

# WATER RESOURCES COMMITTEE

Council of the County of Maui

## MINUTES

February 28, 2012

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

**CONVENE:** 9:06 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair  
Councilmember Joseph Pontanilla, Vice-Chair (in 9:24 a.m.)  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll  
Councilmember Elle Cochran  
Councilmember G. Riki Hokama  
Councilmember Mike B. White (in 9:07 a.m.)

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

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

Seated in the gallery:

Pamela M. Pogue, Water Resources Planning Division, Department of Water Supply

**OTHERS:** Grant Chun, Vice President, A&B Properties, Inc.  
Mercer "Chubby" Vicens  
Rosemary Robbins, Concerned Citizen  
Alice Lee, Hui O Na Wai  
Johanna Kamaunu  
Kaniloa Kamaunu  
Lucienne de Naie  
Irene Bowie, Executive Director, Maui Tomorrow Foundation  
Others (3)

**PRESS:** Akaku: Maui Community Television, Inc.

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CHAIR VICTORINO: . . .(*gavel*). . . Good morning. The Water Resources Committee meeting for February 28, 2012 will come to order. The time is 9:06 and I'm sorry for being a little bit late. I am your Chair, Councilman Victorino. I would like to introduce the Members who are voting Members that are here at this time. First of all, our young lady from Upcountry, Ms. Gladys Baisa.

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COUNCILMEMBER BAISA: Good morning.

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

COUNCILMEMBER CARROLL: Good morning Chair.

CHAIR VICTORINO: Good morning. Our young lady from West Maui,  
Ms. Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, good morning, Chair.

CHAIR VICTORINO: Aloha. Our gentleman from the Island of Lanai,  
Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Good morning.

CHAIR VICTORINO: Good morning. Excused at this time is Vice-Chair of the  
Committee and Vice-Chair of the Council, Joseph Pontanilla and also our other  
Member, Mike White. At this time the other Members who are non-voting are  
not present. If they do appear, I will recognize them. At this point, I'd also like  
to recommend, I mean recognize, recommend, recognize our Director of Water  
Supply, David Taylor.

MR. TAYLOR: Good morning.

CHAIR VICTORINO: And our Corporation Counsel, Deputy Corporation Counsel,  
Ed Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. And I'd like to make the record, note the record  
that Councilmember Mike White is present.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR VICTORINO: Good morning. Also, our Committee Staff, our Legislative  
Analyst Kim Willenbrink.

MS. WILLENBRINK: Good morning.

CHAIR VICTORINO: And thank you, Kim, for returning. Kim is filling in for  
Mike Geers who has moved on to the Civil Defense, and again we wish Mike the  
most success in his, and thank you, Kim, for returning.

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MS. WILLENBRINK: You're welcome, Chair.

CHAIR VICTORINO: And our Committee Secretary, Yvette Bouthillier. Now moving on. We only have one item today and that's WR-8. And before I start taking public testimony, we will limit testimony only to the item on the agenda today. Please, if you haven't signed up, there's a table in the, on the 8<sup>th</sup> floor lobby. You may sign up. You will be limited to three minutes with one minute to conclude. Please state your name and if you're representing any organization, that particular organization. Prior to the last meeting on this matter, I transmitted a bill to incorporate all the revisions that have previously been discussed and included in the requirement for the Council to review this chapter every two years. In other words, I have taken out the sunset and put in a two-year review provision so that this Council and other Councils in the future, or the Committees in the future, may take this item up and if they feel it needs to be strengthened or changed in any way, they would have this opportunity. In other words, it wouldn't get lost in the shuffle. Also I've recommend, or I requested the Department to provide us some information, which you have in your binders and I'll have Mr. Taylor discuss it with you a little bit later. And before we go on, I just want everyone to know that if you review or read the review of the ordinance that is presently on the table with all the changes that we, and I say we, the Committee, has put in, the last change that was, what I called the hang-up, was the sunset and if you look on Page 4, it will read on 14.12.070 Review. This, "The council shall review this chapter every two years." And that was, and basically that was put in because I felt, and I think a number of you felt that it would be good to take a look at it. Plus, when our General Plan and other area, other community plans are completed, this may be a time to look at it. So hopefully in the next two to four years a lot of these items will be clarified and the necessity for this may not be, be there anymore. So without any objections, I would like to start public testimony.

