

# WATER RESOURCES COMMITTEE

Council of the County of Maui

## MINUTES

January 3, 2012

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:02 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll  
Councilmember Elle Cochran  
Councilmember G. Riki Hokama (in 9:07 a.m., out 10:44 a.m.)  
Councilmember Mike B. White

NON-VOTING MEMBERS:

Councilmember Danny A. Mateo

**STAFF:** Michael Geers, Legislative Analyst  
Kimberley Willenbrink, Legislative Analyst  
Yvette Bouthillier, Committee Secretary

**ADMIN.:** Alan M. Arakawa, Mayor  
Dave Taylor, Director, Department of Water Supply  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Grant Y. M. Chun, Vice President, A&B Properties, Inc.  
Dave DeLeon, REALTORS® Association of Maui, Inc.  
Randall Endo  
Mark Hyde  
Foster Ampong  
Rosemary Robbins, Concerned Citizen and Upcountry Oversight and Advisory Committee Member  
Everett Dowling  
Mark Sheehan  
Irene Bowie, Executive Director, Maui Tomorrow Foundation  
Mae Nakahata  
Warren Watanabe, Executive Director, Maui County Farm Bureau  
Lucienne de Naie  
Dick Mayer  
Alice Lee  
Carol Reimann, Executive Director, Maui Hotel and Lodging Association  
Others (10)

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**PRESS:** Akaku: Maui Community Television, Inc.  
Harry Eagar, *The Maui News*

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CHAIR VICTORINO: . . .(*gavel*). . . Good morning. The Water Resources Committee for January 3, 2012 will come to order. Thank you for being here, Members and the public. I want to wish, everyone, a happy, healthy, and prosperous new year. 2012 promises to be very exciting in many areas, and I hope all of you share the same optimism that we do here in the Council. I'd like to introduce the Members that are present right now. Let's start with the Vice-Chair of the Committee and Vice-Chair of the Council, Mr. Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning.

CHAIR VICTORINO: Good morning. Our East Maui representative, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning.

CHAIR VICTORINO: Good morning. Our lovely young lady returned from Mexico from her vacation, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Hola, Chair.

CHAIR VICTORINO: What...yeah, thank you. And our young lady from West Maui, Ms. Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha. Good morning, Chair.

CHAIR VICTORINO: Good morning. Right now...oh, and joining us is Mr. Mike White from --

COUNCILMEMBER MATEO: Molina.

CHAIR VICTORINO: --the Haiku-Makawao...it's early, c'mon guys, give me a chance. I'm getting \_\_\_\_\_. And then there's Mr. Mateo too, so all of a sudden everybody's here, so excuse me. Mr. Mike White, thank you for joining us. And a non-voting member but a member of the Committee from Molokai, our Chair, Mr. Danny Mateo.

COUNCILMEMBER MATEO: Good morning.

CHAIR VICTORINO: Excused at this time is Member Riki Hokama. From the Administration we have Mr. Edward Kushi --

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MR. KUSHI: Good morning.

CHAIR VICTORINO: --for Corporation Counsel; the Director from the Board of Water Supply, Mr. David Taylor.

MR. TAYLOR: Good morning.

CHAIR VICTORINO: Good morning. Our Staff, I have Ms. Kim Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: Good morning. And Mr. Michael Geer [*sic*] has returned from his long vacation. Good morning, Michael. And our Committee Secretary, Yvette Bouthillier. So thank you very much for everyone being here. Oh, and I forgot, I am the Chair, Mr. Michael Victorino. Sorry, I don't even introduce myself. I apologize. We have one item today, we have WR-8 which is the review of the Water Availability Bill. We have public testimony, so before we get started with public testimony I would ask, everyone, to turn off all noise-making devices. Decorum in this Chamber will be conducted, yeah. So as far as the public testimony which will be starting, we will allow three minutes for each testifier, one minute to conclude. Please identify whom and if you are representing yourself or if you're representing a organization. So if we have no objections, I'd like to start public testimony. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. And see this is the first day of the new year so we're not revved up yet, so that's okay, we're going to get there. First testifier today on WR-8 is Mr. Grant Chun, he's Vice-President of A&B Properties, Inc., and he's followed by Dave DeLeon. Good morning, Mr. Chun, and happy new year.

**...BEGIN PUBLIC TESTIMONY...**

MR. CHUN: Happy new year, Mr. Chair. Good morning, everyone. Happy new year. Thank you very much for your work on reviewing and addressing Chapter 14.01 relating to water availability in the County of Maui. I would respectfully urge your consideration and adoption of the provision of the proposed amendment which would set forth an expiration date for the ordinance. It's most unusual for the County of Maui to be lagging behind the other counties in the State of Hawaii in terms of employment and economic vitality; however, that is the position that we find ourselves in today. In that regard, it is important to ask ourselves whether the measures before us have been a help or a hindrance to getting people back to work on Maui. In my estimation, the ordinance has been a deterrent to investment and economic activity in our community. It has not encouraged new source

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development or system improvements to our water delivery system, and it has actually added an administrative burden to our Department of Water Supply. So I, I would ask that you keep these thoughts in mind in your consideration of the proposed amendments before you. Thank you very much.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you.

VICE-CHAIR PONTANILLA: Chairman, I got one question.

CHAIR VICTORINO: Oh, I'm sorry. Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR VICTORINO: Before you start, Mr. Pontanilla, if I may take a moment.

VICE-CHAIR PONTANILLA: Sure.

CHAIR VICTORINO: I'd like to recognize the presence of our Lanai representative, Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR VICTORINO: Happy new year, sir. Go ahead, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Grant, for being here this morning --

MR. CHUN: Thank you.

VICE-CHAIR PONTANILLA: --to create your testimony. Just a fast question, in your opinion if the County need, need to take over the water system...well provide infrastructure going forward, would you think the County of Maui, Maui's ability to provide that infrastructure within the next five years?

MR. CHUN: I'm sorry, I didn't pick up on the question.

VICE-CHAIR PONTANILLA: Yeah. Should the County pick up the infrastructure requirements and resources, in your opinion, would the County be ready to do that in the next five years?

MR. CHUN: Yeah. I believe that the, the Department of Water Supply, you know, looking forward, is endeavoring to be very proactive in terms of developing water supply, and I would hope that that plan would fall into place in the coming years.

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VICE-CHAIR PONTANILLA: Thank you. And just another fast question. So do you, do you support raising the water rates to meet this infrastructure needs?

MR. CHUN: Yeah, well I'm, I'm actually not sure what formula are before the Council or analysis has been done by the Department in that regard, but to the extent that, you know, everything that our community need costs money. I mean to that extent I would think that that would be the reasonable means by which to support improvement to our infrastructure.

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

CHAIR VICTORINO: You're welcome. Yes, Ms. Baisa, go ahead.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. And thank you, Mr. Chun, for being here. I tried to listen very careful to your testimony, and one of the things that you mentioned was the idea of the two year sunset date. Apparently that seems to be controversial, and I'm wondering if you would be amenable to the idea of...instead of an automatic sunset, a review in two years that's required in whatever changes we make and then a decision at that time. Because we are making changes in the present bill and in the present law, and we really don't know how it's going to come out. You know every time we tweak something we have all these interesting things that happen. So if we were to put in there a provision to take a look at it and decide in two years should we end this or should we continue, would that be an acceptable amendment for you? I'm just interested in your thoughts.

MR. CHUN: I, I haven't really spent a lot of time thinking about that alternative, but to the extent it would be an alternative such as that versus not having any provision to address that topic at all, you know, that would be preferable. But I would imagine that if there was a sunset provision, be it, you know, for two years down line, and if it was...at that point it could be also be revisited. So in either, in either case I guess it could be workable.

COUNCILMEMBER BAISA: Thank you very much. It's just that one would be kind of automatic and the other would be let's take a look. Thank you very much for your testimony.

MR. CHUN: Thank you. Thank you for having me.

CHAIR VICTORINO: Any other questions for the testifier? Seeing none, the next testifier is Mr. David DeLeon from the REALTORS® Association of Maui, followed by Randall Endo.

MR. DELEON: Good morning and aloha, and happy new years.

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CHAIR VICTORINO: Same to you, sir.

MR. DELEON: I am Dave DeLeon representing Maui's 1,300 professional realtors. RAM would like to take this opportunity to reiterate its support for the proposed legislation and wishes to encourage the Council to make 2012 the year that Maui County resolves its water policy dilemma. We appreciate the Council's desire to take cautious, incremental steps away from the existing policy of Show Me the Water and towards a policy in which the County takes the leadership to develop the water resources our community needs to grow and prosper. A key step in that process will be to replace the existing Water Availability Ordinance with a policy that will give the Administration the resources and the direction required to be able to provide the necessary infrastructure. With that hope in mind, our association would like to encourage the Council to repeal the existing water availability rule. The existing policy was written for a different economic period, and since its passage, it has been cited by every economist to come to town as one of the reasons why our economy will not get back on track. As the Water Director aptly pointed out, it is a functional absurdity in which he's required to pass judgment on the agency that oversees his Department. That's something like me auditing the IRS. This policy also encourages the creation of a fragmented water system. This results in a poor economy of scale, inferior service, extreme pricing, and infrastructural disasters like the one that hit West Molokai. Its existence also allows for a continuing policy drift that our, our community can no longer afford. New community services like schools and police stations require water. New homes require...new homes and businesses require water, so do new farms. But without a cohesive policy, the water will not be there when we need it. Show Me the Water implies someone else is responsible for this essential resource. Our community needs to get over that mindset. At this Committee's August 16<sup>th</sup> meeting, the Water Director presented the Council with very clear policy objectives...I'm sorry, options. RAM appreciates the clarity of the Director's analysis and wishes to go on record in support of Maui County taking the steps necessary to create the water resources a healthy community requires. The first step in that process will be the passage of the bill before you today. Mahalo.

CHAIR VICTORINO: Thank you, Mr. DeLeon. Questions for the testifier?

VICE-CHAIR PONTANILLA: Yeah, I got one.

CHAIR VICTORINO: Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Dave, for being here this morning. I, I know I ask a lot of questions in regards to this one particular amendment, and I think it's very important that all of our community, you know, understand the implication financially to this County. So my question to you, Mr.

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DeLeon, is that shouldn't we take a look at the Maui Island Plan, plan the infrastructure, look at the urban growth boundaries that we propose as the first step in, in trying to resolve this water issue? You know going forward we need to finance infrastructure to this new urban growth boundaries, and, and in my opinion, the plan should be done first, infrastructure requirements next, and then the financial implication to, to meet the financial...the infrastructure requirements for this County. You have any comments to what I just said in regards to looking at the urban growth boundaries, looking at the infrastructure requirements, and putting aside to meet the demands for new urban growth boundaries for this island of Maui?

