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BOARD OF WATER SUPPLY
COUNTY OF MAUI
STATE OF HAWAII

REGULAR MEETING

Held at the Department of Liquor Control Conference Room,
2145 Kaohu Street, Room No. 107, Wailuku, Maui, Hawaii,
commencing at 9:00 a.m. on November 18, 2010.

REPORTED BY: RACHELLE PRIMEAUX, RPR/CSR NO. 370

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A P P E A R A N C E S

CHAIRPERSON: Phyllis Robinson

BOARD MEMBERS: Kevin Boteilho
Patricia Eason
Donald Gerbig
Ted Yamamura
Kui Lester

BOARD SECRETARY: Gaye Hayashida

DEPUTY CORPORATION COUNSEL: Edwin Kushi

DEPARTMENT OF WATER SUPPLY
DIRECTOR: Jeffrey Eng

1 Members. I'm sorry I have to take your -- even two seconds
2 of your time, but I was scheduled for my hearing to be next
3 month. And now I'm told it's put off again and again and
4 again. So, I'm upset at why it's being put off.

5 Now, I'm told I have to talk to your counsel, and
6 my particular problem can be taken care of in five minutes.
7 I've set forth exactly -- explicit in my appeal exactly what
8 the problem is. And if there's questions, it would take a
9 little bit longer that you might want to ask me. But it's
10 not a rocket science decision that has to be made by you
11 folks.

12 CHAIR ROBINSON: I don't know the particulars of
13 your appeal, but if there's a specific question, I mean we
14 do have corporate counsel here. Perhaps he can answer it in
15 terms of the procedural part of this. I don't know if Ed is
16 familiar with your letter or your situation. If you have a
17 letter there --

18 MR. BLIETZ: Well, I have the original appeal I
19 made to you folks. I have it here, and I'm sure you have it
20 in your records somewhere.

21 CHAIR ROBINSON: Well, you have a few minutes to
22 just make us all aware of why you're being asked to postpone
23 and why you're being asked to talk to the County Council, so
24 that we can better understand it.

25 MR. BLIETZ: I don't know. I wish I could tell

1 you. That's why I'm here. I would like to have some kind
2 of an idea what I'm supposed to do. It was one year before
3 I had my first hearing even scheduled with you folks. And
4 then one month before the hearing, the Department contacted
5 me. And I thought we had it worked out. I continued it one
6 other time and one other time until today.

7 It's not going to be able to be worked out with
8 the Department looks like, so my appeal is not that
9 complicated as to what the problem is.

10 CHAIR ROBINSON: Gaye, can you address how this
11 appeal has been postponed?

12 MS. HAYASHIDA: Mr. Blietz filed an appeal a long
13 time ago. That is September of 2008. In the meantime, I
14 guess this was going on and on and on. I guess he was --
15 you know, I guess engineering contacted him, and they were
16 going into some kind of negotiations about what it is he
17 needs to do at this time.

18 Mr. Blietz said he's happy, but keep his appeal
19 off record. And this went on and on, and then he came and
20 said, no, he's not happy. He wants to continue. But in the
21 meantime, we've scheduled appeals, you know, had them
22 scheduled. And so now, he's come back, and he wants to be
23 heard. But I explained to him that we now have a new
24 procedure that we hold a prehearing conference and that
25 everybody is on the same page as to what needs to be

1 submitted and when, and we all decide as to a mutually
2 agreed date for their hearing.

3 So, that has not happened yet. And I explained to
4 Mr. Blietz that the Department's attorney, Mimi, will be
5 available for a prehearing conference after December 15th
6 because she's going to be tied up in court. So, she said
7 any time after December 15th a prehearing conference is
8 okay. So, I don't know if -- what you guys want to do. But
9 normally, we've been holding -- we've started these
10 prehearing conference meetings to determine what paperwork
11 needs to be submitted, when and to come to a mutually agreed
12 date for hearing.

13 CHAIR ROBINSON: So, is that -- does that clarify
14 why it has to be put off a little longer? It sounds like
15 it's more than a month, but it's because you have to go
16 through this prehearing conference. The reason is that
17 we're trying to get better at having more appeals that we
18 can hear at any given time. And because there's been a lot
19 of complaints about the fact that there's -- people have to
20 wait a very long time to get into the queue for an appeal.
21 So, we're trying to make that more streamlined by having
22 these prehearing conferences.

23 And that allows us to have more than one appeal at
24 any given hearing, so it sounds like you have to have that
25 preconference hearing, and that would be setting that up

1 with Gaye and making sure that you're able to do that when
2 the person she spoke of is available. So, I don't know if
3 that has anything to do with your having to talk to the
4 County Council, because we don't know the specifics of your
5 case.

6 But in terms of the getting a hearing with us,
7 that's the procedure that we set up to try to streamline is
8 that you have a preconference hearing and all of the
9 specifics get hashed through, and then you come before us.

10 MR. BLIETZ: I appreciate your help, but you know
11 that still doesn't solve my problem, because my problem is
12 not that complicated. And they've had these papers for two
13 and a half years, the Council has been -- has had them, and
14 the Water folks have had them. And it's not that -- like I
15 say, it's not a difficult, complicated thing. I don't know
16 -- like I say, I could present my case in five minutes.

17 Now, there may be some questions that you would
18 like to ask. I can understand that.

19 CHAIRPERSON ROBINSON: But in order for us as a
20 body to be able to answer to your appeal, what we have to do
21 is have you on the agenda as an appeal. Right now, we're
22 listening to you as public testimony just to express what
23 your frustrations are, and we just want you to know that we
24 concur with that frustration. Because, you know, we also
25 have heard from other members of the community about the

1 time that it takes to get heard. So, this is a way for you
2 to get heard by actually having Gaye get you this
3 preconference hearing. And then we will schedule your
4 appeal accordingly so that we can hear it even if it only
5 takes five minutes.

6 That way you're on our agenda as an appeal, which
7 is the most important thing. Because we can't make
8 determinations as a Board without that, so --

9 MR. BLIETZ: I still appreciate that, but, you
10 know, I was scheduled for next month. And now I don't know
11 when I'm ever going to be scheduled again. I got in line
12 one time. The very first time I got in line, it was 12
13 months before I got a hearing date.