COUNCIL MEMBERS: No objections.

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

CHAIR VICTORINO: Thank you. At this time we have four testifiers signed up and I will start with the first one. First one is Mr. Grant Chun. He is Vice-President of A&B Properties and he's followed by Mercer "Chubby" Vicens. Good morning, Mr. Chun.

MR. CHUN: Good morning, Mr. Chair. Good morning, Committee members. My name is Grant Chun with A&B Properties. Thank you very much for your continued work and diligence in reviewing the proposed amendments to Chapter 14.01 relating to water availability in the County of Maui. I know that through your various meetings you've paired down the originally proposed amendments considerably but still feel that the intent of your work remains well taken. And that, and that is to insure that the ordinance is workable and responsive to our

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needs as a community, as responsive to our needs as a community as possible. I would thus respectfully urge your consideration and adoption of the proposed amendments to the ordinance. I'm sure it was never intended that the ordinance should be a deterrent to investment and economic activity in our community. Unfortunately though, it has not served to bring about significant new source development or system improvements to our water delivery system here and has actually added to the administrative burden for the Department of Water Supply. Your work in refining the ordinance to make it more of a tool for positive action rather than a deterrent to economic activity is greatly appreciated. Thank you very much for your ongoing work on this matter.

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

MR. CHUN: Thank you.

CHAIR VICTORINO: Next will be Chubby Vicens and he's speaking on his behalf, followed by Rosemary Robbins.

MR. VICENS: Good morning Mr. Chairman and members of the Committee. My name is Mercer "Chubby" Vicens and I'm a resident of Spreckelsville. And I've been following this particular subject, WR-8, since, probably this is the third or the fourth meeting I believe we've had. There've been many substantive changes and I think that it's time that we put it to rest and pass this. I like the idea of taking a look at it every couple years so that...things happen, I mean things happen very, very quickly in our world and changes take place. And in order to be able to, to meet the needs and challenges of our future, we have approximately 12,000 new homes gonna be built over the next 20 years. And how do we get there? Are we gonna be ready for it when we get there? All of those types of things have to be answered. And I like, I like the piece that says "nothing in this chapter shall lessen the Department's responsibility to develop adequate future water resources and water infrastructure." I think that's, that's a key, key point. It's the County's responsibility. Private sector be more than happy to assist. I mean, we've always been out there ready to help, to help make this possible. And I think that we will continue to be there. I think public/private partnerships are great as long as it's not the public, the private people leading the public to where we, we, to drink water. So again, I think it's very important that we, we get this off the table so we can move on to many, many more important things in the water environment. I think the, the leadership of the current Administration in the Water Department can and will allow us to move forward and fulfill all of the needs that, that we need to meet in the future. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Vicens. Any questions for the testifier? Seeing none, thank you sir.

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MR. VICENS: Thank you very much.

CHAIR VICTORINO: Next testifier is Rosemary Robbins and Rosemary will be speaking on her behalf and she's a concerned citizen and with the Upcountry Oversight Committee, Advisory Committee.

MS. ROBBINS: Morning everybody. Appreciate the opportunity to be here. One of the things that Chubby just said was to recognize that we don't want to lessen the responsibility of the Water Department. I think everything I've read agrees with that. I came in yesterday and spent several hours going over all the testimony for a couple of years on this. And if we don't lessen, we're back to status quo. If we don't focus on going forward, we're left with status quo. So this is kind of like that setup with the water quality issue is that there is a difference between the contaminant level being something that has to be addressed, not so great as the EPA goal which says give yourself a margin of goodness beyond just what's going to resolve only by way of legal, expensive hearings. So yesterday when I was going over those materials, I...and I was here for most of those meetings and heard it and have had time to reflect on it, it pretty well breaks down into opinions on what we're dealing with this morning. Concerned citizens and I'd like to think everybody under ceiling and everybody within view is one of those. But the actions taken are what are gonna reflect those. So you have a group of people who are not involved in money the major focus, economy the major focus. And then you have people who are involved in that, the folks in the building trades, the people in related areas such of that. And then you...so those two. And then you have thirdly, things like the U.S. Geological Survey. We've got loads of data that has been brought in opinion that has been brought forward time and time again, and we're still right now in that ongoing clock of repeating, repeating, repeating and not resolving in terms of water quantity and in terms of water quality. And I just don't think that we should stay stalled in this forever. There has been money appropriated. It's been used in part for the purpose of the appropriation and has not. We have had people who have come forward and continually stated a syllogism that I just don't think tells half the story. We're in the trouble that we're in not just because of the status quo here. We've got a global situation. Last week we had a hazards team that came up to the Kula Community Association, talked about the fact that water was going to be such an issue. All of our guests that are going to be down on the shoreline areas when we have, not if but when we have, a situation that's going to require their vacating, they're going to be coming Upcountry. They're supposed to come with gallons of water per day for the amount of time they're going to be away. Upcountry is supposed to absorb all of this. We don't have any water to give them. We don't have any reservoirs. We don't have some of the things that we should have been developing over a number of years when a number of us who have been here testifying have allowed it to become a status quo. So would like to say on those issues specifically today the amending 14.01.040 by adding a definition of "infill