MR. DELEON: Thank you for the question. The urban...well the, the General Plan is predicated on a percentage of growth that's been determined by the Planning Department. We're going to have that population in one form or another, no matter where it goes, we're going to have that population. The recent data from the census shows that that population growth is predicated on people having babies and we're not dying as quick as we used to, so there's more people and it's going to continue to be more people and we're going to have to supply water for 'em. Recently there was a story in the *Maui Weekly* that talked about there was a hesitancy whether there'll be water for the new water...the new high school in Kihei because we're running out of water. So it's reaching, it's reaching the wall really quickly, and our association thinks that the...we have to put a real emphasis on the need to put the pedal to metal and, and, and start, start actually looking at what it's going to cost and go to the, the...and actually raise the rates to be able to do it. We're not putting out...we're not in a position as an association to say what rate that is, but both the government affairs committee and the executive committee of RAM have taken a firm policy in saying we're not going to get new water without paying for it. And we need to be doing it as a community rather than ad hoc where we have these fragmented systems and we watch these fragmented systems falling apart. Who is going to be managing those, those subdivision water systems 20 years from now? It's going to be coming back to us. And, and so I hope that answers your question, sir.

VICE-CHAIR PONTANILLA: Yeah, part of it. And, and, you know, I also read an article couple days ago that, you know, for Maui we do have the resources, just going after the resources, and, and again, going after the resources, you know, does take...well the financial burden on this County should we go after those resources along with the many problems in regards to agreements that were signed many, many years ago. So thank you for your testimony.

MR. DELEON: Thank you.

CHAIR VICTORINO: Other questions for the testifier? Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. DeLeon.

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MR. DELEON: Good morning.

COUNCILMEMBER COCHRAN: You know I was curious that sentence you mentioned the Water Director said it's a functional absurdity.

MR. DELEON: No, he didn't, that's my words, not his words, but that's what the meaning...that...

COUNCILMEMBER COCHRAN: The Water Director aptly pointed out.

MR. DELEON: Right.

COUNCILMEMBER COCHRAN: So I was curious when he had said that, at what meeting?

MR. DELEON: When he was pointing out...I think it was your last meeting when, when he spoke to the fact that the, that the, the ordinance requires him to oversee the Department of Health. The Department of Health oversees his Department. That's just like me auditing the IRS, I mean I can do that but I don't think anybody will pay much attention.

COUNCILMEMBER COCHRAN: Thanks, Mr. DeLeon.

CHAIR VICTORINO: Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. Thank you, Mr. DeLeon, for being here and for your testimony. I'm trying to connect the dots. What I see before me is a bill to amend the Show Me the Water Bill and there's a whole lot of information about how this is going to be done, how developments will be approved, and, you know, this...how we take away this alleged barrier. And then you had mentioned the idea of the policy shift to where the Department would take over and they would be the ones for finding the ways to address the water issues on Maui, and that's another change obviously or a shift. I don't see that included in the bill. Can you connect the dots for me?

MR. DELEON: Well we're, we're going beyond the bill. This testimony...we're using this opportunity to articulate our, our position which is we need to go beyond the bill.

COUNCILMEMBER BAISA: I, I...

MR. DELEON: The bill is just a cautious step forward but it's very cautious. We need to be...as I suggested earlier, we need to, to get on with it.



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COUNCILMEMBER BAISA: Well thank you very much because I share your concern. I think that the focus for us is to figure out how are we going to address the water needs of Maui and what policies are we going to make particularly in terms of who pays?

MR. DELEON: That's correct.

COUNCILMEMBER BAISA: And so I'm, I am a little uncomfortable with mixing the two things, but I, I know where you're going and I appreciate it. Thank you.

MR. DELEON: Thank you.

CHAIR VICTORINO: Further questions? Seeing none, thank you, Mr. DeLeon.

MR. DELEON: Mahalo.

CHAIR VICTORINO: The next testifier is Randall Endo, and followed by Mark Hyde.

MR. ENDO: Happy new year.

CHAIR VICTORINO: Happy new year, Randy.

MR. ENDO: Thank you, Chair Victorino and Members of the Water Resources Committee. My name is Randall Endo and I am employed by A&B Properties but today I'll be speaking as an individual. I'm just here to support the amendment that's proposed in this bill, although I do support also what Mr. DeLeon said. Probably to repeal this or to actually suspend it for two years, so it's actually a twist on what Councilmember Baisa said. Rather than leaving it for two years and looking at it, why don't we just suspend it for two years and two years from now look at whether or not it needs to be put back. I would think that this Council is one of the best Councils I've seen in decades. We all know what, what the priority is for this County, which is to get the economy back on track, and everything we're looking at needs to keep that focus in mind. So if we look at this bill, it's a technical bill and it just creates another layer of bureaucracy and it slows down subdivisions basically. I mean if we can just pose the question to the Water Director, what, what was the problem with the, the way things worked in the subdivision process prior to this bill? As, as the water resources became a little bit less guaranteed, they would say yeah, you can move forward with your subdivision but there's no guarantee that you'll get a meter, but we're not going to stop you from your right to, to, to divide your land into separate lots. So we could just go back to the way it was before and that we would improve the economy. Keep in mind that the average subdivision, in my experience, is...which is what I do mostly nowadays, can take upwards two to five years, and the way the current ordinance is written, it basically puts everything on hold, you can't submit your construction plans. So basically the pipeline, the critical pipeline that we always

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talk about to keep the economy moving and, and jobs being created, it's just stopped now because...or, or delayed. So even after we fix this problem, it'll still be another couple years before we can get more subdivisions out there. And I know I'm...sorry I'm not, I'm not totally prepared so I'm kind of rambling a little bit. But to speak to Councilmember Pontanilla's question which I thought was an excellent one about the urban growth boundaries, I think the key distinction is that water availability is a key issue that you folks will have to look at as you plan your urban growth boundaries and plan for the future of Maui. That's, that's absolutely true. But that's not the same thing as what we're talking about here. In my world, I'm dealing with fully urbanized, fully entitled property. For example in Wailea we're ready to go. The only thing we can't do is we can't subdivide it--why?--because of this bill. You know this is kind of like a...it's a different kind of situation. From my, from my perspective, we're not talking about the future growth areas out in new areas of the island, we're talking about existing urbanized areas. All we want to do is move forward to subdivide and, and get water meters installed when and if they are available from the Water Department. Finally, I know I'm running out of time, I just want to say I have all the aloha for our Director Dave Taylor, I think he's an excellent Director. He's been doing a good job. He's been very open. He's probably the smartest Water Director we've had in many years, and he's always been very frank and open to, to discuss all of these critical issues. And I know he's told me that his primary purpose is to find new...or primary goal is to get new water sources for the island and that's the key, and that is where we should be focused on, you know, getting new, new sources developed. Thank you.

CHAIR VICTORINO: Thank you, Mr. Endo. Questions for the testifier?  
Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. Endo. I believe you worked for Maui Land and Pine too, at one time?

MR. ENDO: I did previously, yes.

COUNCILMEMBER COCHRAN: So my question, after you saying what you have in your testimony, what happened to Kapalua Mauka? It hasn't moved forward since it had all its entitlements and had, you know, they have water and it's an existing resort area. So I'm just curious, if it's not the water there.

MR. ENDO: For the...yeah, Kapalua, Kapalua Mauka has all of its entitlements, it did get its Change in Zoning, that's correct, and they do have their own water sources. They have the private water company, Kapalua Water Company as well as the non-potable ditch system. And I believe they actually are moving forward right now with their very first phase. It's a small section closest to the plantation golf course. They are moving forward with single-family development there. It is taking, it is taking many years though. I mean you folks can recall, I know when

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you passed Kapalua Mauka it was quite a long time ago. But that's just actually proves my point that it takes a long time. Even after you get all the entitlements, all the zoning, it still takes many years to work on the subdivision process and all the other related permits that you need before you can actually start putting a shovel into the ground.

COUNCILMEMBER COCHRAN: Thank you, Mr. Endo. Thank you, Chair.

CHAIR VICTORINO: You're welcome. Other questions for the testifier? Seeing none, thank you, Mr. Endo. The next testifier is Mark, Mark Hyde, followed by Foster Ampong.

MR. HYDE: Good morning.

CHAIR VICTORINO: Good morning.

MR. HYDE: My name is Mark Hyde and I'm a resident of Wailea. I'm testifying for myself. In response to Mr. Pontanilla's questions, I agree with the way that you framed the process by which decision-making should go forward, and that's consistent with standard operating procedures for organizations, you know, that are trying to frame the future. Secondly, as I read the bill, there is no sunset, it simply says that the Council shall review the bill every two years. I have a procedural comment about that, and that is to ask you whether you feel it is appropriate for the Council, this Council to tie the hands of future Councils to say you must every two years in perpetuity review this bill. I think you should allow each Council the freedom to set its own agenda, to decide its own priorities, and keeping in mind the fact that you always have the jurisdiction to bring this matter back for review whether alone or in context of a different discussion. And then finally if you were to score this bill in terms of if we pass this bill and we move it on to the Council and we have additional hearings in the Council and additional public testimony, and you say what have we achieved? Have we produced an additional drop of water for the County of Maui? I think you will conclude that you haven't. And so what I would ask you to do is to step back and say how do you want to spend your time and what are our priorities. And I would suggest that your, your time would be better spent passing the General Plan, answering the Water Director's question about how much growth there will be and where will that growth be, determining ultimately the County's responsibility on a, on a policy basis for either being responsible for providing water to the people of Maui or you're not responsible for providing water to the people of Maui and it's the private developers' responsibility to do that. That's a core question that must be resolved to avoid the disputes that we have had ongoing so that the roles and responsibilities are clear. If you don't get that clarity at the top then again you have all this bickering down below, and I think it is up to you to resolve that issue once and for all. And then as Mr. Pontanilla points out, once you have resolved that, if it is in fact your responsibility, how are you going to pay for it and who

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will pay for it? That I think is where you should be focusing your time and attention. There are other related issues too like on Lanai. What is your view of a private water company being responsible to provide all the water for the people of Lanai? Is that where you want to be? These are things I would urge you to spend your time on. Don't kick this to the Council for further discussion, and focus your time and attention on higher priority items. Thank you very much.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you, Mr. Hyde.

MR. HYDE: Thank you.

CHAIR VICTORINO: Next testifier is Foster Ampong, followed by Rosemary Robbins.

MR. AMPONG: Aloha, Council Committee.

COUNCILMEMBER COCHRAN: Aloha.