14 CHAIR ROBINSON: Right, and that's why we're
15 trying to change that and make that different. Gaye.

16 MS. HAYASHIDA: I was instructed by the Chair that
17 anybody requesting to postpone be put at the bottom of the
18 list. And so, you know, the things get before him.

19 CHAIRPERSON ROBINSON: So, there's a penalty for
20 postponement.

21 MS. HAYASHIDA: Yeah.

22 CHAIR ROBINSON: So, if you have to postpone for
23 whatever reason --

24 MS. HAYASHIDA: But my understanding was he was
25 working with our department and, you know, thought that it

1 was going along smoothly. I didn't hear until he said
2 months later that he's not happy, he wants to go to the
3 Board, and he wants to continue his appeal. We're trying.
4 We're not perfect.

5 CHAIR ROBINSON: I understand. So, William, I
6 hope that it's clear now what we are trying to do as a
7 Board. And as much as we can do here today is to just
8 advise you to talk to Gaye and get yourself in line for the
9 preconference hearing so that your appeal is given that
10 level of priority that, of course, it deserves. I mean we
11 apologize that this system has been the way it is.

12 MR. BLIETZ: Well, I want to thank you for
13 extending me this courtesy of even hearing me today. So,
14 and I thank you for explaining the circumstances on your
15 end, and I'm just trying to explain to you my circumstances.

16 CHAIR ROBINSON: Yes, and we are --

17 MR. BLIETZ: And I don't mind waiting in line.
18 Listen, I've been in that queue for two and a half years.
19 I'll continue to wait.

20 CHAIR ROBINSON: So talk to Gaye, and she'll make
21 sure you get into the preconference hearing.

22 MEMBER BOTEILHO: Bill, so what are your concerns?
23 Since I'm new to the Board, I have no knowledge of what
24 transpired. What's the specifics of your case?

25 MR. KUSHI: Madam Chair.

1 CHAIR ROBINSON: Yeah, this is not a time to talk
2 about specifics of the case, because this is a public --
3 this is public hearing time, and it's limited to three
4 minutes so that we can move the agenda along.

5 MR. BLIETZ: I'm sorry I even look longer than
6 that.

7 CHAIR ROBINSON: Okay.

8 MR. BLIETZ: Thank you.

9 CHAIR ROBINSON: Okay. So, next up is Bryan
10 Plunkett. Bryan.

11 MR. PLUNKETT: Madam Chair Robinson and Board
12 Members, thank you for allowing me to speak to you again.
13 What you have in front of you is what was going to be a
14 Power Point presentation, but it's on paper now and you can
15 have it for a while to see it. But we give you a brief
16 overview of what we're doing currently and what is the
17 overall project for the Lanaihale watershed.

18 And the first page shows the fencing for the
19 access control or ungulate control for the Lanaihale. And
20 next page shows the first Increment II, Phase II, which is a
21 \$378,000 project. That's the first mile, and the second
22 mile has been completed at the end of October. You can see
23 our fence. One of the pictures is slightly distorted
24 because of the copy, but basically, we got pretty much
25 eleven -- well, thirteen miles of fence completed.

1 The last increment, which is a four-mile section,
2 is the biggest section. And that's the million-dollar fence
3 there, that four miles. So, that gives you kind of an
4 overview of where we are currently for the fence project.
5 And you turn the page to the Americorp and the Hawaii Youth
6 Conservation Corps student workers section. It shows our
7 participation with Americorp and student workers and the
8 Hawaii Youth Conservation Corps and the kind of stuff they
9 do like seed propagation. And they go out and outplant
10 these native species and especially the endangered species.

11 The Awehi disclosure is a six-acre plot where it
12 protects some of the endangered species and we outplant
13 Bidens Micrantha, Ko'oko'olau and the Nanu, the Hawaiian
14 gardenia. And we've also been using these student workers
15 to go out to the ridges and to plant the Cook Pine trees so
16 that we can enhance the fog drip. So, again, we hike out
17 with these ten-inch tubes. And the last planting we had was
18 176 pines that was planted along one ridge to again enhance
19 the fog drip.

20 Then the Lanai Native Species Recovery Program
21 that's run by Jay Penniman, Maui Nui Seabird Project here on
22 Maui as well as on Lanai and endangered 'Ua'u, the Hawaiian
23 petrel sequence that you're looking at. If you see the Cook
24 Pines, there's an area that's been eradicated of strawberry
25 guava, and it shows the bare portion within the pine trees.

1 And then they put -- input some runoff control and planting
2 of native plant species to again restore the area. And then
3 you see the last picture is the Hawaiian petrel, so that's
4 the endangered 'U'au, which has a real significant
5 population on Lanai.

6 And the Ko'oko'olau Endangered Bidens Micrantha
7 panel. You see we have about a half-acre plot, which we're
8 trying to have the bidens to propagate and reproduce itself.
9 So, the last frame, it shows the -- that this little bidens
10 here has been propagated by itself, so that's the ultimate
11 goal is to reintroduce the bidens in their natural habitat
12 and have them reproduce themselves. And the Koa Forest
13 Restoration Project, the first panel shows a deer fence, and
14 we attached in a small enclosure and removed the alien
15 species from this small area.

16 The strawberry guava again is the major culprit.
17 And it's self generation. And you can see how the koa began
18 to reproduce or grow back with the seed bank that was
19 already in the ground. And we planted some in this area,
20 but it kind of highlights that without ungulate control, the
21 forest cannot regenerate on its own. So, that's why it's so
22 important to put up that fence. And the last phase, the
23 Plant Extinction Prevention Program that Hank Oppenheimer
24 comes to Lanai from Maui to take care of the real endangered
25 rare plants on Lanai, and he helps to outplant the

1 endangered species.

