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M I N U T E S
WATER RESOURCES COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
COUNCIL CHAMBER
WAILUKU, MAUI, HAWAII
MARCH 1, 2011

APPROVED:


Committee Chair

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1 CONVENE: 9:02 a.m.

2 PRESENT: VOTING MEMBERS:
3 Councilmember Michael P. Victorino, Chair
4 Councilmember Joseph Pontanilla, Vice-Chair
5 Councilmember Gladys C. Baisa
6 Councilmember Robert Carroll
7 Councilmember Elle Cochran
8 Councilmember G. Riki Hokama (in 9:09 a.m.)
9 Councilmember Mike B. White

10 NON-VOTING MEMBERS:
11 Councilmember Donald G. Couch, Jr.

12 STAFF: Michael Geers, Legislative Analyst
13 Yvette Bouthillier, Committee Secretary

14 ADMIN: Scott English, Lieutenant, Department of Fire
15 and Public Safety
16 Paul Haake, Captain, Department of Fire and
17 Public Safety
18 David Taylor, Director, Department of
19 Water Supply
20 Herbert Chang, Engineering Program, Department
21 of Water Supply
22 Edward S. Kushi, Jr., First Deputy Corporation
23 Counsel, Department of the Corporation
24 Counsel

25 OTHERS: Rosemary Robbins
 Sally Raisbeck
 Others (2)

 PRESS: Akaku, Maui Community Television, Inc.

19 CHAIR VICTORINO: ...(gavel)... Good morning.

20 The Water Resource Committee meeting of March 1st, 2010
21 [sic] will come to order. We have a quorum present this
22 morning. And I wanna thank all the Members for being
23 here. First of all, let me introduce the Members who
24 are Voting Members. Our Vice-Chair, Vice-Chair -- and
25 the Vice-Chair of the Council, Joseph Pontanilla.

1 VICE-CHAIR PONTANILLA: Good morning.

2 CHAIR VICTORINO: And, also, our Member from
3 Upcountry, the young lady, Gladys Baisa.

4 COUNCILMEMBER BAISA: Good morning, Chair.

5 CHAIR VICTORINO: Good morning. Also, from
6 East Maui, our representative, Robert Carroll.

7 COUNCILMEMBER CARROLL: Good morning.

8 CHAIR VICTORINO: Good morning. And our young
9 lady from West Maui, Ms. Elle Cochran.

10 COUNCILMEMBER COCHRAN: Aloha. Good morning,
11 Chair.

12 CHAIR VICTORINO: Good morning. And our
13 representative from the Island of Lanai, Riki Hokama.
14 Oh, he was just here. He was just here a moment ago.
15 And -- okay. He -- he's excused at the moment. You
16 guys move fast around here. I swear he was sitting
17 there. Okay. And then, of course, from -- from the
18 Makawao-Paia-Haiku District, Mr. Michael White.

19 COUNCILMEMBER WHITE: Good morning, Chair.

20 CHAIR VICTORINO: Good morning. And I
21 apologize. Gee. Guys move fast around here. We have
22 the presence of a Non-Voting Member this morning,
23 Mr. Don Couch.

24 COUNCILMEMBER COUCH: Good morning, Chair.

25 CHAIR VICTORINO: Thank you for being here,

1 Mr. Couch.

2 COUNCILMEMBER COUCH: Thank you, sir.

3 CHAIR VICTORINO: From the Corporation
4 Counselor -- Counsel, I should say, Mr. Ed Kushi.

5 MR. KUSHI: Good morning.

6 CHAIR VICTORINO: Good morning, sir.

7 Administrative representatives: Today we have -- from
8 the Department of Water Supply is Director Mr. David
9 Taylor.

10 MR. TAYLOR: Good morning.

11 CHAIR VICTORINO: Good morning. And, also,
12 Mr. Herb Chang.

13 MR. CHANG: Morning.

14 CHAIR VICTORINO: Good morning. From the Fire
15 Department, we have in the gallery, and that will be
16 called up a little bit later, Mr. Scott English. Good
17 morning, Mr. English. Our Legislative Staff, our
18 Legislative Analyst, Mr. Mike Geers. And from -- and
19 our Committee Secretary, Ms. Yvette Bouthillier. Oh,
20 almost I get 'em. Almost. I'm gonna get that right
21 before the end of season -- or the end of the term.
22 See, I'm still in baseball season. I'm sorry,
23 everybody.

24 Okay. This morning, we only have one item to
25 discuss. And that is -- thank you -- WR-3. And this

1 item is in regards to the codification of the Department
2 of Water Supply rules and regulation relating to water
3 service. Okay.

4 We will start by public testimony, with no
5 objections.

6 COUNCIL MEMBERS: No objections.

7 CHAIR VICTORINO: Thank you, Members.

8 Let us start, first of all, by saying that all
9 testifiers will be allowed three minutes to testify, one
10 minute to conclude. We will ask that you identify
11 yourself and any organization you may represent. And I
12 would ask at this time for all cell phones or
13 noisemakers to be put on silent or vibrate. Decorum in
14 this Council -- in this Chamber will be followed. Okay?

15 Let me start off right now with our -- right
16 now, we only have one testifier, but if anybody desires
17 to testify, please sign up in the table in the back, in
18 the lobby. Our first testifier is Rosemary Robbins.
19 Rosemary.

20 Oh, thank you.

21 ...BEGIN PUBLIC TESTIMONY...

22 MS. ROBBINS: Good morning. Rosemary Robbins.
23 Glad to be here and glad to see everybody here.

24 I do not envy you, Mike, or anybody else, who
25 has put a lot of work into codifying this stuff. What a

1 lot of work.

2 I went back over Chapter 14 in preparation for
3 today. And when I looked at 14.04.010, the General
4 Conditions category, it's very important that the
5 records that are reviewed, before any of the actions are
6 taken on this, are solid records. The EPA and other
7 groups who have worked with our records to date have
8 identified them clearly as, I'm quoting, spotty. Scary.

9 So like I say, I don't envy the people who are
10 going to be doing that sort of in-depth review of those
11 records, but please know that we expect you to do that.
12 And we appreciate that you are doing that.

13 Also, over on Section D -- and that was
14 Section A -- on Section D, it talks about water meters.
15 And the Upcountry Oversight and Advisory Committee, when
16 they were working with meters, at this particular
17 category, discovered that there could be meters with up
18 to 8 percent lead in them that were still identified as
19 non-lead. It's like the diet drinks that can have up to
20 X amount of not good dietetics in them and still be
21 called diet drinks. So we know that there is a reality
22 out there in that.

23 And we had asked to be able to do an inventory
24 on the meters that still existed so that we knew that if
25 any of those were what we considered obsolete because

1 they had any lead in them. We were denied access. We
2 volunteered to do the inventory for them, if the
3 Department was going to be short-staffed on that, and
4 did not get taken up on that. So that's another --
5 another alert I would give you, to make sure that
6 whatever those meters are that they are not anything
7 that's going to be able to contaminate.

8 And to keep in mind that compliance is an
9 insufficient goal because you're one step -- we are one
10 step away from noncompliance when that happens. And
11 those regs are changing and evolving for the better
12 protection of society constantly. And we need to keep
13 up with that.

14 So thank you for doing that in advance.
15 That's it. The well-being of the community being the
16 major point. And I think that's everybody's major
17 point. But that is a goal, needs to have operating
18 objectives and results that are measurable, heading on
19 to the protection of the community needs to be what
20 we're looking for. So thank you very much.

21 CHAIR VICTORINO: Thank you, Ms. Robbins.
22 Questions for clarification by the testifier? Seeing
23 none, thank you, Ms. Robbins.

24 MS. ROBBINS: You're welcome.

25 CHAIR VICTORINO: The next testifier is Sally

1 Raisbeck. And Ms. Raisbeck is testifying on her behalf.

2 MS. RAISBECK: Good morning, Chair and
3 Members. I -- I had -- I sent in written testimony on
4 this item. And I hope you'll refer to it for the
5 details of things I found questionable in the various
6 things.