MR. AMPONG: Hauoli makahiki hou. My name is Foster Ampong, I'm testifying as a concerned citizen. I'm opposed to any amendment or meddling of the current law. As the previous testifier pointed out, I see the...I look at the, at the current Show Me the Water Bill as a law that was created in 2007 with a very specific intent and purpose, and that is to protect our resources here on Maui, our water resources. Now contrary to some of the claims and rhetoric that was presented here today, we don't have an infinite amount of water on Maui, we live on an island, and so we need to be wise, we need to be very deliberate and thoughtful. The current bill allows the County and the people of Maui a mechanism before any development is approved to determine...to find out whether there's sufficient resources of water for a development, and, you know, fundamentally that's something that we should not be at all messing with, period. If, if you pass any amendments or, or you allow this current law to have a sunshine [*sic*] mechanism then what you're doing is you're just shooting yourself in the foot and the rest of Maui County, because what you're doing is you're taking away that safeguard for the people. You know in essence it's, it's really a part of sustainable living, and, and we hear so much of that word, you know, sustainable technology, sustainable energy, et cetera, et cetera. Well here we have a law, a current law that's allowing all of Maui to protect our water resources. Yes, I understand and I acknowledge that we need a healthy economy but not at the expense of our future children. We can still maintain a healthy community, a healthy economy by being wise. Let's remove the rhetoric, let's do away with all the hocus pocus and really look at Maui County, and say okay we need, you know, we can develop here, we can develop there, let's be smart about it. Let's not kid ourselves and think that oh, you know, we need to continue building and building and building without any kind of restraint. So please, many people I talk to in the community are very concerned about these amendments that are coming before you today, and they've

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expressed outrage. Many of them are unwilling to come and testify because it's a very emotional subject matter, and I'm looking at this and I can see from several different angles how it will impact directly and indirectly the entire community. Let the law stand as it is. If we need to address certain components, let's do that individually, but to, to change the, the current language, to put in, you know, to sunshine [*sic*] this law would be doing a great disservice to the entire community. Thank you.

CHAIR VICTORINO: Thank you, Mr. Among. Questions for the testifier? Seeing none, thank you, sir. The next testifier, Rosemary Robbins, followed by Everett Dowling.

MS. ROBBINS: Good morning, everybody. Happy new year.

CHAIR VICTORINO: Happy new year.

MS. ROBBINS: I appreciate the opportunity to be here this morning. I missed the last meeting, I was teaching special ed., elementary level, great wisdom coming from some of those students in our community, wonderful, wonderful. And I was in there distributing water materials from the American Water Association and some of the other sources that the Water Resources Committee and the Director of Water have made available to me. The kids love that. They wonder why we're doing some of what we're doing when we're promoting through those materials. So I've been a concerned citizen involved in water for over half a century. Water safety instructor, water safety instructor trainer, all of the legal and health issues that are related to those, they are related. And when the Upcountry Oversight and Advisory Committee was made available back in '04, because the EPA had a half a million dollars for us to do specific things with it, I was attracted to take a look at that end of the water. And, Mr. Chairman, you were on the Board of Water Supply at that point in time, so you've got some angle into all of this and that history. All of the work that has been done on those levels that I just mentioned have been done as a volunteer. I'm not associated with anybody who is paying me to do any of this. I'm out in the community. I, too, like the previous testifier am hearing from people out there who are not afraid to speak up to some of us but are afraid to speak up to others because they're squelched. And I don't think that's the kind of a community that we want to hear. The day before new year's eve, I came down and spent several hours on the seventh floor going over the testifying that had been done in person and on paper when I missed that meeting while I was with the kids. And two of the things that I was dealing with, the children were sequencing and focusing, and I've heard some of that referenced this morning too. Why are we not getting a look at what the Maui Plan is and all those related issues before we dig in to try and make these kinds of changes? Two that particularly got my attention, one of those testimonies was from somebody that I've never met, Warren Shibuya. Never met him, don't know him, great wisdom in what he wrote. Would encourage you to take that from your

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binder and give it attention. The other one was from a previous Member of the Council who also chaired this Committee who got in touch. Mr. Shibuya's date in your packet is from the 10<sup>th</sup> of December, and the second one is from the 12<sup>th</sup> of December, 2011. Again identifying the purpose of what this law was, and a previous testifier from the community also mentioned that this morning. I really encourage you to take a look at those. A lot of the testimony that has been given has been given from a point of view of a group of people who are whatever they are, landowners, developers, whatever. My point is from the children. They're the youngest of our generations. We speak about them euphemistically for our children and our grandchildren. We need to take a look at what we're feeding them. Couple of things, they wanted to remind us that the horse needs to go before the cart, great wisdom from the nine year olds. They wanted to remind us that --

CHAIR VICTORINO: Ms. Robinson [*sic*], are you almost concluded?

MS. ROBBINS: I am.

CHAIR VICTORINO: Yes, please.

MS. ROBBINS: --that there is a 13<sup>th</sup> floor even if the elevators don't say so, that we need to look at what's not being said. And the third one is that you can fool all of the people some of the time, some of the people all the time, can't fool all of the people all of the time, and they don't want to inherit those issues that haven't been addressed. So by water all things find life. Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you, Ms. Robbins.

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: Next testifier, Everett Dowling, followed by Mark Sheehan.

MR. DOWLING: Chair Victorino and Committee members, first of all happy new year. I hope 2012 is a good one for you and filled with happiness and good health for you and your families. I'm here to support the proposed amendments. The, the law as currently on the books hasn't worked. No new sources have been developed. The economy is hurting. We need to, to start the...this bill is, is preventing not just construction, but it's also preventing people willing to spend the money for engineering, for design, for archeological work, for all of the, the upfront work that has to happen before construction can start. And in a typical project, that's about 10 percent of the project cost, so it's, it's an important bill. Councilmember Pontanilla, with regards to your earlier question regarding water rates, I do think water rates should be increased, and I think water rates should be increased in a manner that supports sustainability and conservation. So, you

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know, perhaps it should be increased for those who use more than the Department of Water standards, and use, use those funds generated to support the development of new water sources. With regards to the earlier comment regarding holding off on making any changes until the General Plan's approved, well we have, we have a current plan, and the water sources weren't developed to support that plan. So I don't think waiting for the new plan is going to make a difference in terms of source development. So I encourage you to support these changes, and once again, happy new year.

CHAIR VICTORINO: Thank you. Questions for the testifier? Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. And thank you, Mr. Dowling, for being here this morning, and happy new year to you, too.

MR. DOWLING: Thank you.

COUNCILMEMBER BAISA: You know you're a pretty straight shooter so I'm going to ask you a question that...it's a difficult question but I think it needs answering in regards to the matter before us today. Not all the attendant matters but the, the draw matter, and that is about the impression that I'm hearing from the testimony and how people feel that this bill has been a deterrent to development. If we make the changes that we're talking about and we allow people to go ahead and do all this prep work that you mentioned in your testimony, don't you feel that that kind of then commits the County to having to provide the water? You know we've seen this happen with developments, they go ahead, they build the houses, they don't have any guaranteed water, and then when the homes are built, they come and say well now you have to give us this water because you let us go this far. This I think is in the...kind of in the background of a lot of the discussion that's going on but not really being talked about. I'd appreciate your comments.

MR. DOWLING: Well I think for years we've...as we were processing...as, you know, as the members of the community were processing family subdivisions or larger subdivisions, there was always a standard comment in the preliminary subdivision approvals that the Water Department doesn't guarantee that water meters will be available at the time --

COUNCILMEMBER BAISA: Correct.

MR. DOWLING: --when the project wants to move forward. And that's what we, that's what we as a community dealt with for many years, and I think these changes just take us back to that. They don't guarantee any water. They just take us back to that position, but which isn't, isn't the best position but it's a better position than what we have now. And it will allow the planning and all of the up-front work to go forward, and a lot of people are employed doing that up-front work. The...what we have currently doesn't encourage that. It doesn't encourage

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anyone to spend any money to hire anybody, to hire any firms to do any type of that up-front work. So is it ideal? No. But is it better? Absolutely.

COUNCILMEMBER BAISA: Thank you very much. I appreciate your comments. Thank you.

MR. DOWLING: Thank you.

CHAIR VICTORINO: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. Dowling.

MR. DOWLING: Good morning.

COUNCILMEMBER COCHRAN: Am I correct in saying, because your opening comments said no new sources have been developed, that you believe this bill's intent was to create water sources? Is that what you think the intention was?

MR. DOWLING: No, I think...well, yes and no. I mean basically it took the responsibility for water development and it basically shifted it to the private sector, and I think providing water is a public responsibility. And I think that responsibility is best...I think the community is best served when the County provides water, and I think what we have on the books now basically tries to shift that responsibility to the private sector. And I don't think the community is, is well served when the private sector is responsible for that function.

COUNCILMEMBER COCHRAN: Thank you. 'Cause as far as I can see I believe this was to...intent is to protect our water resources, and a lot of times we the County don't have the land to get the source and it's the private developers that do.

MR. DOWLING: The County has the power to condemn property, so I mean the County can always secure property. I think it, I think it gets back to Councilmember Pontanilla's question earlier regarding funding, and I think if...you know, you know, times are lean for, for households, times are lean for companies, and times are lean for the County. But tying revenue growth to consumption in a way that encourages conservation but also provides a new source of funding for source development I think would be a good way to go.

COUNCILMEMBER COCHRAN: Thank you, Mr. Dowling.

MR. DOWLING: You're welcome.

COUNCILMEMBER COCHRAN: Thank you, Chair.



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CHAIR VICTORINO: You're welcome. Any other questions? Seeing none, thank you, Mr. Dowling. The next testifier, Mark Sheehan, followed by Irene Bowie.

MR. SHEEHAN: Good morning, Council members. Happy new year.

CHAIR VICTORINO: Happy new year.

MR. SHEEHAN: I wanted to say that Mr. DeLeon did not speak for me. I'm a member of the...I'm a real estate broker here on the island and my perspective comes from one of sustainability. I don't recall being polled about the water issue, and I think the Show Me the Water Bill makes a great deal of sense. I want to applaud Councilmembers Pontanilla, Cochran, and Hokama for standing for strong language. But I have a couple movies in my mind that I wanted to share with you and one is the *Groundhog's [sic] Day*. It seems to me that when I come to the County, it's the same kind of movie every time in which the developers are asking the County to come up with the resources for their projects, and, and the, the Council members are sensibly asking why is it their responsibility to, to, to do this. We're all...the developers are often looking to the public to finance their projects in a way that makes it possible. But the movie that really has been on my mind is old one from...called *Animal Crackers* in which Groucho Marx comes up to a couple of matronly women, he said let's get married, the three of us, we'll make a great couple, and one of the women turns to him and says why, I'm already married, that would be bigamy, and Groucho says big of you, it would be big of me. And it would be certainly big of the County to, to agree to this amendment to these...to the Show Me the Water Bill in which one part of the County could go ahead and say we're going to approve this project, and somehow the Council...another part of the County would have to come up and magically find the water. There's a professor named \_\_\_\_\_ over at the University of Hawaii, when asked about recharging the Iao Aquifer, said that it would take 100 years of above average rainfall to rebuild and recharge that aquifer. So we need to really take a close look at what is sustainable and what we can move forward, at what rate we can move forward and where those resources will come from. And I think we should first of all follow Councilmember Pontanilla's suggestion that we approve the plan and see where we're going. And I think Mr. Hyde's recommendation that we answer the big questions first before we proceed and, and see what is really sustainable. And the other question, I'd like to ask you a question, we're all looking at these development projects. With tens of thousands of units already approved for development and whatever commitment the County has there and another 15,000 on the books, and my question is, where will the growth come from? Never mind the population element, our growth really will be dependent on jobs, and if we can't create jobs here--and I don't really see where we're creating those jobs--then I don't really see where that growth is going to come from. And that maybe is another one of those fundamental questions we have to deal with. And furthermore from...I, I checked this morning in terms of foreclosures and bank-owned properties, it's always an issue for me in terms of

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how much demand there is out there. There's 33 bank-owned properties and 79 short sales, so there's a surplus inventory that is going to be handled over the next five years at least, while we dig our way out of this depression. So we have to take a close look at where the growth will come from and where the demand will come from. If we don't have jobs, the banks pretty well figured out that you can't really give...lend...provide mortgages to people who don't have jobs. So a question for you to think about. Keep the language of the Show Me the Water Bill. It makes sense to see where the resources are before we grant entitlements to developments. Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you, Mr. Sheehan. Next testifier is Irene Bowie, testifying on behalf of Maui Tomorrow Foundation, followed by Mae Nakahata.

