

BOARD OF WATER SUPPLY
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Department of Liquor Control Conference Room, 2145 Kaohu Street, Room 105, Wailuku, Maui, Hawaii, commencing at 9:05 a.m., on Thursday, March 24, 2011.

Reported by: Tonya McDade, CSR, CRR
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1 BOARD MEMBERS PRESENT:

2 Michael Howden, Chair

3 Phyllis Robinson, Vice-Chair

4 Kevin Boteilho, Member

5 Donald Gerbig, Member

6 Kuilauokalani F. Lester, Member

7 Kelli Myers, Member

8 Ted Yamamura, Member

9 STAFF PRESENT:

10 Paul Meyer, Deputy Director

11 Edward Kushi, Jr, First Deputy Corporation Counsel

12 Herb Chang, Engineering Program Manager

13 Gaye Hayashida, Commission Support Clerk

14 OTHERS PRESENT:

15 Mary Blaine Johnston, Deputy Corporation Counsel

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1 (Thursday, March 24, 2011, 9:05 a.m.)

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3 CHAIR HOWDEN: (Gavel.) I would like to call
4 the meeting to order.

5 In attendance: Kevin Boteilho; Don Gerbig;
6 Ted Yamamura; Vice-Chair Phyllis Robinson; Kelli Myers;
7 and Patricia Eason; and Kui will be here soon; Paul
8 Meyer, Deputy Director, is representing the Department;
9 and Ed Kushi is our Deputy Corporation Counsel,
10 something like that; and Gaye Hayashida here; Mary
11 Blaine Johnson from the Corporation Counsel's Office;
12 William and Mark Blietz are here; our court reporter,
13 bright as ever.

14 MS. HAYASHIDA: Tonya.

15 CHAIR HOWDEN: Tonya.

16 MS. HAYASHIDA: McDade.

17 CHAIR HOWDEN: Okay. Thank you. So
18 announcements are that we have our annual financial
19 disclosure statements are due on April 15th.

20 MS. HAYASHIDA: Yes. I just wanna remind the
21 Board Members. I think I got most of them except
22 Phyllis and Kevin. It's due April 15th, but anytime
23 soon would be appreciated. Thank you.

24 CHAIR HOWDEN: Are there any changes or
25 additions to the Board meeting minutes from our last

1 meeting?

2 (Silence.)

3 CHAIR HOWDEN: Might we have a motion to
4 approve the minutes?

5 VICE-CHAIR ROBINSON: I make a motion to
6 approve the minutes.

7 CHAIR HOWDEN: Second?

8 MEMBER MYERS: Second.

9 CHAIR HOWDEN: Thank you. Those in favor?

10 (A chorus of ayes.)

11 CHAIR HOWDEN: Thank you.

12 Testimony from the public. I understand
13 Mr. Blietz is going to give a statement, but it's part
14 of -- do you want to give it now, or do you --

15 MR. BLIETZ: However you would like it, sir.
16 You're in charge.

17 CHAIR HOWDEN: Well, your son is also giving a
18 statement, right?

19 MR. BLIETZ: Well --

20 CHAIR HOWDEN: Mark?

21 MR. BLIETZ: -- he doesn't like to talk, but
22 he will if you ask him questions.

23 CHAIR HOWDEN: Okay. Why don't we put that as
24 -- give you your time for the statement as --

25 MR. BLIETZ: Well --

1 CHAIR HOWDEN: -- when we settle the appeal?

2 MR. BLIETZ: You're so soft-spoken, sir,
3 that -- I've never had a presiding officer so
4 soft-spoken as you.

5 CHAIR HOWDEN: That's why my days are ending.
6 (Laughter.)

7 CHAIR HOWDEN: Thank you. Thank you. I'll
8 take that as a --

9 MR. BLIETZ: But I've read your nice columns
10 that you've been fortunate enough to share with us in
11 the newspaper about problems in the community,
12 especially with water problems. And I wanna thank you
13 for doing that.

14 CHAIR HOWDEN: Thank you.

15 MR. BLIETZ: Not trying to ingratiate you in
16 any way by saying that, but I --

17 CHAIR HOWDEN: Yeah. I mean, you -- the
18 appeal is largely settled, so -- you know, I know that
19 it's gratuitous --

20 (Laughter.)

21 CHAIR HOWDEN: -- if you will. If you will.
22 Well, the next item is the appeal. So --

23 MR. BLIETZ: Well, it's -- it's yes and no on
24 the appeal. Part of it is taken care of, but part of it
25 is not. And I don't know. I -- I looked at your

1 earlier comments about maybe you want to go into an
2 executive session in order to determine the preliminary
3 problem in this thing, the conflict of interest issue
4 that has been raised. So I -- it's up to you how you
5 want to handle that, but that is not resolved as far as
6 I'm concerned. And when I tell you why, I think you'll
7 understand why I feel as strong as I do about it.

8 CHAIR HOWDEN: Okay. Mary.

9 MS. JOHNSTON: Yes. Why don't we deal with
10 the part of the appeal that is settled? Deputy
11 Director, Mr. Meyer, can briefly explain the agreements
12 that were reached, and then maybe Mr. Blietz can raise
13 the other issue.

14 DEPUTY DIRECTOR MEYER: Thank you. Correct me
15 if I'm wrong, please, but Mr. Blietz applied for a
16 subdivision, and there were certain offsite development,
17 offsite improvement requirements, specifically a
18 pressure-reducing valve and, also, a fire line. And
19 Mr. Blietz agreed to install a fire line to his
20 property. And there was some disagreement as to whether
21 it was appropriate for him to install the
22 pressure-reducing valve. The ambient pressure at his
23 property is about 160 pounds, which is quite high.

24 The Department and Mr. Blietz, we negotiated
25 at some length and reached an accommodation in the form

1 of a family subdivision and a sharing of the costs of
2 that pressure-reducing valve and, ultimately, we reached
3 an accord. We're -- also, an apportionment of the cost
4 of the fire line as well. And that was reduced to a
5 writing which we both signed as of yesterday.

6 And I have a copy of that here, if you would
7 like to review it. It's fairly short, fairly sweet,
8 just dealing with the high points. But, basically, it
9 sets forth the program for accomplishing those
10 improvements, the pressure-reducing valve, the fire
11 line, fire hydrant, and reimbursement of certain costs
12 and how the engineering costs are apportioned.

13 And it's acceptable to the Department. And
14 we're pleased to have the issue resolved amicably. And
15 it's -- from our perspective, it's much more satisfying
16 to move forward in a positive manner to get work done
17 and get people their subdivision approved and get the
18 water system improvements made as they need to be made.

19 And, Mr. Blietz, please, if you would be so
20 kind. Do you have any comments?

21 MR. BLIETZ: Well, you folks are gonna be very
22 fortunate that the new administration is here because I
23 suspect you're gonna have less people coming here,
24 complaining about what's happened in the past. But I
25 don't need to tell you experienced folks 'cause you've

1 heard 'em.

2 And I wanna thank Mr. Meyer because he's a
3 very positive force in the water chain now. And I think
4 you folks are gonna have a lot less -- of course, you
5 won't be here, I guess, this is your last meeting. But
6 you other folks -- and you were in charge, I think, the
7 last time I was here --

8 VICE-CHAIR ROBINSON: Yes.

9 MR. BLIETZ: -- and so maybe you know what I'm
10 talking about. But I wanna thank Mr. Meyer and his
11 attitude. He's got a super attitude that has not been
12 displayed previously by the Water Department,
13 unfortunately.

14 DEPUTY DIRECTOR MEYER: Thank you for the kind
15 words.

16 MR. BLIETZ: Well, I'm telling you the way it
17 is. So I wanna thank you again.

18 DEPUTY DIRECTOR MEYER: Again, we're pleased
19 that the matter settled, of the improvements and the
20 subdivision application, and we're moving forward.

21 You have another matter before the Board here?

22 MR. BLIETZ: Yeah. I have the conflict of
23 interest thing I still want to put on. I feel very
24 strongly about it. And I don't -- are any of you folks
25 attorneys or -- no? Okay.

