CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Michael P. Victorino, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Gladys C. Baisa
Councilmember Sol P. Kaho‘ohanohana (Out 10:41 a.m.)
Councilmember Danny A. Mateo
Councilmember Bill Kauakea Medeiros
Councilmember Michael J. Molina

NON-VOTING MEMBERS:
Councilmember Wayne K. Nishiki

STAFF:
Kimberley Willenbrink, Legislative Analyst
Tammy M. Frias, Committee Secretary

ADMIN.:
Jeffrey Eng, Director, Department of Water Supply
Michael Miyamoto, Deputy Director, Department of Public Works (Item No. 17)
Scott English, Lieutenant, Fire Prevention Bureau, Department of Fire and Public Safety
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Item No. 17: Paul Laub
Larry Helm, Commander, Molokai Veterans Caring For Veterans
James Fosbinder, Esq. (Attorney for Molokai Veterans Caring For Veterans)
David R. Hafermann, Member, Molokai Veterans Caring For Veterans
Additional attendees (3)

Others: Jeffrey Pearson
Roy Silva

PRESS:  Akaku--Maui County Community Television, Inc.

CHAIR VICTORINO: . . . (gavel) . . . Good morning. The meeting for the Water Resources Committee will come to order. We have a quorum present today, so I would like to get started if I may. And
I'd like to first start by introducing all the Voting Members and then any Non-Voting Member who can participate and is a part of the Committee, just cannot vote. Voting Members here this morning would be our Kahului representative and our Vice-Chair, Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning.

CHAIR VICTORINO: Good morning. And then our Upcountry representative, the beautiful lady, Gladys Baisa.

COUNCILMEMBER BAISA: Well, good morning, Chair. Thank you.

CHAIR VICTORINO: Good morning. And our Lanai representative, Mr. Sol P. Kaho‘ohalahala.

COUNCILMEMBER KAHO‘OHALAHALA: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our Molokai representative and our Council Chair, Mr. Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Chair.

CHAIR VICTORINO: Good morning. Our East Maui representative, Mr. Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good morning, Chair.

CHAIR VICTORINO: Aloha. And finally, our Vice-Chair of the Council and our Makawao-Paia-Haiku representative, Mr. Michael Molina.

COUNCILMEMBER MOLINA: Good morning, Chairman.

CHAIR VICTORINO: Good morning. And I am the Chair of the Committee and represents the Wailuku-Waihee-Waikapu District, Michael Victorino. Thank you for being here. Now, I’d like to introduce our Non-Voting Member and we have one present and he’s always present, and I’d like to thank him for his participation, our South Maui representative, Mr. Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good morning.

CHAIR VICTORINO: Good morning. From the administrate...well, yeah, from the Administration, let me start, this morning we have the Director of the Water Department, Water Supply, Mr. Jeffrey Eng.

MR. ENG: Good morning.

CHAIR VICTORINO: Good morning. We also have from the Public Works, Deputy Director, Mr. Mike Miyamoto.
MR. MIYAMOTO: Good morning.

CHAIR VICTORINO: Good morning. From the Fire Prevention Bureau, Fire...Department of Fire and Public Safety, Lieutenant Scott English.

MR. ENGLISH: Good morning.

CHAIR VICTORINO: Good morning, sir. And our Corporation Counsel, Deputy Corporation Counsel, Mr. Edward Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. And then our Staff, which is invaluable and without them many times I know I wouldn't get many things done, our Legislative Analyst, Ms. Kim Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: Good morning. And, of course, our Committee Secretary, Mrs., Ms. Tammy Frias.

MS. FRIAS: Good morning.

CHAIR VICTORINO: Thank you. We have two items this morning, ladies and gentlemen. First item is WR-17, a BUILDING PERMIT APPLICATION (WATERLINE ISSUE) FOR THE MOLOKAI VETERANS CARING FOR THEIR VETERANS, and we will be looking at that. And the next item, which really is a concurrent item which will be the item that we will really have to focus in on, is WR-1(4), WATER SUPPLY RULES (WATER SERVICE). That one basically, ladies and gentlemen, and for the public, is that this would now put the fire flow issue under the Fire Department and not under Water. So we'd be changing that procedure as far as the, the building permit application process.

We also have public testimony which we will take in a few minutes. I will first ask the public to limit their discussion to the items on the agenda today. If you have not signed up, there's a desk outside in the lobby on the 8th floor, you can sign up. You’ll be limited to three minutes and one minute to conclude. Now, ladies and gentlemen, I’ll ask your indulgence. I understand we have three or four people coming in from Molokai and, of course, the flight has...was arriving around 9 o’clock and they have to get here. So with no objections, I will leave public testimony open until these and others come to the Chamber and give them an opportunity to give public testimony, with no objections.

COUNCIL MEMBERS: No objections.
CHAIR VICTORINO: Thank you very much, appreciate that. The last thing I will ask everyone to do is if you would turn off all noise-making devices. If you have a pager or a cell phone, anything that would create noise, I will ask that you turn it off or put it on vibrate. Decorum will be followed in this Chamber. In fact, I just see them arriving right now, so that's great. I will start up with the first testifier who's signed up, and his name is Paul Laub. He will be testifying on WR-17. Paul is speaking on his behalf, and I understand Paul is also the President of the Maui Veterans Association. Paul?

**BEGIN PUBLIC TESTIMONY...**

MR. LAUB: Thank you. I'm Paul Laub and I, I want to, first of all, I want to thank you very, very much for taking these two subjects up. This is, this is a very...actually very widespread important subject, especially the second one. There's been so much confusion in the past between the Water Department and the Fire Department and the different rules, that the public really hasn't been able to work with these two separate rules, and breaking them down into one set that the public can work with is really a wonderful thing. I also want to thank you, I wanna...the gentlemen from Molokai have just arrived, and they'll be here to speak for themselves. And, but I want to thank you for the Maui County Veterans Council which is to thank you very, very much for your efforts in this regard. Thank you, everybody.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, they are walking in right now, and I have not received the forms yet. So if...maybe we can take 30 seconds while they bring that up, and then I will call the various gentlemen up to testify? Yeah. Welcome, gentlemen, from Molokai.

MR. HELM (from the audience): Aloha.

CHAIR VICTORINO: Aloha. Oh, just one? Okay. Okay, we just have one testifier. The other two gentlemen have decided to sit on the side and listen to this good-looking guy. His name is Larry Helm and he will be representing the Molokai Veterans...you know...

MR. HELM (from the audience): Caring For Veterans.

CHAIR VICTORINO: Oh, Caring For Vets. You...your writing not, not so good, Larry, never change all these years.

MR. HELM (from the audience): I used to be one doctor. . . .(chuckle). . .

CHAIR VICTORINO: I know, Larry. Thank you. And he's the, he's the Commander. Larry, would you kindly...Mr. Helm, would you kindly come up and give your testimony? Sorry I couldn't read your writing, I apologize.

MR. HELM: Aloha --
COUNCILMEMBER BAISA: Aloha.

MR. HELM: --and good morning. My name’s Larry Helm. I’m...Commander for the Molokai Veterans Caring For Veterans, an organization started about six years ago or little, little more. We’re located in downtown Kaunakakai, and as of today we’ve got about 300 members in our organization. The organization started, mainly was to bring in veteran services for Molokai vets, and in the past we had sporadic help from the VA. Today, we have our own doctor that lives on Molokai, Dr. Hafermann over here, that...works with the VA and is our, our personal doctor. We have the psychologist; psychiatrist; social worker; we have a long-term care nurse that just lives on the island, just came on, works for the VA; benefit counselors. There’s about 50 members in our organization that was in the valleys and in the crevices of hills that are cleaned up today, Vietnam vets and, and getting help and getting their benefits. The goal always been, as our, our organization is called, Molokai Veterans Caring For Veterans, and we try to live by that motto. I’m here testifying in, in behalf of mainly the Molokai vets, but mainly I’m concerned if anybody else who wants to build a project have to go through what we’ve been going through, I think it...it’s not a good thing. And a little background. We got six Vietnam vets went down to Legislature, lobbied and got $250,000. We got the piece of property donated from Molokai Ranch and we had a meeting. and our, our deal with them before we accepted the land, no strings attached. Some guys want...wanted La’au back then and some people was against. So we accepted the land with no strings attached. Our goal was to build a modest, Molokai-style center so veterans can have a place to commingle and the, the, the counselors and the benefits people can have a place little bit more nice and private. And also the first use was for Molokai veterans, second use for visiting veterans, and the third use was the community; and that’s how we got, we wrote up the grant that way and that’s how we got the money. And so we...2007 we applied, put in a building permit. We went through the SMA process on Molokai and you go in front of the Molokai Planning Commission, and...Planning Department said all we had to do was put in a minor SMA because our project was under $112,000. Long story short, we’re here at 2010 and we don’t have a building permit, and the reason we don’t have a building permit ‘cause evidently there’s two authorities on water, fire protection, the Fire Department and the Department of Water Supply. The Fire Department and all other departments have signed-off on our permit. The one that is holding our permit is the Water Department. They come up with different numbers as far as fire protection water flow. The Fire Department in three occasions said we had enough. They did a test July 7 with the Molokai fire...firemen inspector and Maui County fire inspector, and we had one of our members...a witness. They required us 1,250 gallons per minute fire, fire flow protection. They came up with 1,630. Two days later the Water Department went over there and did the same, same test and came up with 530 gallons...different measurement and that’s the problem. I think if you have the power...you...if you, you can have the power just on one department concerning fire protection, it should be people who is in the business of fire protection, and, and people that is in the business of water, take care water. So right now it’s, it’s held up and we, we...we’re no, no better than we were 2007 as of today. I ask if you guys can expedite this decision if you decide to have the authority on fire protection solely to the Fire Department. That would help and make it easier for us to get...start our building.
CHAIR VICTORINO: Okay, Mr. Helm. Thank you very much. Members, questions to clarify the testimony of the testifier? Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you. Mr. Helm, thank you for being here. In...reported in the, in the newspaper the other day, there was an article that headlined “Molokai veterans get permit for center after years of red tape”. Have you, in fact, gotten word that your permit had, in fact, been approved?

MR. HELM: I didn’t want to get into that right, right now, but I’m going to ask...answer your question, Danny. Yes, I did, am aware that we could get our building permit on conditions, and a lot of legal conditions. After reviewing the conditions, we had no input...nobody asked us about all the mumble-jumble, the legal stuff that is there. It was done just strictly from the County’s perspective. And as of today, we’re not satisfied with the language. So as of now we don’t know what we’re going to do, but we don’t have a permit. We’re not going to accept the, the way it is right now. Hopefully after we’ll, we’ll try to negotiate some things and may...maybe come out to some resolution. But as of...right now, the language that they wanted us to sign, unacceptable.

COUNCILMEMBER MATEO: Okay. Thank you.

CHAIR VICTORINO: Okay.

COUNCILMEMBER MATEO: Mr. Chairman --

CHAIR VICTORINO: Yes.

COUNCILMEMBER MATEO: --perhaps, perhaps later throughout the morning’s deliberation, if Mr. Helm may be available for comment and questions at a later point?

CHAIR VICTORINO: Are you going to be available, Mr. Helm? Are you planning to stay through the meeting?

MR. HELM: Yeah. We can hang, hang on for little while, yeah.

CHAIR VICTORINO: Okay. We may, we may need you for some, some comments. Yeah.

MR. HELM: Okay.

CHAIR VICTORINO: Mr. Medeiros, followed by Ms. Baisa.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Good morning and aloha, Mr. Helm. Thank you for being here all the way from Molokai.

MR. HELM: Aloha.
COUNCILMEMBER MEDEIROS: Aloha. When they did those two fire protection water flow tests that you mentioned in your testimony, you said the Fire Department came up with about 1,200 gpm and... (inaudible)...

MR. HELM: No, 1,630.

COUNCILMEMBER MEDEIROS: Oh, 1,600?

MR. HELM: The requirement was 12...1,250.

COUNCILMEMBER MEDEIROS: I see, 1,250 is the requirement.

MR. HELM: And that was the last test they did on July 7.

COUNCILMEMBER MEDEIROS: July 7. Okay. And then you said subsequent to the Fire Department’s test, the Water Department came and did the same test, which came up with 530 gpm?

MR. HELM: Give or take. We didn’t, we didn’t see the figures, but that was...

COUNCILMEMBER MEDEIROS: That’s what you were...

MR. HELM: They, they kind of indicated that it was much different, and we don’t know what they do when they, they take information back, but that’s what been going on back and forth, yeah.

COUNCILMEMBER MEDEIROS: So did you have an opportunity to inquire with the Water Department why there was such a big difference in their test and the Fire Department’s test?

MR. HELM: I think that went, went on...I don’t know the, the...you know, how far it went or what, but, you know, that’s kind of out of our hands, and hopefully, they could, they could come up with a resolution, but this been going on for long time.

COUNCILMEMBER MEDEIROS: Okay. And certainly we’ll have an opportunity to ask the Director of Water Supply about, about that and, you know, I will pose that question. But, you know, most of us have been following, you know, your process and how much challenges you’ve been...you know, and roadblocks. And, you know, as a veteran myself, I, I have a hard time accepting that what you guys trying to do is making it so difficult on you folks to accomplish that. So hopefully today’s meeting will open up some lines of communication where we can get some answers for you. But thank you, thank you again for you and the rest of the people that came from Molokai to be...for being here. Mahalo.

MR. HELM: Thank you.
COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you very much, Mr. Helm, for being here today. I know it’s not easy to come over from Molokai, ‘cause when we go it’s tough, too. So it works both ways. I’ve been following this with a lot of interest. Of course, I have a veteran on Molokai that I’ve known for a very long time, Mr. Garcia, and he’s been very generous about copying me on stuff. I remember reading, fairly recently, that you would be allowed to have a building permit, but that you would not be allowed to occupy. Is that correct?

MR. HELM: Yes. That was the language, but there’s a lot more --

COUNCILMEMBER BAISA: Conditions.

MR. HELM: --conditions put on it which...I, I, you know, I’m not going to name, but there’s a whole, whole, whole lot of other things legally that would hamper us, tie our hands, certain situations.

COUNCILMEMBER BAISA: I see. Well, you know, my concern was...is yes, it’d be nice if you could build the building, but how much more frustrating if you build it and then you have to look at it?

MR. HELM: And, you know, that’s the thing, Mrs. Baisa. You, you...I don’t know if you guys know this area. There’s a 4-inch line and there’s businesses already established on this same line that fronts our property, including Molokai Petroleum, same waterline. All the buildings down the wharf, same waterline. All the houses on the beachside, same waterline. So my, my question always been if the water is adequate for all of these business for fire protection, then how come it’s not adequate for us, because our building is 3,000 square foot with a pavilion, 1,890 square foot as far as the, the house with three rooms, et cetera. So...

COUNCILMEMBER BAISA: Well, it appears in the last communication that we have today, that there’s going to be an attempt to take care of the waterline issue.

MR. HELM: Right.

COUNCILMEMBER BAISA: So if you can get the building permit and you can proceed with a building and the water thing gets taken care of, maybe we can wrap this up. But, you know, I want to thank you for your patience with the system. It’s not an easy thing to go through, and I understand when you say you don’t want anybody else to go through this. Thank you very much.

MR. HELM: Yeah. Mahalo.

CHAIR VICTORINO: Thank you. Mr. Molina?
COUNCILMEMBER MOLINA: Thank you, Chair. Good morning, Mr. Helm. Just in trying to trace...tracing back to your testimony, you mentioned you have 300 members in your organization. And the current site you’re at, you folks rent, rent that building?

MR. HELM: Yeah, we rent that place.

COUNCILMEMBER MOLINA: And square footage, how much square footage in that site?

MR. HELM: About 200 and maybe 50 or, or so.

COUNCILMEMBER MOLINA: Okay. Versus what you folks want to build, and how much more?

MR. HELM: Eighteen --

COUNCILMEMBER MOLINA: Eighteen hundred square feet.

MR. HELM: --1,890, 3,000 with the pavilion.

COUNCILMEMBER MOLINA: Oh, I can certainly understand the need for a new site, yeah. And the waterline that services the building you’re at, is that the same size waterline that’s being, I guess, asked for by the Water Department for your new site or they’re asking for something bigger than what you’re currently being serviced?

MR. HELM: No. We, we feel that the waterline there serves everybody else and it’s adequate for us. The Fire Department feels that it’s adequate, but the Water Department says it’s not adequate.

COUNCILMEMBER MOLINA: Okay, I see. And in, in terms of your, your meetings, you folks typically have the veterans come over...you guys are open or the building that you’re at, it’s open every day? ...(inaudible) ...