MS. BOWIE: Good morning, Chair and Committee members. Happy new year. I have to say that's a hard act to follow, I have no movie metaphors for you this morning. But I would say that I do believe it is premature to amend the Show Me the Water Bill. I think that there are other matters that should come in place before we, we start changing this. And as Mr. Pontanilla wisely stated, as we're working on the Maui Island Plan right now, that's our plan for 2030, so doesn't it make sense that we would work going forward on that before we start changing this bill? The urban growth boundaries are a really important part of that, where are we going to focus growth, and I don't think it's a coincidence that the same folks that are here wanting to get rid of Show Me the Water will also be here not supportive of the urban growth boundaries. So it's kind of like let's do as much as we can and worry about the future later. Also, back in November when this bill was first brought forward, there was also a water conservation plan. That hasn't moved along at all. What happened to that? It certainly seems like that should happen before we move on with Show Me the Water. So with that said, I would just ask that as you move along in this if it is really going to be altered, under the section where we are looking at review of the bill, it states now the Council shall review this chapter every two years. That's pretty vague. Well how are we reviewing the chapter? What are we basing that on? I would ask that you at least add language in that says the Council shall review this chapter every two years provided that they have received a report from the Department of Public Works delineating the following data from the previous two years. And that would include the number of dwelling units approved with private water source improvements, the number of dwelling units approved with County water meters, the number of affordable units developed and exempted from Chapter 14.12 and their source of water, the number of workforce housing units developed and exempted from Chapter 14.12 and their source of water, and lastly, the number of dwelling units developed in 10 unit or less subdivisions exempted from Chapter 14.12 and their source of water. If we're to review this ordinance for its effectiveness, we need to have sound data to review the...that reflects the actual impact of this water availability policy; otherwise, how do we go about evaluating

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moving forward into the future? So please do at least consider that as you continue on with this discussion. Thank you.

CHAIR VICTORINO: Questions for the testifier? Seeing none, thank you. Mae Nakahata, followed by Warren Watanabe.

MS. NAKAHATA: Good morning. Happy new year.

CHAIR VICTORINO: Happy new year.

MS. NAKAHATA: I'm here today as...my name is Mae Nakahata and I'm here today as an individual while being an employee of HC&S. Over the past year, myself and other employees at HC&S such as Wes and \_\_\_\_\_ in the crowd today have, have studied the water issues as it involves...as it impacts HC&S significantly. And the Show Me the Water came up and most of us didn't know much about the measure and we started looking into it, and I am a manager of a department and when I read the Show Me the Water, it, it posed the question, who leads the water development in Maui County? You know recently there's been a lot of hearings associated with the Maui Island Plan, and I took the time out to go back to look at the Countywide...what was it, Countywide Policy Plan that has already been passed out, and went to the water infrastructure to see, okay, what did the County decide what is going to be our policy moving into the future? Looking at that, it seems that the County has taken back the lead role in water development, and that is where it should be. You know the day was perhaps when the Show Me the Water plan...Bill was justified in the past but it seemed to be almost a pendulum shift. It was with the County and poom, it went on the other side. Maybe now we can get back into the middle where it becomes a partnership between the County and the private sector in developing water. And for us at HC&S and I think in the ag community and that's where I'm coming from, because those of you who know me know that, you know, ag is in my heart. It's not just about future needs of water, but how do we address current needs? You know during the hearings with the Water Commission, Maui County was told reduce your reliance on surface water. So how are you going to do that? How does that fit if you have Show Me the Water? How do these priorities happen? So I think, you know, the Council, it's just like having many children, you're going to be pulled but it should very clear where the leadership lies, and it is with the County of where water priorities should be placed, where it gets developed, where development goes, what needs are priority, and ag is in there somewhere. So where does ag fit in having reliable and affordable water? Thank you.

CHAIR VICTORINO: Thank you, Ms. Nakahata. Questions for the testifier? Seeing none, thank you. The next testifier is Warren Watanabe testifying on behalf of the Maui counter...Maui County Farm Bureau, excuse me.

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MR. WATANABE: Good morning, Chair Victorino, Members of the Committee. My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. And I just provide some brief, very brief comments. Access to water for our farmers and ranchers is one of our key goals at the Maui County Farm Bureau. Recently I was very surprised to hear from the Water Department that agriculture is no longer the major user of water on the County system. This is a dramatic change since days in which agriculture was the major user, especially in the Upcountry area. As we work on the Maui Island Plan to identify ways to increase agriculture and make it viable for our future generations, this information is especially of concern to me. The water that was used on farms that provided for Hawaii's self sufficiency has been reallocated to residential uses. Where will the water come from when these idle lands are put back into production? The Upcountry dual line is expected to be completed, yet long-term weather data indicate new sources may be needed to make this a reliable water source for agriculture. The Maui Island Plan seeks to lay the plat for Maui's future. The same needs to be done for water. Decisions needs to be made based on water needs of Maui's future including agriculture, not just based on who can afford to develop a new source associated with their development. Thank you.

CHAIR VICTORINO: Thank you, Mr. Watanabe. Questions for the testifier? Seeing none, thank you, sir. The next testifier, Lucienne de Naie, followed by Dick Mayer.

MS. DE NAIE: Good morning, Water Resources Committee. It's nice to see all these faces in the new year. Happy new year. My name is Lucienne de Naie. I am testifying on my own behalf as a person who's just tracked water issues for years. First of all, I want to thank the Committee for the thoughtful work that's being put into this. I think whenever you're looking at something that was an attempt to really deal with a long-term situation, it requires some, some thoughtfulness and it requires, you know, digging out...separating the myth from, from what the factual experience is here. I want to mention that before this bill was passed, we had four major private water systems on Maui supplying potable water. Those are the systems in Kaanapali, this is the system in Kapalua, the system that serves Olowalu and Launiupoko, and, and then the system that serves, you know, East Maui, so forth and so on. They provide some potable water, and Hana provides some potable water. The Hana Ranch provides potable water from their private system. We still have these private systems. We do not have any other new major private systems. What we have is a process whereby the private sector and the County are both trying to look for sources and in many cases--and I think Mr. Taylor can, you know, attest to this--work together to bring those sources into the private venue. But I wish it were as easy as Mr. Dowling said for the County to just condemn land and make wells. Just look at the example of the Waikapu Well. It's a new well and new aquifer, it was begun in 1996. EIS was done, EIS was done for the test well, an EIS was done for installing the pipe, the \_\_\_\_\_ pumps. Then they discovered they didn't have enough land to actually put the

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buildings in that are going to need to support that well. I think in 2010 the well is drilled but I don't think it's online yet, you know, as of 2011 in the pumping reports. Now could the County have just gone in 1996, condemn the land they need? I guess they could have, but for whatever reason that isn't the way it happens. And the County has a very different process than the private well developer. Mr. Atherton, you know, drilled...has drilled two wells in the Waikapu Aquifer. He didn't have to go through that same process. He's willing to have the County use them. It's like I don't see that this bill has impeded progress. It's just it gives the County a say in what is going on instead of just waiting for things to be decided at the Water Commission where none of us are really tracking what goes on. And it also I think encourages like large projects like the, the redevelopment of the Stouffer's Hotel. They're going to probably be looking for water efficiency as they build those new units. That's good. If there's nothing that says, you know, you need to show us where your water's going to come from, well, you know, you just say well okay, when the County gives it to us, we'll get it and that's it, but by making the case that we're going to find savings for water, their project then gets approval. It encourages the right behavior. So I just encourage you to not throw out the baby with the bathwater here and make sure that we have accountability in where we're going with our water planning. It's not going to be a completely smooth path, it's going to be an experimental path, but we really need to make sure that what happened to Shaft 33 where it was bought by a private entity when it was the County's largest reliable source of water doesn't happen again. And so we need to scrutinize these purchases, and we need this tool to have that scrutiny as planning and water sources come onboard from wherever direction they come. So thank you. I think the, the other things have been said. There should really be review if...there should be review of the review. If you're going to review something --

CHAIR VICTORINO: Ms. de Naie --

MS. DE NAIE: --base it on facts.

CHAIR VICTORINO: --are you, are you --

MS. DE NAIE: Thank you.

CHAIR VICTORINO: --all done?

MS. DE NAIE: Yes.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you very much. Next, next testifier is Dick Mayer, followed by Alice Lee.

MR. MAYER: Happy new year, Council members. My name is Dick Mayer, I'm speaking on my own behalf. There're three main points I want to make. One is

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one of the reasons why I think this discussion's come up is because there's not been a lot of development taking place on Maui, and there are both homeowners who would like to get homes as well as developers who would like to build them. I don't think the reason we have not had homes since this ordinance was passed has anything to do with this ordinance but rather with the economy, the inability of developers to get loans for their projects, for homeowners to get loans because of the difficulty in the economy right now. And so I think the reason for changing it perhaps is...that's been given is, is not valid. Second thing, in the ordinance itself, there's several changes that you made that I appreciate from that very first draft where you changed the word "accepted" to "approved" and the word "may" back to "shall". That's fine, but there are now some words in there that I think are, are going to cause some difficulty in implementation. For example, in 14.12.050 in that first paragraph, it says that the director shall consider any of the following. That's much too vague, any. The word all was mean that you should consider them all, and if they're not applicable or they don't apply, he, he obviously can, can check them off, but he really should consider all of them. Secondly on there, it uses the word "applicable factors", "any of the following applicable factors". That's sometimes questionable, what is, what is applicable? He can or she can, the director can, can disregard something or regard it. In the next section 14.12.060 it says that the...and the change that's being suggested is, unless extended by the director for good cause. You need a definition of what good cause would be. This leaves it to be...it's much too subjective in its wording. The last point I want to make and it's regard...with regard to the whole bill's status right now. In the County Charter which I know you all know, there's a statement in there with regard to the Planning Commissions, and the Planning...the appropriate Planning Commission shall, and it says, review other proposed land use ordinances and amendments thereto and prepare, et cetera, a report. I believe it's premature for the Council at this stage to be considering this. This is really a land use issue. All through the ordinance itself are words like infill, subdivision, development agreements, and even in the agenda for today's meeting which is just a summary to notify the public about what's being discussed those words all appear, infill development, development agreements, final subdivision, et cetera. This is a land use issue even though it's the water component of land use it's still basically defining when can land use take place, when can things be subdivided, et cetera. And so I think by your own Charter you're required to send this to the Planning Commissions on the islands because Molokai and Lanai are...it's difficult for them to make comments here at this Commission. They should have a chance to look at this ordinance, look at those wordings that I mentioned and anything else that's in the proposed ordinance before it comes back to your Committee and on to the Council. So I would request that it be sent to the Planning Commissions prior to your passing this on to the full Council. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. Mayer. Questions for the testifier? Seeing none, thank you.