7 I wanted, mainly, to talk to you about the
8 question of -- you guys are the ones that have to decide
9 what is fair. You, all the time, have to handle
10 requests for money and you have to decide who pays and
11 how much. The thing that's difficult about it is when
12 one area of the County has very expensive needs compared
13 to other areas. Upcountry water has very expensive
14 needs. And up to now, those needs for extending the
15 offsite infrastructure have been paid by -- or not, by
16 the individual land -- the individual requester of a
17 meter. Is that fair? You're the ones who have to
18 decide that.

19 The -- if -- if everybody pays, everybody in
20 the whole County pays for the expense of work Upcountry,
21 that's one situation. If just the people who are water
22 customers pay, that's a different situation. If only
23 people in the Upcountry area were to pay for extending
24 it in the -- the extensions that people are requesting,
25 that's a different situation. If the individual has to

1 pay, that's mostly prohibitive.

2 This -- this whole subject will come up again
3 if you are asked to consider the Lanai water system,
4 which, again, will be very expensive to buy and very
5 expensive to run. Who pays for that?

6 The question of recycled water in Central
7 Maui, again, who pays, what is fair?

8 And in trying to think about fairness, I saw
9 that there was a spectrum of answers to that ranging
10 from a pure business answer to sort of a family answer.
11 The pure business answer is you only extend service
12 where it's economically rewarding. The cable companies
13 do that, the cell phone companies. They don't extend
14 service everywhere, where it is not economically
15 rewarding to do so. But the Water Department has to.
16 So -- and they were told long ago that they are a
17 business and they have to operate at least break-even,
18 not -- not to make a profit, but to at least break even.
19 So that's, also, a charge on them. The other family
20 issue is the kind of answer that a parent with a lot of
21 children who have different needs would make. And they
22 would say -- even if one child is far more expensive,
23 say they have special needs, that person gets what they
24 need and everybody has to pay for it. Meaning that
25 other children get less.

1 So you have to have this conversation. You
2 have to come to an agreement among nine people about
3 what is fair. And it should be a -- it should be a
4 uniform and a clearly stated and an equitable policy and
5 comprehensive enough to cover many situations. So I
6 hope you will do that.

7 And I'd love to talk about the details of this
8 because I -- but I put it in my written testimony.
9 Thank you.

10 CHAIR VICTORINO: Thank you, Ms. Raisbeck.
11 Questions for the testifier for clarification? Seeing
12 none, thank you, Ms. Raisbeck.

13 I will give one more opportunity to anyone in
14 the gallery who hasn't testified, who would like to
15 testify, please approach the podium. Seeing no one,
16 with no objections, I will close testimony -- public
17 testimony on WR-3.

18 COUNCIL MEMBERS: No objections.

19 CHAIR VICTORINO: Thank you.

20 ...END PUBLIC TESTIMONY...

21 ITEM NO. 3: DEPARTMENT OF WATER SUPPLY RULES RELATING
22 TO WATER SERVICES (C.C. No. 11-45)

23 CHAIR VICTORINO: Okay. Today, we have this
24 item, WR-3, relating to a draft bill to codify the
25 Department of Water Rules and Regulations relating to

1 water -- water services. Right. The background here is
2 the purpose of the bill was to codify the Department of
3 Water Supply's rules and regulation relating to water
4 service, application, installation, and fire flow
5 regulations. The Department of Corporation Counsel has
6 transmitted a draft bill to the prior Council Water
7 Resource Committee, which you have in your -- in your
8 binders. However, key issues relating to the fire flow
9 regulation were unresolved at the end of the Council
10 term, so I asked to bring it back out.

11 The key items was -- and if I -- if I have it
12 correct here -- was, number one, that the -- the Fire
13 Department would not allow any exemptions for
14 residential as we have presently in the rules. Right
15 now, we have the two-dwelling exemption and you would
16 need to have fire flow compliance on the third dwelling
17 of your property. And that was one of the main
18 stumbling blocks that we got to at the end. The Fire
19 Department, if they had total control, would have the
20 requirement from the very first dwelling; whereas the
21 Department of Water Supply would still allow the
22 two-dwelling exemption for fire flow issue.

23 This was a particular issue for the Upcountry
24 area, but I think it's from -- every area, in general,
25 would be a real situation. And so this is why we could

1 not come with a reasonable conclusion. And so we put
2 this on the back burner until the new Council was
3 brought in so that we could discuss that item
4 thoroughly.

5 So, today, I have Mr. Taylor, who is new, but
6 very familiar with the situation; Mr. Herb Chang; I also
7 have Mr. Scott English from the Fire Department; and,
8 also, Captain Haake who has joined us and will be
9 another resource personnel.

10 So at this time, I would like to ask the
11 Department to take the lead, the Water Department. And,
12 Mr. English and Mr. Haake, if you would like to come and
13 join us, and grab a couple chairs, that way, everybody's
14 up front, I would appreciate it. Thank you.
15 Mr. Taylor, if you'd like to start while we have the
16 other department come up.

17 MR. TAYLOR: Thank you, Mr. Chair. And thank
18 you, Council Members, for the opportunity to try to
19 resolve some of the issues that have been long-standing.

20 You have in front of you codification of more
21 of the water rules. And what is in front of you
22 represents a lot of work, especially between our staff,
23 Mr. Chang, Corp Counsel, and the Fire Department, to try
24 to work out these conflicts that have existed. And I
25 think we -- or I know we've -- we've finally reached

1 some consensus about how we feel we can all move forward
2 with rules that we can all -- give us all clarity and
3 diminish the overlap between our departments, so there
4 will be less conflict.

5 So, essentially, what you have here is rules
6 that give the Fire Department nonresidential units and
7 structures when -- as far as fire flow calculations, and
8 residential issues are still gonna stay with the
9 Department of Water Supply. So we feel the language
10 that's codified here will resolve a lot of the -- the
11 issues and -- and discrepancies that we've struggled
12 within the past. So at that point, I think, mostly, the
13 rest of staff here today's probably gonna be a lot more
14 useful than myself because they have a lot more history
15 on the issues, but we will, obviously, try to help you
16 with any questions you have. Thanks.

17 CHAIR VICTORINO: Thank you, Mr. Taylor.
18 Mr. English, if you would -- why don't you bring your
19 chair up? And then if you would give your comment in
20 regards to the Fire Department position on -- on all of
21 these issues, please. Okay. We're making the quick
22 change on the chairs. Sorry, everybody.

23 By the way, before I go any further -- one
24 moment, please -- I'd like to recognize Mr. Riki Hokama
25 from Lanai. Riki, I recognized you earlier, but you ran

1 out the door before I realized you had left. So thank
2 you for being here.

3 COUNCILMEMBER HOKAMA: (Inaudible.)

4 CHAIR VICTORINO: So show that all seven
5 Members of the Committee are present along with
6 Non-Voting Member, Mr. Couch. Thank you.

7 Go ahead, Mr. English.

8 MR. ENGLISH: Thank you, Chair Victorino.
9 Good morning, Council.

10 Basically, the Water Resource rules will be
11 having the Fire Department rule the required fire flow
12 for, I'm gonna use the word, commercial buildings, which
13 we've been doing the plans review for the last 15, 20
14 years.

15 Basically, back in 2000, when we had the
16 strategic planning, one of the requirements for fire
17 prevention was to reduce the insurance bureau on
18 residents. So in 2002, we adopted some ordinance that
19 required fire protection for the residential area. And
20 until this time today, we could never get the building
21 permits for residential come to Fire Department fire
22 requirements. The two-dwelling exemptions for the --
23 and the Water Department rules was very valid, but to
24 certain areas. So until this day, we have never gotten
25 the residential fire protection forwarded to Fire

1 Department. And as today, only the residential units on
2 private water is (inaudible) to Fire Department. And we
3 enforce our rules and regulations.

4 And I think Mr. -- Chair Victorino knows,
5 we -- I think we tried at least five times to get these
6 rules, fire protection rules, forwarded to the Fire
7 Department. So the new changes in the Water Resource
8 Rules the Fire Department is for and will be working
9 with the Water Department enforcing the new fire
10 protection requirements.