1 Well, I had a law professor 53 years ago, when
2 I was a first-year law student, explain to me about
3 ethics. And the ethics are seriously confronted here in
4 this situation where the County Counsel sits as your
5 advisor and the County Counsel sits as representing one
6 of the parties here. And it's clearly -- I have been
7 told to go to the -- make a complaint. Well, never in
8 my life have I ever done that. And I won't do it now.
9 But one -- one -- a lawyer has one master, he cannot
10 have two masters in this situation. And although there
11 is only two parties involved in here, there's really
12 three entities here. The entity that represents you --
13 and I don't think it's fair that they come forward and
14 conflict -- for example, if you went in Executive
15 Session here, well, who would be there? They would be
16 there. And if there's a controversy involving the two
17 parties, they will be advising you about the situation.

18 Now, am I casting aspersions on their -- on
19 their characters as far as that? No. But what I'm
20 saying is that it clearly violates a conflict of
21 interest in a situation like this.

22 Of course, your practical observation is gonna
23 be, well, then, you're gonna force us in these instances
24 to get rid of the conflict. And, of course, the way to
25 get rid of it is one side has to recuse themselves,

1 either Mr. Kushi has to recuse himself or the corporate
2 counsel that sits representing the Department of Water
3 Supply has to recuse himself, which means that you're
4 gonna have more expense.

5 But, you know, the best analogy I can give
6 you, suppose you're a court -- you're a coach of a
7 basketball team. Right. And you look out there. And
8 who's throwing up the ball to start the game? The coach
9 of the other team. Or Shane Victorino goes to bat for
10 the Phillies, and he looks there at the umpire, and it's
11 the manager of the other team. That's not really fair.
12 And that's the best analogy I can give you.

13 And, again, I'm not casting aspersions on
14 these folks because they are told that they're supposed
15 to represent every entity that the County has. And
16 that's what they're doing here. But they cannot do it
17 in a situation like this. And I know it's your -- I
18 know you give your time in doing this. And I want to
19 thank you for doing that, all of you, for -- for
20 donating your time here. But, by the same token, you
21 gotta give -- you gotta give the people that come here a
22 even playing field. And it's not an even playing field
23 when -- when the Corporation Counsel represents who's
24 gonna advise you and one of the parties. It's just not
25 kosher. It's not right. It's not ethical.

1 Now, you say, well, I don't -- I'm not a
2 lawyer, I don't understand that. Well, I'm telling you.
3 And they're duty bound to be here because that's what
4 their job description calls for 'em to do, is to
5 represent the entities of the County, but -- and there's
6 been instances where the conflict of interest have
7 required the County to go to get other outside people to
8 represent situations.

9 And I know all you wanna do is be fair. I
10 know you wanna do that. And I know I've -- I've looked
11 up and I've seen your -- thank goodness, they put 'em on
12 the internet -- I've seen your hearings before. You're
13 very fair. I've been here before, about six, seven
14 years ago, when it was less informal, when all we -- and
15 I know that you try to make feel good. And I have a
16 good feeling right now from the way the -- the way that
17 you're handling things. But by the same token, keep the
18 playing field even for the people that have to come here
19 and explain their circumstances to you. And it's not an
20 open -- and it's not an even playing field as long as
21 there's the conflict that exists in this situation.

22 MEMBER YAMAMURA: Can I ask a question?

23 CHAIR HOWDEN: Please, Ted.

24 MEMBER YAMAMURA: I'm not trying to dismiss
25 Mr. Blietz' concerns; however, is this the proper venue

1 to be addressing Mr. Blietz' concerns regarding
2 conflicts of interest? (Inaudible) to all boards and
3 commissions.

4 CHAIR HOWDEN: Yeah. Not at this point, but
5 the part of the agreement has been to allow Mr. Blietz
6 to voice -- part of the stipulation in this agreement is
7 that we will listen to Mr. Blietz' and his son's
8 concerns about potential conflict of interest. It's my
9 understanding that this has been litigated and gone
10 before Circuit Court at least twice. But I think,
11 because we're -- partly, because we're not running
12 through the whole appeal thing and it has been largely
13 settled, that -- that our agreement is really to listen
14 to his manao on this.

15 MEMBER YAMAMURA: Oh. So we're not gonna try
16 and render any kind of ruling on that portion?

17 CHAIR HOWDEN: That's -- well --

18 VICE-CHAIR ROBINSON: We don't have the power.

19 CHAIR HOWDEN: Well --

20 MEMBER YAMAMURA: It was --

21 CHAIR HOWDEN: Well beyond our purview.

22 MR. BLIETZ: Can I respond to that?

23 CHAIR HOWDEN: Please, yeah.

24 MR. BLIETZ: You know, the only other
25 alternative that I have is to beef 'em with the -- with

1 the Hawaii Supreme Court on the rules and regulations
2 regarding attorneys or to the Bar Association. I'm not
3 inclined to do that because, 35, 36 years ago, I quit
4 being a lawyer, but I never ever beefed a lawyer in my
5 life before a disciplinary proceeding. And I don't feel
6 good -- I wouldn't do it. But somewhere along the line,
7 it's gotta be resolved.

8 And, you know, I know that you probably have a
9 wonderful feeling for the people that come here, but, by
10 the same token, when you -- when you ask Mr. Kushi, or
11 whoever it is -- other Corp Counsel will be there --
12 when you ask for an opinion and -- and you got somebody
13 over here taking one of the parts in the -- in the
14 discussion, it's not fair. It's an appearance of --
15 it's -- you know, sometimes it don't have to actually be
16 a conflict. The word that my old law professor used to
17 say, it's an appearance, it gives an appearance of a
18 conflict. And I know it costs more money to hire people
19 to come in here, but, by the same token, you know, if
20 you were here, you would say just give me a even playing
21 field.

22 That's all.

23 CHAIR HOWDEN: I will say -- share a brief
24 story with you. When I was an appellant before the
25 Board, I -- I was -- my whole history has been

1 adversarial relations with this Board, which I won't go
2 into. But I was there one time, and David Craddick was
3 our Director and John Rapacz was the Deputy Corporation
4 Counsel representing the County. And at that point, I
5 believe, representing directly the Director, the balance
6 of power was different at that point, it had a
7 considerable amount of autonomy. And at the very
8 beginning of the meeting, John turned to David and said,
9 "I'm sorry, I can't represent you because you keep
10 lying." And so, you know -- it's true. It's true.
11 It's in the minutes.

12 MR. BLIETZ: Was there a court reporter there
13 that got that down?

14 CHAIR HOWDEN: Not a court reporter, but Geri
15 Wells would tape all those meetings and -- you know,
16 that -- that was -- you know, there might have been an
17 appearance. There always is an appearance because you
18 have the County. And I think, as you suggest,
19 especially when it's the Administration and the Council,
20 they're not loathe to hire special counsel. In this
21 case, you know, in the case like the different boards
22 and commissions, it might just be endless and
23 substantial investment of the finances.

24 But, Mark, did you want to say something, too?
25 Are you sure?

1 MR. MARK BLIETZ: I'm fine.

2 CHAIR HOWDEN: Feel free.

3 Mary, did you want to comment?

4 MS. JOHNSTON: No. I just wanna -- your
5 comments are well-taken. And I -- there's just a short
6 memo trying to address the situation. I didn't get a
7 chance to read it. But this -- we're required by the
8 Charter to represent everybody. There are cases that
9 come in, especially personal injury cases that come in,
10 to our office where, you know, four police officers are
11 named as defendants and they have different stories. So
12 we have to go and get outside counsel which requires
13 going to the County Council, getting authorization to
14 hire outside counsel, entering into a contract with
15 outside counsel to come in and represent. It's very
16 costly, it's very time-consuming. To me, the setup by
17 the Charter allows the public to come in, an inexpensive
18 way, and go through this administrative proceeding.

19 Your other alternative would be no
20 administrative hearing in between, no board hearing, you
21 go to court. And I think that's not very acceptable.

22 Pointed out in the -- in the -- in commentary
23 to the professional rules of conduct, there is a
24 recognition that this representation can take place.
25 And in the one Hawaii Supreme Court case, it's addressed

1 it. They also discuss AG, a slightly different
2 situation. And I would think jurisdictions all
3 throughout the United States have the same -- the same
4 situation. How do you give people like Mr. Blietz an
5 opportunity to come in and tell his story, and he
6 doesn't have to hire an attorney, he doesn't have to go
7 through a court process to get, you know, whatever
8 relief he wants to get? So it's a trade-off. I don't
9 see in this -- this situation, as far as I'm concerned,
10 there's no conflict.