MR. HELM: We’re open three official days, Monday, Wednesday and a Friday, and sometimes Tuesday or Thursday, but pretty consistent it’s open and mainly for vets to come. If you get seven, eight guys in there, it’s a, it’s a crowd.

COUNCILMEMBER MOLINA: Crowd, yeah. I think on one of my trips to Molokai when we went to visit, it was ...(inaudible) ...

MR. HELM: Well, you, you’re, you’re a member, huh?

COUNCILMEMBER MOLINA: Yeah.

MR. HELM: ...(chuckle) ...
COUNCILMEMBER MOLINA: That’s, that’s right. So, I can certainly support your need for your, your Veteran Center. So hopefully we can reach some kind of resolution today.

MR. HELM: I, I really appreciate if you guys can resolve this, not only for...what we, we went through, but for the other, other people, you know, it’s cost, cost, time. Just to give you a little, little thing that have, have a lot to me, in this period I lost 44 of our veterans, World War II, Korean War. A lot of them were, were...wanted to see this because...and, and it mainly is not for, for us, it’s for this young....Iraqi and Afghanistan, there’s about 47 from Molokai that serve. You know, we ain’t go be around too much longer, but hey, if we get this place, like us Vietnam vets when we came back, you know, we had little bit pilikia with the politics back then. We want these, these people to feel whole, and, and while the rest of the vets have left in their life, at least have, have something that they know that’s theirs.

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

CHAIR VICTORINO: You’re welcome. Other questions? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Just a follow-up question. Mahalo, Mr. Chairman. Mr. Helm, you did say that there’s an existing 4-inch line. Does that go by the property that you folks have?

MR. HELM: Right, right about 30 feet in front of our property or maybe less and there’s a fire hydrant right there --

COUNCILMEMBER MEDEIROS: Okay.

MR. HELM: --and that’s the fire hydrant they did the test, Fire Hydrant 76.

COUNCILMEMBER MEDEIROS: I see. Is, is that a full-size fire hydrant or a standpipe?

MR. HELM: No, full-size fire hydrant.

COUNCILMEMBER MEDEIROS: Full-size? Okay. So there is a fire hydrant already existing.

MR. HELM: Yeah, there’s three. One right in front of our property and two others within a 300-feet radius.

COUNCILMEMBER MEDEIROS: Okay. And the, this same waterline, you say it serves other businesses and even industrial, such as down by the wharf and...

MR. HELM: Yeah, the same waterline.

COUNCILMEMBER MEDEIROS: Same waterline. Okay. Thank you for that information. Mahalo, Mr. Chairman.
CHAIR VICTORINO: Thank you. Thank you, Mr. Helm. I appreciate you being here, and we’ll work on this today and we’ll get you some positive results.

MR. HELM: Thank you.

CHAIR VICTORINO: Thank you. We have one more testifier who’s just signed up, Mr. James Fosbinder, and Mr. Fosbinder is representing the Molokai Veterans. He is their attorney. So, I will call him up at this point.

MR. FOSBINDER: I can, I can clarify what the legal issues are here, I think. What the County has asked them to do is to sign-off that they will never sue for anything that happens with regard to occupancy. And so what that means is in order to get this right to begin construction right away, they have to agree that even if they’re never allowed to occupy the property, they would not be allowed to sue the County unless they agreed to completely indemnify the County for all of the expenses of the litigation. So obviously that’s unacceptable. I mean the County is offering them nothing that’s meaningful. I mean this building will take just a few months to build. So being able to start right away when they’ve been waiting for years is a trivial incentive. But not being able to get any relief if it’s held up for the next decade is a major, major concession that they’d be ask to, to make. And so I can’t help but tell them that that’s just utterly unreasonable and that they shouldn’t sign-off on that. So that’s, that’s where we’re at. Just as a further indication of why they’re upset, this is the second time that the County has declared that this war is over, that the problem is solved. On the 4th of July, many members of this group came over here to demonstrate, and a...information from the Mayor’s Office, as we understand it, went out to the TV stations that this had been settled, it was all over, there was no problem, but that was not true. And now just a few days ago, we see in the newspaper another revelation from the Mayor’s Office that this is settled, it’s all over, it’s gone, the problem has ended, but that’s not true because what they’ve offered here is nothing. We always understood that if the County Council decided to put this decision in the hands of the Fire Department, the problem would be solved. And so they’ve offered that, but they’re not really giving us anything there because we already had that. And so they’re also offering that if the fire line, if a bigger 8-inch line gets built, that then they get the right to live--or not to live there--to, to be in the building. But of course if they got an 8-inch line, that’s what they said to begin with which they said they had. So that they’re offering nothing there either. So there’s really nothing in this offer, except for the fact that they could begin construction of a building that they might never be able to use immediately.

CHAIR VICTORINO: Thank you, Mr. Fosbinder. Questions pertaining to the item agenda that we are discussing today? Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Mr. Fosbinder, thank you for being here and good morning.

MR. FOSBINDER: Good morning.

MR. KUSHI: Mr. Chair.
CHAIR VICTORINO: Yes, hang on.

MR. KUSHI: Excuse me, Member Medeiros.

CHAIR VICTORINO: I'm going to call upon legal counsel at this point. Mr. Kushi?

MR. KUSHI: Yes. As your attorney representing this Committee --

CHAIR VICTORINO: Yes.

MR. KUSHI: --and the Council, I caution you on your questions to Mr. Fosbinder. Okay.

CHAIR VICTORINO: And with that in mind...

MR. KUSHI: There is, there is a threat of, of litigation.

CHAIR VICTORINO: Okay. Thank you. I think that is clear enough in my mind. I am going to only ask questions related to the agenda item, okay, only questions to the...and if I find it to be outside of that, I will stop you at that point. Go ahead, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And mahalo, Corp. Counsel, for that advice. Mr. Fosbinder, when the conditions that were placed on the application were made, was there any conversation or meeting between the Administration and the veterans group to review that, or was it you just received it?

MR. FOSBINDER: As, as I understand it, they just received it. Larry's nodding that that's correct.

COUNCILMEMBER MEDEIROS: Okay. And, and do you know if a response has been given by the veterans group to send--

MR. FOSBINDER: No.

COUNCILMEMBER MEDEIROS: --back to the Administration?

MR. FOSBINDER: No, we have, we haven't done that yet.

COUNCILMEMBER MEDEIROS: Okay.

MR. FOSBINDER: But just to make it a little bit clearer, the way this is written, even if someone who wasn't a member of the organization were to sue the County with regard--

CHAIR VICTORINO: Mr. Fosbinder, I'm going to stop you right there.
MR. FOSBINDER: Okay. That’s fine.

CHAIR VICTORINO: Okay. No, he asked the question, you answered the question, and that’s all I’m going to allow at that point. Other questions pertaining to the agenda item, ladies and gentlemen?

COUNCILMEMBER MEDEIROS: Okay. Mr. Fosbinder, thank you for being here. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you. Thank you, Mr. Medeiros. Thank you, Mr. Fosbinder. I have no other testimony. Anybody out there who would wish to testify at this time in the audience, I will allow you to come up and testify and then sign up after this. I, I...no, if you want to, sir, if you want to testify. So if you would, sir, and give your name and your...and what your...and who you’re representing, and then after you’re done if you’d go and sign up, I would appreciate that. Go ahead, Mr...

MR. HAFERMANN: My name is David Hafermann. I’m a member of the Molokai Veterans Caring For Veterans. I’ve been a member since 2002 when my wife and I moved our home to Molokai. The current facility the veterans have...250 square feet is used by one of the benefits counselors that comes over. Other benefits counselors don’t use that facility, they, they use another one. They would be able to use the...our building if we had it. The building is more than a clubhouse or a meeting hall. It’s, it’s going to be a location that veterans can look to and say this is our place, this is where we’ll feel comfortable going. It will be private, it will have...I, I feel that ultimately we’ll have dedicated space in there for the Afghan and the Iraqi veterans who’ve come back. I’m a physician. I, I do the...two half-days of, of general medicine clinic for the veterans who enrolled in the VA medical system, and I can see there’s...the definite need for benefits counseling, not just from a medical point of view, but from the general benefits point of view. They come back and they, they are...they just don’t know what...despite all the briefings they’ve had, they don’t know what’s available. I think the building will be of great benefit to them in the future as well as providing something the Vietnam veterans we have didn’t have when they came back.

CHAIR VICTORINO: Thank you. And I assume that--I’m going to ask you--you went to Molokai to retire?

MR. HAFERMANN: Yes, sir.

CHAIR VICTORINO: And so you’re still offering your services as a physician even though you’ve retired, sir?

MR. HAFERMANN: Yes, sir.

CHAIR VICTORINO: Well, thank you very much. We appreciate and I think the Molokai veterans appreciate that.
MR. HAFERMANN: Well, it’s a privilege.

CHAIR VICTORINO: Questions, questions for the testifier relating to agenda item? Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Mr. Chairman. Good morning, sir, just related to your testimony. From a medical standpoint, the sooner the building...the new building gets expedited, this will help to alleviate additional stress and trauma that a lot of our veterans, especially over on Molokai, have had to go through. With the current site that you’re at and I guess it’s difficult for you to accommodate as much folks as you would prefer. So the sooner we get this done, the better basically is my answer or question to you?

MR. HAFERMANN: I, I would say so. It’s been a stressful process. We have a lot of combat veterans from all the wars. World War II, there are a few of them left, and Korea, Vietnam, and currently.

COUNCILMEMBER MOLINA: And has, has this delay in the new building caused additional stress for the veterans as well?

MR. HAFERMANN: Yes, it has.

COUNCILMEMBER MOLINA: Okay. Thank you.

MR. HAFERMANN: Yes, it has.

COUNCILMEMBER MOLINA: Thank you, Chair.

CHAIR VICTORINO: Thank you. Further questions for the testifier? Seeing none, thank you very, very much --

MR. HAFERMANN: Thank you.

CHAIR VICTORINO: --and thank you for all your services.

MR. HAFERMANN: Most certainly.

CHAIR VICTORINO: Thank you. Now that was our last testifier. Seeing no one else approaching the podium, I will close public testimony without any objections.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you very much.

...END OF PUBLIC TESTIMONY...
ITEM NO. 17: BUILDING PERMIT APPLICATION (WATERLINE ISSUES) FOR THE MOLOKAI VETERANS CARING FOR VETERANS (C.C. No. 10-138)

CHAIR VICTORINO: Okay, let’s move into our WR-17, BUILDING PERMIT APPLICATION (WATERLINE ISSUES) FOR THE MOLOKAI VETERANS CARING FOR VETERANS. County Communication No. 10-138, from Council Chair Danny Mateo, transmitting correspondence dated May 20, 2010, from Arthur H. Parr, AIA, Parr & Associates, noting the Department of Water Supply’s denial of a variance request, based on the size of the waterlines, for a new facility proposed by the Molokai Veterans Caring For Veterans, Building Permit Application No. 2009/1279, located at TMK: (2) 5-3-01:070, Kaunakakai, Molokai, and requesting assistance.

Also, I want to make note, as Ms. Baisa had made a note of it earlier, we received yesterday a correspondence from the Department of Public Works, Milton Arakawa, and the correspondence is informing us that there will be an improvement to the water drain system and installing a new waterline proposed right in front of the veterans...Molokai Veterans Caring For Veterans building which would meet the needs of this whole issue. Now the project is on hold while we...while unforeseen soil conditions are investigated and mitigated plans are developed. Goodfellow Brothers, who is the contractor, has estimated that the waterline could be installed as soon as October of this year. Please note that the start date is an estimate and is contingent upon the expected approvals or modified...of the modified waterline plans provided that the materials can be ordered and delivered to Molokai on a timely manner. Okay. So we just received that. That was something that I did not have information till, till yesterday. So, I included it in all of your binders. Okay. The letter that I referred to from Mr. Parr is also in your binders, and we also have another communication...a press release that was dated Sunday, August 1, 2010, “Molokai veterans gets permit for center after years of red tape”. And unfortunately as we heard, that might not be as accurate as the report has indicated, yeah.

At this time, I would allow the Department, starting with the Water Department, and then I will then turn over to Mr. Mike Miyamoto who is the Deputy...Public Works Director who is available for questions. Mr. Eng?

MR. ENG: Thank you, Mr. Chairman, and good morning, Committee Members. As you probably know and understand, this has been a difficult issue for all of us to deal with. We’ve been dealing with this ourselves for...oh, I know for myself probably since early April of this year when I first spoke with Mr. Helm, and we talked about the, the issues that they are facing; and it’s been an ongoing process, you know, it’s required multiple departments working together as well as the Administration. I think what the Department of Public Works will be proposing and discussing later is the most feasible solution to this issue. I don’t want to go into all the details at this time. Of course, I will respond to any of your questions that you might have. But at this time, I’d like to proceed with maybe Department of Public Works talking more specifically about the proposed upcoming project. Thank you, Mr. Chairman.
CHAIR VICTORINO: That will be fine. Mr. Miyamoto, please.

MR. MIYAMOTO: Thank you, Mr. Chair. In prior years, we had a project for the, the Molokai drainage system that fronts this prop...this property. The project was put on hold because of...due to some soil contamination that was discovered as part of the project. As part of that drainage project, the so-called waterline that fronts the, the subject property would’ve had to have been replaced, it would’ve been relocated across the street away from the project area, and that’s in our design plans. Originally it was designed for a 4-inch waterline replacing the existing in-kind. Staff has started since Friday redesigning that system and we, we should be submitting the modified plans to the Water Department within the next few days. We are looking at a...upsizing it to the, the required 8-inch line. We also are looking at modifying the lateral for the existing property, the existing lateral for the, the veterans’ property. We’re going to try an upsize that so that it can accommodate a larger meter size. We understand that they are looking to build a larger structure on that property and may...it may be necessary for a larger water meter, so we’re putting in an inch-and-a-half inch lateral for the, the property. And in speaking with the contractor, he’s, he’s there on the island right now. He’s working on another State project. He estimates that that State project should be finished sometime late September, and so he would be able to jump on to this portion of the, the drainage project immediately in October, and he estimates...he estimated actually 15 weeks from notice to proceed, which included time to order materials. He needs time to get an 8-inch waterline out there and all the other connections, the valves, the air release valve, and all the various T’s and reducers that he needs for the project. So we’re looking that possibly in October we could probably have this project...that, that waterline portion of the project installed. We’re still challenged to do the rest of the drainage project. Because of the unforeseen soil, subsurface soil conditions, we are working to try and get mitigation plans designed, we’re going to try and get a cost estimate, how much more this project is going to need to complete the drainage portion of the project. But we are looking at funding this part of the project for the waterline replacement at this point. Thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. At this time, I’ll open the floor up for questions for both departments, Mr. Eng and Mr. Miyamoto. Also, Mr. Kushi, I would ask you if there is, in your mind, any question that may, you know, fall in the area of litigation since you have brought that subject matter up, would you please inform us at that point so that we can either rephrase the question or look at a different direction at that point? Okay.

MR. KUSHI: Yes, Mr. Chair.

CHAIR VICTORINO: So thank you very much. I will open up the questioning from the floor. Mr. Mateo?

COUNCILMEMBER MATEO: Mr. Chairman, thank you very much. Mr. Miyamoto, thank you for the information. The existing Molokai drainage project that has been delayed for more than three year...almost three years now, that component is virtually paid for in terms of an allocation years ago. Where is the funds coming from for this new change?
MR. MIYAMOTO: Thank you, Mr. Chair. It’s...as, as I mentioned, that we are doing the investigation and we will be requesting additional funding from the Council. Right now we don’t have an estimate because we don’t know the extent of the soil contamination. So that’s what the consultant is doing for us, trying to define how big of an area that we are looking at for soil contamination, the increase in remediation. The soil can’t be put back in the ground which is typically what we would like to do. The soil has to be removed and a mitigation plan has to be developed as to how do we handle that contaminated soil. So we’re looking somewhere down the road to, to come in for a budget amendment.

COUNCILMEMBER MATEO: And the existing businesses there, the change in the lateral size to 1 inch, is that also gonna, gonna occur for the existing businesses that currently reside on the same area?

MR. MIYAMOTO: For the existing businesses, they don’t have...they’re not in for a building permit at this point, and they haven’t shown any additional increased activity. So the requirement for changing their lateral size at this point isn’t there. Our plans were to replace with the same type of size lateral as they currently have. That’s some...certainly something we can talk with the Water Department whether or not we should be upsizing just in case someone wants to redevelop their property. We can look at that.