11 Thank you.

12 CHAIR VICTORINO: Thank you. At this time I
13 would like to open the floor for questions. And --
14 and -- and let me make one more point before we start
15 questioning. Today, basically, we were talking about
16 fire flow issues and those issues in that respect
17 between the Fire Department and the Department of Water
18 Supply. Ms. Raisbeck brought in a lot of other issues
19 that we have covered in the past. And I've said this
20 many times. In the future, we'll have to go back and
21 look at some of these to make changes that are current.
22 You know, some of the changes that were made at that
23 time, a couple years back, was current. And things are
24 -- we're a moving target today in this County. We are
25 changing very quickly. And so some of these things that

1 she brings up really become budgetary issues, become
2 area issues, issues that I know will have to be
3 addressed at some point in time. But today's main issue
4 for the codification was the fire flow issue between the
5 Water Department and the Fire Department and codifying
6 those rules.

7 The other rules that were brought up and the
8 other issues that I brought up are things that I know
9 are ongoing, I realize. And at a later date, these are
10 some of the things that we're gonna have to look at
11 again, fairness, equitability, and all the other things
12 that have to be changed will have to be looked at. And
13 it will depend on areas, because things are different
14 for Upcountry, for Makawao-Haiku, versus West Maui,
15 versus Lanai. Every one's a different system. So until
16 we can get to that point, I would like to focus on this
17 issue and not get into a broad discussion. So I would
18 like to kind of keep it in this area, if that's okay
19 with the Committee.

20 So, Ms. Baisa, you had your hand up?

21 COUNCILMEMBER BAISA: Referring to the
22 testimony we received from Ms. Raisbeck, there seems to
23 be a relevant question in here. And I thought I'd ask
24 it just for the sake of clarifying it, because it is a
25 very good question. She asks about using the Fire

1 Department and the Water Department. She says, since
2 the Water Department has all the basic information
3 needed, would it improve permitting speed and, of
4 course, avoid duplication if the Water Department could
5 certify the fire flow requirements?

6 CHAIR VICTORINO: Okay. I guess the question,
7 basically, comes up, Ms. Raisbeck is saying to let the
8 fire -- the Water Department do all the fire flow issues
9 in regards to both commercial and as residential,
10 eliminating the Fire Department in the area of fire
11 flow. Because the information that the Fire Department
12 gets basic comes from the Water Department if I'm
13 correct, Mr. English?

14 MR. ENGLISH: On the County system, yes, the
15 Fire Department -- I mean, the Water Department has the
16 -- the fire flow available in that area. As far as the
17 private sector, we determine -- we get the information
18 based on plans submitted by the private sector.

19 CHAIR VICTORINO: So you would still -- if --
20 if I'm hearing you correctly, even if we gave you --
21 gave the Water Department all of the fire flow issues,
22 still, when it comes to all the private systems such as
23 West Maui, Upcountry, South Maui, wherever there's
24 private systems, the fire flow wouldn't come from --
25 from the Department, it would have to come from that

1 private developer or the private owner of that
2 particular parcel?

3 MR. ENGLISH: Correct. During the
4 development, basically, the -- the -- the subdivision
5 standards will apply to the project. And we -- like I
6 said, we'll follow those standards. And, basically,
7 the -- I think Water Department and Fire Department has
8 the same subdivision standards as of today.

9 CHAIR VICTORINO: Okay. Mr. Taylor, you would
10 like to add something to that, please?

11 MR. TAYLOR: Thank you, Mr. Chair. And in
12 addition, Member Baisa, let me say that our intention
13 here is to look at the system and say that the
14 Department of Water Supply will know how much water and
15 how much pressure we have at any point.

16 COUNCILMEMBER BAISA: Uh-huh.

17 MR. TAYLOR: At that point, we're saying
18 that's our expertise. And what these rules codify --
19 these codified laws say that, at that point, the Fire
20 Department will say they understand the building, they
21 understand building structures and fire fighting needs,
22 and they'll say how much water do they need. So that's
23 where we're splitting the line here. So we're not going
24 to duplicate effort. In fact, just the opposite. We're
25 gonna draw the line and say we'll be responsible for

1 determining how much water we have in the system, and
2 they'll be responsible for saying how much they need to
3 approve a certain -- a certain permit and whether or
4 not, you know, that permit should be approved. So
5 that's how we're going to avoid duplication of effort,
6 in response to that question.

7 COUNCILMEMBER BAISA: Thank you. I wanna ask
8 this question -- and, Corp Counsel, if it's not
9 appropriate, just tell me and I -- you know, I'll stop,
10 but I was trying to apply this to a real life situation.
11 And, you know, here at the Council, we're always in the
12 middle of permitting and people's questions about why
13 they cannot get their permits. And so things get hung
14 up because the Water Department, the Fire Department,
15 and sometimes they don't agree. And we were recently,
16 of course, in the middle of one of those where Fire
17 Department said one thing, Water Department said another
18 thing. How would that happen? I mean, how would that
19 -- how would this new rule change that?

20 CHAIR VICTORINO: Mr. Kushi, if you would.

21 COUNCILMEMBER BAISA: And, of course, we all
22 know that the case is the Molokai Veterans Center, but
23 if we can't comment on that, then that's okay.

24 MR. KUSHI: Yes. Mr. --

25 CHAIR VICTORINO: Mr. Kushi, can you comment

1 on that particular situation or would you like to --

2 MR. KUSHI: Well, Mr. Chair -- let me say
3 this, Member Baisa.

4 COUNCILMEMBER BAISA: Yes.

5 MR. KUSHI: I will not comment on the Molokai
6 Veterans case.

7 COUNCILMEMBER BAISA: Thank you.

8 MR. KUSHI: It's in active litigation. But
9 that situation is one of many situations that have
10 happened between these two departments. This ordinance
11 before you tries to separate the review of building
12 permits. Now, don't get confused with subdivisions.

13 COUNCILMEMBER BAISA: Uh-huh.

14 MR. KUSHI: Okay. The purpose of this one
15 here is to say all nonresidential or, as they say,
16 commercial building permit applications will go directly
17 to Fire.

18 COUNCILMEMBER BAISA: Okay.

19 MR. KUSHI: Residential building permits will
20 go directly to Water. And Water has its own standards,
21 and the first and second dwelling exemption that this
22 body wants to keep. Fire has no rules about first and
23 second dwelling exemptions.

24 In any event, the Fire Department in its own
25 codes, from what I understand, have maybe different

1 requirements or -- or allocations or justifications.
2 For instance, they give credit for sprinklers. There's
3 nothing in the Water rules that give credit for
4 sprinklers. So from their point of view, the system may
5 be inadequate from the Water Department side, but it's
6 okay for Fire. Do you understand? If it's on the
7 public system. Private system, they take it all. So
8 that -- that's the intent of the proposed rules. Now --
9 and this would simplify, in -- in our minds, Department
10 of Water Supply minds, and Fire has agreed to take it --
11 take it on, the allocation of who reviews what.

12 Now, there will be instances where -- where
13 Fire, based on a structure or a proposed building permit
14 on a -- on a public system will need to have -- need to
15 consult with Water to determine fire flow requirements.
16 That's only correct because they don't own or maintain
17 or maintain and operate the public system. They use it
18 to fight fires, but they need to -- but they need to
19 make a determination what size pipeline is -- is feeding
20 this hydrant or standpipe, et cetera, what the pressure
21 -- they will need to consult with -- with the Water
22 Department.

23 So there will still be some interaction
24 between the departments, but the delegation would be --
25 the initial review of the building permits will be

1 split.

2 COUNCILMEMBER BAISA: And the homeowners would
3 go to Water, the residences?

4 MR. KUSHI: Residential units, dwellings.

5 COUNCILMEMBER BAISA: I -- I hear what we're
6 saying and I know what we're trying to do. I'm just --
7 wanna be sure that we don't cause a whole lot of
8 complications as a result of it, about, well, if I had
9 been reviewed by the Water Department, I would a gotten
10 my permit, or if I had reviewed by the Fire Department,
11 you know -- because we've had this -- this tension where
12 Fire says one thing, Water says another thing. And
13 people are aware of it. I'm aware of it because I've
14 heard people complain. And what happens if I'm a
15 homeowner and I go to the Water Department and they say
16 something? What is my recourse if -- if I don't agree
17 with them? Do I have an appeal?