2 You need a license or a permit to deal with
3 endangered species, so he has one. And he conducts classes
4 for the students of Lanai. So, again, this is disclosure
5 that we planted, outplanted 110 Nanu or Hawaiian gardenia.
6 So, this is the kind of things that's going on on Lanai, and
7 our projects are continuing on. And we would like to just
8 again give you a overall view of what's going on, and
9 hopefully you get that idea that we're doing a lot of things
10 on Lanai.

11 The watershed is being worked on and that we
12 continue to have really a vested interest in that watershed.

13 CHAIR ROBINSON: Are there questions from the
14 Board?

15 MEMBER GERBIG: Mr. Plunkett, excuse me. This is
16 continuing on now, it's still in effect, this program?

17 MR. PLUNKETT: Yes, yes. We have grants that
18 takes us to 2015 to restore 60 acres of the last increment
19 we just enclosed, Phase II, Increment II. The NRCS has
20 given is \$50,000 per year for three years to restore eroded
21 or degraded habitat, so we can enhance the 'Ua'u habitat.

22 MEMBER GERBIG: I've got one more. How do you get
23 rid of the strawberry guava.

24 MR. PLUNKETT: Right now, they are doing it
25 manually, cutting it, killing it, chipping it.

1 MEMBER GERBIG: No spraying?

2 MR. PLUNKETT: The last phase, since they ran out
3 of a lot of funds, so they're doing spraying right now. And
4 this particular project area was picked by DOFAW, three
5 acres. And what they're doing now is going out into the
6 less populated areas of guava and trying to kill and stop
7 the spread and then come back and concentrate on the heavily
8 forested area of guava.

9 MEMBER GERBIG: Thank you.

10 CHAIR ROBINSON: Ted, do you have a question?

11 MEMBER YAMAMURA: Yes, Mr. Plunkett, who
12 coordinates and funds all these conversation efforts?

13 MR. PLUNKETT: We have Castle & Cooke, the main
14 funder, that provides funds to continue the conservation
15 department. We've got NRCS has provided funds for fence
16 building. U.S. Fish and Wildlife, DOFAW, Hawaii Foundation.
17 In the past, Board of Water Supply, through Ellen's help, we
18 had funds. So, it's a variety of government, state, federal
19 grants, and again, Castle & Cooke is the foundation for this
20 project.

21 MEMBER YAMAMURA: Is there a local organization of
22 residents on Lanai that assist in these projects?

23 MR. PLUNKETT: There is like a Lion's Club that
24 will come and plant trees, and there are -- right now,
25 there's some interested homeowners down at the expensive

1 homes down at Manele that are assisting Jay Penniman and
2 Hawaii -- or the Lanai Native Species Recovery Program. So,
3 they are local interests involved in this project.

4 MEMBER YAMAMURA: Thanks.

5 CHAIR ROBINSON: Done?

6 MEMBER GERBIG: One more dumb question. About how
7 many acres -- maybe this is unanswerable -- how many acres
8 of strawberry guava would you estimate you have over there
9 to eradicate, say the heavy infestation area?

10 MR. PLUNKETT: Roughly, I would say of the --
11 about 4,000 acres, maybe 1,500.

12 MEMBER GERBIG: 1,500 acres?

13 MR. PLUNKETT: A lot.

14 MEMBER GERBIG: And that would be the heavy
15 concentration population?

16 MR. PLUNKETT: Yes.

17 CHAIR ROBINSON: Have the high school students on
18 Lanai, several of them came and spoke or a couple spoke at
19 our meeting about their interest in, you know, preserving,
20 and does the high school get involved at all?

21 MR. PLUNKETT: Well, the Americorp and HYCC, they
22 use or they bring in the workers from the high school.

23 CHAIR ROBINSON: From Lanai High School?

24 MR. PLUNKETT: Yes. And I just got a letter from
25 -- e-mail from the science teacher that they want to involve

1 the students with the Lanaihale project.

2 CHAIR ROBINSON: Oh, good. Because that seems
3 like it would be really wonderful getting out into the rough
4 terrain.

5 MR. PLUNKETT: The Bishop Museum had worked with
6 the school on the Bidens Micrantha projects, so the students
7 grew these bidens, and we outplanted some of them.

8 CHAIR ROBINSON: Great. Wonderful. Thank you,
9 Bryan. Is there another question?

10 MR. KUSHI: Bryan, this guy's name has been
11 mentioned before. Who is Hank Oppenheimer, and what does he
12 do?

13 MR. PLUNKETT: He's a biologist. He works with
14 the PEP Program, which is the Plant Extinction and
15 Prevention Program on Maui. And he also goes to Lanai to
16 work. He runs off of a grant from DOFAW.

17 MR. KUSHI: So, he's not a Lanai company employee?

18 MR. PLUNKETT: No.

19 CHAIR ROBINSON: Any other questions? Thank you,
20 Bryan.

21 (The Board of Water Supply heard Appeal No. 09-05
22 of Rick and Debra Strini.)

23

24 REGULAR MEETING RESUMES

25 CHAIR ROBINSON: So, I think we should go forward

1 on our agenda. We're going to talk about the Lanai Water
2 Use Development Protection Plan. I think that we may limit
3 our discussion to the procedures that would need to go
4 forward rather than the content. But I need the Board's
5 permission to do that. So, let's go ahead and proceed with
6 unfinished business, which is our possible action on the
7 Board's recommendations to the Maui County Council regarding
8 the Lanai Water Use Development and Protection Plan.

9 And I just for clarification's sake, we need to
10 actually get our recommendations to Director Eng by the 27th
11 of December. And then he has 60 days to review our
12 recommendations and put forward those to the County Council.
13 So, we are -- first of all, just wondering how Ted and Don
14 are doing with the compilation of each of our individual
15 recommendations.

16 MEMBER YAMAMURA: I do have some handouts here,
17 some summaries. There's three different summaries, so that
18 one, that one and this one.

19 CHAIR ROBINSON: So, Ted, would you like to guide
20 us through the documents that you just handed out?

21 MEMBER YAMAMURA: There's three handouts. If I
22 may get to this one here, it's just a summary of the public
23 testimony. I itemized it by name, whether or not they
24 presented oral or written or both testimonies and a summary
25 of what their testimony was about.