COUNCILMEMBER MATEO: Okay. So, Mr. Eng, then with, with the adoption of the new legislation being proposed, is there a need for an increase in size?

MR. ENG: Again, as Mr. Miyamoto pointed out, you know, we’re not aware of any, you know, future building permit applicants coming before the Water Department. But the 8 inch will be satisfactory particularly for the...to meet the fire protection requirements of this center, and if other customers in that area believe...usually if they have an improvement of some type and need additional fire flow capacity, this new line would be able to provide that.

COUNCILMEMBER MATEO: Okay. So bottom line is we need to change the waterline, and that waterline in terms of the 4 inch to the 8 inch will occur from the area by the Veterans Center site onwards to the Petroleum site?

MR. ENG: You know, we do have an...a...an 8-inch line going partially down Kaunakakai Place, and so that goes...so it’ll be basically an extension of that. I don’t know what the terminus of that new 8-inch line would be. I haven’t seen the plans myself.

COUNCILMEMBER MATEO: And that 8-inch line that you reference is in what proximity to the veterans’ site?

MR. ENG: I think it terminates maybe 2 to 300 feet from the site.

MR. MIYAMOTO: It’s several hundred feet mauka of the property.
COUNCILMEMBER MATEO: And in terms of cost, cost needs, it would be not more cost effective to connect at that point instead of having to install a whole new waterline system?

MR. MIYAMOTO: Actually the, the existing 8 inch actually...reduces down to the tie-in to the existing 4 inch that currently fronts the property. When we had done the prior phase, we had upsized it to an 8 inch, and the plan here is to continue that 8 inch further on down to the, the last street by the shoreline, and we’ll neck it down from there to tie into the existing lateral that currently goes to the harbor, which I think is a 4-inch line.

COUNCILMEMBER MATEO: Okay. Okay. Well, I think, I think my, my biggest concern is for the, the center. If this existing 4-inch waterline was not sufficient for them to build, what makes it sufficient for existing businesses that has ongoing operations? How, how could they have gotten approvals or how could they even continue business when in fact the Department has recognized the deficiency in the existing 4-inch line?

MR. ENG: Mr. Chairman, I’ll try to --

CHAIR VICTORINO: Go ahead, Mr. Eng, please.

MR. ENG: --try to address this. In looking at the existing services going down Kaunakakai Place, you know, a lot of ‘em, you know, have been in existence since...for a very long time. For instance, the center petroleum company has been...had service since 1982. I do not understand or have knowledge of what the standards were at that time. But the Molokai Canoe Club has had service since 1978. A lot of ‘em are older services or services that have been transferred. So again the conditions and standards at that time, I have no knowledge of.

COUNCILMEMBER MATEO: So but the existing businesses from the turnoff going onto Wharf Road, yeah, those businesses are fairly new. Are they all sucking off of the same line?

MR. ENG: Yes. Actually as we discussed earlier, there is an 8 inch going down the upper part of Kaunakakai Place. So--

COUNCILMEMBER MATEO: To, to which point?

MR. ENG: --yeah, so there’s an 8 inch and, and companies such as Molokai Burger, Molokai Pizza, they are served off an 8 inch, and I think those are newer businesses, so they had appropriate fire flow connection.

COUNCILMEMBER MATEO: Okay. Okay. Thank you. I mean, Mr. Chairman, I’ll yield to the other Members for now.

CHAIR VICTORINO: Thank you. Vice-Chair Pontanilla, go ahead.
VICE-CHAIR PONTANILLA: Thank you. This question for Public Works in regards to the soil condition. You said that you're going to start this project probably in September, but, you know, knowing contamination it does take a long time for mitigation, yeah. So how sure are you that, you know, construction will start September, complete in October?

MR. MIYAMOTO: Thank you. We've asked the contractor to assume that the entire trench will be contaminated, and what that requires is the contaminated soil can be taken offsite and be put into an area where you can mitigate it. The replacement soil all has to be new material. So basically we're planning on all new material going in to replace in the trench and the contaminated soil to be removed and controlled in a controlled environment until we come up with the mitigation plan for it. It...we did one in Lahaina for a sewage...the, the gravity sewer line where we had...went through the old mill yard and we ran into a lot of diesel fuel, and the mitigation plan we had for that one was we built a, a sealed area where the, the soil was allowed to dry and evaporate the, the chemicals from the soil. So we're pretty much going to follow that until we get a formal plan, but I think we're going to try and keep all that soil in a controlled environment so that none of it leaches out into the ground. So we're probably going to have to build a plastic pit basically to hold the soil.

VICE-CHAIR PONTANILLA: So the trench that is dug is only the size of...enough to fit that pipe and men to work in it, or do you expand out to find how far the contamination has gone?

MR. MIYAMOTO: Typically it's just big enough to install the pipe and the necessary size, the standard size that...for the pipeline.

VICE-CHAIR PONTANILLA: Okay. Okay. Yeah. When I was in another life at the phone company baseyard, we did have contamination of fuel into the ground, and it, it took years to clean it out. That's the reason why for the questioning about how long it's going to take. Maybe for the Water Department in regards to water pressure, how do you determine the pressure, you know, for a particular line, like say 4-inch line? Do you need "x" amount of residents or business before you come back and say, okay, it needs to be increased to an 8-inch line or six?

MR. ENG: Mr. Chairman?

CHAIR VICTORINO: Go ahead, Mr. Eng.

MR. ENG: Member Pontanilla, you know, pressure has never been an issue with this project. It's been the capacity of, of the waterline and the, the flow or the gallons per minute. In this case, unfortunately, there was erroneous information in some communication that there was an 8 inch. But our engineers as well as the Veteran Center's consultants knew early on that there was not an 8 inch, there was indeed a 4-inch waterline. And, therefore, the 4-inch waterline has a certain capacity based on certain velocity limits within...that we want to abide by. A 4-inch line has just a certain amount of flow capacity, and we have historical information and we have some recent flow test to indicate that. It, it didn't have sufficient capacity to meet the fire flow requirements for this project.
VICE-CHAIR PONTANILLA: So if everybody open up their faucet, then we wouldn’t have enough pressure to firefight?

MR. ENG: Or enough flow given the 4-inch diameter of that pipeline.

VICE-CHAIR PONTANILLA: Okay. Thank you. And, and for the Fire Department, in regards to this particular project, you determined that the fire flow for this area is okay. Do you communicate between the Fire...between the Water Department and yourselves in regards to fire flow and what is required?

CHAIR VICTORINO: Go ahead, Mr. Eng...Mr. English I should say, excuse me.

MR. ENGLISH: Thank you, Chair. Based on the, the original permit that showed the 8-inch line in front, the permit was approved back in December based on that. Around March or April, then when the Water Department updated the information that said the, the 8-inch doesn’t come that far down, it stops about 200 feet away, we went...I was pretty confident that we had enough water to meet the fire flow. Then in May we did our first fire flow test off of Hydrant 76, and we flowed a sufficient amount of water out of the 2½ inch, and then the residual off of the 8 inch we had more than ample water. So we felt comfortable signing off. If the first hydrant gave us the first 1,000 gallons a minute, we had the rest of the water coming from the hydrant that is about 400 feet away. We signed off...and so I kept my signature on the, on the application approval. Then back in July with all the conflicts going around, we decided let’s go float a 4½ inch off the hydrant which is what we will use for a fire, the biggest hose. Their engineer on site said we’ll probably triple our fire flow. And when we did flow it, we got that 630 gallons a minute, and that is not the right way to test the system. ‘Cause normally if we, we flow the 2½, you get a more accurate reading, and then we take the residual pressure in the area and we’ll calculate what flow is left in the pipe. But we just did an actual flow to see what was there and we got that 1,630 gallons a minute. And we were going to flow other hydrants to, to see what was available elsewhere, but after we flowed that first hydrant, we had to get like Public Works to come clean the road up, a lot of water came out. So we kind of just stopped right there. So after we did those tests, we felt very confident that the system had enough water. One of the conflicts that will come about that...my Code just says minimum fire flow for fire protection. It does not address velocity... (inaudible)... Water Department has, how much water is allowed through the pipe. Being that area has a lot of pressure, we got that water through those pipes. The, the result of that if you do flow it in the area, people around there is going to open their faucet and get brown water. We’re moving too much water through that pipe, we’re stirring it up, and that’s what the velocity table on the Water Department has. But like in a real fire, like I said, we open up all the hydrants and most people after that will get brown water awhile until everything settles down again. So by exceeding the velocity we got the water, but we were exceeding their recommendation. So that’s the conflict that we have right here.
VICE-CHAIR PONTANILLA: Okay. Thank you. Maybe for Mr. Eng, just one last question. In regards to the erroneous, I guess, record, is that our record or...that we show the 4 inch rather than an 8 inch--

MR. ENG: That was some correspondence…

VICE-CHAIR PONTANILLA: --or an 8 inch and then we found out it’s a 4 inch?

MR. ENG: Yeah. That was some correspondence early on, even a year ago, I think, from my Planning Division, but it was corrected.

VICE-CHAIR PONTANILLA: From our…it’s our record, though?

MR. ENG: Yes.

VICE-CHAIR PONTANILLA: Okay, fine. Thank you.

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

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I…just two procedural questions first, Mr. Chair.

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER MEDEIROS: Can we find out how long the Molokai people will be here, what their return flights are so that we can gauge if want to use them as a resource, we’ll get them up before they have to go to the airport?

CHAIR VICTORINO: Mr. Helm, what is your return time this afternoon? What time you guys planning to return to Molokai?

MR. HELM (from the audience): Our boat leaves at 5:00.

CHAIR VICTORINO: Good enough. Okay, five something. Okay.

COUNCILMEMBER MEDEIROS: Okay.

CHAIR VICTORINO: You good, we good --


CHAIR VICTORINO: --they’re good. Okay. Thank you now. Okay, you’re good. Thank you, Mr. Helm. Okay, go ahead, Mr. Medeiros.
COUNCILMEMBER MEDEIROS: And then the second question is for Corp. Counsel. Being that his advice was given to us when we’re... I was questioning Mr. Fosbinder, have the County been served and that’s why your advice or are we trying to see the future and possibly a suit coming down the line?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Mr. Chair, Member Medeiros, to my knowledge no, there’s... there has been no complaint filed to date to my knowledge, we have not been served. However, in the correspondence to and from the County... and I believe it was from Mr. Helm, Mr. Fosbinder’s name has been mentioned; we, we understand he’s been retained, whatever method that retainage is; and we expect litigation.

COUNCILMEMBER MEDEIROS: Okay.

MR. KUSHI: So that being the case, I, I cautioned you as your attorney --

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. KUSHI: --to watch what you say.

COUNCILMEMBER MEDEIROS: Okay. Yeah. My, my question, Mr. Chairman, is that, you know, if we’re trying to predict the future and that, you know, gives us certain legal restrictions, I have a hard time believing we cannot ask questions if we haven’t been actually served. Because, you know, it’s like okay maybe five years down the road they may sue us, so you cannot ask questions. So that’s my concern and that’s my question, if that can be answered at this point.

MR. KUSHI: Mr. Chair, I’ll, I’ll respond like this.

CHAIR VICTORINO: Go ahead, Mr. Kushi.

MR. KUSHI: In the real world if, if something happens and, and I’m an attorney and I say I’m going to sue you or I’m going to call my attorney and I going sue you, you continue talking to that person?

COUNCILMEMBER MEDEIROS: Well, you mean as far as me if I was...

MR. KUSHI: Right. And, and that’s what I’m... the situation I’m, I’m trying to explain to you.

COUNCILMEMBER MEDEIROS: Okay. So that, that has been mentioned by Molokai group that they... they’re going to sue the County?

MR. KUSHI: It’s in the correspondence-- I can point it out to you-- Fosbinder’s name was mentioned, and you and I know he’s been suing the County for years.
COUNCILMEMBER MEDEIROS: Okay. Thank you for that advice, Mr. Corp. Counsel.

CHAIR VICTORINO: And, Mr. Medeiros, I will interject at this point. With that and we’ve always been told, and I’ll make that reminder to all, if our attorneys recommend certain actions or certain non-action due to probability or possibilities of litigation, it is always our responsibility to follow their advice. And I will remind all of us that is our responsibility, and that’s all I’m saying. I just...I will keep the questions as best I know, and if I have to have Corp. Counsel interject, I will. I want the freedom of speech, I want you to ask your questions, but then we have limitations and I want that known right here and now. Okay. So, I’m not trying to stop anything. I’m not prohibiting anybody from asking questions; however, I would like to stay on the agenda items, first and foremost, so that we can act on the agenda items and get this resolved today so we can move it on. Mr. Medeiros, go ahead.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Mr. Eng, continuing on Council Chair Mateo’s question, because I, I have the same concerns, is that if the 4-inch line is inadequate to provide the required fire flow, then why is it adequate, like Mr...Chairman Mateo mentioned, for the other places that connect to a 4 inch? I know you said that it, it occurred a long time ago. So my question would be has the Code from a long time ago changed to today, that’s why it requires the larger line being installed?

MR. ENG: Mr. Chairman?

CHAIR VICTORINO: Mr. Eng, go ahead.

MR. ENG: Member Medeiros, as I commented to Chair Mateo, that, you know, I have no knowledge what the standards were at the time that they first got service. Whether or not they have sufficient fire flow now could be questionable. However, generally we do not require any, any upgrades or improvements until an existing customer comes in perhaps with a building permit or additional fixtures or something that triggers a review by the Water Department.

COUNCILMEMBER MEDEIROS: Okay.

MR. ENG: Member Medeiros, as I commented to Chair Mateo, that, you know, I have no knowledge what the standards were at the time that they first got service. Whether or not they have sufficient fire flow now could be questionable. However, generally we do not require any, any upgrades or improvements until an existing customer comes in perhaps with a building permit or additional fixtures or something that triggers a review by the Water Department.

COUNCILMEMBER MEDEIROS: Okay.

MR. ENG: And if we went throughout the County and looked at if there was appropriate fire flow for all of our customers, it could require the customers to put in some significant improvements. So we just address it as they come in for building permits. Thank you.

COUNCILMEMBER MEDEIROS: Okay. So this actually, according to what you, you...your statement, no retrofit being required of the other businesses on the 4-inch line --

MR. ENG: That’s correct.

COUNCILMEMBER MEDEIROS: --because you’re just taking up this application right now?
MR. ENG: That’s correct.

COUNCILMEMBER MEDEIROS: Okay. And, and even though you mentioned that you weren’t sure about the Code, does the Code that your Department follow require the 8 inch or is a combination of being able to provide that kind of volume and flow to meet the Fire Department’s water flow standards?

MR. ENG: Yeah. I know that’s kind of a two-part question, but our...basically when we design our water system, the, the primary responsibility is, is...it’s primarily fire protection. That is why water mains are sized as they are...you know, it’s not so much for a domestic water meter, it is for fire protection. So that is foremost when we design new fire system, water systems or require upgrades. And as far as our...how we determine fire protection requirements, we, we go by Insurance Services Office Guidelines. In this case, actually the Veteran Center’s consultant utilized our methodology and determined a requirement of 1,250 gallons per minute. And, and, and contrary to the Fire Department, we recently tested that Hydrant No. 76 that fronts their property and the flow was only 530 gallons per minute. So it’s... (inaudible)...

COUNCILMEMBER MEDEIROS: Okay, and, and thank you, yeah, for that. And, you know, the Fire Department did provide their explanation of why they came up with 600...1,630 gpms when they did their test. So your test that found it to be 530 gpms, your test is very different from theirs?

MR. ENG: Well, our test...as, as Mr. English pointed out, you know, they don’t take into consideration some of the things that we do. You know we, we abide by the standards and procedures of the American Water Works Association. We also look at the impacts to customers on the service line, like Mr. English pointed out, is that other customers on the line might get brown water, and we’re concerned about that. We want to have a minimum amount of pressure for even the downstream customers so in the event there is a fire and they’re opening up the hydrant, the other customers downstream can still have some level of water service.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. ENG: Furthermore, at very high flows, you may even create a negative pressure situation in your water system, negative pressure meaning you’re creating a vacuum. You could be drawing water in from our customers’ toilets into the water system.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. ENG: So we do like to maintain a minimum residual pressure downstream of the fire to ensure appropriate water quality.