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MR. MAYER: Thank you.

CHAIR VICTORINO: The last testifier that has signed up to this point, Ms. Alice Lee. I'll give anyone who wants to testify an opportunity to please sign up if you have not at this point. Go ahead, Ms. Lee.

MS. LEE: Good morning, Mr. Chair and Members of the Committee. Happy holidays to everybody. I am Alice Lee supporting repealing or amending the Water Availability Ordinance for a number of reasons. The ordinance was passed during a time of rapid growth and development on Maui, and there was an expressed concern that development needed to be slowed until the infrastructure and water resources could catch up. The ordinance put a roadblock in the path of development, even those projects that were fully entitled and consistent with the Island Plan. It put a new administrative burden on the Water Department when they already had input to the State's review process for new wells and privately owned water systems. What it did not do was encourage any new source development or system improvements to the root issue. As I've testified before, we do not have...well we have not had any new sources since 2002 in Central Maui, and those were Kanoa Wells I and II which were brought online in 2002 but were started in the '90s. If, if you must delete the, the reference to a sunset or repealing of this ordinance which, you know, I strongly support, but if that's not the, the preference of the Committee, I did pass out to the Chairman some proposed amendments to be included in your review process. And I think these are pretty standards pieces of information. For instance, you would ask the Water Department to provide current status on each County system, all new County water sources brought online during the prior year, all County water sources removed from service during the prior year, all new sources under construction, a list of engineering reports for new water sources, a list of water source verifications issued in the past year, and a list of subdivisions pending water source verification by the Department of Water Supply. And I would strongly urge that you consider including this list in the requirement under review, the, the...every two years by the Council. I think it's important to, to keep the information that comes from the...well not the information but to hold the Water Department a little bit more accountable and to ensure that their activities are more transparent. So that concludes my testimony. Again, I wish that you would have included the . . .*(a cell phone rings)*. . . that's music from the '80s. Okay.

CHAIR VICTORINO: No, I think a little further back than that.

MS. LEE: Oh, '70s, okay.

CHAIR VICTORINO: Sixties probably.

MS. LEE: Oh '60s, okay. All right. Again --

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CHAIR VICTORINO: I think we're having a technical difficulty at this point in time.

MS. LEE: --just to conclude, just to conclude --

CHAIR VICTORINO: Okay, go ahead.

MS. LEE: --you know, we wish that you have...would have kept the sunset clause or repeal clause in, in the ordinance; however, if you go with primarily the review process, please consider the list that I provided. Thank you.

CHAIR VICTORINO: Thank you, Ms. Lee. Any questions for the testifier? Thank you very much. And I enjoyed the music. Now we can get back to work. Okay. The last testifier that signed up is Ms. Carol Reimann. She's from the Maui Hotel and Lodging Association. Ms. Reimann. And I assure you, you don't have to sing for us.

MS. REIMANN: You wouldn't want to hear me sing. Happy new year, everyone. My name is Carol Reimann and I represent the Maui Hotel and Lodging Association. Collectively we employ over 10,000 Maui County residents. Thank you so much for the opportunity to provide input on the Water Availability Ordinance and the proposed changes before you today. Water is everyone's kuleana. For the visitor industry that is the economic engine and the largest employer in Maui County, we take this issue very seriously as water is essential and a necessary part of life, our community needs it. However there is often controversy over where it will come from, who will collect it, and how it will be distributed. Everyone seems to agree that water is held in public trust for the benefit of all the State; however, there is controversy over what is beneficial. Water is recognized as a beneficial resource, yet it has not been beneficial for affordable to mid-priced housing. You're now considering a bill to revise the Water Availability Ordinance. This proposal has also stirred controversy. The ordinance was passed in 2007, a time when we were at the height of economic wellbeing. It requires new development projects to either acquire a water meter or water reservation or the owner must obtain their own water source. The Department of Water had previously stopped providing water reservations, so basically the impact was that it prevented new projects except for those that had the resources to develop their own sources of water. This generally meant drilling a new well and developing a privately owned water source. The added cost and burden of developing a water system for a single project made the smaller projects unaffordable and only the larger and higher valued developments were able to proceed. So the impact of this ordinance has essentially halted most development for medium price and affordable housing units. The current Water Availability Bill has been in place for five years with debatable success. Besides a couple of wells already underway prior to this ordinance, what new water sources have been developed for the public system? When the burden of providing a public resource such as water was shifted from



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the public to the private sector, the results have been questionable. We urge Council to revise or repeal the Water Availability Ordinance, and we encourage the County to actively pursue developments of new water resources to support the Island Plan. The economic climate has changed since the ordinance was passed in 2007. While we continue to recover from a global economic downfall, we seriously need to affect changes that will pave the way for jobs and housing in our community. Thank you for the opportunity to testify.

CHAIR VICTORINO: Thank you, Ms. Reimann. Questions for the testifier? Seeing none, thank you, Ms. Reimann. Ms. Reimann was the last testifier to sign up. I will afford anyone in the audience who has not testified an opportunity to testify. Seeing none rushing to the podium, with no objections, I will close public testimony.

COUNCIL MEMBERS: No objections.

**...END OF PUBLIC TESTIMONY...**

CHAIR VICTORINO: Thank you.

**ITEM NO. 8: WATER AVAILABILITY** (CC 11-306)

CHAIR VICTORINO: At this time I'd like to ask your indulgence. The Mayor is present and would like to speak to us about this bill. He had some definite questions he'd like to ask the Council, this Committee, and I told him that if he would come up, I...or come down, excuse me, I would allow him that opportunity. With no objections, may I allow the Mayor to come forward?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you. Mr. Mayor, would you come forward, please. Good morning, Mr. Arakawa. Thank you for making yourself available to discuss this matter with the Committee. So would you like to just go ahead and get started, sir?

MAYOR ARAKAWA: Thank you very much. First of all, good morning, happy new year, Chairman --

CHAIR VICTORINO: Same to you, sir.

MAYOR ARAKAWA: --and Council members. I hope all of you had a very pleasant new year's. I did. I've been looking at this bill that you been discussing, and I know that my Department head has also been telling you that a lot of what is in here comes under the jurisdiction of the State Water Commission. And in putting

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in the...these requirements for us to do what the State Water Commission is charged to do, I believe all you're doing is convoluting a lot of it so that it's going to be almost impossible to get anything approved. All it is...all it does is require our Department to do the research the State Water Commission is going to be doing, and a lot of the information is not even going to be available to us because we don't know who is applying for wells. We don't know who is going to be there drilling wells in the future. We don't have the resources that are being contact...or contacting us that the State Water Commission does. They don't come to the County first, and a lot of what is, is being looked at, again, when you, when you put in the adverse impacts surrounding aquifers and stream to stream, including all the water levels, water quality including salinity, it'll take us considerable amount of staff to be able to do all the research that's necessary. Find out what the salinity levels of all the surrounding areas. How many test wells do we have to be able to drill to find out this kind of information? I mean if we're going to be looking at someplace in Kahului, do we do 50 test wells to find out what all the water salinity levels are? The cumulative impacts, how are we going to be able do these kinds of calculations? And you're asking our Water Director to come up with all these answers prior to giving you a report so that he can discuss it with you. This does not come under our jurisdiction nor our capabilities. So what I would like to ask all of you is please look at what you're asking the Department to do and see if there's a practical way to do it. And I know you say shall consider. What should we consider and to what level are we going to be critiqued if we cannot come up with the answers? And I can tell you definitively right now, some of these we're not going to be able to come up with the answers for it because we don't have the personnel or staff to be able to do it. So we're going to wait years and years and years to be able to come up with some answers if we're going to be hiring personnel or they're going to be doing this full time. How are we going get these to a, to a permit on a reasonable basis? If you're going to be putting in requirements for us and you want real answers and there's a real reason for it, then give us the consideration of making sure that the requests have a reasonable, you know, a reasonable chance of being fulfilled. The...a lot of what you're looking at in, in trying to figure out all the future and planned wells, how do we know where all the future wells are going to be? I mean there's no way that Dave can reasonably predict what somebody in Haiku wants to do with his property 50 years from now or somebody in Kula. There has to be some reasonable nexus for which he's going to be able to predict this. If you're going to say that apply to the County for well permits, I can understand, but all future wells? That doesn't seem reasonable for anybody to be able to predict, much less make it a law that we have to be able to accomplish. Now when we're looking at all the adverse impacts on the Department of Hawaiian Home Lands, current reservations, and projected future uses, where do we get the authority to decide what Hawaiian Home Land is going to do, what they're planning to do with their properties, where they're planning to develop, when they themselves are at this point trying to figure out what they're going to do with their properties? We cannot predict into the future what these agencies are going to be