1 On the second page, I've itemized Board Member
2 comments. I don't have comments from all of the Board
3 Members, so I did not -- we did not, Don and I -- finalize
4 our final recommendations yet.

5 CHAIR ROBINSON: So, say that again, Ted, I'm
6 sorry. You and Don have not summarized?

7 MEMBER YAMAMURA: We have not finalized our final
8 recommendations for the Director because we haven't heard
9 from all of the Board Members yet. We're hoping perhaps
10 today they might be providing some input. But if not, we
11 can move on.

12 CHAIR ROBINSON: So, currently, you have received
13 board recommendations from Michael, myself, Patricia, Don,
14 John and Ted, yourself?

15 MEMBER YAMAMURA: Yeah.

16 CHAIR ROBINSON: So, missing are Kui's, Kelli's
17 and Kevin's. Now, Kevin is the only person here that can
18 answer whether or not you still intend to give -- you do?

19 MEMBER BOTEILHO: Yeah.

20 CHAIR ROBINSON: And do you want to, Ted, set a
21 deadline for receiving these? I know we had the November
22 16th at 12 noon was the original deadline.

23 MEMBER YAMAMURA: Well, this has to go to the
24 Director by the 27th.

25 CHAIR ROBINSON: That's correct. So, we have one

1 more Board Meeting before that.

2 MEMBER YAMAMURA: No, we don't.

3 CHAIR ROBINSON: Yeah, we do, the 23rd. Go ahead,
4 Don.

5 MEMBER GERBIG: I would like to suggest that we
6 have another interim meeting just to discuss this Lanai
7 thing. I don't think we've got enough time to do it here.
8 I think maybe we could just throw some things out and
9 thoughts, and then we can continue on at another -- not make
10 my decision until there are some things we should think
11 about at our next meeting so we can make a decision.

12 CHAIR ROBINSON: So, it's my understanding from
13 Gaye that we can do that either within six days, six
14 calendar days --

15 MS. HAYASHIDA: You recess this meeting, and
16 continue the meeting within six calendar days.

17 CHAIR ROBINSON: Within six calendar days or --

18 MS. HAYASHIDA: Or notice another meeting and call
19 it a special meeting. And the only thing will be on the
20 agenda is the Lanai discussion.

21 CHAIR ROBINSON: And I think that -- are we in
22 agreement as a Board that we would like it to be a special
23 meeting that we are only talking about this?

24 MS. HAYASHIDA: So, give me a date, and I will
25 check with Liquor as to date availabilities.

1 CHAIR ROBINSON: Does everyone have calendars they
2 can look at about being able to do that? How about Monday,
3 the 29th?

4 MS. HAYASHIDA: Of November?

5 CHAIRPERSON ROBINSON: Yes.

6 MEMBER BOTEILHO: I won't be here.

7 CHAIR ROBINSON: Tuesday, the 30th?

8 MEMBER BOTEILHO: I'll be gone that whole week.

9 CHAIR ROBINSON: When are you back?

10 MEMBER BOTEILHO: I will be back on the 6th,
11 December 6th.

12 CHAIR ROBINSON: Wednesday, December 8th, how does
13 that work?

14 MEMBER BOTEILHO: That works for me.

15 CHAIR ROBINSON: You'll be gone again?

16 MEMBER BOTEILHO: No, I'll be here.

17 CHAIR ROBINSON: And you, Gaye?

18 MS. HAYASHIDA: Not going anywhere.

19 CHAIR ROBINSON: So, Wednesday the 8th. Should we
20 give ourselves two hours?

21 MS. HAYASHIDA: I can check and see. If we can
22 have the whole day, we can have a whole day.

23 CHAIR ROBINSON: Well, I personally can't give a
24 whole day for this, but I think two or three hours.

25 MEMBER YAMAMURA: Well, by that time, we should

1 have submitted at least a draft to all the Board Members.
2 So that when we get here, it will be more like finalizing
3 the document that we're going to be submitting to the
4 Director. So, I don't think we need more than a couple of
5 hours, I would imagine.

6 MS. HAYASHIDA: Let me check with Liquor.

7 CHAIR ROBINSON: So, can we make it afternoon if
8 that would be possible, from let's say 1 to 4? Would that
9 be okay?

10 MEMBER GERBIG: What day again, December?

11 CHAIRPERSON ROBINSON: On December 8th.

12 MS. HAYASHIDA: We need to be out by 3:30. That's
13 the latest we can get the room, so 1 to 3:30.

14 CHAIR ROBINSON: One to 3:30.

15 MEMBER GERBIG: That's a Wednesday?

16 CHAIR ROBINSON: That's Wednesday, December 8th.
17 So you're going to check on that. So, in the meantime while
18 Gaye checks on that, let's talk a little bit about what will
19 prepare us in the best way for our deliberations. I just
20 heard you, Ted, suggesting that we have a deadline for
21 everyone's comments so that you can then put together those
22 comments into a compilation?

23 MEMBER YAMAMURA: Right.

24 CHAIR ROBINSON: And one question I had is that
25 will that compilation merely be verbatim of each of our

1 recommendations separately and that we as a Board then read
2 all of those recommendations and that when we come together
3 on the 8th, what we're doing is formulating some kind of a
4 consensus on our recommendations?

5 MEMBER GERBIG: From what we've submitted already
6 is part of that; in other words, I've submitted something,
7 so that's all. I don't have to do it again.

8 CHAIR ROBINSON: Right.

9 MEMBER GERBIG: We're not doing another one.

10 CHAIR ROBINSON: No, no, no. I don't think anyone
11 is being asked who has already submitted to submit more
12 information.

13 MEMBER GERBIG: Just Mr. Boteilho will get off
14 your you-know-what and get stuff ready.

15 (Laughter.)

16 MEMBER YAMAMURA: So, what you have today is what
17 was submitted to me, and so it's members comments, and so
18 you can read what other members have said about the plan.