COUNCILMEMBER MEDEIROS: Okay. And, you know, as far as the brown water effect, that’s true if you open the hydrants that in the areas that don’t usually have the hydrants used, that will occur even when you have construction tankers filling up from hydrants. Once you let that
hydrant open up, it, it has that turbidity to, you know, move stuff around in the pipe that becomes brown. So, I don’t think that would be only for firefighting. I think anytime you disturb or open some of the bigger hydrants, you’re going to have that effect. I don’t think it’s something you can get away from. But finally, I…yeah, I just wanted to know, in all the discussions that we’ve had so far--and thank you for the answers--many of it of what’s being discussed you would think wouldn’t be upon…incumbent upon Molokai Veterans group to be responsible for. That seems to be a County line and, you know, and they’re just trying to get their permit, and I’m just wondering, you know, why, why it’s so difficult to do that with, with the hydrants? Now, Fire Department, does your Code as far as fire flow supersede what the Water Department does?

CHAIR VICTORINO: Mr. English?

MR. ENGLISH: Thank you, Chair. Our Code presently just requires that buildings that are built or brought into the jurisdiction meet the required fire flow for fire protection.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. ENGLISH: And like I said, that building was calculated at 1,200 gallons a minute and we meet, we meet that requirement.

COUNCILMEMBER MEDEIROS: Okay, all right. Well, thank you, departments. Mahalo, Mr. Chair.

CHAIR VICTORINO: Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. And I should’ve brought this point up earlier, I guess. This is in relation to Mr. Medeiros’ inquiry with regards to the line of questioning. And I know you’re in a difficult position, Chair, and we’re all under somewhat difficult conditions in terms of asking questions. As I was looking at our agenda today…if there was a need to go into executive session, it would, would that need to be posted on? If I could get clarification from Corporation Counsel?

CHAIR VICTORINO: Well, I did not think about going into executive session --

COUNCILMEMBER MOLINA: Yeah.

CHAIR VICTORINO: --but I will ask…’cause that was not brought to my attention and --

COUNCILMEMBER MOLINA: Yeah. I think no, no one anticipated this. . .(inaudible). . .

CHAIR VICTORINO: --and I think…and I’ll ask Corp. Counsel, but as far as I know, I don’t think if we put it down, if we don’t put it down, can we do that?

COUNCILMEMBER MOLINA: Yeah.
CHAIR VICTORINO: So, I’ll ask Mr., Mr. Kushi. Could you answer that question? Can we go into executive session even though we have not posted it initially?

MR. KUSHI: Mr. Chair, I have my own thoughts, but I think it’s a better answer for your Council Staff. I think that --

CHAIR VICTORINO: Okay.

MR. KUSHI: --that your tradition customary is to have your Council Clerk’s Office, I mean Council Services respond to that.

CHAIR VICTORINO: Okay. Being that that’s the answer I got, I’m going to call for a ten-minute recess.

VICE-CHAIR PONTANILLA: Chairman?

CHAIR VICTORINO: Wait, I’m going to check…

MS. WILLENBRINK: I have an answer.

CHAIR VICTORINO: Okay, okay. I have an answer, hang on. Go ahead, Ms. Willenbrink.

MS. WILLENBRINK: It does not have to be posted on the agenda.

CHAIR VICTORINO: It does not have to? Okay, thank you.

COUNCILMEMBER MOLINA: Okay.

CHAIR VICTORINO: So we could do that if we need to.

COUNCILMEMBER MOLINA: Okay. Thank --

CHAIR VICTORINO: I guess that we, we can if we, we so do request. However, let me remind you that the next item is the item that I really want to get to because this will then finish this whole issue and move on. That’s the difficult part because we are talking about one issue, but the subsequent issue which is to give the Fire Department the autonomy and authority for fire flow purposes only and they would be the final say, as we can see now we have conflicting policies, then they would be the one to do it and then we would probably not have these conflicts in the future. But that was the second item, we’re now dealing with the Molokai application.

COUNCILMEMBER MOLINA: Sure. Yeah, okay.

CHAIR VICTORINO: Okay?
COUNCILMEMBER MOLINA: Thank you, Chair. I appreciate the information, just so everybody understands what parameters we’re working under --

CHAIR VICTORINO: Right.

COUNCILMEMBER MOLINA: --and I just needed that clarification from Staff. So, if…

CHAIR VICTORINO: And the problem…the other problem I have, Mr. Molina, we have not been sued, that is true. So it would be hard to go into executive session when we haven’t been truly --

COUNCILMEMBER MOLINA: Formally.

CHAIR VICTORINO: --formally have any litigation. He’s just warning us upfront that what we do and say and questions we ask could…and I guess that’s what Mr. Kushi, if I’m correct, you’re worried that some of this could be used in a later date.

MR. KUSHI: Mr. Chair, I’m concerned that based on the correspondence we’ve reviewed --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --and the statements in the press and the statements that Mr. Fosbinder made today--and just his presence alone--that there is pending litigation.

CHAIR VICTORINO: Yep.

MR. KUSHI: Like I said, we haven’t been sued, but I…my concern as your attorney is that we may be sued. That’s not to say, Mr. Molina, that you can try and ask some questions and if I think it’s appropriate not to answer, I will tell you.

COUNCILMEMBER MOLINA: Okay, thank you.

CHAIR VICTORINO: Okay. Is that clear enough?

COUNCILMEMBER MOLINA: Very clear. Thank you, Chair.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: Yes. Thank you, Chair. This is difficult because I’m not really sure what questions are allowable or not, but I’ll ask it anyway and if I’m ruled out of order or told not to answer, I mean I shouldn’t ask for an answer, I’ll shut up. Reading the agenda today, it says the Committee may receive a status report on building permit application and there’s a number. This morning during the testimony phase we did hear from the testifiers that there was a significant amount of conditions that were placed on the building permit, but we don’t know what those are and is it possible that we could have a copy of them?
CHAIR VICTORINO: I would think that would have to come from Planning, right?

COUNCILMEMBER BAISA: That’s correct. And I’m wondering why they’re not here when we’re talking about a building permit.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Mr. Chair, Member Baisa, I’ll try to answer as best as I can. Previous to this meeting, within the last week or so, the Administration requested our Office’s assistance and together with the Departments of Water Supply, Fire and Public Works, and the Mayor’s Office, we came up with the proposal to the Molokai Veterans group. It’s a hybrid, an agreement. It’s entitled AGREEMENT FOR APPROVAL OF BUILDING PERMIT AND NON-OCCUPANCY OF STRUCTURES. I have a copy here, but I think it’s inappropriate to distribute it because it hasn’t been signed and, and, and I would think it’s a work-in-progress. But to summarize the agreement…and, and I will admit and confirm with the veteran’s group that we have not talked to them. As one of the Mayor’s staff members have…I discussed it with them. But as far as this group, we have not negotiated, and, and I feel very uncomfortable in negotiating building permits to begin with. But again based on the situation and based on the Code…the Building Housing Code that gives the Department of Public Works some room to modify building permits, this agreement was structured. In essence if you all remember, there are agreements called non-occupancy agreements for plan review waiver building permits, which have caused us headaches. But in essence they give you the permit, you have an architect sign-off, but you cannot occupy until you have all these ducks in order. Well, this is a hybrid of that. And basically, the agreement proposes that we issue the permit now to the veterans and they can start building, but they cannot occupy until one of the two things, the earlier happens: (1) this 8-inch line goes in; or (2) the responsibilities for fire protection is transferred totally to the Fire Department. And that’s basically what the agreement says. To this date, it’s just a proposal. What the testifier said about indemnity and that the County’s giving nothing, I believe is wrong because we are issuing the building permit now, but they can’t occupy until one of two conditions happen. And the indemnity provisions that the testifier referenced are the same provisions that are in this plan review waiver agreement. So we haven’t changed those provisions. In a nutshell, Mr., Mr. Chair, that is what is before…that the total Administration has proposed to the veterans group, and it’s still a work-in-progress and it’s still a proposal at this point. The alternatives would be not to issue anything and just wait till the waterline goes in, or the functions are transferred from the Water Department to the Fire Department. Then they can build. How long that would take is my guess, is your guess.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: You know, if we were in a position where we could speak freely, I think this might be different, but I’m trying really hard not to, not to ask the wrong kind of questions. But when I came here this morning, my hope was that by the end of this morning’s meeting that we would have a clear understanding that there was a method or a plan or that we could all leave
here feeling that this crisis is over, the veterans will be able to build their building, and we can move ahead. And I know this is an attempt by fixing the water piece, but then after listening to the testimony and the allegations about conditions and many conditions and mumble-jumble and legal whatevers, I want to be sure that, you know, after we, we leave here today if we approve and, and do what we want to do with transferring this responsibility to the Fire Department, that this meeting...that this building can go ahead and that we’re not going to be back here again with another issue. And I didn’t get that feeling after the testimony was over. So that’s where I’m at.

CHAIR VICTORINO: Mr. Kushi, would you like to address that question?

MR. KUSHI: No. It’s not a legal question. I can’t...I don’t...

COUNCILMEMBER BAISA: ...(chuckle)... 

CHAIR VICTORINO: Okay.

MR. KUSHI: I don’t understand the question.

CHAIR VICTORINO: All right, all right. All right. Mr. Kaho‘ohalahala?

COUNCILMEMBER KAHO‘OHALAHLA: Thank you, Chair. You know what becomes real difficult for us here is that we’re dealing with information...a set of information that we don’t have as a Council and we’re expected to make some decisions based on not having adequate information based on what the Corporation Counsel just stated for us. What ultimately happens, though, in the end when we do get sued, this body will be called upon to help repair and support all of those litigation actions, and then we’re called in at the end. So it seems to me that we...we’re expected to not have information at the front end, but surely at the back end we’re going to be called upon to settle these kinds of litigations if they occur. So it does not seem that we’re working in, in an appropriate manner here. If we’re going to be asked to make decisions, then we should have the full set of information before this body so that we can in fact make some decisions. But having none, that leaves us in a very vulnerable position, but guarantee at the end we going have to deal with the litigation. So, so that to me is a, a wrong way of approaching this. If there’s information that was presented in testimony, it should be in our binders. We don’t have it. Now we have a...we have been told that there’s a set of conditions that are being negotiated, but we can’t talk about it. By the way, don’t talk because it’s possible litigation. What are we doing? So --

CHAIR VICTORINO: Thank you, Mr...I’m going to stop you here because I appreciate your comments --

COUNCILMEMBER KAHO‘OHALAHLA: Thank you, Chair.

CHAIR VICTORINO: --and I think we’re all working under the same conditions. And until we walked in this morning, I was under the impression that this was all but...we were going to have it
completed today. Okay. And then things changed very quickly and I was notified of these changes. Okay. And I, too, have nothing, have not seen the agreement, and I never see agreements upfront, you know, we’ve never had that opportunity. That’s some of the bad part about our whole system, you know. But I’m trying to say at this point in time, I’m trying to deal with what Corporation Counsel is telling us whether it’s you…I mean you agree with it or not. I gotta deal with that part, that number one. Number two, the second part of this would be one of the remedies that would finalize this whole issue. Okay. The second part is putting this fire flow issue under the Fire Department, which for everybody’s information, I have tried on seven different meetings since 2008 to get this done. Okay. This is not a new matter, ladies and gentlemen. This is a matter we’ve taken up other times, but always put off, always deferred for this issue, that issue, or something else. Okay. And I have all the meeting dates if you want to go all the meeting dates, but that’s another issue. I’m trying to stick to what we need to do today. The thing I’m trying to get done today, gentlemen and ladies, is to get, number one, first and foremost, is to rectify this building permit issue. If we cannot, then I will move on to No. 2 which is getting the Fire Department to have the right and autonomy, the control of fire flow and that’s something we’ve talked about on many other occasions, and that would help them finalize their building permit.

So that’s where I’m at right now. Okay. All the other issues, I’m sorry, I cannot help anybody with it. I cannot…if Corp. Counsel doesn’t allow us to give out the thing, Mr. Kahoʻolahalahala, I can’t do anything. I’m stuck just like you. Sorry. So, I would rather focus on what we can do than what we cannot do. If that’s what…that’s what I would like us to try to focus in on. I will be honest, with this building permit application issue, if this has gotta be negotiated, then I’ll ask to defer this at a point and move on to the second item, which I think we can do, is getting the Fire Department to be the one to okay fire flow…that will be the one department that does the final fire flow issue. So any more questions? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. If you’re going to defer this item, what I would like to have from Public Works is a timeframe of when this construction work is going to be…is going to start, when going complete, how much it’s going to cost the County; and if it’s within the timeframe that Mr. Miyamoto is saying, complete by October, I don’t know how long the veterans can wait until that project is done. Well, if it’s done in October, is the Molokai veterans willing to wait until October when this construction work is pau so that we can issue the building permit without going through the second phase? Then we would have enough fire flow for this particular project. On, on Item No. 2, my only concern with the Fire Department, are they willing to take the responsibility of, you know, fire flow going forward for all projects?

CHAIR VICTORINO: And when we get there, that would be the appropriate question. And I, I think you’ll be pleasantly surprised with the answer. Anyhow, so…but not to get the two confused, let us continue to focus on WR-17 so that…at, at this point I’m getting the feeling that we’re not going to be able to do anything on that particular item because we don’t have all the information.

VICE-CHAIR PONTANILLA: Chairman?
COUNCILMEMBER NISHIKI: Chair?

CHAIR VICTORINO: Yes.

VICE-CHAIR PONTANILLA: Wait, wait.

CHAIR VICTORINO: Yes, go ahead.

VICE-CHAIR PONTANILLA: I was wondering if Mr. Helm can come to the lectern so I could ask him the question about if this project is completed, that 8-inch installation project is completed, you know, are, are they willing to wait?

CHAIR VICTORINO: Mr. Medeiros had his hand up first. So let me ask Mr. Medeiros his question. Go ahead.

COUNCILMEMBER MEDEIROS: I just have one, one follow-up question, Mr. Chairman.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER MEDEIROS: Thank you. And, and either Corp. Counsel or Water Department or even Fire Department may respond to this. So the, the idea is that possibly they can get their building permit, but not their occupancy unless they agree to the conditions. My question is if they’re, they’re able to get a building permit and servicing that property is a 4-inch line with the hydrant, what difference is that if that building burns down when they’re constructing it to being in it as a permanent structure? How, how can you allow something that you’re saying is inadequate to occur under just having the building permit but not occupying it as...then compared to requiring the larger line? Who, who stands the liability on that?

CHAIR VICTORINO: Mr. Kushi, would you like to try to answer that question?

MR. KUSHI: If I understand the questions.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: First of all, yes, the proposal is that they get their building permit now --

COUNCILMEMBER MEDEIROS: Right.

MR. KUSHI: --but they cannot occupy.

COUNCILMEMBER MEDEIROS: Right.
MR. KUSHI: As far as what happens if they start building and then let’s say they finish before one of these two things happen and the place burns down, hopefully they have fire insurance, but at least the Non-Occupancy Agreement, nobody gets hurt.

COUNCILMEMBER MEDEIROS: Uh-huh. Well --

MR. KUSHI: That’s the big one.

COUNCILMEMBER MEDEIROS: --I understand that part, but it seems like we have two standards. We’re not going to allow them to occupy with the 4-inch line and hydrant, but we allow them to build. So why is there a different standard, you know, allowed to build with the existing 4-inch line?

MR. KUSHI: Yes, but not occupy.

COUNCILMEMBER MEDEIROS: Right.

MR. KUSHI: The other alternative is, is not to allow building, period.

COUNCILMEMBER MEDEIROS: So you’re, you’re saying if it burns down, hopefully they have fire insurance and...

MR. KUSHI: Well, you know, our, our concern is not only...it’s health, safety, and welfare of people --

COUNCILMEMBER MEDEIROS: Right.

MR. KUSHI: --as well as property.

COUNCILMEMBER MEDEIROS: Right.

MR. KUSHI: But again, you know...

COUNCILMEMBER MEDEIROS: Okay.

MR. ENG: Mr. Chairman?

CHAIR VICTORINO: Yeah. Yes, Mr. Eng.

MR. ENG: If I just can have some clarification, Member Medeiros.

CHAIR VICTORINO: Go ahead, Mr. Eng.

MR. ENG: So, you know, we’re trying to move their project along as best we can. Are you saying, therefore, that they should not even begin building until the 8-inch waterline is put in?
COUNCILMEMBER MEDEIROS: I’m saying that if they’re willing to construct under those conditions that the County’s offering, meaning you can construct with a building permit, but the line and the hydrant and the fire flow remains the same to what we’re opposed to, seems to bring up some concerns, you know, that yeah, you can build with the, you know, the pipe, yeah.

MR. ENG: But I think the key is what Mr. Kushi pointed out, is that it will not be occupied, and I think that’s the foremost concern is, is the health and safety of individuals.