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development.” The most recent testimony that came in yesterday from Ms. Chun said that that’s already in the materials that have been brought --

MS. WILLENBRINK: Four minutes

MS. ROBBINS: --to light at this point. And then on the idea --

CHAIR VICTORINO: Ms. Robbins, can you conclude please?

MS. ROBBINS: --uh-huh, of the private entities not having an opportunity to deal with that, I think it needs to be the public/private setup and the two years review is going to leave us forever pedaling in the same situation. So just asking you to look forward to the larger picture for the larger geography of where we are in the world and in Maui County. Thank you.

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

MS. ROBBINS: Welcome.

CHAIR VICTORINO: Next is Ms. Alice Lee and she representing Hui O Na Wai, followed by Johanna Kamaunu. Good morning Ms. Lee.

MS. LEE: Good morning, Mr. Chair, and members of the Committee. My name is Alice Lee testifying on behalf of Hui O Na Wai in favor of the proposed amendments to the water availability ordinance. The review of construction plans by the County is a very long process, as most of you know. Sometimes it takes a year to complete, sometimes even longer, depending on the complexity of the project. Developing new sources of water is also a very lengthy process which takes years to complete. Plans for the privately developed Maui Lani wells started in 2002. The County of Maui and Maui Lani signed an agreement for the use of those wells in 2005, which, of course, predates the 2007 “Show Me the Water” bill. And the wells were finally operational in 2009, seven years from start to finish. Here you have before you an amendment which allows plans to be reviewed before a source is identified or verified. Knowing how long the review process takes and how difficult and unpredictable it can be, additionally it often spans several Administrations. On the wells alone, Maui Lani dealt with at least three different Mayors. I mean, that’s how long this process takes, different directors in almost every department, different management policies and different priorities. If we really want to shift the responsibility of creating new water sources to private entities, which this bill does, and to form and forge mutually beneficial partnerships with these entities, I think it’s critical that we assist them by removing or at least reducing redundant requirements and by allowing timely review of their plans. Again I urge you to support the proposed amendments, and thank you for your consideration.

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

MS. LEE: Thank you.

CHAIR VICTORINO: Next will be Johanna Kamaunu followed by Kaniloa Kamaunu and they're both speaking on their behalf.

MS. KAMAUNU: Good morning, Council members. I'm here to testify on...oh, I'm Johanna Kamaunu. I'm from Waihee, it's like I haven't been here for a while. And I'm here to testify on WR-8, okay. And I have to say at first it was really difficult to find the amendments at first. Had to do some, I guess, other research to come across these amendments so I, I was really concerned that it wasn't readily available on the website for me. But besides the point, my point is that I'm really concerned that these amendments are making a change that compromises the intent of the water availability bill when it was first created. It was to protect the water resources if I'm not mistaken. Well since that time, all subsequent amendments or changes to this particular bill seems biased in one direction. It was to protect the public interest, but the public interest in this case only seems to be developing or development. I had hopes that when the Water Use Development Plan that was approved in 2010 would provide opportunity for the kuleana water rights to be heard, and the language in that particular piece of document recommended that kuleanas have the opportunity to comment and make recommendations at the start of an application process. And so I find it, I don't want to say two-faced, but it's compromising to say that you'll allow this one particular amendment to allow the report to come in on water availability for this subdivision at the end of the application process. That doesn't make a lot of sense to me. When you start a project, you want to know what the end results are going to be and if they'll be favorable, and this certainly doesn't seem to provide that answer. There's a couple other things with the amendments. One discussing infill and the definition of what infill is to allow development of those infill properties, parcels, but to remove that language from the bill the way it is written now allows any property to be developed. So I'd like to see that language remain in the bill as it is and that's why I say, you know, it seems very compromising the amendments that are being suggested at this time. I have a couple more things on the amendments but I don't support any of the amendments. Thank you.