19 CHAIR ROBINSON: Right.

20 MEMBER YAMAMURA: What I would like to also
21 receive from Board Members so we can include this in your
22 final recommendation to the Director is a codification of
23 your -- in other words, summarize your comments into a
24 paragraph if you can. And then we would like to incorporate
25 all of those summaries, one-paragraph summaries into our

1 final recommendation.

2 And it will go out with an e-mail, and each person
3 can edit or amend as they see fit and then send it back to
4 us. And we will then bring it to the Board, special Board
5 Meeting, and we can discuss it and finalize it at that time.

6 CHAIRPERSON ROBINSON: All right. So, what you're
7 asking is each of us who have submitted recommendations to
8 take and summarize those into a paragraph?

9 MEMBER YAMAMURA: Right, right. Because some
10 comments, like Don's goes for like 40 pages.

11 MEMBER GERBIG: I only got three this time. I'm
12 down from 20.

13 MEMBER YAMAMURA: In other words, get to the meat
14 of the matter.

15 CHAIR ROBINSON: Okay. So, we have a request from
16 Ted that those of you who have not yet submitted, go ahead
17 and submit a detail that will be made available to all of
18 us. And that in addition, the rest of us who have
19 submitted, we summarize in a paragraph our suggestion for
20 recommendations. And then the new people will have to do
21 the same.

22 And they can do it at the same time, or they can
23 wait until we receive all of the totality. And then we
24 could -- you see, the thing that happens here is that we
25 have differing opinions. And we don't have to necessarily

1 agree as a Board about everything. There may be some things
2 that each and every one of us have stated in our
3 recommendations that give strength to that particular
4 recommendation, because there is consensus on that.

5 Then there's a list of things that we individually
6 feel that we would summarize in a paragraph. So, in some
7 ways, having the original totality of that helps us to see
8 where there's overlap in some of the things that we all can
9 agree on and that that gives strength to our recommendation.
10 So, does that make sense?

11 MEMBER GERBIG: Say maybe for the people who have
12 not submitted their input, rather than go through all of
13 that, just submit a paragraph overall of your thoughts, just
14 that. At least do that. You don't have to do the two
15 things, unless you want them to specifically do it.

16 CHAIR ROBINSON: Well, I think that should be the
17 privilege of the person doing it.

18 MEMBER GERBIG: If they want to add to it.

19 CHAIR ROBINSON: If they want to have a long,
20 drawn-out document that supports their paragraph. And I do
21 believe that all of us should be able to read each other's,
22 so that we can begin to see a pattern emerging where there's
23 consensus. And that way when we do our deliberations, maybe
24 if the two of you are willing, perhaps you can highlight
25 where that consensus exists by going over the documents.

1 And that will help in our deliberations, and then
2 we'll have to just formulate language for that. Now, are
3 there any other -- any other contributions to this
4 procedural part?

5 MEMBER YAMAMURA: Well, I just wanted to clarify
6 that now rather than going to the Council, it does go to the
7 Director?

8 CHAIR ROBINSON: Yeah, yes. And he's already let
9 us know that he's not going to completely change what we
10 say. He already -- he already said --

11 DIRECTOR ENG: I wouldn't dare do that.

12 MEMBER YAMAMURA: Well, we know what's happening
13 with Madelyn. But any word on directorship?

14 DIRECTOR ENG: No, there's no word at this time.

15 CHAIR ROBINSON: Oh, you mean you may not be with
16 us?

17 DIRECTOR ENG: So, you have some news I don't
18 have?

19 (Laughter.)

20 DIRECTOR ENG: There's nothing newsworthy at this
21 time.

22 CHAIR ROBINSON: And actually, I had a question,
23 which maybe Ed, you can clarify. Are we also subject to --
24 no, we stay as a Board.

25 DIRECTOR ENG: You're stuck.

1 CHAIR ROBINSON: We're stuck.

2 MR. KUSHI: Shucks.

3 CHAIR ROBINSON: And you have an answer?

4 MS. HAYASHIDA: Yes. Bad news. The 7th, 8th and
5 9th are out. The 10th is my furlough day. The 13th is
6 their furlough day. So, we have a choice. Monday the 6th,
7 we can have it anytime during the day, or Wednesday, the
8 15th, anytime during the day.

9 CHAIRPERSON ROBINSON: Both of those are fine with
10 me.

11 MEMBER GERBIG: What are the two dates again?

12 MS. HAYASHIDA: Monday, the 6th?

13 MEMBER GERBIG: 13th?

14 MS. HAYASHIDA: The 6th.

15 MR. KUSHI: Kevin won't be here.

16 MEMBER BOTEILHO: I will be back.

17 MS. HAYASHIDA: Monday, the 6th, or Wednesday, the
18 15th.

19 MEMBER YAMAMURA: I prefer the 15th.

20 CHAIR ROBINSON: 15th?

21 MEMBER BOTEILHO: 15th.

22 CHAIR ROBINSON: So, same time, 1 to 3:30 on
23 Wednesday, December 15th.

24 MS. HAYASHIDA: I'll let them know. Thank you.

25 CHAIR ROBINSON: So, going back to our -- we need

1 some deadline dates from the two of you as to when you would
2 like our summary paragraph, and more importantly, when you
3 would like the people that haven't submitted to get theirs
4 in.

5 MEMBER YAMAMURA: How about December 6th?

6 MEMBER GERBIG: What date?

7 MEMBER YAMAMURA: December 6th.

8 CHAIR ROBINSON: You want December 6th to be the
9 deadline for our paragraphs, or for the people that have --

10 MEMBER YAMAMURA: No, for your paragraphs.

11 CHAIR ROBINSON: For the paragraphs, okay. And
12 what would be the deadline for the people that haven't
13 submitted their first draft?

14 MEMBER GERBIG: Same.

15 MEMBER YAMAMURA: Yeah, it can be the same. It
16 doesn't matter.

17 CHAIR ROBINSON: Well, the only thing that I was
18 asking for is that I would like to be able to sit down and
19 read in the entirety all of what I'm looking at, so that
20 when I write my paragraph, I come as close as possible to
21 honoring my fellow Board Members' feeling.