COUNCILMEMBER MEDEIROS: So it’s a...okay, so those conditions with the 4-inch pipe, the hydrant, the water flow is okay as long as nobody’s in the building?

MR. ENG: Yes, that’s what we’re saying.

COUNCILMEMBER MEDEIROS: Okay. But it’s not okay, you need to, you know, increase the size if somebody’s going to occupy it? Okay.

CHAIR VICTORINO: Okay.

COUNCILMEMBER MEDEIROS: I guess that’s the best answer --

CHAIR VICTORINO: Okay, hang on.

MR. KUSHI: No, no, clarification. Mr. Chair?

CHAIR VICTORINO: Mr. English, Mr. English wanted to...before I let...allow you, Mr. English, I will recognize you as far as the Fire Department. Please, go ahead.

MR. ENGLISH: Okay. Thank you, Chair. The Fire Code has special...different requirements for buildings under construction, that you don’t have to meet the minimum requirements as far as access and water supply during the construction phase. But before the building is signed off, all minimum fire protection has to be there prior to the sign-off. Like any new hotel, we don’t have all the roads in, hydrants in place, it...it’s being built. And like I said, if there’s a fire we’ll do the best we can with the resources we can to extinguish the fire, but the Code has minimum standards during the construction phase. We don’t need everything that was drawn up in the plans there at that time. We can have less and the Code allows that during the construction phase.

COUNCILMEMBER MEDEIROS: Yeah. And I think access is not a question here, it’s...so you’re saying the...what exists today for firefighting purposes is approved by the Fire Department under construction purposes only?

MR. ENGLISH: What is there today is approved for both, occupancy and construction. We determined that there is enough --
COUNCILMEMBER MEDEIROS: For, for the, for the Department?

MR. ENGLISH: --water.


MR. ENGLISH: . . .(inaudible). . . Can I, can I talk?

CHAIR VICTORINO: Yes, go ahead. Please, Mr. English.

MR. ENGLISH: Prior to last week, basically this meeting was just to put the Fire Department requirements for fire protection to...away from Water just to Fire. We had a meeting last week to give the...give an option to the veterans that they can get a Conditional Permit with the improvements Public Works was proposing, and that was an option that if they want to pull the permit over, they sign that Non-Occupancy Agreement which a lot of people do during subdivision time, the roads are not in and they do a Non-Occupancy Agreement, and that was the option to get their permits done faster. If you go through this process to pass the water requirements to Fire, it’s going to take awhile, and like I said, this was the option for them to get their permit sooner; and if they don’t want to work with a Non-Occupancy Agreement, then they will have to wait to either the waterline goes in or the responsibility of fire protection is passed on to Fire.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that information. Mr. Chairman, just finally just to say that, you know, the Molokai group...veterans group have been under such great frustration over the process and even here this morning, we don’t hear a clear answer on, you know, who’s who and what’s what, but thank you for that opportunity to ask.

CHAIR VICTORINO: Thank you. And again, I would hope when we work on the second item, we can finally clarify and get that resolved. Mr. Helm, you were asked to...by Mr. Pontanilla, and I’m going to call you up at this time. Would you come up to the podium, please, sir? Thank you very much for staying with us and hearing all the discussion. . . .(chuckle). . .


CHAIR VICTORINO: Mr. Pontanilla, please.

VICE-CHAIR PONTANILLA: Thank you. Good morning, Larry. I’m No. 49, okay.


VICE-CHAIR PONTANILLA: You know, hearing Public Works and, and their plans to increase the waterline size fronting that particular project probably going take to complete during the month of October. Is, is the veterans willing to wait three months when the project is
completed--hopefully it's completed--so that you can at least, you know, start and, and complete your building and, and there's no issues in regards to occupying?

MR. HELM: Mr. Pontanilla, if that was the case that going take two months or three months and that was written in, in gold --

COUNCIL MEMBERS: ... (chuckle) ...

MR. HELM: --but being that we've had this so many times...oh, next week or two more months, three more months come back you going get this, and then they come up with Johnny-come-lately stuff. What I'm afraid of with this project is some people on Molokai and...or activists or whatever you want to call 'em, and I'm hearing this, might intervene or file some kind of injunction because of something else--nothing to do with us--something else. The other thing, you know, this is unforeseen things that can happen with this project. If they dig up and they find something, they stop the project, on and on. So yes, if you say you can wait three months and we sign something and we going get the, the, the permit and we going build, if it's guaran [sic], yeah, but since the beginning of this time nothing has been guaran [sic]. When we filed our application...

VICE-CHAIR PONTANILLA: Okay. I think I, I get the drift. I'm going to request Public Works to give me a timeframe, when they going start, when they going complete, how much extra it's going to cost the County, because he's talking about a budget amendment. Because I, I really don't know how much this going cost the County. So by getting that kind information, concrete information from the Department, at least, you know, make our job much easier, yeah, and, and hopefully you can construct your building much faster.

CHAIR VICTORINO: Okay. Any other questions for Mr. Helm? Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. It's a follow-up question. Thank you again for being here, Mr. Helm. I know it's been very trying and difficult for you folks. You know, I was looking at your comments to a Rick Hamada in the binder, and I'm surprised Planning...a Planning Department representative is not here as well because this has interplay with the need for, I guess, the 8-inch waterline and, you know, I guess they had--I can understand your apprehension about Member Pontanilla asking you can you guys wait another three months--'cause according to what you state...stated in here, in November 2007, Planning Department said all you need is the minor small building permits. And then in December 2008, according to what was stated here, they came back and told us to rezone and do the whole thing all over again. So, I can certainly understand your concern about having to wait again. Now my question is to get a better understanding of the need for the 8-inch line from the Water Department. Your plans for this new facility, are you folks looking at something like having a hall in there? 'Cause I'm a member of the VFW in Kihei. You know what the facility is like, yeah?

MR. HELM: Yeah, yeah. Yeah.
COUNCILMEMBER MOLINA: Is it going to be a place where you’re gonna have...open it up to the community for a luau or...

MR. HELM: We, we have a pavilion...1,100 and square feet, 1,100 square feet. We have the minimal kitchen, commercial kitchen. There’s two, two bathrooms. Limited...if we get a meeting and call the forces out, we might get 100 that’s come out, the place...you can hold 100 the way it is. Yeah. Though, we have a meter now. We’re growing bananas, chili peppers, taro--we got it growing right now. We use...our last bill was $150 for two months. So we’re using the water now, and I don’t think we...much more than what, what we’re using today, and we’ve had this meter since 2006, 2007.

COUNCILMEMBER MOLINA: Okay.

MR. HELM: So, you know, I, I...I don’t think we’re going to interfere with the, the flow of the water, the way it is. In Molokai, we kind of take care each other. If somebody get little pilikia, hey, my water brown, talk amongst...so we, we take care stuff like that.

COUNCILMEMBER MOLINA: Okay.

MR. HELM: We kind of police each other over there and make sure, you know, it’s a, it’s a community that take care each other.

COUNCILMEMBER MOLINA: Okay. All right, thank you. That helps me better understand, ‘cause I was trying to make some comparisons with like, you know, on your plans for your new building with that...I think we have a veterans office building in Kahului, and then I was also thinking about the VFW Hall. So you’re kind of like looking at something in-between like having more meeting rooms and then smaller rooms for counseling, but nothing along the lines of like how the VFW where they rent out the, the hall for the community. So nothing along that kind of scale?

MR. HELM: No, no. And, and during the week we...we’re lucky we get maybe on a day 10, 20 guys go through it in and out during the, during the weekday.

COUNCILMEMBER MOLINA: Okay.

MR. HELM: And weekends, you know, we might have, we might have a function.

COUNCILMEMBER MOLINA: Okay.

MR. HELM: That’s about it.

COUNCILMEMBER MOLINA: But nothing real large scale, though, yeah?
MR. HELM: No, we can't. That area, you know, you cannot, it's just not feasible.

COUNCILMEMBER MOLINA: Okay, thank you. And thank you, Mr. Chair, for having Mr. Helm to provide us additional clarification, 'cause I can understand Mr. Kaho'ohalahala's point of not having, you know, a lot of this information for us to make a decision. But I notice on the agenda it says basically this is just a status update and to see what kind of progress the Administration is making. And again, you know, I was...I'm hoping that Planning...the Planning Department could be here because they have a role in this as well. And anyway, I'll just kind of leave it at that. Thank you, Chairman.

CHAIR VICTORINO: Well, it was my intent and I never expected to get this way in this manner and have all these other issues come up this morning, and that's why Fire and Water and Public Works because they all had an integral part in this was the ones I called upon. I never thought that Planning was necessary, and maybe next time I'll have them come. But you know, they're busy people too and I hate...and you and as well as everybody here as chairs know we get people come up and we don't use 'em, they sit there and they lose valuable time. So, I never anticipated that and I apologize for that part, but the whole part was this was going to be taken care of especially with the second part of and which I really want to get to. And what I'd like to say at this point, I think we've discussed this matter to a point where we need more clarification, and I'd like to defer this so that I can go on to the second issue which is an integral part to help this one be completed. So, I will...yes, Mr. Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: I would like to just ask the two departments one more question before we defer this.

CHAIR VICTORINO: One more question and I will, I will call it at this point. Go ahead.

COUNCILMEMBER KAHO'OHALAHALA: So, Mr. English, then based on all of the information you provided --

CHAIR VICTORINO: Thank you, Mr. Helm.

COUNCILMEMBER KAHO'OHALAHALA: --you're saying that, that this project in your view can be safely built and occupied and with sufficient water flow?

MR. ENGLISH: Correct.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And in your view, that this permit should be allowed to move forward?

MR. ENGLISH: Fire, Fire signed-off. I signed-off back in December. I cannot interpret the rules of the Water Department when they need to sign-off.

COUNCILMEMBER KAHO'OHALAHALA: Okay.
MR. ENGLISH: But as far as fire safety, I’m confident that there is enough water supply to build and occupy the building.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And then, Mr. Eng, then you are saying right now that in your view as the Water Department Director, that there is not sufficient water flow for this project?

MR. ENG: That is my belief and opinion based on the flow tests that we have conducted and based on the standards.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And therein lies the, the difference between two of you that prevents this from moving forward then, two different interpretations on water flow?

MR. ENG: Two different opinions on what is appropriate amount of fire flow to protect this property.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And...okay...

CHAIR VICTORINO: I think you have...your question has been answered --

COUNCILMEMBER KAHO‘OHALAHALA: Thank you.

CHAIR VICTORINO: --and that’s why I think our next part, yeah.

COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair. I appreciate your cooperation in allowing us to speak.

CHAIR VICTORINO: Thank you. Yes, thank you. And I think we can move on to the next one and I think we can solve the issue. So with no further discussion --

COUNCILMEMBER MATEO: Mr. Chairman?

CHAIR VICTORINO: --I’m going to ask to defer this matter, WR-17, with no objections.

COUNCILMEMBER MATEO: Mr. Chairman?

CHAIR VICTORINO: Yes, Mr. Mateo.

COUNCILMEMBER MATEO: Mr. Chairman, before you defer the item, I just, I just want to, want to share some information. I just received a copy of the “AGREEMENT FOR APPROVAL OF BUILDING PERMIT AND NON-OCCUPANCY OF STRUCTURE” between County of Maui --

CHAIR VICTORINO: Uh-huh.
COUNCILMEMBER MATEO: --and the Molokai Veterans Caring For Veterans. I’m...I just received it a little bit ago, we made copies for all the Members. We’ll submit it to the Committee. Mr. Chairman, I submitted the item to your Committee because it was important for us to have this discussion --

CHAIR VICTORINO: Right.

COUNCILMEMBER MATEO: --first of all.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER MATEO: And I think in doing so I think we can...you know, we’ve been so...so frustrated just for the last few minutes, that group waited for four years. You know, so you can only feel the frustration that has been experienced throughout this particular point in time. And I think in this short period of time, from the time the item was submitted till today, which is about a month and a half, a lot has occurred in this month and a half--thank goodness--and I’m, I’m, I’m glad the Administration has moved, because I received a memo from, from the Mayor. When I spoke to the veterans on Molokai, the communication from the Administration was share this with the veterans. I did. That message to the veterans was, it was her desire to complete this process and give them the, the permit by June 4. This is August. It’s still not happening. So the importance for us is to understand the complexities of this particular application and the difficulties that this organization had experienced throughout the four years. I look forward in us deferring this matter because I want to be sure that there is a resolve, and perhaps the second item in today’s agenda will, will provide that resolve for us, because I accept the word of the Fire Department. Fire Department is the entity responsible for determining fire flow. I accept that. He has given us an understanding that there is ample water to meet the need. I accept that. Mr. Chairman, I, I accept your recommendation to defer this item. Let’s move on to the second item. Thank you.

CHAIR VICTORINO: Thank you. And thank you, Chair. And I’m glad that all of you understand, and I, I appreciate, you know, everyone being tolerant and being understanding. Okay. It wasn’t my desire from the get-go, and I said that, and I’ll say it one more time, to sniffl [sic] anybody’s conversation. But when legal counsel tells us that we, we may have litigation, then I will follow their recommendation very carefully.

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: What I’m going to do is we’re going to take a ten-minute break so that everybody can, you know, relieve themselves and, and get their personal needs taken care of, and we will come back together at...why don’t we say 10:55. I’ll give you a couple extra minutes. Meeting in recess. . . .(gavel) . . .
RECESS: 10:41 a.m.

RECONVENE: 10:56 a.m.

CHAIR VICTORINO: ... (gavel) ... The meeting of the Water Resource Committee will reconvene. Okay. Thank you, Members, for this morning's lively discussion.

ITEM NO. 1(4): WATER SUPPLY RULES (WATER SERVICES) (C.C. No. 05-46, C.C. No. 06-228)

CHAIR VICTORINO: Now we go into the item that I was looking forward to, which is the...okay, all my papers got changed around here. Okay. Okay. We now move to Item No. WR-1(4) and...that is the WATER SUPPLY RULES (WATER SERVICES), and in your binder you have a correspondence dated July 27, 2010, from the Department of Corporation Counsel, drafting...transmitting a draft bill entitled A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO WATER SERVICE. The purpose of the draft bill is to codify rules and regulations for the Department of Water relating to fire protection water services. At this time...I, I know you all have it in your binder and you also received a subsequent correspondence dated August 2nd, 2010. I think all of you have that copy, it was put on your desk this morning. And, Mr. Kushi, I will allow you at this time, if you would, walk us through this, this changes and that way hopefully everyone will be clear on what we're trying to accomplish today. So, Mr. Kushi, if you would...or would you like to start, Mr. Eng, and then let Mr. Kushi take it on the legal side? Thank you.

MR. ENG: Yeah. I'll let Mr. Kushi do all the technical difficulties.

CHAIR VICTORINO: Thank you very much.

MR. ENG: I'll do the easy thing. This draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO WATER SERVICES" proposes to codify at this time certain subsections of the Department's rules and regulations, specifically Section 3 entitled "WATER SERVICES". Please note that any revisions in the language of the proposed subsections are mostly for grammatical reasons. However, a new subsection is proposed, 14.04.020 entitled "Fire protection requirements for building permit applications" and it reads as follows: "The requirements for adequate fire protection, including but not limited to fire hydrants, necessary pipelines and other appurtenances, for building permit applications for any dwelling or structure shall be reviewed, administered and issued by the Department of Fire and Public Safety in accordance with Chapter 16.04B of this code." If this draft bill is codified, henceforth the Fire Department will be solely responsible for determining all fire flow or fire protection requirements for all dwellings, structures and buildings. Furthermore, the Fire Department will be responsible for determining the adequacy and capacity of the Water Department's water system to satisfactorily meet the fire flow requirements. The Water Department, therefore, will have no review responsibilities unless the Fire Department determines that the building permit applicant needs to make improvements or upgrades to the
Water Department's existing water system or if the Fire Department requests our assistance. So, I think this...at this time, Mr. Chairman, I think we can proceed with going through some of the changes that a prospective building permit applicant may expect to see. Thank you.

CHAIR VICTORINO: Thank you, Mr. Eng. Mr. Kushi, at this time I would ask you to please walk our Members through...the Committee Members through the various changes, whether they're grammatical or substantive. If you would, Mr. Kushi.