11 I've put in the protocols we follow in our
12 office. We don't discuss cases. And that's just the
13 way it is.

14 You know, the Charter Commission's meeting --
15 maybe he should go talk to the Charter Commission about
16 this issue and they could come up with something
17 different. But that's all I have to say.

18 MR. BLIETZ: Can I have a little rebuttal to
19 that?

20 CHAIR HOWDEN: Of course.

21 MR. BLIETZ: All right. Mr. Kushi's
22 fingerprints are all over this case. This is a little
23 bit different than an ordinary run-of-the-mill case.
24 Mr. Kushi -- and she was gonna put in a document where
25 there was a public/private water agreement made, she was

1 gonna put that into evidence. And Mr. Kushi is the one
2 that drew the document, who signed it and agreed to it
3 as to form and to legality. Okay.

4 So when I made a statement that I was gonna
5 have him on my witness list as well as her, that's
6 because she answered interrogatories on behalf of the
7 Water Department here in her name instead of having the
8 Water Department answer. Okay. Well, when I told that,
9 then she says, well, if you put one of us -- if you put
10 us on the witness list, I'm gonna make an order to have
11 -- what did you call it?

12 MS. JOHNSTON: Protective order.

13 MR. BLIETZ: Protective order, okay. So once
14 she had the Water Board representative sign the answer
15 to interrogatories, it relieved me of having to have her
16 listed as a witness. But I still have him on there
17 because not only did he draw the agreement between us,
18 but he also signed as to the law in question here. He
19 -- as to form and legality on it. So in this situation,
20 it's a little bit stronger than just an average citizen
21 coming in here.

22 And, you know, you made it more -- I mean, you
23 haven't made it, but somebody has made it more
24 difficult. You have to almost be a lawyer. I mean,
25 there's pre -- pre-hearing which I -- I think for your

1 standpoint is good. I'm not arguing don't have it, but
2 what I'm saying is you got the -- you have to have a
3 little bit of a -- of a law background to understand
4 what's happening. If you're gonna ask questions under
5 oath -- which I would never have found out some of the
6 things that I would have known about this case, because
7 they were never given to me by the Water Department
8 before. I had to get 'em through interrogatories. Such
9 as the fact that they had had problems on that line
10 since 1986, they had had six to 12 blowouts, that they
11 had -- that they didn't require the subdivision next to
12 me to put copper tubing in, they allowed 'em to use
13 Driscoll. Okay. And that's what caused 'em to blow
14 out. And they could have had that subdivision when it
15 was put in, have to put the -- put the pressure relief
16 valve up there to relieve the pressure on the thing.

17 And then they had themselves put a pressure
18 relief valve in -- in the -- in the Haiku area in -- in
19 2008, at the expense of \$17,000. And they wanted me to
20 spend \$63,000.

21 So there's a -- there's a little bit more to
22 this case as far as -- but let's get back to the
23 conflict. And I'm not putting, in any way, Mr. Kushi
24 down when I say his fingerprints was all over this case,
25 but let me tell you, it required me to call him today as

1 a witness on the conflict. Because they're gonna put
2 the document forward, I would like to have it explained
3 that he's the one that drew the document, okay, agreed
4 to it as to form and everything, supplied it to the
5 Water -- Water Department to give to us, the agreement.
6 And it's the one that we signed. My son and I signed
7 it. So this is a little bit stronger argument for a
8 conflict than the regular case.

9 And then when I put his name on as a witness,
10 there was no protective order coming forward on behalf
11 of Corporation Counsel. And I suspect -- might be
12 wrong -- I suspect they didn't want this to go to a
13 district court, because I think a district court would
14 frown upon their conflict in this case.

15 But, again, I'm not a tattletale. And I'll
16 never be. Thank you.

17 CHAIR HOWDEN: Thank you.

18 Ed, did you want to comment at all or --

19 MR. KUSHI: Oh, no.

20 CHAIR HOWDEN: See? Wisdom. Wisdom.

21 VICE-CHAIR ROBINSON: I'd like to make -- I'd
22 like to make just a quick comment.

23 CHAIR HOWDEN: Please. Please, Phyllis.

24 VICE-CHAIR ROBINSON: As a Board Member, I
25 have to say that you are absolutely right, Mr. Blietz,

1 we do not have law backgrounds. And in a lot of cases,
2 we don't even really have a strong background in what is
3 allowable or not allowable in these proceedings. And
4 often we look to corporate counsel, to Ed, to help guide
5 us in that. Because we are a group of citizens, it's
6 very helpful for us to have someone who understands all
7 the ins and outs. And I don't -- I don't disagree,
8 necessarily, with what you're raising here. I don't
9 want you to think that I'm just putting this over, what
10 you've said. I want you to understand that. But I do
11 want to just express, from my own standpoint, as a Board
12 of Water Supply Member, that it is incredibly helpful to
13 me to have someone who really understands the ins and
14 outs of the Department in helping us get through these
15 appeals. So I just wanna put that out.

16 MR. BLIETZ: However, as a lawyer, I've given
17 advice. Guess what? Sometimes my clients didn't take
18 it. So even though you -- you receive advice doesn't
19 necessarily mean that you're -- that you have to take
20 it.

21 VICE-CHAIR ROBINSON: Right.

22 MR. BLIETZ: But I understand exactly what
23 you're saying. You look -- I mean, after all, that's
24 your responsibility. I don't think you could carry out
25 your obligations unless you would look to your counsel

1 to -- for advice. And that's what really creates the
2 conflict.

3 CHAIR HOWDEN: Yeah. I -- I will say,
4 personally, I found, over the five years I've been on
5 the Board, that Ed's presence has been exemplary, you
6 know. And I think one of the reasons they kept him with
7 the Board, with Water Resources, even though he's been
8 promoted to the upper echelon, is that his expertise and
9 his familiarity with the rules and regs, such as they
10 are, of the Department. No one else has that. And so
11 he's been very helpful. And in our executive sessions,
12 I find him very balanced, very balanced, very clear,
13 fingerprints notwithstanding.

14 Any other questions for Mr. Blietz? Any other
15 comments?

16 (Silence.)

17 CHAIR HOWDEN: Okay. Thank you very much.

18 MR. BLIETZ: I wanna apologize to Mr. Kushi.
19 I hope this -- I haven't embarrassed him in any way
20 because it's not my intent to do that.

21 CHAIR HOWDEN: Oh, no. I think your demeanor
22 is -- you know, was very gracious. And, you know, just
23 sit in on a couple of County Council sessions and you'll
24 see. I mean, all kinds of stuff comes before --
25 especially attorneys, attorneys are supposed to have the

1 extra layer, epidermal layer, at least one. So thank
2 you very much for your comments.

3 MS. JOHNSTON: Okay. Just so it's clear, part
4 of the agreement was that the appeal that's before the
5 Board on the Director's decision is dismissed with
6 prejudice. I had a written one, but I don't know. We
7 can just put it on the record that it's been resolved.

8 MR. BLIETZ: I'm not too sure I wanna do that
9 because, you know, that means I have to get in line
10 again if -- if -- I have full confidence that as long as
11 Paul Meyer's still where he is, and Alan Mirada, are in
12 the Water Department, where they're at, that we're not
13 gonna have any problems. Because big bear from Berkeley
14 and the bruin from UCLA had a handshake. And I think
15 it'll work out just fine. But by the same token, I
16 don't want to get to the end of the line again because,
17 you know, this line -- I don't know -- you folks aren't
18 gonna be out of a job. A lot of people in this line.
19 And Gaye Yamashita [sic] is most kind to get you in the
20 line where you're supposed to be. And I've been in the
21 line several times. But I'm kind of reluctant to
22 dismiss it with prejudice, but maybe Mr. Kushi can help
23 us.

24 MR. KUSHI: Mr. Chair, I haven't seen the
25 agreement, so I'm not sure. Are there steps to be done?

1 MR. BLIETZ: Well, your counsel's seen it.

2 MR. KUSHI: That's what I'm asking.

3 MS. JOHNSTON: The issue on appeal is -- the
4 Mr. Blietz appeal was the Director's decision that a
5 pressure-reducing valve needed to be installed. In the
6 agreement, he agrees to do that. So that's it. That's
7 the single issue on appeal.