22 MEMBER GERBIG: As far as distribution to anything
23 in regards to this now, then we should send it to -- maybe
24 send it to Gaye, and she should send it to the whole Board?

25 CHAIRPERSON ROBINSON: Yes.

1 MEMBER YAMAMURA: Because you have everything here
2 that was submitted from the Board Members to date.

3 CHAIR ROBINSON: Right, so we have this so far.

4 MEMBER GERBIG: Any new submittals on the Lanai
5 plan, no matter what it is, it's going into the summary.
6 Submit it to Gaye. She'll distribute it to the rest of the
7 Board Members.

8 CHAIR ROBINSON: Now we've just lost Gaye, so she
9 didn't hear that.

10 MEMBER GERBIG: Does that sound logical?

11 CHAIR ROBINSON: I think that sounds very
12 accurate, yeah. So, do you want to just give a little
13 earlier date for the people that haven't submitted by the
14 29th or 30th?

15 MEMBER YAMAMURA: Yeah, I would think the 29th.

16 MEMBER GERBIG: And have Gaye send them a
17 reminder.

18 MS. HAYASHIDA: I'm sorry, that was Kui. She's on
19 her way now.

20 CHAIR ROBINSON: We can go out to lunch. So,
21 Gaye, what we've just requested is you send a reminder out
22 to the -- to the Board of Water Supply list saying that the
23 people who have not submitted their recommendations should
24 do so.

25 MS. HAYASHIDA: Or at least indicate that if

1 they're not --

2 CHAIRPERSON ROBINSON: Or indicate if there's not
3 intending to, that they do that by the 30th of November.

4 MS. HAYASHIDA: Of November.

5 CHAIR ROBINSON: Okay. And then in that same --
6 maybe in that same e-mail, you remind the rest of us that
7 the deadline, and those people, the deadline for submitting
8 a summary paragraph of our recommendations is the 6th,
9 Monday, the 6th of December.

10 MS. HAYASHIDA: I'm sorry, what is that?

11 CHAIR ROBINSON: This is after we've gotten all
12 the deliberations, you're going to send all of them in their
13 entirety to us. And by the 6th, we have to summarize our
14 own and get them to Ted.

15 MEMBER GERBIG: So, the other Board Members that
16 are not in attendance should get a copy of this. You've got
17 this someplace?

18 MS. HAYASHIDA: I can make copies.

19 CHAIR ROBINSON: So, the -- there is one little
20 thing that I wanted to bring up about this process, and that
21 has to do with a request that was made at the public
22 hearing, that if we are going to make any changes to this
23 document, that we make those changes in person to the public
24 on Lanai, and that was in the transcripts. It was asked
25 very clearly and succinctly. I believe Butch Gima really

1 drove it home that that was a very important thing to the
2 people of Lanai.

3 And there was word in that transcript indicating
4 that someone was going to mention that to Mayor Tavares,
5 because it would require an outlay of money for us to return
6 to do such a thing. And I just have been wondering if
7 anything further has come before you, Gaye, about that
8 request.

9 MS. HAYASHIDA: No.

10 CHAIR ROBINSON: So, we don't really know whether
11 they even approached the Mayor about us?

12 DIRECTOR ENG: I haven't heard anything from the
13 Mayor's Office, and she's out of town right now, too.

14 MEMBER YAMAMURA: So, are we opening this us up to
15 discussion now?

16 CHAIR ROBINSON: About this very thing?

17 MEMBER YAMAMURA: Yes.

18 CHAIR ROBINSON: We can open discussion to that.

19 MEMBER GERBIG: According to our attorney here, we
20 can't change anything there; is that correct? That was my
21 interpretation. It doesn't make any difference. We cannot
22 change the written report.

23 CHAIR ROBINSON: We can only make recommendations.

24 MR. KUSHI: You can only make recommendations to
25 change it.

1 MEMBER GERBIG: Is that correct?

2 CHAIR ROBINSON: So, it's a nonissue for us to be
3 returning. All we're going to be doing is making our
4 recommendations, which Jeffrey will then take and make
5 recommendations to Council. So, we are honoring their
6 request, because we are not making changes.

7 MEMBER GERBIG: If you want to communicate that to
8 the Lahaina Water Advisory Committee, feel free.

9 MR. KUSHI: Lanai.

10 CHAIR ROBINSON: Well, we have members of that
11 committee in our midst right now. So, would you be willing
12 to commune that -- I'm indicating John Stubbart, just so
13 that it's in the minutes, that we are indicating that the
14 Board of Water Supply does not have the power to make
15 changes to the document, and therefore, the request that was
16 made by the Lanai public for us to come and deliver our
17 changes to the Lanai public would not be necessary. Because
18 the only changes that can be made are made by the County
19 Council. Is that accurate?

20 MR. KUSHI: Right, right. The Council can do
21 whatever it pleases with what documents are going to be
22 submitted to them. They may up with a whole new plan
23 itself, but again, we're going through the process. And,
24 you know, just for the Board's information, with all due
25 respect to the LWAC, the Lanai Committee, and its request

1 that we return, with all due respect to them; one, the
2 question of funding; two, we're not required by ordinance.
3 We've been there twice -- actually, once.

4 CHAIR ROBINSON: They asked not to be penalized
5 for that one.

6 MR. KUSHI: And again, we're continuing with the
7 process, and it's going to go to Council. Now, once they
8 have it, I mean I don't -- I mean none of us have the
9 authority to tell them to go to Lanai, but I'm sure they
10 will be going to Lanai when they deliberate. Again, I have
11 no control over the Council, none of you here also.

12 So, just that being said, I think just move on
13 with the process.

14 MEMBER GERBIG: Can I ask --

15 CHAIRPERSON ROBINSON: Okay. Okay.

16 MEMBER GERBIG: I have one last question. The
17 bomb.

18 CHAIR ROBINSON: The bomb.

19 MEMBER GERBIG: What if I recommend -- I want to
20 recommend that we reject the whole thing, that Council
21 reject it, because of so many inaccuracies or whatever. Can
22 I do that?