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working with. Again, if you go down this list and I could go through it one at a time, all I'm asking you to do is give us requests that are reasonable for us to be able to accomplish. Some of this is just not reasonable to accept for us to be able to do. I mean you guys have to be a lot brighter than we are if you're going to be able to tell us what is Hawaiian Home Land going to be doing 50 years from now with a piece of property that they haven't considered an action on. We cannot tell you that. The, you know, just go through this. That, that whole section that belongs to the State department, let the State Water Commission deal with that. Again, we don't get their reports. We don't get their requests. We don't know what their scientific background is, who's doing the, the research for them. We don't get that information from them, nor can we demand it from them. Keep it to within what we can do. And if you're going to be putting in a repeal provision that you have like in 14.12, this is probably as confusing to me as it would be to most people. If you want to say let's study this every two years and come to a conclusion, say that. The way you're saying it, it can be automatically repealed unless we have a, a meeting on it. It means that you're not going to repeal it if you have a meeting on it. So if it's going to serve a function and if this rule is going to serve a function, perhaps the requirement should be is this rule creating affordable housing that it was meant to create or not. If no affordable housing are being created or very limited affordable housing are created by this rule then the judgment should be, is the rule creating the reaction that we want it to do, allowing us and forcing us to create the affordable housing, or is it doing exactly the opposite? In the four years that it's been here, five years now, there have been virtually no affordable housing created because of this rule that I know of. So if you want to judge a bill as to its effectiveness or not, I would ask that you look at what are the real statistics that back up whether it's being efficient or not. It's not for me to tell you if it's being efficient. Look at the statistics. What I look at and what I'm seeing is that if you're going to be...we're going to be having to enforce something, we'd like it to be able to work. I know that all of you want to see affordable housing. Each and every one of you campaigned on the fact that we want to be able to create affordable housing that we can get people in at affordable prices. Adding more barriers to go through does not make the price go down, and making impossible barriers where most of the small developers cannot create the housing doesn't help to build the inventory. If you don't want affordable housing, you don't want it built, just say so, don't create it. If you want affordable housing and you say this is what we want to accomplish, then you have to give us the ability to accomplish it. Again, all I'm asking is that when you, when you pass this bill or you pass a bill, please make sure that the requests that you make are reasonable for us to be able to accomplish. Okay. And if you want to ask Dave or myself is it, is it reasonable or is it not, we can tell you. I mean this is something that I think as you go through it and you look at it, it should be pretty obvious as to whether it's accomplishable or not. It may sound good, I mean you can put a lot of things in a bill that sounds good, but whether it accomplishes what you want to accomplish or whether it sets a goal that you're, you're trying to attain. I mean that's really how I do my analysis. Are the, are the

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structures that I'm putting together going to get me to a point that I want to attain? Or is this just putting verbs down and, and verbiage down to make it sound good? State your objectives very clearly, what it is that you're trying to do. We're trying to create more affordable housing. We want to make sure the water, the water source is there. Then you can work, you can work toward a goal, but this requiring us to go to where the State Water Commission is, what they're, what they're trying to do, and get information that's not available won't meet those objectives. Okay. That's my opinion. Any questions, I'd be more than happy to answer them.

CHAIR VICTORINO: Thank you. And I will allow questions from the Members, and I'll try to keep it to at least one question each, then everybody has a fair chance. I'm going to start with Mr. Hokama 'cause he had his hand up first and then work right across. Okay? So go ahead, Mr. Hokama, please.

COUNCILMEMBER HOKAMA: Chairman, thank you very much. Good morning, Mr. Mayor.

MAYOR ARAKAWA: Good morning.

COUNCILMEMBER HOKAMA: And I, I thank you for your comments that you shared with the Committee; however, this is not the Committee's proposal and we know this is not your Administration proposals. We are told this is a hui's proposal to the Committee, so saying that, you know, I'm not too sure how to answer some of your concerns 'cause I would agree with you in, in some of your statements regarding the responsibility of the State versus the County. But, you know, if I'm hearing you right, you know, I think we should be working on creating the jobs that allow our people to afford the affordable house. To build an affordable house with no job means nothing to, to most of us, so I would agree with you there, mister, Mr. Mayor. And I would say that, you know, hopefully I'd be very curious to see what we lapsed in Water Department as of December 31<sup>st</sup> under CIP, because then we can figure out where we can redirect some of those resources to make the County take its responsibility in developing more water for all community uses, Mr. Mayor, that I support. So I thank you for your comments this morning, and I appreciate what you shared with us. Thank you.

MAYOR ARAKAWA: Thank you very much.

CHAIR VICTORINO: And may I make one clarification, Mr. Hokama. The issues that you were referring to are from the original bill, they were not brought forward. The changes that are being brought forward came from outside sources, but the discussion that we've been having such as the various responsibility, who's responsible for what and shall or may, these were all part of the original bill. Okay. So the change that we are trying to make is to make this bill more palatable, but the original...all the various issues, the 12...well all the way down

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to O as far as who does what for the long-term reliability, that all comes from the original bill.

MAYOR ARAKAWA: Mr. Chairman?

CHAIR VICTORINO: And I just want to clarify that.

COUNCILMEMBER HOKAMA: And I, and I appreciate that, and I appreciate that, Mr. Chairman.

CHAIR VICTORINO: Yeah, just so that we're not --

COUNCILMEMBER HOKAMA: I appreciate that, that point.

CHAIR VICTORINO: --you know trying, trying to put...okay, please.

COUNCILMEMBER HOKAMA: I appreciate that point. Thank you.

CHAIR VICTORINO: Thank you.

MAYOR ARAKAWA: Mr. Chairman?

CHAIR VICTORINO: I just wanted the clarification, Mr. Mayor.

MAYOR ARAKAWA: Yeah. Just, just as a little comment though. The Council as a body--and I sat on this Council for a number of years--your job is to create the rules, the laws that the County is going to have to be able to administer and to be able to create rules that will govern how we as a community function. So no matter where the rules came from, no matter who originates them, this body with whatever you pass out, that's the only thing that this public will...the public here will have to deal with, so that's the reality. Anything that's happened in, in the past, anything that somebody else suggests, we always have to digest and come out with the recommendations that we think are going to be the, the best for the community we live in. So all I'm asking is that at the time that you pass out a bill, whatever, whatever you have reviewed at that point, you give it your best consideration and make sure it's the most practicable for us to be able to work with. You know right now we're going through the process of going through the departments and trying to get rid of a lot of clutter that's been put into a lot of the language of, of many of the departments in the past, that are very ambiguous and have very--shall we say--nebulous considerations as to how they affect the entire community. Some of them were meant for very specific instances that we've created rules for the entire public that is very expensive and does very little to help the community at large. Our goal is to try and eliminate all the clutter that's there to make rules that are palatable and understandable by the community so that when they look at, it they can go wow this makes sense, this is why we

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should be doing it, I can understand. Just putting up...just to put up stuff to, to have it there doesn't necessarily serve the community in its best interest. So from our Administration side we're trying to consolidate and get rid of all the clutter that's there. Adding in a lot of requirements that we cannot do, it's just going to make it more difficult for the public to be able to understand. It makes a lot of lawyers very, very wealthy, but it doesn't make the public any better. And that's where I'm trying to get to is let's make it so that it's easy for everybody to understand, easy to administer, so everybody understands the rules very clearly what it is. A lot of these things when we're trying to go through the State and try to do what other people's jobs are, that's just going to confuse everybody, and some lawyer is going to say well you didn't consider this, you didn't consider that, and at the end all we can say is, well, we can't do it. I mean there's no practical way to do it, and that's just going to make things much more difficult in court in trying to get a clean interpretation. So I'm asking you to please get away from that kind of language where it's ambiguous and doesn't serve a real purpose. Make sure that what you pass out serves the purpose which you intend to serve.

CHAIR VICTORINO: Thank you for that clarification, Mr. Mayor. Mr. Pontanilla, we'll start with you and work our way down --

VICE-CHAIR PONTANILLA: Okay.

CHAIR VICTORINO: --as I said earlier.

VICE-CHAIR PONTANILLA: Thank you, Chairman, and thank you, Mayor, for being here this morning. I, I listened to your comments earlier, and, you know, I gotta agree with you in regards to what is our job, what is the State Water Commission's job. It's almost like, you know, we overseeing part of their reports, and I had a yellow tag just for that one particular area. In regards to the comment that you make about affordable housing and, you know, affordable housing, we all talk about it during our campaign season, but let me assure you that...not assure you but let me remind you, during your first term, that's the only time that we created affordable housing for this community. That's the first and only time. Right now we do have on the books many affordable units that are owed to this County, and, and the projects that we approve already gotten water. So where's the equity in regards to those promises, because we haven't seen a single unit other than the units that this nonprofits provide this community. In regards to the review every two years, my concern was that if we had repealed this particular ordinance, you know, financially would the County be available or will the County be--since we're going to be responsible--have the money to add in all of this infrastructure, and, and the two year review would tell us. Hopefully we complete our Maui Island Plan that will tell us where infrastructure is required, and that way we can gauge ourselves. You know a lot of people say how do we gauge success? We gauge success in regards to what we do. You know we, we have water rates increases almost every year, and what do we get to

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show? Hardly anything. But I think with your present Administration we're trying to move forward in a more, I guess methodical manner. You know your Water Department Director has a method of...you know I, I look at him when he was at Wastewater, and in my opinion he was the only manager that had created something that I can look forward in regards to year 1 to year 20. We didn't have that previously. So, you know, I, I think the Water Department is working towards that, and for me, Mayor, is that how much it's going to cost the County on a yearly basis. You know what, what rate increases is palatable for this community. So in regards to this bill and the two year review, that was my basic concern. So thank you.

MAYOR ARAKAWA: And, Council member, I absolutely agree with most of your position, and that is when, when we're looking at costs, one of the things that I've asked our Director to do, Dave to do is to come to you and give you the real cost. So when you're doing analysis, they're saying this is what it's going to take to be able to provide a service at level one or level two or level three, because you have to...we have to get away from the politics of saying oh, something's too expensive or something, you know, we want to give somebody breaks. There's, there's a real cost in all the service that we have to provide, and we as, as the elected officials have to look at that, but we have to be able to provide for the community at the level that is reasonable within the means that we have within the community. So we're trying to give you a very clear picture of what those real costs are. In the past, we've said well yeah raise it, raise the, raise the water rates, but there's never been any real statistics or reasoning behind how much we want to raise the water rates or why we want to raise the water rates. I think you need to hold the Department and myself accountable for developing the water supplies, making sure that we are repairing and maintain the systems that we, we do have. But you also have to give us the ability to do it in the, the financial area as well. So if we're going to be able to develop X amount of water over a period of time that we, that we fix then we're responsible to do it. It's going to cost so much money, and I think Dave has been trying to explain to you the process also. You know you have to do environmental studies, you have to acquire the property, how you go about developing the water resource to the level that we can actually provide it to the community. A lot of people ignore all of these steps that are necessary to get from point A to providing the resources to the community, and we're trying to do this in a, in a businesslike, logical manner working in the real world. And, and government and in politics for the longest time we've not worked in the real world because we've worked in this political structure where it feels good or doesn't feel good, somebody's getting mad at us, or if we do this or somebody's going to get hurt if we do that. And we try to ignore the realities of what it takes to actually get something done. We're trying to move to where we're actually being able to accomplish what we say we're going to accomplish and give you the steps as to how we're going to get there. And that is reasonable to expect if we're going to say it's going...we want X amount of money, you should be able to see X amount of product for that money, and we should be able

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to deliver it if we say we're going to deliver it. That's where we're, that's where we're going to. But again, when we're, when we're trying to do this, the Council is going to have to make a decision, and I think Dave's been bringing it to you on a very regular basis. This is how much it's going to take to deliver this level of service. This is how much it's going to take to deliver the next level of service. If you provide us the funding, we'll provide you the plan. We should be able to work the plan according to the amount of funding that's available, and that's what we will commit to do is develop to the level of funding that you give us the level of service that the community will be able to receive. And for that you can hold us accountable. If you give us an unachievable goal with an insufficient amount of resources then we will most certainly not be able to accomplish it, and we'll tell you that right up front. But we have to work in the real world as well as in the political world, so provide us the resources, we will provide the results.

