CHAIR VICTORINO: Thank you.

Next. Mr. Pontanilla?
VICE-CHAIR PONTANILLA: Thank you. A thousand dollars.

CHAIR VICTORINO: Mr. Mateo?

COUNCILMEMBER MATEO: One to five.

CHAIR VICTORINO: One to five. Thank you.

And so that way, it at least gives this Chair an opportunity to start working, along with some of the other ideas that you have provided with -- to us today. So if there is no objection, I'd like to defer this bill to a date certain to be brought back at our next meeting.

And our next meeting would be June 15th, if I am not mistaken, Ms. Willenbrink?

That is correct. Okay. So it will be brought back on June 15.

No objections to deferring these matters?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you very much.

ACTION: DEFER pending further discussion.

ITEM NO. 29: UPCOUNTRY WATER METER LIST (C.C. No. 06-279 and Bill No. 7 (2010)).

CHAIR VICTORINO: We'll move on now to the Upcountry Water Meter List, that is WR-29. Okay. The correspondence dated February 19th, 2010, from the County Clerk, attaching Bill No. 7 (2010), entitled, "A Bill for an Ordinance" -- no, excuse me. "A bill For an Ordinance
Amending Chapter 14.13, Maui County Code, relating to the Water Meter Issuance Provisions for the Upcountry Water System."

What I had proposed -- and, again, I want this very clear. I am not in changing the Water Meter List, I am not in the modern [sic] of looking what is right, wrong, indifferent, all that. All this did was basically give any Upcountry member -- Upcountry resident who would receive a water meter reservation, five years from that date of that reservation confirmation to put in any necessary improvements if it was needed.

This was to ensure that the two years, which now presently existed, would be expanded to five years so that if water would become available anywhere in the Upcountry area for any of these Upcountry meter list people, that they're not forced in two years to, A, ask for extensions or, B, be left off -- or be removed from the Upcountry Water Meter List because they were unable to economically afford the improvements that were necessitated.

Okay. So that's what this bill is all about. And I'll try to keep the focus on that portion of the bill. That was all that this Chair had asked for changes in the bill itself. Okay. So I'll open up to discussion.

First of all, let me start with the Department.

Mr. Eng?
MR. ENG: Thank you, Mr. Chairman. You know, I have no comments. I was in full support of your earlier proposed bill.

CHAIR VICTORINO: Thank you, Mr. Eng.

Members, questions for the floor? Ms. Baisa?

COUNCILMEMBER BAISA: Yes. Thank you, Chair. Chair, I understand the legislation before us. I have just one question I want to be clear. If the person does not do the requirement -- I mean, the improvements within the five-year period, what then happens to them? Are they removed from the list? Do they go back to the bottom of the list? What happens?

CHAIR VICTORINO: Just like it exists right now, they can come in for six month's extensions. Right now, the Department allows extensions on the two year. What I was trying to prevent and trying to help consolidate and -- and really make it more efficient instead of after two years coming in for six months, six months, six months, you got five years. If it hasn't been accomplished after five years, you still are allowed -- Mr. Eng, if I'm correct -- to come in for a six-month extension? If more time is needed, another extension. Because right now, the Department does give extensions. Am I correct, Mr. Eng?

MR. ENG: That is correct.

COUNCILMEMBER BAISA: So there is no set limit on
those six-month extensions?

CHAIR VICTORINO: No.

COUNCILMEMBER BAISA: Okay.

CHAIR VICTORINO: Am I correct, Mr. Eng?

MR. ENG: If there's active -- activity going on, then we will continue the extensions.

COUNCILMEMBER BAISA: Thank you very much. That clears it up for me. I just wanted to be sure as to how that would be handled. Thank you very much.

CHAIR VICTORINO: But you understand, Ms. Baisa, and the rest of the Committee, this is a methodology instead of after two years them coming in, this will be five years which --

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: -- I think really helps efficiency-wise for the Department.

COUNCILMEMBER BAISA: Absolutely. And I have no problem with it. I just wanted to be sure that there was some kind of salvation after that, and there is. Thank you.

CHAIR VICTORINO: Thank you, Ms. Baisa. No, no, I wasn't make this an absolute drop date kind of situation.

COUNCILMEMBER BAISA: Okay.

CHAIR VICTORINO: Any other questions from the Committee Members?

COUNCILMEMBER BAISA: No. Recommendation.

CAMMIE GILLET, RPR, CSR #438
CHAIR VICTORINO: No? Recommendation, okay. If there's no further discussion, I will entertain a motion to pass on second and final reading, Bill No. 7, entitled, A Bill For an Ordinance Amending Chapter 14.13, Maui County Code, Relating to Water Meter Issuance With the Provisions for the Upcountry Water -- Upcountry Water System.

VICE-CHAIR PONTANILLA: Mr. Chairman, so moved.

COUNCILMEMBER MATEO: Second.

CHAIR VICTORINO: Oh, okay. I was waiting for a second. I didn't hear a second. Okay. Thank you very much.

Any more discussion on this matter? Yes, Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. Just for clarification on the motions. So what we're doing, we're passing it out of Committee to go to Council for second and final reading. Am I correct?

CHAIR VICTORINO: That's correct.

COUNCILMEMBER MOLINA: Okay. Thank you. I just wanted to make sure.

CHAIR VICTORINO: Yes. Because that's where it was. And I was told that's where you go back to.

COUNCILMEMBER MOLINA: Okay. All right. Thank you.
CHAIR VICTORINO: Seeing no other discussion. All those in favor, signify by saying "aye."

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed?

Let the record show seven "ayes," no "nays." Thank you very much, Committee Members.

VOTE: AYES: Chair Victorino, Vice-Chair Pontanilla, and Councilmembers Baisa, Kaho'ohalahala, Mateo, Medeiros and Molina.

NOES: None.

EXC.: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending SECOND AND FINAL READING of Bill No 7 (2010).

CHAIR VICTORINO: Thank you very much. I thank you for your patience. This was a little arduous this morning. But again, I always feel good at the end of the day, we are making progress. And I want to thank all the public who came today and all of you, Members -- the Department, Mr. Eng and Mr. Kushi, for your sharing of your mana'o. And Ms. Willenbrink has assured me she will be meeting with you and to make sure some of the concerns you brought up.

And, Mr. Kaho'ohalahala, your -- your -- your
concerns will be put in writing and sent to the Committee -- to the Department for answers. Okay?

So I think, at this point, seeing no further discussion -- I know we have a Budget and Finance Meeting at 1:30. Mr. Pontanilla, is that correct?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR VICTORINO: Okay. I think that's correct because I think they're busy down there. So I will see all of you who are in the Budget and Finance Committee, which I think is everybody in this room, at 1:30 this afternoon.

The meeting of the Water Resources Committee for June 1st, 2010, is now adjourned. ...(gavel)...

ADJOURN: 10:58 a.m.
I, CAMMIE GILLET, a Certified Shorthand Reporter in and for the State of Hawaii, do hereby certify that the foregoing pages comprise a full, true and correct transcript of the proceedings had in connection with the above-entitled matter.

Dated this 26th day of June 2010.

CAMMIE GILLET
Registered Professional Reporter
Hawaii Certified Shorthand Reporter #438