18 MR. KUSHI: Member Baisa, yes, you can appeal
19 to the Board of Water Supply.

20 COUNCILMEMBER BAISA: To the Board of Water
21 Supply.

22 MR. KUSHI: If Water Department denies your
23 building permit. If Fire denies your building permit
24 based on their -- their responsibility, I would imagine
25 they appeal to your BVA or --

1 COUNCILMEMBER BAISA: They appeal to BVA.

2 Okay. I'll wait and listen.

3 CHAIR VICTORINO: Okay. So -- so just to make
4 it clear for everyone, if there is a denial by the
5 Department and there's an appeal by an individual, that
6 appeal goes to the Board of Water Supply, which we
7 agreed to many years back or -- two, three years back,
8 right? And they have the adjudication to listen to the
9 appeal and to rule on the appeal and override the -- the
10 Director's decision. If it is a commercial issue and
11 the Fire Department says no, then it goes to the Board
12 of Variances -- is that correct -- and they then look at
13 the matter and they adjudicate it and then they make
14 that decision. So are we clear with the two? One is
15 the Board of Water Supply, which is residential; and the
16 commercial, which is the Fire Department, would go to
17 the Board of Variances. Okay. So that we're perfectly
18 clear on the two entities. And they both have
19 adjudication power and they both have overriding power
20 of the entity that made the decision. Okay? Yes,
21 Mr. Pontanilla.

22 VICE-CHAIR PONTANILLA: Thank you. And thank
23 you, Mr. Kushi, for that explanation. Because what we
24 discussed this morning and was presented by both the
25 Water Department and the Fire Department as far as, you

1 know, their jurisdiction in building permits, one will
2 take care all the residential and -- and -- and the
3 associated structures; the other one would be the
4 nonresidential units or structures.

5 But one question that I have in regards to
6 private system, is a private system, whenever it's being
7 built, reviewed by the Water Department? And the reason
8 why I ask that question is that should a private company
9 all of a sudden cannot provide water, what happens?

10 CHAIR VICTORINO: Mr. Chang, would you like to
11 respond to that question, please?

12 MR. CHANG: Yeah. Member Pontanilla, as of
13 the present, we do not -- the Department does not review
14 private systems.

15 One of the main issues that generally pops up,
16 when the Department does review these private systems,
17 that these systems normally do not comply with the Water
18 Department standards 'cause, pretty much, when --
19 private developers are usually in -- faced with
20 economical, you know, cost of construction, so they
21 usually go with a cheaper -- so, generally, we try to
22 avoid reviewing private. But if the -- some developers
23 who know -- if there's -- if they're gonna -- thinking
24 of really turning it over to the County, then they
25 should approach the Department, say, you know, I plan to

1 turn this over to the Department in, say, five years,
2 can you review our plans. And at that point,
3 (inaudible) -- that way, we can make sure what they're
4 installing is up to our standards.

5 VICE-CHAIR PONTANILLA: Okay.

6 MR. CHANG: Sometimes that happens with the
7 bigger developers.

8 VICE-CHAIR PONTANILLA: Yeah. 'Cause on -- on
9 the wastewater side, I -- I know some of the projects
10 that do build to County system. Maybe for Mr. English,
11 in regards to you doing the review as far as the private
12 -- private water companies -- maybe a question for
13 Mr. Kushi rather than Mr. English -- what would be, if
14 any -- because here we have the Fire Department
15 approving a private water system, if things, if
16 something should happen, what is the liability with the
17 County?

18 CHAIR VICTORINO: Mr. Kushi?

19 MR. KUSHI: Well, it's not our system, so they
20 -- they take their own risk. The Fire Department, I
21 guess, together with the Department of Health, maybe,
22 would review their standards. But from the Water
23 Department side, our position is we have no risk because
24 it's not our system. They take their own chance. And
25 -- and it's our Office's position, since the rule change

1 many years ago, that you should not review a private
2 system. 'Cause once you get your hands in there, you
3 know, just a little fingertip, they might come back and
4 haunt you later.

5 VICE-CHAIR PONTANILLA: Okay.

6 MR. KUSHI: Which we are in litigation right
7 now.

8 VICE-CHAIR PONTANILLA: Okay. Thank you for
9 that response. Thank you, Chairman.

10 CHAIR VICTORINO: You're welcome. Questions
11 for the Department? Yes, Mr. White, followed by
12 Ms. Cochran.

13 COUNCILMEMBER WHITE: Thank you, Mr. Chair.

14 CHAIR VICTORINO: Go ahead.

15 COUNCILMEMBER WHITE: I guess this is for
16 Director Taylor. Section 14.04.020, which is fire
17 protection requirements for building permit application,
18 I know we're -- we're saying that the dwellings --
19 or private dwellings will be reviewed by the Department,
20 and commercial developments will be reviewed by the Fire
21 Department. My question is, this section says the
22 requirements for adequate fire protection including, but
23 not limited to, fire hydrants, necessary pipelines and
24 other appurtenances for building permit applications for
25 any dwelling or structure shall be reviewed,

1 administered and issued by the Department of Fire and
2 Public Safety. How does that coincide with -- am I
3 misreading that? How does that coincide with the -- the
4 requirements -- or the permits coming from the Water
5 Department, if we're saying any dwelling has to be
6 reviewed by the Fire Department?

7 CHAIR VICTORINO: Mr. Taylor?

8 COUNCILMEMBER WHITE: (Inaudible.)

9 CHAIR VICTORINO: Mr. Taylor?

10 MR. TAYLOR: Member White, reading

11 14.04.020(B) --

12 COUNCILMEMBER WHITE: No. 14 -- on my sheet,
13 it's 14.04.020.

14 MR. TAYLOR: Uh-huh.

15 COUNCILMEMBER WHITE: Fire protection
16 requirements for building permit applications.

17 MR. TAYLOR: And -- and there's an "A" right
18 after that, then later down, there's a "B".

19 COUNCILMEMBER WHITE: No.

20 MR. TAYLOR: You might be reviewing the older
21 draft.

22 COUNCILMEMBER WHITE: I'm on the -- I'm on the
23 older one.

24 MR. TAYLOR: Okay. Okay.

25 COUNCILMEMBER WHITE: Thank you, sir.

1 CHAIR VICTORINO: Yeah. Because the one that
2 we should be looking at, if you don't mind, is dated
3 January 6, 2011.

4 COUNCILMEMBER WHITE: Okay. My apologies,
5 Chair.

6 CHAIR VICTORINO: No, no. That's okay.

7 COUNCILMEMBER WHITE: Thank you.

8 CHAIR VICTORINO: That's okay. And the books
9 are full of material. And I've made those mistakes,
10 too, Mr. White. Don't worry about it. Do you have any
11 other questions? Or I'll --

12 COUNCILMEMBER WHITE: No.

13 CHAIR VICTORINO: -- allow Ms. Cochran.

14 COUNCILMEMBER WHITE: That's fine.

15 CHAIR VICTORINO: Ms. Cochran, you had some
16 questions?

17 COUNCILMEMBER COCHRAN: Oh, just
18 clarification. The -- in the permitting by the Fire
19 Department, we're saying residential, private
20 residentials, though, are reviewed by you folks, the
21 Fire Department? Because there's County residential and
22 then there's private, is that --

23 MR. ENGLISH: Right now, in today's building
24 permit process, all commercial buildings and private
25 residential comes to Fire Department for review. All --

1 COUNCILMEMBER COCHRAN: Okay.

2 MR. ENGLISH: -- County water -- residential
3 goes to the Water Department.

4 COUNCILMEMBER COCHRAN: Okay. I just wanted
5 to get clarification on that distinction. Thank you.
6 And, also --

7 CHAIR VICTORINO: Excuse me.

8 COUNCILMEMBER COCHRAN: Oh, sorry.

9 CHAIR VICTORINO: Before -- before you go
10 on -- no, no, no, nothing to -- let me make a
11 correction. You go to the February 22nd, 2011. I
12 apologize. That is the one that was posted for today's
13 meeting. Again, February 22nd, 2011 is the draft that
14 we are working off of. And it's -- if you turn the
15 first page, it says "Bill No." and it says "(2011)". So
16 we wanna make sure we are at the right one, Mr. White.
17 And I apologize I gave you the wrong place to go. Okay.
18 So everybody now is on the February 22nd, 2011, so that
19 we're all on the same page. Okay. Thank you.