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

CHAIR VICTORINO: Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. And thank you, Mayor, for coming down and making yourself available. I appreciate and agree with your comments on the Director's responsibility with, with regards to his review of engineering reports, and I'll have questions for him on that item later. One of the items that I'd like your thoughts on is that several of the testifiers spoke to the, the concerns they had that the Water Availability Bill has slowed down construction because of the time it takes and the, and the review process and everything else that goes into the developer's responsibility in bringing something forward. Other testifiers have made the comment that well it's, it's the economy, and I think both probably make some sense. But I...unfortunately we didn't have anyone providing much data to back up either side's claims. So I'm just wondering from your perspective, what do you see as one of the reasons behind us not getting as many units built or things coming online as quickly as they maybe used to?

MAYOR ARAKAWA: Okay. Four years ago we, we were, we were working along and we were getting a lot of the commitments fulfilled, and we did have a, a crash in the economy. So that absolutely has an impact on people being able to find the money to be able to do the development and to build. The Show Me the Water Bill when it was passed, when it was passed, Council members that were here will remember very distinctly that this was a big developer's bill, it was going to hurt all of the small projects. That was something that was made very clear, and I believe the Chairman at that time, Michelle, actually stated that. Yes, she agreed with that. Now that has proved very true. Much of the infill projects, the smaller developers have not been able to develop resources. They're not capable of it, they just don't have the money to be able to do it, and in a down economy it magnifies the problem. Now when we're looking at trying to fund projects, people that are doing the investments into the communities, people that are the



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banking...they're bankrolling all of these projects, they look at what is the general attitude of the community, is it one that's going to be supportive or if it's one that's going to be throwing up a lot of roadblocks so we can invest someplace else much easier. And I believe that is the, that is the perception and the perception is the reality as well. A lot of people that were willing to invest in the islands took their money away, because they saw all these obstacles being thrown up that are going to make things more complicated and more expensive rather than be able to make it easier to perform and create the affordable housing, so they stopped. Now there were other actions that were...went on at the same time within the County that were, that were also negative as far as the development industry was concerned. But this, this was one of the biggies, so I'll, I'll go to that point and say I believe it's a combination but I also believe that if not for this bill there would be a lot more affordable housing that would have been constructed that have been. I mean since the bill went into effect there was only I think David Goode's project up in Makawao was the only affordable housing project, and that was like, what, eight units or something like that built under this. Almost everybody else that came up with this problem gave up and said it's not worth it. So all of those projects or a lot of those projects are still sitting on the backburner and we're talking to, to people now to try to get them to develop it out. Now remember we also did the Show Me the Water Bill and we said, okay, show me the water. And then we went to Maui Pine in, in Makawao and we said well we don't want your water, so even when they developed the water, we didn't accept it. Maui Lani, that was ready to go five years ago. You know we didn't accept their, their wells even though they were able to provide it. A&B was willing to provide a treatment plant and some other sources, and we didn't go along with that and we didn't accept the proposals and develop it out administratively as well as, as legislatively. So when we say we want to develop...we want you to develop water and then we say but we're not going to accept it, you, you throw this double message out there that says well we're going to put in a requirement but it's going to be an impossible requirement because even if you fulfill it, we don't really want it. Now in the Upcountry area a lot of the discussion was do we really want wells because it's going to be expensive to pump, right, but we said the Show Me the Water Bill, show us the availability and we'll allow the project. Even when people were showing us the availability, we didn't accept the projects, so that, that to me shows a very negative position toward any construction. You know in the Upcountry area we had people that were saying well, you know, all these people are waiting on the, on the water meter list and then now we're hearing well if you eliminate the water meter list then we're going to have all this extra growth up there, we don't want you to eliminate the water list. I mean you can't have it both ways. You can't blame the lack of water and then say well we don't want you to add more water to it and expect solutions. There has to be a reasonable nexus and goal when, when we're making requirements for people in the community, and a lot of money is being invested to be able to come to these solutions. So, you know, the Maui Pine, they did the exploratory well, they did, they did a lot of...they put a lot of money into it, and then we just rejected the

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whole thing because they didn't have the, the quantity, exact quantity that they had predicted. And we knew it was an exploratory, there was a projection, but there was no reason why we couldn't have worked a proportionate requirement and agreement. And I could go through all the others but I don't want to spend the whole morning discussing it, but there's...the, the basic theory is, if you're going to make a requirement you have to allow someone to be able to take what is being requested and fulfill the requirement. We do neither, we make requirements and then we don't let people fulfill those requirements, so we have a lot of problems in the perception as to whether or not we're, we're serious or not and we mean what we say. And we need to get away from that if we're going to be able to progress economically.

COUNCILMEMBER WHITE: Thank you, Mayor. Thank you, Chair.

CHAIR VICTORINO: Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, I'll yield to your Committee members.

CHAIR VICTORINO: Okay. Thank you. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, thank you, Mayor, for being here.

MAYOR ARAKAWA: Good morning.

COUNCILMEMBER COCHRAN: I just wanted to backtrack about your...the Director's responsibilities and your concerns about this laundry list of things that we're stating, shall consider any of the following. Is that what you're referring to earlier in your comments?

MAYOR ARAKAWA: 14.12.050.

COUNCILMEMBER COCHRAN: Right.

MAYOR ARAKAWA: Yes.

COUNCILMEMBER COCHRAN: So I'm just curious, you're still very uncomfortable with the wording, Director shall consider any of the following applicable? Is that...you know, and I...

MAYOR ARAKAWA: What I'm, what I'm suggesting is that much of this does not come under the jurisdiction of, of the County Water Director. Much of it was the State Water Commission, and a lot of the...and the Department of Health, so when, when you're looking at the different agencies that are supposed to be manning this, what it will require is it will require a lot of extra personnel, a lot of

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time to be able to go to these other departments to try and get information from them that they may or may not release at all. All of these will result in long delays so that whoever is making an application is just going to be delayed for very long periods, especially if somebody in one of the other departments we don't have the control over chooses they don't want to be able to give us that information or they don't have it readily available and they don't want to spend the funding or the time to get the information for us. If...

COUNCILMEMBER COCHRAN: But could it be just deemed not applicable, the ones that are difficult to get or not under our jurisdiction? I mean I'm looking at, you know, like USGS you can find that online, State Water Code, that's a law, it's stated. You know the DHHL...

MAYOR ARAKAWA: Then why...if the things that you can get readily, why would you make it a requirement of the Director? You can just get it from, from what's available. The, the things that you're requesting that are not available readily are what's going to be very difficult for, for us to be able to get and sometimes impossible for us to get. So if you're going to, if you're going to just say get the stuff that's already online and easily available, you should be able to just get those sources to, to provide it, not have to have it a requirement for the Department to be able to go through all that extra work. You know every request that we make and every time that we make a request to one of the other agencies means that we're asking that agency to take time out from their schedule to provide stuff for us, and you can make so many of those requests and then after a while they start saying this is just humbug because you're not doing anything with it anyway. If it's really pertinent information that's going to make a difference in your decision-making then you need to be able to get it, but if it's already available then you don't need it. If it's not going to be available then you're not going to be able to get it. So things like trying to find out the...what's happening under the ground in the hydrology of the water, you need to have a specialist like a hydrologist to be able to find out that information and to be able to research. We don't have one. We don't have those kind of capabilities, and on some of this information that you have...I've, I've worked with the State Water Commission on a number of issues, they are and they will tell you we are understaffed, we don't have the personnel to go around and do all this...get all this information for you, because we just don't have the time and we're...they literally don't have the inclination to do it a lot of times. So if, if they don't consider it important, they're not going to want to do it and they're not going to do it, and they're going to use the excuse that they have too many important things to do and they're understaffed. I mean I've had this explanation given to me a number of times, and I've gone to a lot of the State Water Commission meetings where we tried to get information, we just can't get it. So trying to get the cooperation from groups like this is very difficult for us. To make it a requirement to go through a whole list like this is going to make it delay everything that we have to do months and months if not years. Is that what the goal is, is to just not be able to get

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information and have everything just delayed? If, if that's the, the justification, just say we don't want the project period, but don't spend all this time, energy, and money trying to research things that are just going to raise the cost of everything for everybody and not accomplish anything.

COUNCILMEMBER COCHRAN: Perhaps, Mayor, if the...you and your Department doesn't mind maybe singling out the ones you feel are problematic here which you feel do not pertain, won't ever pertain even on a case-by-case basis. Because I feel the list applies --

MAYOR ARAKAWA: Let, let, let me --

COUNCILMEMBER COCHRAN: --in certain areas.

MAYOR ARAKAWA: --let me start with A. A, cumulative...

CHAIR VICTORINO: Oh, wait, wait. Hold on, hold on, hold on.

COUNCILMEMBER COCHRAN: If...I mean it can be in future times --

CHAIR VICTORINO: Not, not, not now.

COUNCILMEMBER COCHRAN: --Mr. Chair.

CHAIR VICTORINO: I'm not going to spend the time going over all of this individually. I'm sorry, Mr. Mayor.

COUNCILMEMBER COCHRAN: But, yeah, I...

CHAIR VICTORINO: I said a question, the question has been answered, and as far as any other requests, then transfer it in --

MAYOR ARAKAWA: Okay.

CHAIR VICTORINO: --just bring the request forward.

COUNCILMEMBER COCHRAN: Yeah, that was my follow-up.

CHAIR VICTORINO: Okay. Thank you.

COUNCILMEMBER COCHRAN: It doesn't have to be right this second.

CHAIR VICTORINO: Okay. Thank you.

COUNCILMEMBER COCHRAN: Thank you, Chair and Mayor and Department.

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CHAIR VICTORINO: Ms. Baisa. Thank you.

MAYOR ARAKAWA: Yeah, my intent was not to go through a whole long discussion, but if, if you --

COUNCILMEMBER COCHRAN: Right.

MAYOR ARAKAWA: --choose to, I can go through...

CHAIR VICTORINO: No. Mr. Mayor...

MAYOR ARAKAWA: At, at some other date.

COUNCILMEMBER COCHRAN: Yeah, yes.