MR. KUSHI: Yes, Mr. Chair. First of all, Mr. Eng did describe the meat and potatoes, meat and potatoes part of this proposed bill. First of all, from a procedural standpoint, this proposed bill fills in your current Chapter 14.04 of the Maui County Code, which if you look at now it's, it's called "Reserved". So this is in conjunction with our codifying the existing Board of Water Supply rules into ordinances. As set forth in my cover letter of July 27, 2010, we note that there are only selected subsections of the existing Water Supply rules and regulations that are being requested to be codified. The, the following subsections...the balance of the subsection will come at a later step...point in time.

I refer the Council Members to my August 2nd, 2010 memo with the attached comparison. I did a comparison...a worksheet called "COMPARISON OF PROPOSED CHAPTER 14.04, MAUI COUNTY CODE, SECTIONS WITH EXISTING BOARD OF WATER SUPPLY RULES AND REGULATIONS". If the Members will note, the proposal...proposed codification sections are in bold and underlined, and they begin with 14.04, water, yada, yada. The following...immediately following in brackets are the existing Board of Water Supply rules, and they begin with Section 3.1, et cetera, et cetera, et cetera. Again for the most part with the...four subsections that are before you, they were all generally the revisions from the existing Board rules are mainly nonsubstantive, mainly grammatical changes, revisions. The important ones, the substantive changes are, are noted on my footnotes at the bottom of the pages. So, I would just kind of go over those, Mr. Chair.

Under Section 14.04.010, "General conditions", there are four proposed subsections. The existing rule, Section 3.1 entitled "General conditions" have six subsections. As noted on the bottom of Page 2, Footnote No. 1, references to Section 14.04.010(C) as in "cat" as compared to exist, existing Board rule, Section 3-1(C) as in "cat" also, it was meant to clarify that the requirements as set forth in Subsection C would apply only to applicants for water meters; on information and belief and in working with the Department, geez, for over ten years... (chuckle)...on information I think the Department at times have applied these requirements to building permit applications where no new water or additional water service is contemplated. So it clarifies that these requirements only apply to when an applicant, applicant comes in for a water meter or a new, new additional water or upgrades.

The last...the next one is we deleted Section 3-1(E) of the rules which basically concerns fire protection. As you look at the existing rule, the, the Department determines fire flow, adequate fire protection pursuant to certain standards. In the proposed ordinance, that section has been
totally deleted. And as Mr. Eng says, the next Section 14.04.020 now transfers those functions to the Department of Fire and Safety [sic].

Moving on to the next section, Mr. Eng described the new section “Fire protection requirements for building permit applications”. Now basically if you read it...it’s fairly straightforward, that the functions will...for fire flow, adequate fire protection will be transferred from the Department of Water Supply to the Fire Department. Again, they would have the sole and initial review of all fire protection requirements for building permits. Again, please understand subdivisions are a whole different animal. So building permits will be forwarded to the Fire Department. The Water Department will be out of the loop initially. That does not mean that they can come...cannot come back. I foresee instances where the Department...Fire Department says okay, you need to upsize the Water Department’s fire line and before I sign-off, you have to deal with the...go back to the Water Department and make some improvements. But again that call...initial call will be with the Fire Department.

Mr. Chair, the balance of the proposed new sections entitled, water service...service-application, water service-installation, water pressure and elevation conditions, and responsibility for equipment, are all basically same as the existing Board and...Board of Water Supply rules and regulations with nonsubstantive grammatical revisions.

That in a nutshell, Mr. Chair, are the proposed changes, the differences or comparisons between the proposed ordinance before you and the existing Board of Water Supply rules and regulations.

CHAIR VICTORINO: Thank you, Mr. Kushi. And if...I’ll, I’ll say very honestly, that’s a lot to chew on at one moment. But...[chuckle]...I will start by asking, you know, the various...before I go to the Members, I wanted to ask Mr. English, Lieutenant English, the question was brought up by a Member earlier, would you folks, if this change was to pass, be willing to take on the responsibility of fire protection, fire flow protection for this County, for which many of us feel is really where you really need to be? But anyhow, would this...would the Department of Fire and Public Safety be willing to take this on?

MR. ENGLISH: Thank you, Chair. Yes, the Fire Department will be willing to accept this requirement. It’s been six years in the working --

CHAIR VICTORINO: Thank you.

MR. ENGLISH: --to get it forwarded to us. That Section 14.04.02 [sic], the biggest change of note will be under the dwellings. As far as a commercial building, it will be business as usual. I always did the fire flow and we did the fire flow test. Under the dwelling, there will not be the exemptions for the first two structures, that will be gone. Our Code requires fire hydrants within 500 feet of the dwellings, there’s no exceptions. The first two structures do not get an exemption anymore. They have options of either putting a tank or sprinkling if they’d be under 500 feet. This Code presently for the 500 feet has been enforced on all buildings outside of the County system, County water system. So people on a private system, we’ve been enforcing this from
2006, I mean actually from 2002 when the ordinance took effect. So the biggest change in front of you folk...I mean in front of this group would be that the one and two family dwelling units are not exempt from fire protection for the first two buildings.

CHAIR VICTORINO: Thank you for that clarification, Mr. Eng...Mr. English. Eng, English...whew, sorry you guys. ...(chuckle)... Okay. Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair.

CHAIR VICTORINO: I got that one right.

COUNCILMEMBER MOLINA: Thank you. For, I guess, Mr. Eng, does this proposal then...you know, we’ve been hearing it throughout the community about the building permit process and the delays and so forth. Does this potentially add another layer of government that could--and I, and I stress could--cause potentially further delay in the building permit process if we, you know, basically give this authority now to the Fire Department? Does this have any impact in that area?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Mr. Chair.

COUNCILMEMBER MOLINA: You know for...I’m talking about the family guy with the family subdivision who wants to build and does it have the potential for doing that?

MR. ENG: Member Molina, thank you for that question. The whole objective of--and we’ve been dealing with this for a couple of years now, I believe, at least--was to streamline building permit review and approvals. And so because the...we will be supporting the Fire Department’s use of their Uniform Fire Code to determine what is a fire flow requirement for a structure or building, there is no conflict or dispute. So in that regard it certainly should streamline things. As far as family issues, you know, as Mr. English pointed out, there will be change when it comes to fire protection exemptions for your first and second dwelling unit on a premise. So that would be the only change that may impact certain individuals.

COUNCILMEMBER MOLINA: And that, that’s where--I’ll be honest with you--where my concern lies, how it affects the proverbial little guy. I don’t know if it’ll add cost or further delay. That’s, that’s the uncertainty, that’s where I’m at. And I, I note in the previous subject item when I read the letter from the architect for the Molokai Veterans Center, it mentioned that, you know, the issue with the Fire Department because their...that building is considered commercial, that’s where they have to meet these guidelines. So, I don’t know if this...maybe this type of proposal could maybe just apply to commercial rather than everyone. So...

CHAIR VICTORINO: I think then we open a dangerous precedent, but we’ll, we’ll discuss that. And we’ll...
COUNCILMEMBER MOLINA: Well, yeah, I…and I’m just thinking freely.

CHAIR VICTORINO: I, I don’t know if I wanna, you know...

COUNCILMEMBER MOLINA: Yeah, yeah.

CHAIR VICTORINO: Okay.

COUNCILMEMBER MOLINA: So...

CHAIR VICTORINO: Well, let’s, let’s hear some more and then we’ll --

COUNCILMEMBER MOLINA: Yeah.

CHAIR VICTORINO: --kind of go back. . .(inaudible). . .

COUNCILMEMBER MOLINA: Yeah. And I’m just being honest, Chair.

CHAIR VICTORINO: Yeah, yeah. No, I understand and --

COUNCILMEMBER MOLINA: Yeah.

CHAIR VICTORINO: --again, we’ve worked on this and like I said here, all the meeting dates that we’ve gone through this and the same issues come up each and every time. So --

COUNCILMEMBER MOLINA: Yeah.

CHAIR VICTORINO: --anyhow, okay.

COUNCILMEMBER MOLINA: Okay, all right. Thank you.

CHAIR VICTORINO: Thank you, Mr. Molina. Ms. Baisa?

COUNCILMEMBER BAISA: Yes, Chair. I’m responding trying to gather my thoughts in relationship to what Lieutenant English said. Is that covered in this document before us that that change is going to happen?

MR. ENGLISH: The Section 14.04.020, the Fire protection requirement, that is the change to push all Fire Department requirements for fire protection to the Fire Department.

COUNCILMEMBER BAISA: And this is where it says for any dwelling or structure?

MR. ENGLISH: Correct.
COUNCILMEMBER BAISA: It doesn’t...you know, it didn’t point out and it didn’t really grab me until you said it about how it would affect that first and second dwelling. But I think that’s a really important point that you make because I don’t know if anybody reading this really understood that that was a part of the change was...that was going to happen.

MR. ENGLISH: At the present time the Fire Department receives the building permits for all commercial building and all residents on private water system. We do not receive the permits for any, any residential building on the County system. We’ll be taking all, all of that on if this thing is approved.

COUNCILMEMBER BAISA: Okay. Well, that’s a biggie, Chair, and let me chew on it for a while. Thank you.

CHAIR VICTORINO: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I, I just had a question regarding...you know, one time we were discussing a TVR up around the Haiku area and there was a difference of opinion again on that about fire flow. Most ag areas, ag zones, especially if they’re older ones, have this standpipes instead of the full hydrant. So does this affect that kind of situations in any way? And if it does, in what way?

CHAIR VICTORINO: Mr. English?

MR. ENGLISH: Thank you, Mr. Chair, Councilman Medeiros. The...basically when, when they do apply for a building permit, whatever infrastructure was put in at the time of the lot purchase will be, be kept. We’re not going to require them to upgrade the water service. They just need to be within the 500 feet --

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. ENGLISH: --of the, the hydrant or standpipe measured by the route. Section 16.04B.130 of the Fire Code, the...I’m going to read you the section of the Code that covers the residential. So it’s all group, all Division 3, which is a residential building; Group U utility buildings, which will be like barns or garages, more than 700 square feet requires to be within 500 feet of a fire hydrant as measured by the approved route. If the building is beyond the 500 feet, they have the opportunity to follow NFPA 1142 for water supply for rural fire protection which we adopted in 2002. NFPA 1142 allows them to put on-site water tanks for fire protection or sprinkling the building for fire protection. So they have options.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that information. When, when, when you said fire hydrant, it doesn’t describe what falls under fire hydrant. So a full-size fire hydrant, a standpipe are all considered fire hydrants?
MR. ENGLISH: These...yeah, a fire hydrant has two major...two connections, a 4½ outlet and 2½ outlet. A standpipe just has a 2½ outlet.

COUNCILMEMBER MEDEIROS: Right.

MR. ENGLISH: The Code reads water supply for fire protection. Oh, I’m sorry, the Code reads fire hydrant or standpipe as measured by the approved route.

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

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

VICE-CHAIR PONTANILLA: No questions other than we should’ve taken up this first this morning --

COUNCIL MEMBERS: ... (chuckle) ...

VICE-CHAIR PONTANILLA: --earlier this morning. Thank you.

CHAIR VICTORINO: Thank you. It’s...well, but never mind. You know, I think, I think we still...it was good for everyone to hear and for the veterans and everybody to understand the dilemma and that this is one possible fix to this dilemma in the future for all concerned. Now it’s not a perfect, but I think it’s a good step in the right direction. Mr. Mateo?

COUNCILMEMBER MATEO: Mr. Chairman, I go back to the initial concern expressed by Members Molina and Baisa and that, that is the impacts on the little people which is...because the, the new amendment now will have impacts on first and second dwellings on, on the property and the requirement for either water tanks or sprinkler systems. Will you have any kind of an idea of what the increase in costs would be?

MR. ENGLISH: For the people that are...cannot comply with the 500 feet, basically more in the rural area, the sprinkler costs...as far as the sprinkler piping in the building, about $1.50 a square foot. The supply...if they can, if they can run it off their water meter or they need a tank and a pump will be an additional cost. Our present Code that we’re in has required residential fire sprinklers in all buildings which will be coming before you...in front of you this year sometime and, and every Code after 2009 require residential fire sprinklers. So if that law passes, basically everything is gonna come to Fire anyway.

COUNCILMEMBER MATEO: Okay. And the minimum size for a water tank?

MR. ENGLISH: The water tank for fire protection is based on the size of the building to be built. Example, 1,000 square foot house on grade would be about 4,000 gallons.

COUNCILMEMBER MATEO: Okay. Thank you.
VICE-CHAIR PONTANILLA: Now I get one question.

CHAIR VICTORINO: ...(chuckle)... Yeah. Okay, Mr. Pontanilla, go ahead.

VICE-CHAIR PONTANILLA: Thank you. So going forward then, for Water Department, a 500-feet spacing is required for fire hydrant. What is our plans in regards to doing that? I, I know we did that for Hana, you know, we installed a lot of fire hydrants, 500-feet spacing. So going forward, are we planning to address spacing of fire hydrants, existing locations, so that every 500 feet we have one fire hydrant?

MR. ENG: Mr. Chairman, Member Pontanilla --

CHAIR VICTORINO: Mr. Eng, go ahead.

MR. ENG: --as far as existing water system, currently we have no plans to make those improvements. Of course we, we addressed it, both the Fire Department and Water Department, at the time of new subdivisions where we are consistent with the spacing requirements for fire hydrants. So going forward it will be addressed. Looking back, unfortunately, we don’t have the budget to do so.

VICE-CHAIR PONTANILLA: So the requirements now, you know, being imposed on the first and second dwelling for the rural areas I...hopefully there is fire hydrants or standpipes, you know, in regards to 500-foot spacing; otherwise, it’s going to cost somebody some money. Thank you.

CHAIR VICTORINO: Thank you. And, and let me...before I recognize Mr. Nishiki, while I was on the Water Board this issue came up many, many times, and the issue of these two first dwellings and whether a barn was a dwelling or not, a covered garage. I mean I saw a lot of things come through that they were looking for exemptions, two dwellings, what was a dwelling, what constituted, what was needed and the amount of fire flow requirements. I spent many a, a meeting going through some of these very same questions, okay, because many of the properties that were out in the rural areas had two dwellings, and some of those dwellings was like a farm dwelling or a storage dwelling, but it was a dwelling. See, we never had any distinction on what a dwelling was. So that used to cause many of the same issues you’re talking, no exemption because they’re going to build a cottage, but my barn is not a dwelling. Yes, it was and the Water Department used to rule it that way. So, I can tell you this is not something new, but it’s new in the sense that now we’re not going to have any, it starts from first one. But we’re also putting standpipe and fire hydrant as part of the, the, the package. So there is that, that part because most areas even in the rural areas have standpipe, most areas. So, I just want that clear. But before I recognize you, I had agreed to recognize Mr. Nishiki, so I want to recognize him first. Mr. Nishiki, go ahead.

COUNCILMEMBER NISHIKI: Yeah. Thank you. This on the onset and why I didn’t ask the question earlier when Larry and those guys were there was because I, I think many of us are really confused about readings that occurred on Molokai. One Department, Mr. Chairman, saying that
530 gallons per minute was the fire flow reading, the other coming up with 1,630, and I, I presume that you people are using close to or the same instruments. This disparity I think the Department needs to clear up with one another because it, it definitely had a big difference on what would be the size of a waterline. And, and so maybe not today, but I think that Mr. English and Mr. Eng need to, to look at how they’re calculating what the gallons per minute is. And, and once that is cleared up, I think that our Administration and, and Council would be able to get clear information, Mr. Chairman, on what occurred, because this, to me, was the biggest disparity on, on how perhaps one looks at fire flow requirements.

CHAIR VICTORINO: Mr. English, would you like to respond to that question by Mr. Nishiki?

MR. ENGLISH: Thank you, Chair. Councilmember Nishiki, I think a good, good answer to your question --

COUNCILMEMBER NISHIKI: Yeah.

MR. ENGLISH: --when we did our fire flow calcs… I did it twice, once in May--I didn’t do it, though, an inspector on Molokai--and we flowed Hydrant 76 which was in front of the veterans. We took the residual off of Hydrant 70 which is on the top of Kaunakakai Place off the 8-inch line, and basically we showed… the first flow we flowed 600 gallons a minute through the 2½ inch on the hydrant. The residual because…the residual came off the 8 was a very small residual, so we calculated 3,000 gallons a minute available in the area. When Water Supply tested the system, they tested the most demanding system. They used Hydrant 76 and took the residual of Hydrant 4 which is by the tank farm coming off the, the 3-inch loop and 4 inch. So they’re, they’re getting the residual end of the water flow, not the supply end. So that was the big difference, and the way they test the system was to test that entire loop, you take the worst demanding hydrant. I’m testing the hydrant that we’re going to be using for the fire protection. So that’s where our numbers were…

COUNCILMEMBER NISHIKI: Just to that point?