8 MR. BLIETZ: Not quite right. The issue on
9 appeal was their failure to sign the subdivision plans.
10 And that -- this was one of the conditions to do that.
11 So the major issue that I'm still involved and concerned
12 with is my subdivision plans, that they haven't been
13 signed off. And you know when you're trying to get
14 through all the hurdles to get through a subdivision --
15 and I'm only trying to protect it for my family. It's
16 not as though I'm trying to sell to somebody else. I
17 mean, I've been here for years. My sons are here, my
18 grand kids are here. We wanna stay here. We've been
19 raising orchids for over 30 years, all over the world,
20 with Mr. Fukumura in years gone by. We've gone to
21 Japan, to China, to New Zealand, to Australia, to
22 Canada, to Europe, to -- all over the world we've taken
23 orchids. And really --
24 And one of your members that would have to
25 disqualify himself here is Kevin, I'm sure, because 20

1 years dealing with HGP with him and in the Orchid
2 Society -- Kevin knows what I'm talking about.

3 We're -- my family's here. We're gonna die
4 here. I got a mother and another wife across the street
5 in the Maui Memorial over there. And that's where we're
6 all gonna be someday, my family. So we're -- I'm not
7 trying to subdivide this to make money on, for crying
8 out loud. I'm just trying to keep it in the family.

9 With the help of Beth Ivey, I've been able to
10 get some proper estate planning through the years. And
11 until December last year, until there was signed that
12 you have a five million dollar base now to protect you
13 on the inheritance laws, we were just trying to wean our
14 way through this, to get it into the different -- with
15 the help of gift tax, which there was an exclusion -- I
16 mean, a limit on that, but now that's been raised. All
17 we're -- all I'm trying to do is to keep my property in
18 the family.

19 CHAIR HOWDEN: So, Mary, what else do we need
20 to do?

21 MS. JOHNSTON: Well, I'm just looking at
22 Mr. Blietz' appeal that was filed on September 5th,
23 2008. And it clearly is -- the only issue is the issue
24 of requiring the installation of a pressure-reducing
25 valve. So that is the only issue before this Board. If

1 there -- problems arise in the future, there is
2 agreement. I don't think there's any reason for
3 Mr. Blietz to believe that that will not in good faith
4 be executed by the Department. This appeal is done.

5 DEPUTY DIRECTOR MEYER: If I might --

6 CHAIR HOWDEN: Paul, please.

7 DEPUTY DIRECTOR MEYER: -- Mr. Chairman.

8 While it's true that the agreement we have will only be
9 fulfilled over the next several months, the work needs
10 to be assessed, plans need to be finalized, both as
11 regards to the design and placement of the
12 pressure-reducing valve and the subdivision
13 improvements. And the work actually has to be done.
14 You know, I think we've got four corners on the scope of
15 that work and what the Department's responsibilities
16 are. And it seems pretty clear to me, at least it's our
17 intent as -- as set forth in the settlement agreement,
18 that the Department will accomplish that work.

19 And Mr. Blietz has certain responsibilities.
20 And we have every expectation that he and Mark will
21 follow through on -- on their obligations.

22 And I would think if we don't -- again, I'm
23 not a lawyer, Mimi could maybe opine to this -- but I
24 think if we don't, if we should default on our
25 obligations of the settlement agreement that we could be

1 -- we could -- we would be creating a cause of action to
2 be forced to fulfill those promises and duties. So, you
3 know, I would expect that this agreement does put four
4 corners on the issues that I believe were at issue in
5 the appeal or the reason for the appeal.

6 In terms of the conflict, that's -- I'm way
7 out of my depth on that. But I think the Department is
8 willing to step up to and honor its obligations under
9 the settlement agreement. That's our intention and
10 we're gonna do it.

11 MR. BLIETZ: That's if you're still here.

12 MR. KUSHI: Mr. Chair?

13 CHAIR HOWDEN: Counsel.

14 MR. KUSHI: Mr. Deputy Director, I mean, based
15 on your agreement, whatever it is, and if it's signed,
16 will you then sign off on his construction plans so he
17 can proceed on with Public Works?

18 DEPUTY DIRECTOR MEYER: Yeah. We haven't seen
19 those right now, the construction plans for the PRV.

20 MR. BLIETZ: Well, you've seen three sets of
21 them. You haven't been able to tell me where to put it.

22 DEPUTY DIRECTOR MEYER: Right. I think that
23 needs to be finalized, but it's our intent. We have
24 assigned an engineer, it's our intention. And, again, I
25 think --

1 MR. BLIETZ: That's the key question right
2 there. Thank you, Mr. Kushi.

3 MR. KUSHI: Well, you know, that being the
4 case, I would -- I would suggest, Mr. Chair, that you
5 continue this appeal when the document is signed off and
6 he moves on. Then, you know, I would assume that you'd
7 dismiss the appeal.

8 MR. BLIETZ: Absolutely. Sure. I'm not --
9 thank you.

10 CHAIR HOWDEN: Okay. Great. So if it's the
11 Board --

12 MR. KUSHI: If he doesn't, then you
13 reschedule.

14 MR. BLIETZ: I know why they elevated you to
15 the point you are.

16 MR. KUSHI: I don't wanna see you again.

17 MR. BLIETZ: And I know why you have those
18 gray hairs on your head. But you know what, the gray
19 turns to white one of these days.

20 CHAIR HOWDEN: Well, it fits in with the halo.
21 So if the Board is agreeable to this, we'll continue the
22 appeal. And that's just letting the details sort
23 themselves out.

24 Gaye?

25 MS. HAYASHIDA: Did you want to specify a date

1 that we all come back to visit this again? Or we're
2 just going to --

3 MR. KUSHI: Next open date.

4 MS. HAYASHIDA: Next open date is May 26.

5 MR. BLIETZ: Does that mean I get my three
6 hundred back if I dismiss the appeal?

7 CHAIR HOWDEN: Eh, no guarantee, yeah.

8 (Laughter.)

9 CHAIR HOWDEN: This is a business, so -- okay.

10 MS. HAYASHIDA: So we'll continue the --

11 CHAIR HOWDEN: I can't speak for the Board.

12 Okay.

13 MR. BLIETZ: You may be on this side of the
14 table from now on soon as you leave.

15 CHAIR HOWDEN: Amen.

16 MS. JOHNSTON: Well, is that sufficient time?
17 May, that's only a couple months away to get all the
18 work that needs to be done.

19 MR. MARK BLIETZ: I'd make it further down.

20 MS. HAYASHIDA: June? June 23rd?

21 MR. MARK BLIETZ: June or July, probably.

22 MR. BLIETZ: July, maybe.

23 MS. HAYASHIDA: July.

24 DEPUTY DIRECTOR MEYER: I'd be disappointed if
25 we didn't have at least the plans all signed off on by

1 the next meeting, by May.

2 MR. BLIETZ: Would you raise your right hand
3 and swear to that?

4 CHAIR HOWDEN: He just said "disappointed."

5 MS. JOHNSTON: "Disappointed."

6 (Laughter.)

7 MR. BLIETZ: Okay. Thank you.

8 MS. HAYASHIDA: So what day, month? July,
9 June?

10 MS. JOHNSTON: June?

11 CHAIR HOWDEN: Mark said July.

12 MR. BLIETZ: July.

13 CHAIR HOWDEN: But, you know, that -- if you
14 guys settle --

15 MR. MARK BLIETZ: If it's before then, it's
16 done.

17 MR. BLIETZ: Yeah.

18 MR. MARK BLIETZ: Pau.

19 MR. KUSHI: We'll set it, and, if they settle,
20 we'll just take care of it.

21 MR. BLIETZ: I'll -- I'll advise 'em ahead of
22 time if it's taken care of and she can just take it off
23 calendar.

24 CHAIR HOWDEN: Okay. Great.

25 MR. BLIETZ: And then I'll be waiting for my

1 three-hundred-dollar check.