20 Ms. Cochran, you may go ahead. I'm sorry I
21 had to interrupt.

22 COUNCILMEMBER COCHRAN: Oh, yeah. No problem.
23 Thank you. I was looking at the old draft, too. So --

24 CHAIR VICTORINO: Yeah. So, no.

25 COUNCILMEMBER COCHRAN: I was a little bit

1 lost, but --

2 CHAIR VICTORINO: Yeah. Thank you.

3 COUNCILMEMBER COCHRAN: -- better now. Thank
4 you very much. And, also, this might be going off
5 topic, but I'm trying to tie it in here, with the
6 recycled/reused type of water. In regards to utilizing
7 it for fire protection, is there any type of discussion
8 between the County, Fire Department, trying to figure
9 that part into, you know, engaging the services that
10 way?

11 CHAIR VICTORINO: Mr. English, please?

12 MR. ENGLISH: Not at this time.

13 COUNCILMEMBER COCHRAN: Thank you.

14 CHAIR VICTORINO: Done? Okay. And I think
15 to -- to really put a little caveat on the reclaimed or
16 recycled water, when it becomes available in areas
17 (inaudible) irrigation, fire flow may be another area
18 that we wanna consider as -- as another possible option,
19 for the use of (inaudible) water. But, again, fire flow
20 is only used -- or fire hydrants are only used when
21 there's fires or things of that nature. So would that
22 be really what we want to achieve when we're talking,
23 basically, wanting to use it every day. Okay. We
24 already have enough challenges in the idea of using it
25 every day, so putting it in for fire flow purposes or

1 fire protection may not be the best way to use recycled
2 water. But something to look at in the future, yeah, I
3 agree.

4 MR. TAYLOR: Mr. Chair, can I -- can I
5 clarify?

6 CHAIR VICTORINO: Sure.

7 MR. TAYLOR: In South Maui, there are some
8 purple fire hydrants that you'll see by the Safeway
9 store, along the north/south collector road corridor,
10 which are pressurized for fire flow. There are some
11 places like -- I know Monsanto, they're using recycled
12 water as their fire flow. And I believe the plans for
13 the new South Maui Police Station use recycled water for
14 their fire flow.

15 So because there are limited pressurized
16 systems, there is a limited use for it, but I wanna
17 assure the Council that it's already used for exactly
18 that purpose. And that purpose can be expanded, but
19 because it's -- it's so limited where those pressurized
20 systems are, that they are, I think, being just approved
21 on a case-by-case basis because there really isn't any
22 need for any kind of larger policy on it because there's
23 just a lack of infrastructure at the time. But it is
24 being used for that purpose right now.

25 COUNCILMEMBER COCHRAN: Great.

1 CHAIR VICTORINO: Well, that's great to know.

2 COUNCILMEMBER COCHRAN: Yeah. Good. Thank
3 you.

4 CHAIR VICTORINO: That's fabulous.

5 COUNCILMEMBER COCHRAN: Thank you, Mr. Taylor.

6 CHAIR VICTORINO: That's -- that's fabulous to
7 know. And, again -- but, again, I still go back to the
8 question, when it comes to fire flow, do we use it
9 enough or is it just sitting there. And -- and that's
10 the -- the egg before the chicken or chicken before the
11 egg, eh. We -- we won't go there now. Mr. Couch?

12 COUNCILMEMBER COUCH: Well -- I'm sorry. That
13 -- that's exactly what I was gonna ask. If it's sitting
14 there, for instance, at the Safeway fire hydrant, the
15 R-1 water isn't being used, is that correct, or do you
16 have -- I mean, it's sitting there, waiting to be used,
17 and only if there's gonna be a fire does it actually get
18 used?

19 CHAIR VICTORINO: Mr. English, would you like
20 to comment on that?

21 MR. ENGLISH: Yes. Thank you, Chair. I'm
22 sorry, Ms. Cochran, I thought we were talking about the
23 Central Maui reclaimed water --

24 COUNCILMEMBER COCHRAN: Oh.

25 MR. ENGLISH: -- system.

1 COUNCILMEMBER COCHRAN: Yeah. No problem.

2 MR. ENGLISH: Yeah, (inaudible) the South
3 Maui. Like Mr. Taylor said, the Monsanto project is
4 using the current system for fire protection. South
5 Maui parks, development will -- will have the reclaimed
6 water throughout the parks for fire protection, if
7 needed. And the hydrants by Safeway was originally for
8 dust control, but it's -- it still exists there in case
9 we need it for fire protection.

10 COUNCILMEMBER COUCH: So unless there's a
11 fire, it's just sitting there, right? So we're still
12 creating more wastewater, recycled wastewater, and we're
13 not actually using it unless there's a fire?

14 MR. ENGLISH: Correct.

15 MR. TAYLOR: And, also, to -- to clarify, like
16 all fire flow, you have a tank that's filled up, and if
17 you have a fire, obviously, you're gonna take a large
18 volume for fighting the fire; otherwise, it's gonna go
19 for normal uses. So it's not -- that recycled water is
20 not in a separate pressurized system. That's hooked up
21 to the same pressurized system, the same tank, actually,
22 that -- that -- that all other users use. It's not a
23 different system.

24 CHAIR VICTORINO: Okay. Further questions?
25 Mr. Hokama?

1 COUNCILMEMBER HOKAMA: I'd just like to ask
2 the two departments present this morning, it's the
3 Committee's understanding that if it's a residential
4 request, it goes straight to Water Department, if it's
5 anything else, business, commercial, it goes to Fire
6 Department regarding the permit review, is that correct?

7 MR. TAYLOR: To -- to clarify, the permits go
8 to DS -- every ones building permit plans come into DSA
9 and, simultaneously, go to many departments. These
10 permits will go to both departments. We will look at
11 the permit from a domestic water supply use standpoint.
12 We'll -- we'll still do that. We still have to look at
13 those building permits and approve those building
14 permits. But for those commercial or nonresidential
15 properties, we will not be doing the fire flow
16 calculations; the Fire Department will be approving
17 whether or not to sign off in saying this meets Fire
18 requirements. So everyone's seeing all of the building
19 permits, we just have separate responsibilities for
20 those building permits.

21 And I think Mr. Chang has some additional
22 information.

23 CHAIR VICTORINO: Mr. Chang?

24 MR. CHANG: Member Hokama, just to be a little
25 bit more detailed, for commercial permits, if, for some

1 reason, that the Fire Department feels that the -- the
2 fire flow demand cannot be met by the existing water
3 system, then the Water Department will be reviewing the
4 plans to improve the system. So we -- Water Department
5 will still be involved somewhat to make sure that
6 whatever improvements they need to do, it's done and
7 reviewed by the Department and improved by the
8 Department, Water Department.

9 COUNCILMEMBER HOKAMA: Okay. Yesterday, the
10 Council's Planning Committee pushed out a ordinance
11 proposal for consideration to the Planning
12 Departments -- Planning Commissions, the various
13 Planning Commissions -- excuse me -- a short-term rental
14 consideration. So while it may be part of a originally
15 proposed residential unit, it's not gonna be used for
16 residential purposes. So how should -- how should the
17 Departments view it, as -- as a commercial thing and go
18 under commercial regulations and commercial
19 requirements? Because now you're operating a business
20 in a residential -- looking like a residential
21 structure, but it's not a residence anymore.

22 MR. ENGLISH: Councilman Hokama, the Fire
23 Code, basically, has two types. It considers one and
24 two-family dwelling units as one and everything else is
25 commercial. So if you have a four-unit

1 apartment building, that we consider commercial. Like I
2 said, the Fire Department just has one and two-family
3 dwelling unit, has its own code, which is -- and then
4 everything else would be considered commercial.

5 COUNCILMEMBER HOKAMA: So regardless of how
6 many units in the dwelling units, how many is being used
7 for commercial purposes, either overnight stays or -- or
8 weekend stays, it doesn't matter?