CHAIR VICTORINO: At another time, yeah. 'Cause I'd really prefer us continuing this, moving on. Okay. Thank you very much, Mr. Mayor. Ms. Baisa, please.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. And again, thank you, Mayor, for being here this morning, and happy new year to you, too. One of the testifiers mentioned something that has struck a chord with me, and this testifier has mentioned that he felt that the issue of what is before us in terms of water availability and its effect on development of affordable housing or economy and whatever, appears to be a development issue, a land use issue that probably should be discussed in Planning and General Plan Committees and not in the Water Committee. And I wanted to know your reaction to that, and the reason I ask you is because I know that very, very quickly we're going to be looking at a proposed budget, and you've already alluded in your previous statements about the idea that you're going to have to know in the budget what kind of money we're going to need for water development. And this Committee only has four, four meetings at best, and I know you go to print before that, so maybe three meetings before you'll be a printing a budget. And we have not discussed in, in...and come conclusion in the policy issues that were placed before us by the Director in terms of how much money is needed in order for us to meet certain targets. He mentioned increments of 10 million, 20 million, or 30 million in order for us to get the desired results. So I was interested in your comments about that.

MAYOR ARAKAWA: If I may, my Corporation Counsel is giving me advice, so what I'm going to ask him to do is explain his position first and then I'll answer the other questions.

COUNCILMEMBER BAISA: All right.

MAYOR ARAKAWA: 'Cause I don't want to get him mad at me.

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COUNCILMEMBER BAISA: It's up to the Chair.

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

MR. KUSHI: And, Mr. Chair, Member Baisa, to respond to your first question about testimony or suggestion that this bill go...be referred to the Planning Commissions, our position, our position is no. It's not covered by the Charter. We do not consider this a land use bill. It is strictly a subdivision technicality type of, of issues. If, if bills such as this will be routed to the Planning Commissions, we could never get any Subdivision Code revisions passed. And, and like the original bill, it did not go to the Planning Commissions. I'll let the Mayor respond to your other questions.

COUNCILMEMBER BAISA: Thank you.

CHAIR VICTORINO: Thank you, Mr. Kushi. Mr. Mayor.

MAYOR ARAKAWA: Okay. As, as far as, as how much resources we're going to need, we will send down hopefully within the next meeting--I guess we're going to have to rush it--a list of different types of projects and what we can get for varying amounts of money. It'll be sort of boxes, they won't be exact but they'll be in varying amounts, and we will give you a list of different projects that we want to work on and we know need to be worked on and the timeframe within which those projects will have to occur. Now the timeframes are very important because for some we have to do a lot of permitting in order to be able to do any kind of a project, then there's various levels of and time that it takes to get those permits through. So I'll have the Director...

MR. TAYLOR: ...*(inaudible)*...

MAYOR ARAKAWA: You did that? Okay. So he's explained it to you on some of those...on some of these projects, and we'll try and work the timeframe for you to explain how we're developing out the resources. Now I fully expect that within a year or two we'll be able to come to you with solutions and be able to say we've...we have enough water available to be able to take care of this community for X number of years. And as we progress through it we need more and this is how we're going to develop it. Okay. I know for Central and Upcountry that's something that we're very close to and we can pretty much explain that to you already, what it's going to take and what it's going to, what it's going to...what we would have to do. As far as all the infrastructure, now that's where a lot of the cost is going to be, and we've had this discussion internally. But I think the Council needs to really chime in on this discussion, whether or not you want all these independent developers to come up with sections of, of waterline that may or may not become useable for the lifetime of the investment. Or whether or not

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we want the Department to go through and plan all the infrastructure and then prorate the cost to people that are coming in. To me, the, the system that we have right now where just in my neighborhood up in Kula, you know, you have to put in certain sections that may never be tied together, so you have a very hodgepodge system, is almost ridiculous. And if we had the Department go through and say this is...we're going to do X number of miles of pipeline every year, this is what it's going to cost and prorate those costs, and they say anyone tying into those systems, this is what it's going to cost you to tie into the system, I think makes a lot better system. And we'll be able to plan and we'll be able to work it so that it'll actually function as, as it should. That hasn't happened Upcountry yet, and this is where I think we need to redirect a lot of the, the techniques that we've used in the past. You know now we can computerize everything and we can keep track of everything, and we should be able to coordinate everything a lot better. The system that we have currently is...has raised the cost for each individual through the stratospheres and it's provided almost nothing long term for the, for the amount of cost benefit to the community. It's just deferred costs from the Department and say well maybe at some point if we do this then we won't have to do this extra thing, but most times by the time we get to that point, those lines are going to be worthless already 'cause they've been in the ground too long. And I want to go to a system that is much more systematic, so we're going to ask you to look at, at trying to fund something that's much more systematic. And but we need...it, it has to be something that the Council agrees with the Administration and we come to an agreement on methodology, because it'll, it'll mean that what we're doing is within the structure of our fees. We're going to be paying for systematic repair and replacement of, of the system, and then as people tie into it we'll charge them a prorated cost to get...to recover some of it which is backwards from what we do right now. Okay. So we need you to agree to that, and if you do agree to it then that's the system we want to be able to put in throughout Maui County. Otherwise we end up with a system that just doesn't work, and the same thing is true with the source. You know when we're looking at all these different possible sources and we say I'll tell everybody well we want you to develop all your water system and then we don't want to accept the water system into our County system because one, it's going to be too expensive for us to run the pumps, two, it doesn't meet County standards, three, it's someplace out in never-never land where we don't have any way to hook up and be able to manage, four, it's substandard altogether and we don't want to, we don't want to have anything to do with it. I mean we're allowing and requiring all these different developers to come up with all these different schemes that are counterproductive to how we want to be able to plan and develop our communities. You know right now we've got so many independent water systems out in the, the country areas that we're allowing people to develop where we don't want them to, and it's literally shall we say it's impinging on a lot of the natural resources that we don't want to have people being in those, in those areas. I think it's very problematic for us, so we need to start planning and work a plan.

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

COUNCILMEMBER BAISA: I'd ask a follow-up, but you said one --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --so I'll wait.

CHAIR VICTORINO: And I'll keep to that rule because I'm not changing now.

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I will be brief as usual. My questions are complex and this has generated much discussion, and thank you for...Mayor, for coming down. But my questions need to be submitted to you in writing and they need to be replied in writing. There's no sense in bringing it up on the floor at this time, we don't have the time, and I don't think they could be answered adequately in any other way except submitting them in writing and getting a reply. Thank you.

CHAIR VICTORINO: Thank you. Mr. Mateo.

COUNCILMEMBER MATEO: Mr. Chairman, thank you very much. Mr. Mayor, thank you for your comments and thank you for being here this morning as well. I agree with, with some of your, your comments and I don't with others. And I think bottom line comes down to one...and we're gonna...we're going back to before your time, you know, because we cannot measure anything in this short period of time. But I think part of our problem stemmed from we never, the County never really initiated or forced ourselves to continuously develop source. Somewhere along the line we made it indicative of developers to develop source. That was the accepted means. That's how the County got water, and because of that, that, that difficulty, we are now trying to come in line with I think gaining control of the water situation. Your, your comments regarding affordable housing, that, that I, you know, I don't really agree with. I think some of the initial problems has twofold, one, maybe the water problem is...the water issue was an issue of reality, but most importantly it was the County's permitting processes that hung everything up as well. So we had two components making it difficult for development to occur. I, I think listening to the discussions quite, quite intently I think it just makes sense at this point, in us...it's premature for us to take a look at passing out a bill at this point. I think we need to take a look at the particulars that oversteps boundaries so we can in fact eliminate them. I think we now need to take a look at, at what, what you, what you've said, what is



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reasonable to expect the Department to complete, and I think that's what we now need to take a look at, at this point. So I also think that the importance of the Island Plan are all components that need to be considered in totality. So thank you for the opportunity, Mr. Chair, of providing a comment, because I think the, the considerations now, we now need to go to the next step in taking a look at the bill and now how to craft it to make it work so development can move forward, so our resources are protected, and we are all as legislators comfortable in knowing that there is a capacity study that we have assuring us that adequate source is available today, tomorrow, and in the future. Thank you, Mr. Mayor. Thank you, Mr. Victorino.

CHAIR VICTORINO: Thank you. First of all, I will say thank you to all the Council members, you know, you guys very eloquently say a lot of things and I appreciate that. I thank the Mayor for being here. New year with new optimistic and new hopes, very good. And listening to the Members, Mr. Carroll and others, I think there's still questions that need to be answered. You know we can take forever. I got the patience of a rooster. I can wait forever. I don't know how that correlated but that sounded really interesting, right. Now everybody's gotta think about that one. So that was the whole plan with that one. I just want. . .don't be shaking your hands up there, Ms. Robbins. I have a patience of a rooster whichever that meant. I didn't mean to have someone think about it. Anyhow, no, but the real reality comes down to the fact is we have moved forward to this point. There are some amendments that were proposed. There's other things that have been proposed. And I will say this, I'm not going to wait to the point where you're gonna have to do the General Plan or you gonna have to do this or that to get this part done. Either we're gonna do it and we're gonna put these together and get it done, or we're not gonna do anything at all. It's real simple. A real simple equation. And so I'm at the point where now for today I'm gonna defer this matter so that at our follow-up meeting we can get the questions answered for Mr. Carroll. If you have any other proposals or ideas or amendments that you wanna bring forward, both from the Administration and Council member is fine. But remember the longer we take the longer it sits here to be done. And that was a question earlier why didn't the conservation bill come forward? Well this to me was more important than the conservation bill, that will come up next. You know there's a bunch of things that have to come up, but before that we will have our rate studies and all that that we have worked on for many years and looking at different tiers now to really get what it needs to get. . .what needs to get done will get done based upon economic drivers, based upon the fact if you use a lot of water you pay for it. I agree with you, Mr. Mayor. Make those who abuse, who waste, who take advantage make them pay more, I agree with you so that we can develop other areas. So with no further questions. . .any questions before I defer this matter or we ask for a deferral? Seeing none...

MAYOR ARAKAWA: Just that...

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CHAIR VICTORINO: If no objections I will defer this matter to our next meeting.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Mr. Mayor, you wanted to say something before I close the meeting?

MAYOR ARAKAWA: No, I was just...

CHAIR VICTORINO: I will allow you that.

MAYOR ARAKAWA: I was just gonna say I just wanna again wish everybody a happy new year, and thank you for this opportunity.

CHAIR VICTORINO: You're welcome, Mr. Mayor, and a happy new year to you and your Administration. It's been a pleasure working with you and the Administration. Mr. Taylor has been a breath of fresh air. Sometimes a lot of air but that's okay, but he's a good man. And I agree with you he has done a yeoman's job in trying to get us in a direction for which this County has needed to go for a long time. So with no other, with no other questions, or no other statements, I will adjourn this meeting of January 3, 2012. Meeting adjourned. ...*(gavel)*...

**ACTION: DEFER pending further discussion.**

**ADJOURN:** 11:04 a.m.

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Water Resources Committee

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Transcribed by: Daniel Schoenbeck

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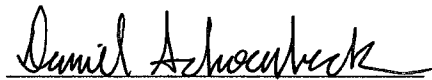
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**CERTIFICATE**

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 11<sup>th</sup> day of January, 2012, in Haiku, Hawaii



Daniel Schoenbeck