23 CHAIR ROBINSON: That would be your opinion, and
24 you would summarize that in your paragraph giving your
25 succinct reasons why you think it should be rejected. But

1 doesn't require us as a Board to agree with you.

2 MEMBER GERBIG: No, but I can.

3 MEMBER YAMAMURA: So, I can see where the final
4 document or the final recommendation to the Director will be
5 a compilation of various opinions.

6 CHAIR ROBINSON: Not 100 percent though.

7 MEMBER YAMAMURA: Far from it. Because I, too,
8 see this plan as being extremely flawed, which is why I
9 delivered this as well. And if you look at the Central Maui
10 Water Use Development plan as well as the Upcountry Draft
11 Water Use Development Plan, nowhere in there are we charged
12 or is the author charged with combining a water resource
13 protection plan within the water development plan.

14 And here we seem to have both plans incorporated
15 into one document.

16 CHAIR ROBINSON: Again, your opinion is going to
17 be noted. And we'll see how many other Board Members agree.
18 And we can -- you know, we can open that for discussion.

19 MEMBER YAMAMURA: That's why it's real critical to
20 have every Board Member's input on this one, especially this
21 one.

22 CHAIR ROBINSON: Welcome. The Chair is
23 recognizing Kui Lester as appeared, not her fault we might
24 say. The plane was not there to deliver her.

25 MEMBER LESTER: If I knew I was this late, I would

1 have probably not come.

2 CHAIR ROBINSON: Well, what we've done, Kui, is
3 agreed that we need a separate meeting to come to a
4 conclusion about our recommendations. And we have set the
5 date for that meeting for the 15th of December. It's a
6 Wednesday from 1 until 3:30 here in this room. Okay. And
7 we've also set two other deadlines.

8 If you have not given your recommendations in a
9 document and sent them to Gaye, we're asking that you do
10 that by the 30th. Okay. And then Ted and Don have asked us
11 to take those recommendations and summarize them into a
12 paragraph and get them to Gaye by the of 6th of December.
13 And you're welcome to give your more lengthy recommendations
14 and your paragraph at the same time. That's up to you.

15 MEMBER GERBIG: Maybe just to remind everybody,
16 that Gaye send this information out that you just mentioned,
17 these due dates and what they are for everybody that's not
18 here, remind us people who forget.

19 CHAIR ROBINSON: Exactly.

20 MEMBER GERBIG: What dates and what due dates.
21 And then for the record, Kui, anything you submit for this
22 Lanai summary, everything will from now on will go through
23 Gaye. And she will resubmit it to the whole Board.

24 MEMBER LESTER: Okay.

25 CHAIR ROBINSON: And just so that you also

1 understand, that your recommendations and your summary
2 paragraph are your opinions, but what we're suggesting is
3 that if you get everybody's opinion and you start to read
4 through it, you may be beginning to see that we have
5 consensus on certain things and that we can create a, you
6 know, a consensus recommendation that will carry weight in
7 our recommendations.

8 But that doesn't mean that individual opinions of
9 individual Board Members can still go into the document that
10 we submit to Jeffrey. That will say that these are the
11 individual opinions of each of us.

12 MEMBER GERBIG: For detail for him.

13 CHAIR ROBINSON: Right. Okay. All right.

14 MEMBER YAMAMURA: So, we would like to request
15 that you conclude one way or the other; in other words,
16 comments alone are fine for the long document. But for the
17 one paragraph, it has to say something to the effect, "I
18 recommend adoption, I recommend adoption with the following
19 revisions," or "I recommend rejection," some kind of
20 conclusion to help us along.

21 MEMBER LESTER: Okay.

22 CHAIR ROBINSON: So, you want us to start our
23 paragraph with whether we recommend adoption or not
24 recommend adoption?

25 MEMBER YAMAMURA: Or something. What do you

1 recommend, but some kind of action. It can't just be
2 comments. Because then, okay, so, what?

3 CHAIR ROBINSON: Yeah. I mean I'll give a for
4 example. That we may agree as a body that the work that's
5 being done in the protection of the water shed has been
6 clearly given to us, and so that we are beginning to
7 understand the nature of the protection of the water shed
8 that's already there. That kind of paragraph could be --
9 could be included.

10 MEMBER YAMAMURA: Sure.

11 CHAIR ROBINSON: So, I'm just giving it as an
12 example. I'm not saying that has to be included. But it's
13 those kinds of "other than" provisions of specifics where
14 you actually cite the page number in the document that you
15 want changed or revised, and you're saying, you would like
16 as well. If you're going to -- if you're going to require a
17 change in the language or ask for a change in the language,
18 that you specify.

19 MEMBER YAMAMURA: Right, highlight where that
20 change would occur.

21 CHAIR ROBINSON: And highlight in the document,
22 and that way we don't have to go thumbing through this huge
23 document to find it, so if you're going to recommend an
24 actual change. But in terms of the other parts that are
25 more narrative where we want to acknowledge the effort that

1 went into, you know, that type of thing, that you're not
2 asking for that in the paragraph.

3 MEMBER YAMAMURA: No. Because if we decide at our
4 special meeting in December that we -- this is our
5 recommendation, which may be three pages long to the
6 Director. However, all of the supporting documentation can
7 be submitted as well as a separate attachment, which would
8 have the full dissertation, if you will, of what your
9 position is. So, we can do that.

10 MEMBER GERBIG: If you're going to make a
11 recommendation, you're suggesting that we put down the
12 reasoning behind the recommendation. I recommend it be
13 rewritten due to the fact that whatever, whatever, something
14 like that. Or I recommend that it not be approved because
15 of the following whatever, can summarize or something. Is
16 that right?

17 CHAIR ROBINSON: Uh-huh.

18 MEMBER GERBIG: But recommend something. No
19 change, whatever. That's what you're after, yeah.

20 DIRECTOR ENG: Just keep in mind the audience
21 you're really writing it to is the Council and the public.

22 MEMBER GERBIG: What's that?

23 DIRECTOR ENG: Just recognize the audience you're
24 writing to, of course, is the Council and the public.

25 CHAIR ROBINSON: It's not like we're writing it to

1 each other.