9 MR. ENGLISH: It doesn't matter.

10 COUNCILMEMBER HOKAMA: Whether they have 10
11 toilets and five bedrooms, it doesn't matter?

12 MR. ENGLISH: If it's all under one roof, one
13 live-in dwelling unit, correct.

14 COUNCILMEMBER HOKAMA: Is that the right
15 thing, to view it that way?

16 MR. ENGLISH: I think the Building Code will
17 say -- I'm not too sure the right phrase they use, but
18 congregated residence and has a limited number of, I
19 think, 10. If you have more than 10 in one room, they
20 will consider it a congregating residence, it will come
21 under commercial.

22 COUNCILMEMBER HOKAMA: And -- and that would
23 be something that would be workable for the Departments
24 as well as enforceable for the Departments?

25 MR. ENGLISH: Yes. Basically, the -- the

1 major change is the way the insurance rating bureau puts
2 out the fire flow number, the fire flow requirement
3 number, and the Fire Department -- the Uniform Fire Code
4 requirements for fire flow. The Uniform Fire Code, you
5 can reduce the fire flow (inaudible) construction type
6 of the building and also take a 75 percent reduction if
7 the building's fire sprinklers. And the insurance
8 bureau doesn't have some of those exceptions. So we can
9 reduce the fire flow to a lower level for certain areas,
10 for certain buildings. And they meet -- may meet the
11 requirements of what's available in that area.

12 COUNCILMEMBER HOKAMA: When you say "may
13 meet", that's before the construction or after the
14 construction and change of use?

15 MR. ENGLISH: When the project is being
16 reviewed, we'll be -- we will determine the fire flow,
17 work with the Water Department, available flow in that
18 area. And if -- if the fire flow for the building
19 exceeds the flow for the -- that's available in the
20 area, the project has to be -- either upgrade the
21 construction type or may put fire sprinklers to reduce
22 it down to what's available in that area.

23 COUNCILMEMBER HOKAMA: Okay. Water, you --
24 you take the same position, it's -- it's an adequate
25 policy and it's an enforceable position?

1 MR. TAYLOR: I think, regardless of whether or
2 not this ordinance passes or not, that -- that issue is
3 still going to be alive, because even if everything came
4 to us, there would still have to be a determination
5 about whether or not this qualified for the first and --
6 first and second dwelling exemption, is it residential.
7 So whether or not it goes to the Department of Water
8 Supply or Fire, there's still gonna have to be that
9 determination of whether or not it is residential or
10 not. And I assume that between Planning and Corp
11 Counsel and the departments, you know, that
12 determination's gonna have to be made, anyway. So I
13 don't know that -- I don't know the answer to what it
14 should be. But I know that we're still gonna have to
15 make that determination as a County somehow, anyway.

16 COUNCILMEMBER HOKAMA: So it'd be easier if we
17 just -- in an ordinance, just say this is what it shall
18 be and that's the way it is. Because other than that,
19 you're gonna have -- maybe Mr. Chang, application,
20 somebody might say yes, but then, for Mr. English,
21 similar, they might say no, depending on who's making
22 the so-called determination.

23 MR. TAYLOR: I think our experience has shown
24 that most of the applications will sort relatively
25 easily into -- into the -- the considerations expressed

1 here, you know, nonresidential or -- or -- or
2 residential. And there may be a few that are -- that
3 are sticky, that may take, you know, some special --
4 some special cases. I don't know that there's any way
5 to -- to split hairs on the -- on the example you bring
6 up about something that sort of looks residential, but
7 is meant to be --

8 COUNCILMEMBER HOKAMA: Well, it's been my
9 experience, Mr. -- Mr. Taylor that the County always
10 gets in trouble when we deal with these skinny
11 discretionary lines. And so I'm just considering
12 whether or not we should reduce the amount of
13 discretionary judgments that we would place on a County
14 individual.

15 MR. TAYLOR: That certainly makes it easier
16 for the departments when that's done.

17 COUNCILMEMBER HOKAMA: Thank you,
18 Mr. Chairman.

19 CHAIR VICTORINO: Thank you. And I think the
20 -- you know, going to -- you know, continue on that
21 little track, and I -- and I -- and I don't wanna get
22 too far off -- off of the discussion matter -- the
23 challenge we face when it comes to short-term rentals
24 and TVRs or maybe even B and Bs, they always start out
25 as homeowners. They always start out as -- not too many

1 are built from the beginnings and told to us, oh, this
2 is gonna be a vacation rental or this is gonna be a B
3 and B. Not too many are built that way. And if they
4 are, then I would like to know how we let it slide and
5 not put commercial rates on it, you know. So I think
6 that's my -- my only question to that is, do you know if
7 those declarations are being made when a dwelling -- a
8 residential dwelling is being built? Mr. Chang, you've
9 been around long time, do you recall them coming in and
10 saying, hey, this is -- I'm building this strictly for
11 short-term rentals?

12 COUNCILMEMBER COUCH: Excuse me, Mr. Chair. I
13 can clarify that for you, if you --

14 CHAIR VICTORINO: I'm not asking you. I'm
15 asking Mr. --

16 COUNCILMEMBER COUCH: Okay.

17 CHAIR VICTORINO: Then I'll ask you, if I need
18 to, please, Mr. Couch. I'm asking Mr. Chang, who's been
19 in the Department for many years. So I kinda like to
20 hear his expertise in this area, please. Yes,
21 Mr. Chang?

22 MR. CHANG: Chair, rarely, very rarely that we
23 are informed that this will be a TVR or B a B -- B and
24 B.

25 CHAIR VICTORINO: Okay. Thank you.

1 Mr. Couch, would you like to add something else?

2 COUNCILMEMBER COUCH: Yes, sir. The stuff
3 that went down to Planning Commission yesterday states
4 specifically that you cannot build a residence for a --
5 specifically for a short-term rental.

6 CHAIR VICTORINO: I understand that,
7 Mr. Couch. My -- my -- my statement here is, today, we
8 have people who are opening B and Bs, who are opening
9 TVRs, who wanna do TVRs, when those dwellings were
10 originally built, they were built for residential
11 purposes. Okay. That was my -- my asking the question
12 for. I understand what has gone down. And I'm
13 perfectly comfortable with that. I think it's time we
14 have a division -- a definite definition in that --
15 Mr. Hokama has put that out. And I think I agree with
16 that. What I'm trying to say is, to this point, where
17 the challenge lies is, right now, many of these are
18 residential, they turn into B and Bs, legal or illegal,
19 or TVRs, legal or illegal, and then we're stuck with the
20 question. And the only time that's gonna be answered is
21 they come in for, again, some update in the plan or some
22 renovation. And then and only then -- if I'm correct,
23 Mr. Chang, or Mr. English, then and only then would the
24 departments -- Planning Department send it back to you
25 guys, is that correct?

1 MR. ENGLISH: I think they send it back to us
2 when they come for a Special Use Permit to run a B and B
3 or TVR out of their existing home or ohana.

4 CHAIR VICTORINO: Okay. And that's exactly
5 where I was going with that. Thank you. Thank you very
6 much for that clarification, so that we're all on the
7 same page. I agree with Mr. Hokama, we definitely
8 should have that up front. And I think that's what this
9 new ordinance that was sent by Ms. Baisa to -- through
10 the Committee yesterday to the Planning Commissions is
11 basically asking for in not allowing that to be done up
12 front.

13 So I think that covers the gamut. Any other
14 questions in the area that we're trying to discuss
15 between the Department and -- the two departments?
16 Mr. Pontanilla, please?

17 VICE-CHAIR PONTANILLA: Yeah. Just for
18 clarification from Fire Department. When you say 10
19 units, 10 units in one structure, can it be 10 units
20 combining one structure and an ohana?

21 CHAIR VICTORINO: Mr. English?

22 MR. ENGLISH: Thank you, Chair. It is 10
23 guests. So if the proposed building has facilities for
24 10 people, then you consider congregating residence, it
25 will consider be -- it'll be pushed to the commercial

1 side.