2 MS. HAYASHIDA: So we'll put it tentatively --

3 CHAIR HOWDEN: I like this positive attitude.

4 What?

5 MS. HAYASHIDA: So, tentatively, June, if they
6 can settle it --

7 CHAIR HOWDEN: Yes.

8 MS. HAYASHIDA: -- earlier. Okay.

9 MS. JOHNSTON: What's the date in June?

10 MS. HAYASHIDA: June 23rd, that's the fourth
11 Thursday.

12 MR. BLIETZ: Thank you, Mr. Chairman and --
13 and Members of the Board. And you know what, just reach
14 over and pat yourself on the back for giving the time
15 that you give for us folks to come forward and talk to
16 you and try to get some sense in some of these old water
17 regulation rules. Thank you.

18 CHAIR HOWDEN: Thank you.

19 MR. MARK BLIETZ: Thank you.

20 CHAIR HOWDEN: There's no Unfinished Business.

21 Other Business: Deputy Director Meyer will
22 lead us in a discussion of the Waikamoi Flume Repair
23 Project.

24 DEPUTY DIRECTOR MEYER: Thank you.

25 Thank you, Ed, first of all, for -- for

1 suggesting that continuance. That seemed to break the
2 (inaudible) that we created for ourselves.

3 In terms of -- there are a couple things
4 carried over from last meeting, open questions. One of
5 them was the Waikamoi Flume. We're continuing, at least
6 once a month, to be up there with the construction
7 crews, repairing leaks and making improvements to both
8 the trestle and the water carrying part of the flume.
9 In certain sections of it where -- where it's leaking
10 badly and -- and repairs are difficult to the wooden
11 structure, we're putting a PVC pipe, a half-round PVC
12 pipe in to carry the water. And it seems to be working.
13 Those are not sort of permanent repairs for its full
14 length. We're about halfway through, I believe, the
15 design phase for a replacement flume. And that project
16 is in the budget at \$10 million.

17 I'd like to ask Herb Chang if he could tell us
18 where the design on the replacement flume stands at this
19 point. You're closer to it than I am.

20 CHAIR HOWDEN: Herb, do you want to come up so
21 everybody can hear you? Because you're also one of
22 those soft-spoken people. So thank you very much.

23 MR. CHANG: Generally, the plans are still
24 being prepared by the consultant, Kai Hawaii. We are
25 still trying to determine what -- what's the best

1 material to use. I believe with the suggestion of Paul
2 Meyers [sic] that we contact EMI Group because they --
3 they're very familiar with these types of transmission
4 systems. So we're -- I believe the meeting will be set
5 up shortly to have some discussions with them and see if
6 they have any -- you know, with their history of these
7 flumes, whether they have any suggestions. So we'll be
8 working with EMI consultant and, you know, to try to see
9 if they have any worthwhile suggestions. I'm sure they
10 do. So just generally where we are right now.

11 Also, the -- being that it's in the -- this
12 project is in the, I guess, conservation forest area,
13 and so we have contacted -- our consultants have
14 contacted the related federal agencies whether we need
15 to get certain special permits. So that's been going on
16 for at least a month and-a-half or so. Hopefully, we
17 get some good news that we don't have to jump over too
18 many hurdles.

19 DEPUTY DIRECTOR MEYER: Yeah. Mike did
20 mention -- we had a couple of meetings just to kind of
21 get familiar with EMI. And they mentioned they had been
22 using a material. It's a smooth wall interior pipe made
23 of high-density polyethylene, but it has a steel
24 reinforcement bonded into the outside of the material to
25 make it much more rigid and structurally better material

1 to suspend itself over -- over distances. So I don't
2 know -- I've never seen it and I don't know what it
3 costs, but it sounded like a possibility for this
4 application.

5 Thank you.

6 Also, as kind of a corollary -- so -- so I
7 guess in terms of knowing what the design is and
8 actually moving forward into a bid phase for
9 construction, we're probably at least six months, maybe
10 more, away from that, from that point in time, going to
11 bid.

12 MEMBER YAMAMURA: So you need a -- excuse
13 me -- a CPUD as well?

14 MR. CHANG: We may. I think the one that
15 we're trying to tackle now is the -- I think the Army
16 Corps has -- they may have some jurisdiction in the
17 area, but there's -- we probably would need to --

18 MEMBER YAMAMURA: If you do, you might want to
19 consider running these things simultaneously because, as
20 you know, it just takes time.

21 MR. CHANG: It does.

22 DEPUTY DIRECTOR MEYER: We have a similar
23 situation in the Piiholo raw water line. The number one
24 intake delivery pipe was washed away by a landslide. So
25 we've got to get that replaced. And we're on that.

1 We're either gonna -- the current plan is to do that
2 directly in-house. It's a little bit of a hazardous
3 condition because of some overhanging rocks and
4 material, but we've got the -- we acquired the material,
5 piece of aluminum pipe, to span this gulch and will
6 involve construction of a couple of trestles to hold the
7 ends of the pipe. But we want to get that in certainly
8 by summertime because that's --

9 CHAIR HOWDEN: Oh, yeah, please.

10 DEPUTY DIRECTOR MEYER: -- probably the most
11 reliable intake in Piiholo system for us.

12 There were a couple of other questions that
13 came up at -- at the last meeting. One was if we could
14 prepare certain graphs of the raw -- the surface water
15 production. And we did that. We're also going to go
16 back and -- and I think we could produce at least 10
17 years, maybe in a little bit -- in the same format. I
18 don't know if you -- the Board Members liked the bar
19 graph or the line graph, but we could produce both and
20 go back and show 10 years of production history, if
21 that's helpful.

22 If you sort of look at this, it becomes more
23 or less intuitive. You can see that, in the last year,
24 last summer in particular, the flows into the Olinda
25 plant declined significantly during the drought summer

1 months and, as a result, raw water was not available and
2 the production from the plant declined substantially.
3 And we've become much more reliant on Piiholo and, of
4 course, Kamole. But, also, intuitively, you sort of see
5 Kamole be the source of last choice because it involves
6 pumping uphill from that to -- to the Kula lines.

7 Any questions on the graphs?

8 MEMBER GERBIG: The only -- the only thing
9 that I thought would -- I think you mentioned, but I
10 didn't -- is the -- on the graph, to have the long-term
11 average.

12 DEPUTY DIRECTOR MEYER: Okay.

13 MEMBER GERBIG: You know, I don't -- you guys
14 figure out what that term is, it's 10 years, five years,
15 100 years, whatever. But I think -- I think, my
16 personal opinion, it ought to be more than 10 years.

17 DEPUTY DIRECTOR MEYER: Okay.

18 MEMBER GERBIG: Just if that's available. You
19 guys --

20 DEPUTY DIRECTOR MEYER: We'll do that, Don.

21 MEMBER GERBIG: Yeah. It might be a little
22 more --

23 DEPUTY DIRECTOR MEYER: Okay.

24 MEMBER GERBIG: Everybody can see how we are
25 during drought conditions, non-drought conditions and

1 everything the longer the period we have. Right,
2 Mr. Howden?

3 CHAIR HOWDEN: Yeah. I mean, it's curious
4 with the Upcountry -- the dual line, the so-called dual
5 line, which has yet to see a drop move through it, that
6 was built largely, I believe, with USDA money,
7 Department of Ag. It was mostly federal money. It was
8 designed in Honolulu. But the projections were based on
9 rainfall profiles from the late fifties into the
10 sixties, I believe, which seemed kind of irrelevant,
11 since this was, you know, initiated in the nineties. So
12 that there are questions whether we'll ever be able to
13 -- that line will ever really fulfill its purposes.
14 It's already been considerably altered to drop in
15 Omaopio. I believe the Omaopio lateral drops far below
16 where it was originally intended to drop, much to the
17 dismay of the person handling that in Honolulu who has
18 since retired. So there are questions. And the
19 Waikamoi Flume System is the key to all of this.

20 Our present Mayor, Arakawa, in conversation
21 with me, suggested that we actually extend the Waikamoi
22 Flume System another valley where you can, you know,
23 pull considerably more water and make it viable. But I
24 just wanna kind of alert the Board that there are major
25 questions about our water system way Upcountry.

1 Dick Mayer, active in the Kula Community
2 Association, has suggested that eventually the so-called
3 dual line will really become a County line and just
4 serve Upcountry. But that's kind of a leap of faith
5 because these are all federal funds and -- and they were
6 designated.