CHAIR VICTORINO: Thank you Johanna. Any questions for the testifier? Seeing none, thank you Johanna. Next will be Kaniloa Kamaunu and Kaniloa is the last one to sign up for testimony. If anyone wishes to testify who hasn't, please, at this time, sign up at the back table please.

MR. KAMAUNU: Good morning Council. My name is Kaniloa Kamaunu. I come from Waihee Valley and this is the first time I think I've written anything and will

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give it to you. My stats is still the same. I remember a quote from once Judge Mossman. He commented and he told us that, you know, we're Americans, and this is America, and you have to deal with it. Well I posed that to OHA when they had their annual meeting here. And I said if's, if such a statement is true, then why was OHA created? It states Office of Hawaiian Affairs, not Hawaii Affairs. It distinctly talks about Hawaiian affairs. If his comment is true, then why are they settling \$220 million in Kakaako on a lawsuit or on money that the State owes to the native people? So coming back to my claim and to what is happening here. As a native and as a kuleana, I have vested rights, rights of entitlements that my kupuna have already solidified through their legal process. The Federal Courts recognizes that...let's see if I can see, excuse me, sorry. They say patents are issued by legislative authority, Federal Court Title 43, U.S.C. Legislative Assembly 1844, Hawaii. The Supreme Court of Hawaii will not go behind an already adjudicated Court Order decreeing land to an Awardee of Title. So I say these things are all stuff of that are already printed. These are things that you can, that are legal documents. It, we have, you know, I've, I've been telling people, there is only documentation to state that Hawaiians are still sovereign. There is no such documentation of that sovereignty ever being relinquished. With that being said, all rights vested under the law of the Kingdom of Hawaii which was vested to my kupuna as an heir according to the law is mine, and I claim that. And this water bill and these things that you guys try to do by making laws, if you consider yourself lawmakers, then you have to consider all the laws and you have to consider what the outcome of what you do affects not only the consideration of corporations but the consideration of those who actually have entitlements. It is your fiduciary duties to be able to protect my rights. And it is not the right of you to change them or dismiss them. You only have the right to insure that they are protected under the law. And a lot of these things that are coming are a very, how can I say it, you know, they're, they're going against it. Nobody's, nobody's looking at the full law, you only looking at part of it. These are things that are stated. Thank you.

CHAIR VICTORINO: Thank you Kaniloa. Questions for Kaniloa? Seeing none, thank you very much. We have one more testifier who signed up, Lucienne de Naie.

MS. de NAIE: Good morning. My name is Lucienne de Naie. I'm testifying on my own behalf. Aloha, Chair Victorino and Committee members. Are you considering four amendments to the water availability bill today? And the public is still curious as to why exactly these amendments are necessary. I'm just going to address amendment number one and amendment number two. I do have written testimony, but there was no one at the table to hand it to so you, you will get it. Amendment number one changes substantially the definition of infill development. So basically, there's already a definition in the bill that you passed last April, that states what infill development shall be considered. And now for some reason this needs to be added separately to the definition section of the bill, Section .040. But in, in doing that, the language was changed. Now there's a,