MR. ENGLISH: Correct.

COUNCILMEMBER NISHIKI: Yeah. And, and, and you see, Mr. Chairman, you know, they…Jeff looks at the entire system and, and how everyone else would be looking at how much he’s going to need, whereas English is looking at specifically that area, and, and there lies again the discrepancy. So in, in looking at what the law reads, I think, you know, there’s a big difference, and is this how we’re going to allow determinations to be made as far as fire flow? I think this is really important.

CHAIR VICTORINO: Well, you’re absolutely right, Mr. Nishiki --

COUNCILMEMBER NISHIKI: And…
CHAIR VICTORINO: --the, the question I have for you is or the question I have to this is so long as we have two departments who do different readings in their own respectful manner, I mean we have this issue and --

COUNCILMEMBER NISHIKI: Yeah.

CHAIR VICTORINO: --that this has been a long-term issue. This is not just today and not just for the Veterans Center. This is many, many people out there who are having this same, exact problem, Fire Department writes off, says it okay, but boom, Water says no because they don’t have enough flow on their methodology.

COUNCILMEMBER NISHIKI: Exactly. Exactly.

CHAIR VICTORINO: Right?

COUNCILMEMBER NISHIKI: Exactly.

CHAIR VICTORINO: Okay. So we’re all at the right place right now.

COUNCILMEMBER NISHIKI: No, and, and there belies why, why, why the conflict is there --

CHAIR VICTORINO: Right.

COUNCILMEMBER NISHIKI: --and, and, and we’ve gotta come to a meeting of the minds, you know, as, as far as how that determination is going to be made. Because if we give it to, to Fire and they’re looking at it that way, Jeff and these guys are looking at it in a total different concept of an entire system.

CHAIR VICTORINO: Exactly, exactly. And, and…

COUNCILMEMBER NISHIKI: And, and, and here belies the, the question on, on a building permit now. Are we going to give it to Fire? They need to consult with Jeff, totally. I, I…we cannot take it out. It’d be totally irresponsible, unless something else is done, and, and I don’t know what that fix is, Jeff, because…

CHAIR VICTORINO: Let me, let me stop you right here. Mr. English, can you repeat what you said earlier about eventually all fire systems or fire flow will come under the Fire Department? You mentioned that earlier.

COUNCILMEMBER NISHIKI: County now. He’s taking over the County.

CHAIR VICTORINO: Wait, wait. Hang on, Mr. Eng, I mean, Mr. Nishiki, I’m sorry. See, I get too many names on there. I apologize. Mr. English. . .(chuckle). . .
MR. ENGLISH: Thank you, Chair. Currently, all commercial building permits is routed to the Fire Department for review for fire flow requirements, and Appendix 3-A in our Fire Code sets the standards as far as construction type, size of the building to set the fire flow requirements. And when we see that chart, I just...we...when we look at the waterlines available in the area, and like I said from the beginning, the first original plan showed an 8 inch in front this property. That was not to be, we found that out. When we determined with engineer where the 8 inch was, 200 feet away; Hydrant 170, 400 feet away and we did our flow test, I was convinced that we had enough water. We are exceeding Water Department's velocity as far as pressure. And just to note, the first time we test this hydrant, I think we had a static...a pressure of 110, the next time we tested was 128 pounds pressure, and at the time they tested was 100 psi. A lot of fluctuations and that’s a lot of water movement between those, those pressures. And when we did our second test, we wanted to see the actual flow out of the 4 1/2 inch which we will use for fire protection. It’s not the proper way of testing it because we don’t get an accurate reading, but if the psi ranged from 5 psi--we had a 9 psi reading--5 psi to 12 psi, we’re all over 1,200 gallons a minute. So when the gauge fluctuates, we still had the required water that we needed. And like I said, if I’m questioning...if this was a 4-inch line all the way and we didn’t meet the fire flow, I would remove my signature and work with Water Department, okay, we need to upgrade this building or sprinkler it, which our Code allows it, to reduce the fire flow. We have that option with our Fire Code.

CHAIR VICTORINO: Mr. English, I want...I, I think the question I was asking you is you said something earlier that caught my attention, that by 2009 the Fire, the Fire Code was being changed and eventually it’s going to come to this Council which everything would have to go to you guys in the area of fire protection, whether it’s residential or...you mentioned something when you were discussing that earlier, and I picked up on it. But could you clarify that for me, please?

MR. ENGLISH: Okay. That the new 2006 NFPA 1 Fire Code as far as for residential buildings, all one-and two-family residential buildings will be required to get fire sprinklers. If the Council approves it or not, if that Code passes, all building permits as far as residential would be coming to the Fire Department for review. Commercial buildings, depending on size and type of use, some will require sprinklers and some still won’t require sprinklers as far as the commercial side. But residential sprinklers, the push is to save people, people or to save people’s lives ‘cause sprinklers are a big demand now.

CHAIR VICTORINO: And if we don’t accept it, if we say no, we don’t want it and forget it, then you guys would...you couldn’t enforce it, right?

MR. ENGLISH: We cannot enforce it. And three years...well, now we have to adopt the Code every three to six years. We’ll be back again pushing the same thing because it’s in every code after 2009.

CHAIR VICTORINO: So, so one day you, you foresee either this County will have to accept it or not accept the Fire Code or just keep eliminating that section of the Code?
MR. ENGLISH: Correct.

CHAIR VICTORINO: Okay. Just so we're all clear on that. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman, and mahalo for that question. The Fire Department operates under the National Fire Code also, right, which kind of determines how you formulate your County Code? Is that correct? Well what, what role does the National Code play?

MR. ENGLISH: Okay, Mr. Medeiros, thank you for the question. Right now the, the Fire Code is the Uniform...1997 Uniform Fire Code.

COUNCILMEMBER MEDEIROS: Right.

MR. ENGLISH: We're about to adopt the NFPA 1 Fire Code, 2006 edition. The Fire Department operates based on the NFPA guidelines, the National Fire Protection Association guidelines.

COUNCILMEMBER MEDEIROS: Right.

MR. ENGLISH: We have truck qualification, truck requirements, truck qualifications, personnel qualifications, everything is laid out in the NFPA Codes.

COUNCILMEMBER MEDEIROS: Right. So under, under that National Code it, it gives you the standards for the fire flow requirements?

MR. ENGLISH: Correct. ...(inaudible)...

COUNCILMEMBER MEDEIROS: Okay. And so it if...yeah, and you're talking about possibly someday if the Council, you know, adopts it, that sprinklers be required in residential structures, is that correct?

MR. ENGLISH: Correct.

COUNCILMEMBER MEDEIROS: Okay. So anything connected to that residential sprinkler system, whether there's enough pressure or volume to support that kind of system in a house, who would be responsible for that, the property owner to improve, improve those...these infrastructure in order to gain and meet the requirements?

MR. ENGLISH: I'm working with the Water Department and the engineers right now to develop what is the standard nationwide.

COUNCILMEMBER MEDEIROS: Okay.
MR. ENGLISH: One-inch water laterals, 3/4-inch water meters...

COUNCILMEMBER MEDEIROS: Right.

MR. ENGLISH: Five-eighths water meters will probably go away. The minimum requirement for the residential fire sprinkler is 30 gallons a minute. We're kind of going off the subject, but that's like a...

COUNCILMEMBER MEDEIROS: Yeah. Well, I was interested in that. I'll just ask you a final question then, because my experience, you know, in the Fire Department when we did, you know, respond to structure fires in Kula, that area, because their pressure was so low or some of it came off the tanks...their water tanks, that the truck would suck it dry and not have any pressure at some point. So we were sure that when we require sprinkler systems in the residential structure, that we're giving them that assurance that there's enough water and pressure for that kind of protection, and that we're not just asking them to put sprinklers, but not have the infrastructure to support that sprinklers?

MR. ENGLISH: Yes, correct. If they don't have the required flow, there is options of tanks and pumps that they can put in. I have a presentation that I need to show Water Department and my chiefs to, to push for the residential fire sprinklers. With the permission of Chair Victorino, I'll, I'll...if it's okay, we'll present it to the Water Resource Committee and then it eventually would have to go to full Council. And like Mr. Victorino said, last meeting we had to think outside the box to save water. This system will save a lot of water.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Lieutenant English. Appreciate that information. Mahalo, Mr. Chairman.

CHAIR VICTORINO: Thank you. Any other questions for the Department? Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Coming back to that two dwelling issue. So if, if an existing property that has two dwelling now want to renovate like say, you know, from one floor add a, a second floor, what would be the requirements of that particular property owner should he be 500 feet away from an existing fire hydrant?

CHAIR VICTORINO: Mr. English?

MR. ENGLISH: Thank you, Mr. Chair. Basically, we treat it if, if they stay within their walls and their renovation, we're not going to make them upgrade to the new standards. If they go outside the walls and add which we add into our fire flow, we'll have...we'll make them upgrade to the...on the new standard.

VICE-CHAIR PONTANILLA: Okay. So just for my clarification...so you do your testing in front of the project site in regards to, you know, the earlier conversation that we had as well...but, you know, for the Fire...Water Department, they look at another site. You know, I, I can see the
differences and what Member Nishiki had discussed earlier about his concerns, you know, yeah, we, we may have a concern in regards to, you know, the entire length of a waterline, you know, when, when you look at the overall, how do we protect the overall neighborhood. So, you know, it’s a legitimate concern. I don’t know how you going solve that issue, but...

CHAIR VICTORINO: Go ahead, Mr. English.

MR. ENGLISH: Okay, Chair? Mr. Pontanilla, right now there’s a lot of areas that infrastructure is substandard. Basically in our Code right now present, we’re putting in...instead of the third structure that Water Department requires upgrade, I’m gonna try work with Public Works to upgrade it once you have four buildings on the property, that you need to upgrade your lateral...your frontage to the subdivision requirement to bring that up to standard. ‘Cause in the past years ag went up from 250 to 500, rural went up to 400 to 1,000. So if you’re existing, unconforming, you’re 500 feet from the hydrant, you’re good to go. Once you start...when you go to that fourth structure, we’re going to make you...say okay, wait, we have too much protection needed here, we’re going to make you upgrade on the fourth structure.

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

CHAIR VICTORINO: Any other questions for the Department?

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: Yes, Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I, I wanna pursue this thing about 500 feet from a fire hydrant. If you’re on a 2-acre property and you want to build in the back of it, so it’s more than 500 feet, it’s a lot more than 500 feet, does this then trigger the need for sprinklers?

MR. ENGLISH: That is one of the options to sprinkler. We see a problem...I mean this Code been enforced from 2002. We see the problem in the larger ag subdivisions of five acres and more.

COUNCILMEMBER BAISA: Uh-huh.

MR. ENGLISH: On the 2-acre parcels, the hydrants are spaced at 500 feet apart. Worse case scenario, your driveway is 250 feet away from a hydrant, worse case scenario, the lots go back 300 feet...I mean you got your setbacks, you can’t build all the way in the back. I mean we...on a 2-acre lot we normally don’t have that problem. It’s when we get to the 5, 6, 10-acre lots we have that 500-feet problem.

COUNCILMEMBER BAISA: And then those people would all be required to do the sprinklers?

MR. ENGLISH: They can do a sprinkler, they can bring water supply up into the property, or they can put on-site water tank--they have options--or they can move their house closer. Once in awhile
it's just re-routing their driveway. Instead of making a fancy-loop driveway, make a straight shot and you get that 500 feet down.

COUNCILMEMBER BAISA: It's kind of scary when we look forward to the regulations that you're talking about us adopting, because even the idea of getting rid of 5/8s and going to 3/4 especially Upcountry--my God, we can't even do 5/8s, but worse 3/4s. So, you know, where are we going?

MR. ENGLISH: You know, in the long run if we do adopt the Sprinkler Code, I mean, the presentation I have is, is pretty...on a normal structure fire, 5 to 6,000 gallons of water is being used. A house that's protected with sprinklers, 280 gallons of water.

COUNCILMEMBER BAISA: I understand that, but, you know, I'm concerned about cost. You know, our people are already having a horrible time trying to build a home and the, you know, the more regulations we put on, no matter how well-intended they are, now how do we make it for poor people to own anything? So that's just my comment. But, Chair, I had another question that I want to ask, and it's in regards to the draft that we have here, and I like the first one better because it had page numbers; the new one doesn't. But it's kind of...let me see how far back it is. It's in regards to a check valve and it's Item J and it's under Section 3-4. No, wrong. Yeah, no it is...14.04.040 and if you can find J under water-service installation.

CHAIR VICTORINO: Check valve, yeah.

COUNCILMEMBER BAISA: Yeah. It says “A check valve shall be installed by the department after the shutoff valve and paid for by the consumer. The consumer shall test, inspect and make necessary repairs and replacements at the consumer's expense to keep the check valve in good working condition. The department shall have access to make periodic inspection of such devices.” Does...doesn't the check valve belong to Department because now in the modern meters it's part of the meter?

CHAIR VICTORINO: Mr. Eng?

MR. ENG: Thank you, Mr. Chair and Member Baisa. No, the check valve is the responsibility of the customer, and sometimes the check valve isn't located immediately after the meter. It could be, especially in commercial projects, somewhere else. So it is the responsibility of the consumer.

COUNCILMEMBER BAISA: Even though it's now attached to the meter?

MR. ENG: Some are and some are not. If it's part of the meter, then, you know, that meter is part of the Department's responsibility. It, it depends on the situation.

COUNCILMEMBER BAISA: Right. So this is generic and it says...

MR. ENG: We can take another look at this language and I think --
COUNCILMEMBER BAISA: I, I think...

MR. ENG: --as we proceed, we can always tweak this.

COUNCILMEMBER BAISA: I think it needs to be looked at.

MR. ENG: Certainly.

COUNCILMEMBER BAISA: I had it looked at and the question was asked. So, I thought it was important. And then one more section...on...it's about Section 3.1, general conditions.

CHAIR VICTORINO: Oh, that we're eliminating if we accept this, Ms. Baisa. That whole section is ...(inaudible)...

COUNCILMEMBER BAISA: That whole section is gone?

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: Okay. Then...

CHAIR VICTORINO: If we, if we, if we adopt this, we're eliminating from Section 3.1 all the way down through F, right, if I'm not mistaken?

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes?

MS. WILLENBRINK: It would then become 14.04.010 --

CHAIR VICTORINO: .14.010 [sic].

MS. WILLENBRINK: --eliminating Section E and revising Section C.

CHAIR VICTORINO: So what would be there then? 'Cause I know these brackets, as Corp. Counsel mentioned, would be eliminated. So what would...now what will we have?

MS. WILLENBRINK: We would have Sections A, B, a revised C, D --

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: --and I'm not sure about F.

CHAIR VICTORINO: It says delete Section E.
MS. WILLENBRINK: We would have to ask Corp. Counsel about F.

CHAIR VICTORINO: Ed, would you...I mean, Mr. Kushi, excuse me, I’m sorry, would you clarify that, because I know when you said in brackets eliminated and then I’m reading down below.

MR. KUSHI: Okay, sorry…

CHAIR VICTORINO: So could you clarify that for Ms. Baisa and myself and all of us actually?

MR. KUSHI: Yeah, Mr. Chair. The current Board rules are Section 3-1 --

CHAIR VICTORINO: Okay.

MR. KUSHI: --entitled “General conditions”, and it goes from Subparagraphs A through F.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAIASA: Uh-huh.

MR. KUSHI: The proposed regulation is 14.04.010 and it only goes from A through D as in “dog”. So in essence the old rules --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER BAIASA: Yeah.

MR. KUSHI: --3.1...3-1 --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --we’re eliminating...deleting Subparagraphs E and F.

CHAIR VICTORINO: Okay. Ms. Baisa, so is your question --

COUNCILMEMBER BAIASA: Oh…

CHAIR VICTORINO: --is in A through D?

COUNCILMEMBER BAIASA: Yes, okay. Let’s go to D then under general conditions. “All water supplied by the department will be measured by means of suitable meters registering in gallons. When it is impractical to meter any service, a flat rate may be charged.” Don’t you have to have a meter to get water?

CHAIR VICTORINO: Mr. Kushi...I mean Mr. Eng?
MR. ENG: No, actually you're absolutely correct. I think most of our... if not all of our customers do have some type of meter. This is fairly old language in this original... our original rules and regulations, but it, it gives us options. It's only a possibility that if it is impractical for whatever reason to meter service, you know, we have some means to charge the customer. So we have that option to charge an estimated flat rate let's say, you know. But generally, they are metered.