7 Don?

8 MEMBER GERBIG: But we're talking about the
9 graphs here. You're kind of deviating.

10 CHAIR HOWDEN: Yeah. I'm --

11 VICE-CHAIR ROBINSON: Sorry. He's allowed.

12 MEMBER GERBIG: I see your point, but the
13 graphs will show --

14 CHAIR HOWDEN: Well, as usual.

15 MEMBER GERBIG: The graphs would indicate if
16 there was a problem. That's the whole point -- or
17 that's my point, Mike, that -- that we go way back to
18 where we have reliable numbers and put that in with
19 today's numbers, we can kind of compare, well, if that's
20 what it was and this is what it is, and we get some kind
21 of a feel maybe where the priorities -- like you say,
22 the priorities should be.

23 DEPUTY DIRECTOR MEYER: Would it be helpful to
24 plot rainfall, do you think?

25 MEMBER GERBIG: I don't think so. I mean, if

1 -- well, your flows are gonna increase with rainfall.
2 So that would just be another number to confuse
3 everything with. And then what rain gauge do you take,
4 you know? Then you're in the middle of averaging rain
5 gauges and, I guess, throwing more numbers out there
6 that are confusing. I think just stick with flows, you
7 know. The only thing I would worry about in the
8 long-term, if those are reliable numbers. You can't,
9 you know -- that's all. We're counting the same sheep.

10 CHAIR HOWDEN: Yeah. I mean, a lot of the
11 rain gauges -- not the rain gauges, but the stream
12 gauges were sorefully [sic] inadequate.

13 MEMBER GERBIG: Yeah. Yeah.

14 CHAIR HOWDEN: You know. And that's the kind
15 of professionalism I think we need to see in the
16 Department, really. And that's in conjunction with
17 DLNR, et cetera, where you really want to see where your
18 water resources are. What the Waikamoi Flume system has
19 historically brought in is secondary to what those
20 stream flows are mauka of the flume system itself,
21 because there's quite a difference in that. And, you
22 know, perhaps EMI would have some of that documentation
23 as well.

24 MEMBER GERBIG: But your -- your long-term
25 number on your long-term line on here will kind of bring

1 out some of the things that's maybe -- you know, way
2 back when, there was a lot more water and now there's
3 only this much, is it drought or is it not, you know,
4 you can look, you can question that, or is it disrepair
5 of the --

6 VICE-CHAIR ROBINSON: Leaks.

7 MEMBER GERBIG: -- conveyance system.

8 CHAIR HOWDEN: Well, also, Don, then you get
9 into questions of watershed maintenance which have
10 largely been ignored, you know, for a long time.

11 MEMBER GERBIG: Yeah.

12 CHAIR HOWDEN: So it's -- it's, you know, a
13 complex problem.

14 DEPUTY DIRECTOR MEYER: I would point out that
15 the Department does support over a million dollars worth
16 of watershed work for the different watershed
17 partnerships and invasive species controls and that sort
18 of thing. We try to -- try and meet with those folks
19 regularly and make sure their grants and the money we do
20 provide is -- is getting to the ground in terms of weed
21 control and preserving the watershed in areas that are
22 really important to us. For example, the West Maui
23 Mountains here where we draw from, and, also, the
24 Waikamoi area.

25 But I think there's -- my observation is

1 there's been a substantial drought that's persisted over
2 the last five years, anyway. Hopefully, that situation
3 is turning around. But, equally important, with making
4 sure the flume works and that we harvest that high-level
5 water as best we can to meet the needs of the Upcountry
6 area, now that it's reliable, is making sure we have the
7 water storage and the water treatment capabilities. And
8 one of the things we're -- we're looking at right now is
9 a pretreatment process to remove some of the organic
10 content from the Waikamoi water. We've got that in
11 place in Piiholo, it's effective. And it allows you to
12 use a cheaper and more effective disinfectant method
13 without producing the THMs, trihalomethanes in the
14 water.

15 We're using a chloramine system, which is a
16 chlorine-ammonia system, up in Olinda because of the
17 large concentration or larger concentration of organic
18 material in the raw water. And one of the things we're
19 -- we're evaluating right now is what selection of a
20 method reducing that organic content so that we can have
21 a uniform use of chlorines across Kamole, Piiholo and
22 the Olinda plant, so we can truly interchange the water
23 up and down the lines, which we cannot do right now.
24 And it's also given rise to some issues we've had with
25 that long Upper Kula line running all the way out to

1 Kanaio. So we're -- we're looking at that, making sure
2 that the upper system, that Olinda plant, and the Upper
3 Kula system is, in effect, the same as, uses the same
4 methodology as Piiholo and Kamole. And that we could
5 use the water reliably across all three. I think that's
6 -- that's an important thing we're looking at as well.

7 And I think the Mayor's been responsive so
8 far. He put another \$10 million into the capital budget
9 which he said he has sent down to the Council, you know,
10 for the Department, which was above and beyond our
11 capital budget. And that is -- his direction is to try
12 to use that for water source. And we have -- as
13 reported at your last meeting, we've got really three
14 projects underway that should, within another month or
15 two, result in a program of knowing exactly what line
16 improvements we have to make Upcountry, how we're gonna
17 address -- how we can address the priority meter list
18 Upcountry and how we can address the question of
19 reliable additional sources of raw water for the system.
20 But I think we need to -- we need to spend another month
21 or two in that analysis. And it would be premature to
22 talk about that.

23 In terms of sources, I think I mentioned we've
24 got quite a number of alternatives. I think probably 22
25 realistic alternatives we're trying to evaluate now and

1 rank and prioritize and cost out. But -- so it's just
2 -- we've got a lot of work to do, but it's coming along.

3 VICE-CHAIR ROBINSON: Now, we're gonna be
4 faced with the Upcountry Water Use and Development Plan.
5 And I know that Carl Freedman has been working on that.
6 And -- and I'm assuming that a lot of the information
7 you've just provided has also been added to that, is
8 that --

9 DEPUTY DIRECTOR MEYER: We haven't seen the
10 last draft yet. I understand Carl's doing that right
11 now. And he'll send that out and there will be meetings
12 with the citizens committee --

13 VICE-CHAIR ROBINSON: Yes.

14 DEPUTY DIRECTOR MEYER: -- before that's
15 finalized, though. That will probably happen this
16 summer, timeframe. He got waylaid into helping us
17 rewrite the Lanai plan.

18 VICE-CHAIR ROBINSON: But do you think -- you
19 said one to two months of further analysis. So there's
20 a possibility that the results of that analysis might be
21 available to us and then to the public?

22 DEPUTY DIRECTOR MEYER: I think it will be --
23 certainly the specific things we're looking at in terms
24 of possible well sites, possible acquisitions, possible
25 joint development agreements, those kinds of things will

1 all be consistent with the Upcountry Water Use and
2 Development Plan.

3 VICE-CHAIR ROBINSON: Okay. Good.

4 DEPUTY DIRECTOR MEYER: Yeah.

5 VICE-CHAIR ROBINSON: Thank you.

6 DEPUTY DIRECTOR MEYER: Herb, do you have
7 anything to add?

8 MEMBER GERBIG: Back on the graph again. You
9 know, this bunch, yeah, personally, I don't care about
10 the chlorine. That's your problem, but -- I know it's
11 mandated and all that, but I'm just looking for flows,
12 you know. And back again, I'd like to see two lines,
13 one line shows the long-term average and the other,
14 what, the monthly, yeah.

15 VICE-CHAIR ROBINSON: How long-term?

16 MEMBER GERBIG: That's their decision. I
17 can't make that decision.

18 VICE-CHAIR ROBINSON: Okay.

19 MEMBER GERBIG: Because I don't -- you know,
20 you don't want to go back to where the numbers aren't
21 reliable.

22 DEPUTY DIRECTOR MEYER: Okay. If we go
23 back --

24 MEMBER GERBIG: You know, whatever. At least,
25 I would say, 10 years, if it's possible. Then you get

1 some up and down drought situations.

2 CHAIR HOWDEN: I'd love to see 50.

3 MEMBER GERBIG: 10 years, 12 and-a-half?

4 CHAIR HOWDEN: 50.

5 MEMBER GERBIG: You go for 12 and-a-half?

6 CHAIR HOWDEN: Do I hear 13? Okay.

7 MEMBER GERBIG: No. That's all. But I --
8 like it's just for us. We're just looking at flows, you
9 know. And, to me, I really don't care about the
10 chlorine. I mean, maybe somebody in your department
11 does, and they have to have it, but it looked like
12 you're pretty well in compliance.