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there's a common definition of infill that's used in the building industry. Indulge me here, it's "the use of vacant land and property within a built up area for further construction or development, especially as part of a neighborhood, preservation or limited growth program." Now your definition used to contain that idea. It said that infill was considered infill within already developed areas. That language is now being deleted. Now how can you have something that's exempting infill and then not defining infill as what infill is commonly agreed upon to be? So the language should be reinserted; in fact, you know, you did the job in April, you don't really have to change anything. It's kind of surprising to people why something ten months later needs to be changed when just the same people sitting at this body all found it acceptable. Also, the exemption about infill development, it seems that if you remove the idea that it has to be in areas that are already developed, what you're basically doing is just saying, oh, we're encouraging small ten-lot subdivisions anyplace where a person can have some zoning and it's exempt from this water bill. So this is gonna be what people are rushing to build and I don't think there's any prohibition on how many of these ten-lot subdivisions, maybe you could do five of them in a row and have a 50-lot subdivision and just say "County, give me the water, I don't have to prove anything, these other people can stand in line but not me." So if that's the intent of changing this language, I don't think the public's gonna support that. You have good language. If you want to move that good language into the definition section, I don't think anyone would object, just keep it the same language to, to be consistent and to be clear to the public. Then there's amendment number two. This proposes to exempt water source development agreements with private entities from the ordinance. Once again it's kind of confusing. I mean, what's the intent of this amendment? Doesn't the Council want to have a certified report that says there really is a water source before a private entity enters into an agreement with the County about a water source? It just seems you would want this information rather than saying no, let's delete this and let's just kinda make a loophole. It's unclear whether subdivisions that are the result of these water agreements are being provided water as a result of these water agreements would be also exempted from any reporting. You know, this bill is not about like horrible restrictions. It's about producing a credible report that everybody can look at, saying this is a real source of water. And that, that's really the intent of the bill, is to have some proof that there is a real source of water. So I know I'm out of time here but I, we're really curious, are Council members saying they support the County entering into private water agreements without basing that decision on an engineering report that's been reviewed and accepted by the Department of Health and commented on by the --

CHAIR VICTORINO: Ms. de Naie, are you --

MS. de NAIE: --Director of Water Supply?

CHAIR VICTORINO: --are you about done?

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MS. de NAIE: I am.

CHAIR VICTORINO: Okay. Thank you.

MS. de NAIE: So please keep the existing language that has some strength and makes some sense. Thank you.

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

MS. de NAIE: And should I give my testimony to the person --

CHAIR VICTORINO: Yeah.

MS. de NAIE: --at the...

CHAIR VICTORINO: Yeah. Kim will you get it, please? I will offer one more opportunity to testify. Anyone who would like to come up, please sign up when you, when you're done, okay. I know it's Irene Bowie from Maui Tomorrow, so that I don't have to ask who you are.

MS. BOWIE: Thank you.

CHAIR VICTORINO: Go ahead.

MS. BOWIE: Thank you Chair. Irene Bowie, Maui Tomorrow Foundation. I just wanted to add briefly, I agree completely with the testifier that was just here. These amendments we don't feel are needed. We, we support the "Show Me the Water" bill, feel that it's adequate, that it protects the public trust. And I'd like to refute a prior testifier's comments that, talking about how this is delayed the process and going through three Administrations to get anything done. I think we all know from, from the work that you folks have been doing on the Maui Island Plan, that there are already many, many, many entitled projects and the reasons why a lot of things haven't been built yet are various, the economy has been a huge factor since 2008 and even before that. I think right now is a time that people are really trying to push a lot of things that aren't in the best interest of this island forward and blaming, blaming economic conditions on that. So I would really, really encourage you to use efforts greater to see conservation on water reuse being moved forward and leave "Show Me the Water" as it is. We don't need these Amendments. Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you. Please sign up in the back so we have a record of that. Anyone else want to testify that hasn't signed up? Seeing no rush to the podium, with no objections, I will close public testimony.

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COUNCIL MEMBERS: No objections.