CHAIR VICTORINO: And I guess when you cover the word "impractical" to meter the service, I guess that... that's... what's impractical? I don't know.

COUNCILMEMBER BAISA: Yeah, I don't either.

CHAIR VICTORINO: Yeah. So, but I mean I, I, I understand what you're saying, but I'm also agreeing with the Department that if that was to happen, I guess it's available, right? I guess when impractical, then it's practical.

COUNCILMEMBER BAISA: I would hope that we don't have a whole lot of these situations where people are getting flat rates, because, you know, that's why we have meters. But I can let that go.

CHAIR VICTORINO: Okay, thank you. So just to be clear, Members, Section 3.1 which is now becoming 4.04.010 [sic], A through D still exists, E and F are no longer. That, that is being eliminated, okay. And I apologize the confusion because when he had said the bracketed was eliminated, I thought that was all of it. I apologize for that. Okay. Other questions?

COUNCILMEMBER NISHIKI: Mr. Chairman.

CHAIR VICTORINO: Yes, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Thank you. You know, I wanted to ask Jeff this question just because I think we may need to include both the Department and the Water Supply under this new ordinance. And, and I'll, I'll ask Jeff this question in this way because I, I want it to be real specific. Say there's an application right now for a structure... a doughnut shop, and the Fire Department would look at the building and the architect's plans, maps...

CHAIR VICTORINO: Mr., Mr. Nishiki, wait, I going stop you right there.

COUNCILMEMBER NISHIKI: Why...

CHAIR VICTORINO: Can you go to residential? 'Cause I think commercial, they're already looking at everything that is commercial. I think that's a moot point. I think the challenge we're having is residential, if I'm correct, Mr. English, right? Everything that's commercial, a doughnut shop would be commercial. I don't mean to interrupt, but if you want to give an example of what --
CHAIR VICTORINO: --we’re sticking with right now is, is residential I think is this the sticking point, but...

COUNCILMEMBER NISHIKI: Well, let me, let me put it this way.

CHAIR VICTORINO: Okay, okay. Okay, go ahead.

COUNCILMEMBER NISHIKI: I'll cut to the chase.

CHAIR VICTORINO: Okay, good.

COUNCILMEMBER NISHIKI: I think that the Water Department looks at the whole water system in its entirety, and what I'm talking about is they look at tank service areas, pressure reducing valve, flow capabilities, open and close valves, pipeline abatements, emergency pipe closures are, are some of the things that they look at when they look at an...

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER NISHIKI: --entire system. So what I...and, and what I wanted to see if we could do is because of this we need to include them. So under 020, I think the required fire flow for building permit applications for any dwelling or structure should be determined by the Department of Fire and Public Safety. And they’re, they’re talking about Chapter 16.04B, I think that’s your Fire Code, okay. And, and then when we look at the entire system, I think maybe we could add in a section that says the requirements for adequate fire protection, including but not limited to fire hydrants, necessary pipelines, storage tanks, and other appurtenances for building permit applications for any dwelling or structure shall be reviewed and administered by the Department of Water Supply.

CHAIR VICTORINO: That’s the language that exists right now. Is that correct, Mr...

COUNCILMEMBER NISHIKI: I think...

CHAIR VICTORINO: That’s the, that’s the language that exists right now, right?

COUNCILMEMBER NISHIKI: No, we don’t have that yet.

CHAIR VICTORINO: No, no, no. In the present Code, that exists. Am I correct, Mr. Eng?

COUNCILMEMBER NISHIKI: Ed would probably know that.

MR. ENG: It’s not verbatim as, as Mr. Nishiki read it.

CHAIR VICTORINO: Uh-huh.
MR. ENG: It’s a little bit different, but it makes reference to our responsibilities currently and that we use as a guideline the standard of the Insurance Services Offices Guide for determination. So there is a little bit difference --

CHAIR VICTORINO: A little bit different.

MR. ENG: --...(inaudible)...related.

CHAIR VICTORINO: Okay. Okay.

COUNCILMEMBER NISHIKI: But in that way, Mr. Chairman, we, we, we cover both ends. And I, and I don’t think that Mr. English and these people would want to, to look at all these other areas. That’s the expertise of the Water Department. Let them administer that area and let them administer it by...the other by the Fire Code.

CHAIR VICTORINO: Well, you guys going conflict right there, Mr. Eng...I mean Mr. Nishiki, I can see it coming, but go ahead, let them answer. Go ahead. Go ahead, Mr. Eng and Mr. English. As Mr. Nishiki is proposing, what do you take...what’s your take on that, please?

MR. ENG: Thank you, Mr. Chairman, Mr. Nishiki. I, I believe I understand what you are proposing, and that is--and correct me if I’m wrong--

COUNCILMEMBER NISHIKI: Yeah.

MR. ENG: --the Fire Department will determine proper fire flow requirements --

COUNCILMEMBER NISHIKI: Exactly.

MR. ENG: --based on their Uniform Fire Code --

COUNCILMEMBER NISHIKI: Exactly.

MR. ENG: --because we use a, a different guideline, and, and we agree to that. Let’s be consistent in this community.

CHAIR VICTORINO: Uh-huh.

MR. ENG: You’re saying, though, that because we understand the adequacy, capacity, all the little iterations of our water system, that we, therefore, confirm that our water system can meet the requirements that the Fire Department has determined. Is that what you’re saying?

COUNCILMEMBER NISHIKI: Yeah. You know, because you’ve got a more intricate system. And I’m not...and, and nothing, nothing against Mr. English, but I think that that’s something that he
would have to know about. Why not go to the experts, Mr. Chairman, and, and let them make that determination and thereby there’s a coordination now?

CHAIR VICTORINO: Okay. Mr. English?

MR. ENGLISH: Yes. Thank you, Chair. Mr. Nishiki, on, on a previous project we worked with Water Department. Basically, I have the water maps that they have, we look at it. When a project comes in, I’m looking...oh, this looks like the waterlines are too small, we work with them to see what the upgrades needed, if they’re okay, and they can give me...they give me the numbers--oh, we have a loop system here, it will, will provide enough water. So it’s, it’s...like I said, even though our Code doesn’t...setup the velocity for the water pressure, we doesn’t, we don’t address that, we do have the proper fire flow. On the other hand and we have projects here that Water Department approve, that I made them put in hydrants because of our 300-feet rule. They don’t have the distance to hydrant rules. Their rules are water supply on the frontage. They got a water main under the street, that’s waterline on the front, the hydrant is 400 feet away...I make them put in hydrants. Oh, Water Department signed off, why I’m...why is Fire doing this? Because our Code says you need to be 300 feet from a hydrant for a commercial building. So it’s...I mean like I said, it’s been going as far as the commercial building like this...for, for a long time, and I mean do we have some conflicts with the situation that we had on this Molokai Veterans permit, but maybe one out of a thousand will come something like this, that we have conflicts.

COUNCILMEMBER NISHIKI: Oh, I’m not even...

MR. ENGLISH: Oh, yeah. Yeah. I mean on the, on, you mean on the older, older areas that are nonconforming, we will have this problem that they gotta upgrade lines. On the newer subdivisions, I mean newer commercial areas, I mean the infrastructure is there to meet the modern, the modern fire, fire flow requirements.

COUNCILMEMBER NISHIKI: No. What I’m, what I’m saying again is do you have any problems in adding a new section that states the requirements for adequate fire protection, including but not limited to fire hydrants, necessary pipelines, storage tanks, all these other things for building permit applications for any dwelling or structure shall be reviewed and administered by the Department of Water Supply so that they can look at the entire system, and, and that way you, you work in coordination with each other. Otherwise...the...you would want them to review all of this area --

MR. ENGLISH: Well, I--

COUNCILMEMBER NISHIKI: --so that...

MR. ENGLISH: --I guess this section it was to take it...the fire protection out of Water Department... (inaudible)...to speed up the building permit application just for, for the fire flow protection.
If, if you keep that same language in, then it will be business as usual and I will say one thing, Water will say one thing and the permits might be held up in conflict again.

COUNCILMEMBER NISHIKI: Well, if, if that’s what you say, fine. You, I, I don’t know if you’re listening to me about looking at the entire system and, and, and getting some expertise. You don’t...see, I don’t want to say this to you, but it’s...now I’ll, I’ll have to say it. You don’t have that expertise that Jeff and these guys have with the entire system to see what all the, the, the...how the system operates.

MR. ENGLISH: Yeah. That’s why I, I ask them questions when, when projects...sometimes this comes up. I work with...I mean many departments.

COUNCILMEMBER NISHIKI: Well, you know, if we have it here, that way we’re guaranteed that all of these things are going to be addressed. Because I would hate, per se, to risk a life because it’s not written in the Code and, and, and now we have the chance to do it. But if you’re telling me that it’s going to add, add a problem, then fine. But I just wanted to ask you because what is being proposed, I’m a little bit uncomfortable with just because I don’t feel that you have that expertise in these areas.

MR. ENGLISH: Okay. I, I agree with you. We...like I said, that’s why the Water Department there is to, to assist us if the fire flow available in the area, I mean what’s available in that location. Once again, this is the water, water rules and regulations, not the Fire Code. I’m just accepting this responsibility that the Water is pushing this requirement to Fire. If Water don’t, don’t wanna push it to Fire and add that in, that’s their rules and regulations that they need to address and maybe revise it.

COUNCILMEMBER NISHIKI: Yeah. Mr. English, we don’t want to see this agree or disagree, we’re...I think it’s, it’s a real good division of responsibility, and I think that you can work with Jeff and, and, and to make sure that we’re covered, you know, for our water system and, and for the safety of our entire community, and, and that’s all. I mean we want to, to make it as safe as possible. And so my, my whole pursuit on this is, is working together and, and doing it properly because I think we see the, the concerns that have been raised, you know. There’s one thing about, there’s one thing about making sure that the process operates quickly. I’m all for that, all of us are all for that. But I think we also are concerned about that this process works responsibly, because it could mean somebody else not having enough because we didn’t look at the entire system and, and then something unfortunate occurs. And, and, and I’m saying it really nicely because hey, you know, we’re all in this boat together, Mr. English, and, and that’s all. But, but think about it, talk to Jeff and, and that’s all, you know. I, I hope you’re not throwing it out the door. But anyway, just a thought, Mr. Chair.

CHAIR VICTORINO: Mr. English, go ahead.

MR. ENGLISH: Okay. Thank you, Chair. Yeah, I, I see where you’re coming from, Mr. Nishiki. Like I need to know about...more about their system, what’s available for fire protection, and I’ve
been in this Department for 16 years, the Fire Prevention Bureau, I’ve been working with them for a long time on subdivision. We upgraded our subdivision requirements to meet theirs, and I’ve been on this Water Resource Committee for at least four years trying to get our Codes in consistency so we’re not in conflict. And that’s what pretty much our Fire Department is here to work with them so we don’t have this Water said this, Fire said this, and then permits are held up. We’re trying to work to, to get answers to where we can be consistent and we can move the process along smoother.

CHAIR VICTORINO: Thank you, Mr. English, for that clarification. Ms. Baisa?

COUNCILMEMBER BAISA: Yes. Thank you, Chair. You know, I’m...I’m a little bit conflicted here and one of the problems is, you know, I’m very much aware like everyone else is of the concerns that people have about building permits being stuck because one department says one thing, another one says another thing, or one department rules and the other one is thinking about it, and so the poor person who wants to do something is stuck in the middle. I remember when we were working on the bed and breakfast permits, that we had a lot of testimony from the applicants who really wanted somebody to take responsibility. And so I know where this ordinance is going. It would, you know, obviously, hopefully, move things along quicker. And, you know, we’re all getting a lot of pressure about can you move things faster ‘cause you take too long. And if this is a solution, then of course we all want to support it. My problem is that, you know, I’m hearing what Mr. Nishiki’s saying and the other thing is this idea of the first and second dwellings no longer being exempt is concern for me. I wish that we had known more about that and that it was clearly outlined in this ordinance that we got to take a look at, and I spent a lot of time looking at it and I also had a few people look at it, and it didn’t, didn’t jump out at me. And so here we are and we need to make a decision. So this is a hard one for me, Chair, and it isn’t because I want to hold up the ordinance. I think, you know, if we could find a way to move things, it would be really great, but we gotta be careful at the ramifications. And I don’t know how people feel about this first and second building being exempted, no longer being exempted because I haven’t had the opportunity to gather any input. That, that’s it, Chair.

CHAIR VICTORINO: Thank you, Ms. Baisa. When looking this over, I think again this is the seventh attempt at this, and what Mr. Nishiki...basically you’re saying leave things as they are, and that’s what it’s going to come down to. So, I’m going to move to defer this item. And, again, I’m sorry to the Molokai veterans...I, I tried, but this is another issue. I’m going to defer this matter and, you know, at this point there’s, you know, we’re going to have to go back and do some more research, and that’s the way it’s going to be. So with no objections, I would like to --

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: --defer this matter --

COUNCILMEMBER BAISA: Chair?
CHAIR VICTORINO: --cause time is running out and I’m not going to, to hear any more discussion. I just wanna, I would like to defer this matter ‘cause it’s already 12 o’clock --

COUNCILMEMBER NISHIKI: Mr. Chair?

CHAIR VICTORINO: --and we’re, we’re only saying the same things.

COUNCILMEMBER NISHIKI: Yeah. And, and, and --

COUNCILMEMBER BAISA: That’s not fair.

COUNCILMEMBER NISHIKI: --and I don’t want this Council to look at --

COUNCILMEMBER BAISA: Yeah. That’s not fair.

COUNCILMEMBER NISHIKI: --look like the scapegoats for the Molokai.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER NISHIKI: I think our Chairman did as much as he could.

CHAIR VICTORINO: That’s correct.

COUNCILMEMBER NISHIKI: I think, Mr. Chairman, it doesn’t lie with us.

CHAIR VICTORINO: That’s fine.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER NISHIKI: Administration is the one now that has got to go and, and work with these people. We are not the scapegoats, okay, and I don’t want to, to...or any impression that because of this that’s why it’s not happening. It’s not happening because now I think Larry for however he decided to do his tactic--you know, and I’m not for or against--let Administration now work with them because it seems like Administration has finally taken a step. I’m not saying that it’s going to be resolved, but this Council should not be made to look like the scapegoat. I’m sorry, that lies with Administration.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER NISHIKI: I just wanted to end with that. Thank you.

CHAIR VICTORINO: Thank you. And that’s fine. And...

COUNCILMEMBER NISHIKI: And thank you, Danny, and you.
CHAIR VICTORINO: Okay. You know, and again I thank you guys for all the discussion and again, you know, it's like everything else, you know, it's a process and it's a process that, you know, Mr. Mateo, you know, I appreciate, you know, we will continue to work on this issue as far as that is concerned. Again, the bottom line in all of this is we're going to have to look at other alternatives and other methods. One day you guys gonna have to decide or one Council's gonna have to decide who's doing fire flow and fire protection. That has to come to a head sooner or later and that's the way it's going to be. Yes, Ms. Baisa.

COUNCILMEMBER BAIISA: Thank you very much, Chair. It appears to me that I heard very clearly from the Fire Department that they did not have a concern. We also have a proposal to deal with the waterlines that have to be installed. So, you know, I don't want, like Mr. Nishiki says, this should not be laid at our feet. Thank you.

CHAIR VICTORINO: Well, it's gotta be laid somewhere sooner or later as far as this change being done --

COUNCILMEMBER BAIISA: Mr. Chair, if you have…

CHAIR VICTORINO: --and that's…one of these days it's gotta be done. I mean--

COUNCILMEMBER BAIISA: Chair, if you bring it back and I have an opportunity to think about this one and two dwelling thing, I'm ready to vote.

CHAIR VICTORINO: Yeah. Well, the one and two dwelling thing is the issue right now.

COUNCILMEMBER BAIISA: That's right.

CHAIR VICTORINO: Okay. Okay, anyhow…seeing no other discussion, I will move to defer this item…with no objections.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: SPK).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Thank you. Thank you, again, Committee, and thank you, departments, and do what you can and we'll get together on this in the near future and try to work it to a conclusion.

This meeting of the Water Resource Committee for August 3rd is now adjourned. . . .(gavel). . .
WATER RESOURCES COMMITTEE MINUTES
Council of the County of Maui

August 3, 2010

ADJOURN: 12:02 p.m.

APPROVED:

[Signature]
MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:100803

Transcribed by: Chante Diaz
CERTIFICATE

I, Chante Diaz, 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 24th day of August 2010, in Wailuku, Hawaii.

CHANTE DIAZ