13 Was this bragging rights or something?

14 DEPUTY DIRECTOR MEYER: No.

15 MEMBER GERBIG: But you put out this in this
16 local bulletin every -- that's all in that -- in the
17 brochure, isn't it? Huh? Yeah. That's my point on
18 these. I think, you know --

19 DEPUTY DIRECTOR MEYER: Thank you.

20 MEMBER GERBIG: And I don't know if all of
21 these are, you know, as meaningful to us, but, anyway,
22 they're there.

23 DEPUTY DIRECTOR MEYER: Thank you. Thank you
24 for the feedback. We'll try and get you -- get you what
25 -- what you would like to see next meeting.

1 MEMBER GERBIG: For us simple-minded people,
2 we're just looking at flows.

3 DEPUTY DIRECTOR MEYER: We'll try and get it
4 out in the mail before the meeting.

5 MEMBER GERBIG: When you say you don't have
6 enough water, we want to be able to see it on the paper.
7 Thank you.

8 CHAIR HOWDEN: Any other comments or questions
9 for Paul?

10 (Silence.)

11 CHAIR HOWDEN: Okay. Agenda items for future
12 meetings besides graphs? Has the Lanai -- the revised
13 Lanai Water Use and Development Plan, is that on a rough
14 right now?

15 MS. HAYASHIDA: Yes.

16 DEPUTY DIRECTOR MEYER: Yes, it is.

17 VICE-CHAIR ROBINSON: I, actually, had a
18 question about that. Dave had made some changes.

19 DEPUTY DIRECTOR MEYER: Correct.

20 VICE-CHAIR ROBINSON: And we were -- as a
21 Board, we were sent information about those changes. I
22 caught, in one of the committee meetings, that it's not
23 -- it got pushed forward in terms of a date. Do you
24 happen to know when the Council is going to discuss
25 Lanai's Water Use and Development Plan?

1 DEPUTY DIRECTOR MEYER: I know it was
2 delivered to the Committee.

3 VICE-CHAIR ROBINSON: Yeah.

4 DEPUTY DIRECTOR MEYER: And I'm not sure what
5 their process is and when they'll take that up. I
6 suspect that will have to take place after budget
7 meetings.

8 VICE-CHAIR ROBINSON: After budget meetings.

9 DEPUTY DIRECTOR MEYER: So probably be
10 summertime.

11 VICE-CHAIR ROBINSON: Okay.

12 DEPUTY DIRECTOR MEYER: And there may be some
13 testimony from the Lanai folks. And I think the -- the
14 committee intends to have a meeting, actually, on Lanai,
15 maybe the day of the Budget and Finance Committee
16 meetings, which are gonna be held over there as well.

17 VICE-CHAIR ROBINSON: Oh, good.

18 DEPUTY DIRECTOR MEYER: And, Ed, you may have
19 a date on that. But --

20 MR. KUSHI: Yeah. Talking to Chair Victorino,
21 since the whole Council will be on Lanai for the budget
22 meetings, he wanted to schedule a Water Resource meeting
23 at the same time to discuss this plan.

24 VICE-CHAIR ROBINSON: Okay.

25 MR. KUSHI: But I think the deliberations on

1 the plan itself won't occur until June, July, start up
2 again. They have now 180 days from the date they
3 receive the Director's report. But then they can extend
4 themselves, also, unlimited extensions. They passed a
5 new ordinance.

6 VICE-CHAIR ROBINSON: Can we, then, add to the
7 agenda for the next meeting some discussion of the
8 Director's report, just so that we understand as a
9 board, in case we have questions about the changes that
10 he did make?

11 DEPUTY DIRECTOR MEYER: This is on the Lanai
12 plan?

13 VICE-CHAIR ROBINSON: Yes.

14 DEPUTY DIRECTOR MEYER: Okay. Sure.

15 VICE-CHAIR ROBINSON: Gaye, did you get that?

16 DEPUTY DIRECTOR MEYER: By the way, I
17 neglected to mention, the Director apologizes for not
18 being here today. He had to be out of town. He plans
19 to be at the next meeting.

20 VICE-CHAIR ROBINSON: Okay. Thanks.

21 MEMBER GERBIG: I want to add to what Phyllis
22 says, in the Lanai plan, is maybe a description -- a
23 brief description on what was -- what was revised and
24 what the purpose -- the purpose of the revision may be.
25 You know, we're gonna discuss -- he's gonna give a

1 presentation, right?

2 VICE-CHAIR ROBINSON: Well, I'm just -- I
3 wasn't necessarily asking for a presentation. That
4 would be great --

5 MEMBER GERBIG: Yeah.

6 VICE-CHAIR ROBINSON: -- if he would be
7 willing to do that.

8 MEMBER GERBIG: And I think -- yeah, I'm
9 sorry. Excuse me. I think that to have -- as -- you
10 know, we were involved in it, to have a discussion on
11 it, and possibly he could give us a brief summary of
12 what the changes were.

13 VICE-CHAIR ROBINSON: Right.

14 MEMBER GERBIG: And the reasoning behind it.

15 VICE-CHAIR ROBINSON: Yeah.

16 MEMBER GERBIG: That way, we'd know which
17 direction --

18 DEPUTY DIRECTOR MEYER: I know he's prepared
19 to do that.

20 MEMBER GERBIG: -- or why or whatever.

21 CHAIR HOWDEN: Would it be helpful to have
22 Carl Freedman here, too?

23 DEPUTY DIRECTOR MEYER: We could arrange that.
24 Carl was, actually, the author of a good bit of the
25 work, but he collaborated with the Director and Planning

1 Section of Water Department as well.

2 MEMBER GERBIG: Yeah, that might be even --
3 that would give us a full shot at, you know, knowing. I
4 think Freedman is more technically attune, any technical
5 questions he could respond to. That would be ideal.

6 DEPUTY DIRECTOR MEYER: I think most of the
7 changes were the Director's.

8 CHAIR HOWDEN: Okay. Yeah.

9 DEPUTY DIRECTOR MEYER: But we could ask Carl
10 to be there as well. Carl will certainly describe --

11 MEMBER GERBIG: Do we have to pay him?

12 DEPUTY DIRECTOR MEYER: Yeah, I suspect we
13 will.

14 VICE-CHAIR ROBINSON: He's a consultant.
15 Maybe he is a consultant on retainer, we don't know.

16 CHAIR HOWDEN: Any other agenda items?

17 (Silence.)

18 CHAIR HOWDEN: Okay. We'll have a break to
19 meditate before we have a election for Chair and
20 Vice-Chair.

21 MEMBER GERBIG: And no campaign brochures.

22 VICE-CHAIR ROBINSON: No handing out leaflets.

23 (Recess, 10:08 a.m. to 10:20 a.m.)

24 CHAIR HOWDEN: Might we have nomination for
25 Board of Water Supply Chairperson?

1 MEMBER EASON: I nominate Phyllis.

2 MEMBER GERBIG: I second.

3 CHAIR HOWDEN: Okay. That was easy. Is there
4 anyone else who would like to be nominated?

5 MEMBER YAMAMURA: I move to close the
6 nominations for Chair.

7 MEMBER EASON: I second.

8 (Laughter.)

9 MEMBER GERBIG: Aye.

10 CHAIR HOWDEN: Good campaign. This new Water
11 Board is much more efficient.

12 MEMBER GERBIG: I don't think she handed out
13 all those brochures.

14 VICE-CHAIR ROBINSON: Glad those payoffs paid
15 off.

16 CHAIR HOWDEN: Okay. Now --

17 VICE-CHAIR ROBINSON: Strike that from the
18 record.

19 CHAIR HOWDEN: Now the difficult position of
20 Vice-Chair, are there nominations?

21 MEMBER EASON: I nominate Ted.

22 MEMBER LESTER: I nominate --

23 CHAIR HOWDEN: Wait. You have to listen to
24 Ted.

25 MEMBER YAMAMURA: I'm honored, but I really

1 can't afford the time, yeah.

2 MEMBER EASON: Okay.

3 MEMBER YAMAMURA: Thank you.

4 CHAIR HOWDEN: He has to fly. Kui, you had
5 a --

6 MEMBER LESTER: I nominate Kelli.

7 MEMBER GERBIG: I second that.

8 MEMBER YAMAMURA: I move to close the
9 nomination.

10 (Laughter.)