2 DIRECTOR ENG: Or writing it to me.

3 MEMBER GERBIG: We'll put the recommendations all
4 together in one.

5 DIRECTOR ENG: Right.

6 CHAIR ROBINSON: Yeah. And I want to keep the
7 good relations that we have as a Board intact, even though
8 we may disagree. And there's room in the document for those
9 points of disagreement, and there are places where we may
10 all agree and that we can feel good about that and have
11 those go forward. But the most important thing is that we
12 keep our good relations intact. I recommend that we do
13 that. Okay. Any other --

14 MEMBER GERBIG: I move that we adjourn.

15 CHAIR ROBINSON: Well, no, we haven't finished our
16 agenda yet. Sorry.

17 DIRECTOR ENG: The bar is not open yet.

18 (Laughter.)

19 MEMBER GERBIG: I'm sorry, I jumped ahead of the
20 agenda.

21 CHAIR ROBINSON: Okay. So, moving right along.
22 Are there any Board Member requests for agenda items be
23 placed on future agendas?

24 MS. HAYASHIDA: Just to let you know, the December
25 23rd Board meeting, we're pretty much full up, yeah. We've

1 got to continue some cases and continue the Lanai.

2 MR. KUSHI: What matters do we have?

3 MS. HAYASHIDA: Michael Perry and Keahou, what I'm
4 looking at, that should take really fast. That's the
5 settlement. And then Strinis, the Board's deliberations.
6 And then the continuation of the Lanai Water Use and
7 Development Plan. And that probably, you know --

8 CHAIRPERSON ROBINSON: Hopefully it will just be a
9 final acceptance.

10 MS. HAYASHIDA: Okay. Let's hope.

11 CHAIR ROBINSON: Now, William Blietz has been
12 moved to 12/23. So, does that mean the gentleman that was
13 here giving public testimony would be on our agenda?

14 MS. HAYASHIDA: No, I have him for a possible
15 prehearing conference on December 16th. That's with the
16 parties -- make sure that Mimi is available. I think she
17 said she is. And if we can get a conference room.

18 CHAIR ROBINSON: So, procedurally, if the
19 prehearing conference resolves -- it can't resolve. All it
20 can do is get all the facts together.

21 MS. HAYASHIDA: No, it's just telling each side
22 when they need things by, paperwork by and setting a hearing
23 date.

24 CHAIR ROBINSON: Right. So, his hearing date of
25 12/23 is not going to happen?

1 MS. HAYASHIDA: It depends on whether the --
2 everybody is ready to go on the 23rd.

3 CHAIR ROBINSON: Okay. Because he indicated it's
4 five minutes, and it's done.

5 MS. HAYASHIDA: That's what Mr. Horcajo said, and
6 he's bringing an attorney now.

7 CHAIR ROBINSON: I'm just noting his frustration
8 on how long he's had to go.

9 MS. HAYASHIDA: Yeah. And so, his appeal kept
10 being pushed back because, you know, he was working with the
11 Department. And now, he doesn't want to. He wants to
12 continue with this appeal. So, now we've got to put him in
13 where we can.

14 And there's a lot of stuff that I guess needs to
15 be done before that.

16 CHAIR ROBINSON: Well, let's do our best. Because
17 he's been in the system for a while. Okay. So, with no
18 other agenda items, communications. I don't think there are
19 any.

20 Although there was a letter I believe to Mayor
21 Tavares from our Chair Michael Howden about the budget.

22 MS. HAYASHIDA: Oh, yeah, yeah.

23 CHAIR ROBINSON: And he said that we reviewed the
24 proposed budget on behalf of the Board of Water Supply. I
25 hereby submit our recommendation for approval for fiscal

1 year 2012 operations and CIP budget for the Board of Water
2 Supply.

3 So, we've all got copies of that, and that has
4 been passed along. Director's report.

5 DIRECTOR ENG: Nothing. I was prepared to go with
6 the this Ulupalakua water line replacement that I think the
7 Chair had requested. Maybe I should hold off until the next
8 meeting. I can show them the scope of the water plan.

9 CHAIR ROBINSON: That makes sense. So, division
10 reports. Anybody want to ask a question or make a comment
11 about a division report?

12 MEMBER GERBIG: Yeah. They all should be in graph
13 form.

14 CHAIR ROBINSON: What do you mean? That's a
15 graph.

16 MEMBER GERBIG: Yeah. That is a bar graph.

17 CHAIR ROBINSON: Oh, bar graph with color, huh?

18 MEMBER GERBIG: So I can see what happened last
19 year, last month compared to the ten-year average.

20 CHAIR ROBINSON: So, that big leak that happened
21 just recently has been solved?

22 DIRECTOR ENG: Which one?

23 CHAIR ROBINSON: The one that stopped traffic and
24 made it onto the HPR news.

25 DIRECTOR ENG: Must be Paia. We had a -- we had

1 some Paia issues a couple weeks ago.

2 CHAIR ROBINSON: No, this was a big type that
3 burst.

4 DIRECTOR ENG: Oh, by the country club. That
5 was -- I think we really didn't get on the highway too much.
6 We were able to work on the side. There was a photo in the
7 Maui News.

8 CHAIR ROBINSON: Yeah, and it made it onto Hawaii
9 Public Radio. Okay. Any other comments about the division
10 report? Okay. Then we are adjourned. Thank you,
11 everybody.

12 (Meeting ended at 11:40 a.m.)

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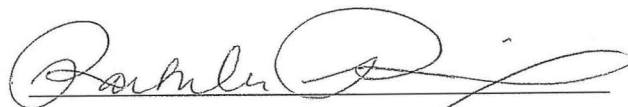
C E R T I F I C A T I O N

I, RACHELLE PRIMEAUX, Notary Public for the State of Hawaii, certify:

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

I further certify that I am neither attorney for any of the parties hereto nor in any way concerned with the cause.

Dated this 1st day of December 2010.



NOTARY PUBLIC, State of Hawaii

My commission expires 6/14/2012