2 VICE-CHAIR PONTANILLA: Thank you. And --
3 and, you know, Mr. Hokama brings out a very good point.
4 When I was with the phone company, there were a lot of
5 structures in Kihei that did exactly that, converting --
6 not converting, but they probably went in with a
7 building permit as residential and a ohana. I don't
8 know how closely we review those plans in regards to
9 eight to 10 bedrooms in one building, and then, on the
10 side, you -- you do have this ohana with two bedrooms.
11 So thought I provide that information, well, during my
12 days at the phone company, we experienced a lot of that.
13 Thank you.

14 CHAIR VICTORINO: And I think, Mr. Pontanilla,
15 you bring a good point. I think that exists not only in
16 South Maui, but in Central Maui, West Maui and all parts
17 of Maui. So I -- I -- I think that's a -- that's a
18 whole different discussion. And I really don't wanna
19 cross that line at this point. But I think all of us
20 have campaigned enough or have family and friends and
21 traveled this -- traversed this community and we know of
22 buildings that, for sure as heck, is not a single-family
23 dwelling, not even a dual-family dwelling, and we'll go
24 from there. Okay.

25 Other questions or comments to the Department,

1 please? Yes, Mr. Hokama.

2 COUNCILMEMBER HOKAMA: Chairman, can it be
3 other portions of your February --

4 CHAIR VICTORINO: No.

5 COUNCILMEMBER HOKAMA: -- proposal?

6 CHAIR VICTORINO: No. I'm trying to stay
7 right within the -- the -- the -- the (inaudible)
8 because they're here specifically for that purpose.
9 And, again --

10 COUNCILMEMBER HOKAMA: I understand.

11 CHAIR VICTORINO: -- like I stated earlier, we
12 will discuss this in future. Anything wants to be
13 changed, anything wants to be brought forward, I welcome
14 that from all of you at any time. Again, one Council
15 did all of this, now we have a different Council. And
16 I'm open to ideas and -- and changes.

17 COUNCILMEMBER COCHRAN: Sorry.

18 CHAIR VICTORINO: Yes, Mr. Cochran.

19 COUNCILMEMBER COCHRAN: Sorry. Chair
20 Victorino, I was just curious, trying to figure -- I'm
21 trying to follow up with -- we're looking at 14.04.02
22 and reading Item A. I was trying to find the 14.05.03,
23 14.05.090 that applies to this Item A. Is it in our
24 binder? I was -- you know, 'cause it says it -- as
25 pertains to those two sections. And I'm even on the

1 Municode trying to find it. Sorry.

2 CHAIR VICTORINO: Where -- where are you
3 reading, Ms. Cochran?

4 COUNCILMEMBER COCHRAN: The section we're
5 addressing right now, Item A, and then the very last
6 sentence in Item A, and those codes, 14.05. I'm trying
7 to find that 14.05.

8 COUNCILMEMBER HOKAMA: That's subdivision.

9 CHAIR VICTORINO: That's subdivision.

10 COUNCILMEMBER COCHRAN: Sorry.

11 CHAIR VICTORINO: Yeah.

12 COUNCILMEMBER COCHRAN: Oh, it's in --

13 CHAIR VICTORINO: Mr. -- Mr. Kushi?

14 COUNCILMEMBER COCHRAN: Subdivisions?

15 CHAIR VICTORINO: I'm sorry.

16 MR. KUSHI: Yes, Mr. Chair. Member Cochran --

17 COUNCILMEMBER COCHRAN: Yes.

18 MR. KUSHI: -- 14 -- Chapter 14.05 is the
19 subdivision ordinance that this body passed last year
20 sometime. It's not -- I don't think it's in your
21 binder, but those specific sections -- let me pull 'em
22 up.

23 COUNCILMEMBER COCHRAN: Sorry. I was just
24 trying to correlate what we're pertain -- what we're
25 pertaining to, I guess, in those two codes and wanted to

1 sort of look at them.

2 COUNCILMEMBER HOKAMA: Water mains and fire
3 protection.

4 MR. TAYLOR: Section 14.05 is called
5 Subdivision Water System Requirements.

6 MR. KUSHI: Yes. Section 14.05.030 is called
7 water main -- water mains and appurtenances. And
8 14.05.090 --

9 COUNCILMEMBER COCHRAN: Thank you. I found
10 it. Thank you.

11 MR. KUSHI: -- is entitled Fire Protection.

12 CHAIR VICTORINO: Okay. Are you --

13 COUNCILMEMBER COCHRAN: Sorry.

14 CHAIR VICTORINO: Now, are you okay --

15 COUNCILMEMBER COUCH: Yes.

16 CHAIR VICTORINO: -- Ms. Cochran?

17 COUNCILMEMBER COCHRAN: Yeah. Thank you.

18 CHAIR VICTORINO: Okay. No, no problem. No
19 problem. And I think -- and I'm glad to see you're
20 using the computer, and Mr. Couch has been using it, and
21 I've used it for a long time. It makes it easier. But
22 sometimes finding it is not the easiest. Well, I didn't
23 say everything was easy, now. But it's there and at
24 least you guys are attempting to use it.

25 Any further questions for the Department in --

1 in regard to the fire flow issues and the definitive
2 separation between the Department of Fire and the
3 Department of Water Supply, so that we have a clear
4 definition?

5 COUNCILMEMBER HOKAMA: Chairman?

6 CHAIR VICTORINO: Yes.

7 COUNCILMEMBER HOKAMA: Just maybe a conceptual
8 or -- or hypothetical situation for the departments
9 since you have Fire Department and -- and Water
10 Department. And as it regards to this specific
11 subsection that the Chairman wants us to focus on today,
12 which is the Subsection 020, you know, we talk about, in
13 the earlier portion, the general conditions, service
14 limits and who establishes that. So under the
15 residential, which go, more or less, to the Water
16 Department, you know, you're dealing with Community
17 Plans and other documents which is potentially -- I
18 don't know how you view that as -- as a service area,
19 but I can see someone making an argument, a good
20 attorney making an argument, that that's a document that
21 shows service areas or potential future service areas.
22 And then for fire, I guess they would -- maybe you'll
23 refer to -- or one of you guys would refer to the Water
24 Use Development Plan as maybe the document to consider
25 service areas. Is -- is there a need for us to get the

1 -- all on the same understanding of what we -- documents
2 we looking at and what we consider to be the service
3 area? And is a service area only what is existing and
4 what is future planned is gonna not be considered the
5 service areas until built?

6 CHAIR VICTORINO: Mr. Taylor, would you like
7 to address that by -- that question by Mr. Hokama,
8 please?

9 MR. TAYLOR: Mr. Hokama, is the term "service
10 area" -- are you -- are you saying that's written down
11 here somewhere? I'm trying to find exactly what you're
12 referring to.

13 COUNCILMEMBER HOKAMA: Under 010, General
14 Conditions, Mr. Taylor, the first sentence is "within
15 service limits established by the Department". So --

16 MR. TAYLOR: I would -- I would --

17 COUNCILMEMBER HOKAMA: -- the question is,
18 first, what is the Department relying on to come up with
19 this boundary or -- or understanding of what is the
20 service limits?

21 MR. TAYLOR: Just from a -- from a -- a
22 layman's perspective, I would've -- I would assume this
23 means that, really, all of our customers, anyone who's
24 attached to the County water line, is within our service
25 limit. And I would think that anyone who's farther out,

1 who's not tying into our system is not within our
2 service limit. And I don't know if that's a -- a legal
3 definition, but I -- when I read it, I just assumed
4 that's what it meant.

5 COUNCILMEMBER HOKAMA: And I'm just trying to
6 get that understanding because the County has approved
7 building permits whereby we've allowed dwellings far
8 outside what we would call, I guess then, a service area
9 or service limit boundary, because they're not hooked up
10 to normal County services. But we've allowed them to
11 build far out of those areas whereby, one, we gave
12 approval, and, second, we're acknowledging now we're
13 gonna provide some type of service, if required, whether
14 it be Police, Fire, for response. Are we outside what I
15 guess you telling me is normal service areas?

16 MR. TAYLOR: This -- this chapter, again, my
17 read of it, says that if you're tying to the County
18 water system, then this chapter applies to you. So I
19 would assume that this -- that the service it means is
20 the County pressurized water service.

21 COUNCILMEMBER HOKAMA: Okay. Only what is
22 existing, Mr. Taylor. So for development coming up,
23 either preapproved or approved, is not within the
24 service area.