11 MEMBER BOTEILHO: Second.

12 CHAIR HOWDEN: Trapped. Trapped.

13 MEMBER GERBIG: Kelli, are you willing?

14 MEMBER MYERS: Yeah.

15 VICE-CHAIR ROBINSON: So is this a first, two
16 women?

17 MS. HAYASHIDA: Yeah.

18 VICE-CHAIR ROBINSON: Chair and Vice-Chair.

19 MEMBER GERBIG: Here we go, from all kane to
20 all wahine.

21 VICE-CHAIR ROBINSON: Wahine rock.

22 CHAIR HOWDEN: Congratulations.

23 VICE-CHAIR ROBINSON: Thank you.

24 CHAIR HOWDEN: So --

25 MR. KUSHI: "All in favor, say 'aye.'"

1 CHAIR HOWDEN: Oh, all in favor say "aye."

2 (A chorus of ayes.)

3 CHAIR HOWDEN: Thank you. Okay. Resolutions
4 for Michael and Kui.

5 MS. HAYASHIDA: Okay. I think this time we
6 turn it over.

7 CHAIR HOWDEN: Our new Chair.

8 VICE-CHAIR ROBINSON: Now, is there -- is
9 Vice-Chair first, then Chair?

10 MS. HAYASHIDA: However you want to do it.

11 VICE-CHAIR ROBINSON: I'll do Vice-Chair
12 first.

13 CHAIR HOWDEN: No. She's not Vice-Chair,
14 she's a member.

15 VICE-CHAIR ROBINSON: Sorry.

16 MEMBER LESTER: Okay. I thought she was gonna
17 announce the new --

18 VICE-CHAIR ROBINSON: So I want to make sure
19 that I pronounce your full name correctly as
20 Kuilauokalani --

21 MEMBER LESTER: Kalani.

22 VICE-CHAIR ROBINSON: -- F. Lester of
23 Kaunakakai, Molokai, Hawaii, was appointed to the Board
24 of Water Supply in the County of Maui on April 1st,
25 2006, and her term will expire on March 31st, 2011; and

1 Whereas the said Kuilauokalani Lester has
2 unselfishly and with dedication devoted, without
3 compensation, her time and energy into matters dealing
4 with the Board of Water Supply, all in the interest of
5 the people of the County of Maui; and

6 Whereas during the time of her service as a
7 Board Member, the said Kui Lester has contributed
8 generously of her knowledge and skills to make decisions
9 for the Board of Water Supply that would influence its
10 direction and operation; and

11 Whereas said Kui Lester's interest in the
12 Board of Water Supply and the Department of Water Supply
13 has been greatly appreciated by her fellow Board
14 Members, now therefore

15 Be it resolved by the Board of Water Supply,
16 the County of Maui, that it does hereby congratulate,
17 commend and thank the said Kui Lester for the five years
18 of faithful and outstanding service she has rendered as
19 a Member of the Board of Water Supply; and

20 Be it further resolved that the Members of the
21 Board of Water Supply extend to Kui Lester our sincere
22 aloha and best wishes for her continued success, and,
23 Kui Lester, our sincere aloha and best wishes for your
24 continued success and much happiness in your future
25 endeavors; and

1 Be it further resolved that certified copies
2 of this Resolution be transmitted to Kui Lester, to the
3 Mayor and to the Maui County Council of the County of
4 Maui.

5 Approved as to form and legality by Edward
6 Kushi, Deputy Corporation Counsel.

7 MS. HAYASHIDA: And then you take a roll call
8 as to accept the Resolution by the Board.

9 VICE-CHAIR ROBINSON: Okay. So we'll take a
10 roll call to approve the Resolution. Kevin.

11 MEMBER BOTEILHO: Aye.

12 MEMBER GERBIG: Don Gerbig, aye.

13 MEMBER YAMAMURA: Ted, yes.

14 VICE-CHAIR ROBINSON: Phyllis Robinson, yes.

15 CHAIR HOWDEN: Aye.

16 MEMBER LESTER: Aye.

17 MEMBER MYERS: Aye.

18 MEMBER EASON: Aye.

19 MS. HAYASHIDA: And you're gonna get something
20 that we never gave Jeff, a koa plaque.

21 (Applause.)

22 MS. HAYASHIDA: Nobody ever got one of those.

23 MEMBER EASON: I got one from the Planning
24 Department, but that's a nice one because it's carved
25 in. Oh, pretty.

1 VICE-CHAIR ROBINSON: I'm gonna come visit
2 you. Okay.

3 Whereas, Michael S. Howden, of Olinda, Maui,
4 Hawaii, was appointed to the Board of Water Supply of
5 the County of Maui on April 1st, 2006, April Fools' Day,
6 and his term will expire on March 31st, 2011; and

7 Whereas the said Michael S. Howden served as
8 the Chairperson of the Board of Water supply from March
9 of 2009 to March 2011; and

10 Whereas the said Michael S. Howden has
11 unselfishly and with dedication devoted, without
12 compensation, his time and energy into matters dealing
13 with the Board of Water Supply, all in the interest of
14 the people of the County of Maui; and

15 Whereas, during the time of this service as a
16 Board Member, the said Michael S. Howden has contributed
17 generously of his knowledge and skills to make decisions
18 for the Board of Water Supply that will influence its
19 direction and operation for the years ahead; and

20 Whereas the said Michael S. Howden's interest
21 in the Board of Water Supply, and the Department of
22 Water Supply, has been greatly appreciated by his fellow
23 Board Members, now therefore

24 Be it resolved by the Board of Water Supply,
25 the County of Maui, that it does hereby congratulate,

1 commend and thank the said Michael S. Howden for the
2 five years of faithful and outstanding service he has
3 rendered as a Member of the Board of Water Supply; and

4 Be it further resolved that the Members of the
5 Board of Water Supply extend to Michael S. Howden our
6 sincere aloha and best wishes for his continued success
7 and much happiness in his future endeavors; and

8 Be it further resolved that certified copies
9 of this Resolution be transmitted to said Michael S.
10 Howden, to the Mayor and to the County Council of the
11 County of Maui.

12 Approved by Edward S. Kushi, Jr., Deputy
13 Corporation Counsel.

14 MS. HAYASHIDA: Then, again, roll call.

15 MEMBER BOTEILHO: Kevin Boteilho, aye.

16 MEMBER GERBIG: Don Gerbig, aye.

17 MEMBER YAMAMURA: Ted, aye.

18 VICE-CHAIR ROBINSON: Phyllis, aye.

19 CHAIR HOWDEN: Aye.

20 MEMBER LESTER: Aye.

21 MEMBER MYERS: Aye.

22 MEMBER EASON: Aye.

23 VICE-CHAIR ROBINSON: So resolved.

24 CHAIR HOWDEN: Oh, thank you.

25 MEMBER YAMAMURA: Farewell speeches.

1 (Applause.)

2 MS. HAYASHIDA: And in addition to that, the
3 Mayor's office sent this down to you, Michael, with a
4 letter. And to you, Kui, there you go.

5 CHAIR HOWDEN: Wow. Thank you.

6 MEMBER LESTER: Thank you for all your hard
7 work.

8 CHAIR HOWDEN: As far as I can, see we're
9 done. Okay? Okay.

10 MEMBER GERBIG: I move the meeting adjourn.

11 VICE-CHAIR ROBINSON: I second.

12 MEMBER EASON: All in favor?

13 MR. KUSHI: Director's report.

14 CHAIR HOWDEN: Oh, it's included. Paul gave
15 the Director's report, unless you would like to do
16 another one.

17 DEPUTY DIRECTOR MEYER: I've got no more to
18 say.

19 CHAIR HOWDEN: Hardly. Okay. And the
20 division reports are included herein. End of the
21 meeting. Okay. (Gavel.)

22 (Meeting adjourned, 10:30 a.m.)

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CERTIFICATE

I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, #447, Registered Professional Reporter, Certified Realtime Reporter, Certified Broadcast Captioner, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and 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 not an attorney nor an employee of any of the parties hereto, nor in any way concerned with the cause.

DATED this 15th day of April, 2011.



Tonya McDade
Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter



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