25 MR. TAYLOR: I -- I would think that if their

1 plans show a two-mile connection that eventually
2 connects to our system, and that's what they're gonna be
3 dedicating to us, then that -- the whole thing would
4 have to fall under this. I -- I -- I think that's how
5 we would interpret that. So anyone who's connecting to
6 the County -- I mean, clearly, I think this Chapter
7 14.04 is intended to apply to anyone connecting to the
8 County water system. I believe that is the intention.

9 COUNCILMEMBER HOKAMA: I'm just trying to make
10 sense on what documents will -- is related to this
11 proposal. Are we gonna base something on the Water Use
12 Development Plan, are we gonna base something off the
13 General Plan, are we gonna base something on a more
14 specific Community Plan that defines or helps us
15 understand what is the service areas?

16 MR. TAYLOR: From a utility standpoint, I
17 think we would consider the term service limits, whether
18 it's water, sewer, power, to be anybody who's connected
19 to our grid is within our service limits. And anyone
20 who is not is not in our service limits. I think that
21 would be at least a generally agreed upon sort of
22 definition for -- for utilities.

23 COUNCILMEMBER HOKAMA: Uh-huh.

24 MR. TAYLOR: Or even somebody who's -- who's
25 going to tie into our system is now going to be, you

1 know, on our system. So, clearly, they're within our
2 system limits. I don't know if that definition exists
3 anywhere, but I think -- from a practical standpoint, I
4 think that's how most of us would -- would interpret
5 that.

6 COUNCILMEMBER HOKAMA: Okay. Thank you,
7 Chairman.

8 CHAIR VICTORINO: Okay. Thank you,
9 Mr. Hokama. Other questions or other discussion?
10 Seeing none, the Chair would like to make a
11 recommendation if the Committee is ready for a
12 recommendation.

13 COUNCIL MEMBERS: Recommendation.

14 CHAIR VICTORINO: Okay. Thank you, Committee.
15 The Chair would like to recommend and would like to
16 entertain a motion for the passage of this bill -- this
17 proposed bill and the filing of the communication.

18 UNIDENTIFIED SPEAKER: Draft bill.

19 CHAIR VICTORINO: Excuse me. Draft bill,
20 excuse me.

21 VICE-CHAIR PONTANILLA: Mr. Chairman, I move
22 that we move forward the draft bill entitled "A BILL FOR
23 AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE,
24 RELATING TO WATER SERVICES".

25 COUNCILMEMBER BAISA: Mr. Chair, I second the

1 motion.

2 CHAIR VICTORINO: Thank you. I have a motion
3 by Mr. Pontanilla and a second by Ms. Baisa. Any other
4 discussion?

5 VICE-CHAIR PONTANILLA: Mr. Chairman, is this
6 also the filing of --

7 CHAIR VICTORINO: Yes.

8 VICE-CHAIR PONTANILLA: -- County
9 Communication No. 11-45?

10 CHAIR VICTORINO: That is correct.

11 VICE-CHAIR PONTANILLA: Okay. Thank you.

12 CHAIR VICTORINO: Thank you. Yes, Ms. Baisa.

13 COUNCILMEMBER BAISA: Yes. Thank you very
14 much, Chair. And I just wanna state something again so
15 that -- not just for myself, but anybody who's as
16 confused as I was when we started. The only thing that
17 we're discussing now is building permits.

18 CHAIR VICTORINO: That is correct.

19 COUNCILMEMBER BAISA: I think it's really
20 important because, after the discussion that Member
21 Hokama brought up, I wanna be sure that people who are
22 applying for a B and B permit realize that it may still
23 involve both departments, for them to be reviewed during
24 that B and B permit process. This is strictly for the
25 building permit.

1 CHAIR VICTORINO: That is correct.

2 COUNCILMEMBER BAISA: And so I think it's
3 really important. Otherwise, we may have confusion
4 later on and say, well, you passed a law that said only
5 Water was gonna be looking at us, we're a residence.
6 But that's a separate issue because when it's beyond the
7 building permit, they would still be reviewed by both
8 departments.

9 CHAIR VICTORINO: That is correct, Ms. Baisa.

10 COUNCILMEMBER BAISA: Okay. I just wanted to
11 be very, very clear on what we're doing. Is that
12 correct? I see everybody kinda nodding.

13 MR. TAYLOR: I think -- I think we all agree
14 that that's correct.

15 COUNCILMEMBER BAISA: Okay. I just wanna be
16 sure because, you know, the people that are watching,
17 like myself, when we started, you know, often don't
18 follow us through the whole thing, they may have to
19 leave for a few seconds, come back and say, oh, now what
20 did they do. I think this is really important that it's
21 clear that what we're talking about is that building
22 permit, not necessarily now I'm going in for a B and B
23 permit. We have a law and there is a process, but it
24 will then require the review by both departments. And I
25 know this has been an issue as we have implemented the B

1 and B law. So thank you very much, Chair.

2 CHAIR VICTORINO: Well, thank you. And I was
3 -- I was about to make that clarification, but you beat
4 me to the punch. And I thank you, Ms. Baisa. I think
5 this is important that everyone understand this was
6 building permit issue.

7 COUNCILMEMBER BAISA: Okay.

8 CHAIR VICTORINO: Not all the other ones.
9 And, again, you know, I will leave it up to the
10 departments, but there will be times when, again, both
11 departments agreed, there'll be crossover or there'll be
12 dual scrutiny on things, but this should expedite the
13 building process, building permit process. And this is
14 what we're trying to get to, right? And so I'm hoping
15 that this will be one of the final chapters to help them
16 and -- and our -- our public out there get their
17 completion of their building permits. Okay. If no
18 other discussion, I'll call for the question. All those
19 in favor, signify by saying "aye".

20 COUNCIL MEMBERS: Aye.

21 CHAIR VICTORINO: All those opposed? Let the
22 record show seven ayes, no opposed.

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1 VOTE: AYES: Chair Victorino, Vice-Chair Pontanilla,
2 and Councilmembers Baisa, Carroll,
Cochran, Hokama, and White.

3 NOES: None.

4 ABSTAIN: None.

5 ABSENT: None.

6 EXC.: None.

7 MOTION CARRIED.

8 ACTION: FIRST READING of revised bill; and FILING
9 of communication by C.R.

10 CHAIR VICTORINO: And I wanna thank -- wow,
11 it's only 10 after 10. I didn't even give you guys a
12 break. I'm so sorry.

13 COUNCILMEMBER BAISA: That's all right. We're
14 done.

15 CHAIR VICTORINO: Wow. And that was the only
16 agenda item I put on because I felt it would be a lively
17 discussion, which it was. And I hope that we will look
18 in a future date. I will be looking at Ms. Raisbeck's
19 suggestions, and some others. And we'll be -- I'll be
20 bringing back some of these things at a later date. We
21 have only one more meeting before we get into Budget
22 Session. So I am hopeful that, Mr. Taylor, you'll be
23 ready for your -- your presentation at our next meeting.

24 MR. TAYLOR: Yeah. We'll be prepared to put
25 on a presentation similar to what you saw from the

1 Department of Public Works yesterday in the
2 Infrastructure Committee, kind of an -- an overview of
3 the Department and its functions and things. So we will
4 be ready for that in two weeks.

5 CHAIR VICTORINO: So that will be our next
6 item agenda, is the overview of the Department of Water
7 Supply, which I wanted for a long time. And Mr. Taylor
8 has graciously said he'd get it together, along with
9 Mr. Chang and the rest of the Department.

10 So if there's no further announcements -- I
11 know we have a, what, 1:30 Budget and Finance meeting,
12 right? So if there's no other discussion, the meeting
13 of March 1st, 2011, of the Water Resource Committee is
14 now adjourned. ...(gavel)...

15 ADJOURN: 10:09 a.m.

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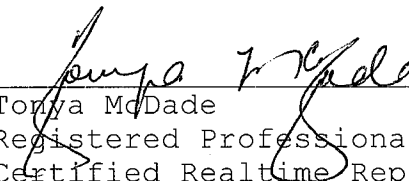
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CERTIFICATE

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by me in machine shorthand and thereafter was reduced to
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Tonya McDade
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