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

**ITEM NO. 8: WATER AVAILABILITY**

CHAIR VICTORINO: Thank you. Okay. Today we have just this one item, WR-8, and the Committee is in receipt of the following. The Committee has received 11-306 from Councilmember Mike Victorino transmitting a draft bill with amended Title 14, Maui County Code, relating to County's water availability policy. Also you read correspondence dated December 27, 2011, from the Chair transmitting A Bill for an Ordinance Relating to the Water Availability Policy. The purpose and the proposed bill are to 1) amend Section 14.01.040, Maui County Code, by adding the definition of "infill development"; deleting water source development agreements with private entities from the applicable and the scope of the, of Chapter 14.12; 3) require the Council to review of Chapter 14.12, Maui County Code, every two years; and 4) require written verification of long-term reliable supply of water at final subdivision approval pursuant to Section 18.20.810, Maui County Code, rather than the construction plan approval process to Section 18.20.160. We also have received correspondence from a request from one of our Members that we had from last meeting for the Department to verify the responsibilities of who approves what as far as water availability. And at this time, I would like to call upon Mr. Taylor if he would like to review that with the Members so that they are clear with, with that aspect of this bill. Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Chair. Based on request by one of the Council members, we submitted a January 19, 2012 written response where we were, we were asked which agencies in either the State or the County actually have primary responsibility for answering for the issues that are stated in Section 14.12.050. So, in general, just to quote a couple quick sections here, I'm not going to read the whole thing, we agree that all of these issues in Section 14.12.050 are important. Some may be analyzed as part of the Water System Engineering Report which is reviewed by the State Department of Health. Others may be looked at, at a different stage of review, like during zoning or Special Management Area Permits, et cetera. Although there, there may be some overlap, the agencies listed below have the primary authority, responsibility and accountability for these issues, and we go through each one. Most are State agencies like the Department of Health, the Water Commission. There's also some County planning things in there, and there's a couple that are Department of Water Supply. The only issues that are primarily the responsibility of the Department of Water Supply as opposed to other agencies are Item G, "The adverse impacts of water needs of residents currently being served and projected to be served by the department."

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We review that. For example, we'll review if somebody's planning a new well that may impact one of our wells; we review that, we always have. And the other item is Item M, "The adverse impacts of water needs of residents currently on a County 'waiting list' for water meters." Now again that's similar to the, the first one I, I noted, issues that directly affect system operation of our system operation. The Department of Water Supply is the primary reviewer of those impacts as we always have been even before this bill. Every other item has an agency, mostly State agencies or the County Planning Department, that are the primary review agencies for these items. So we provided that clarification and hopes that it helps the Council deliberate. Thank you.

CHAIR VICTORINO: Thank you. Questions for the Director? Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you, Director, for your comments and response. So are you wanting to just have those two items only in that section and delete all the others?

MR. TAYLOR: I think our primary concern with this section is that we think it might be confusing to the public, because the public as a whole doesn't understand exactly how County and State government work and exactly what each department do. There've been a lot of, there's been a lot of testimony in this Committee, for example, at various meetings, for issues that are really State Water Commission issues that the Council and the County really don't have any authority over. So our concern is that by listing all of these in a County ordinance it's confusing to the public where the public thinks this is a departmental function, the public might think this is a County, Council function. So based on that, we would think that only listing the functions that have to do with the Department of Water Supply would help clarify with the public what exactly, you know, is our responsibility and what is responsibility, you know, of other agencies, especially if this is tied to the Director of Water Supply's comments on these engineering reports. The question is, you know, why would by ordinance you'd be asking the Director of Water Supply to make comments on things that are under primacy of different agencies? So it's up to the Council how you want to approach this, but those are our concerns and that's why we've, we've said what we've said in the past.

COUNCILMEMBER COCHRAN: So just to follow up, Chair. So there has been problems in you trying to consider any of the following applicable factors?

MR. TAYLOR: It's not that there's been problems. For example, something about whether a private water source is in compliance with State law. By knowing that it went through a process and the State Water Commission is approving it, we've taken that into account. We've said, look, the State looked at that, if they've approved it, somebody said it, it, it must follow State law. So we don't really add any value to the analysis. We're really just checking it off, saying look, it went through a process that included that at a State level, so we feel comfortable

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checking it off but we don't add any value. And the public thinks, the public may think that we are doing an in-depth analysis or somehow we're looking into that, but we're really not. We're really just saying look, it went through this process where that was one of the issues at the State level. So again it's, I don't really see any problem in leaving it in there, but I need to tell everybody that we're not really doing in-depth new analysis of this. We're basically just acknowledging that the natural process with these other agencies looked at these things and we're acknowledging that. But we're not adding new analysis, we're not adding new opinion and because of that, again, I think it's confusing to the public because they think, now they think we're the primary agency and they may be giving their attention and their comments, you know, inappropriately to the wrong place. And all of a sudden now they may not realize they're really supposed to be commenting to the Planning Department or the Department of Health or the State Water Commission. And all of a sudden their comments are falling on the wrong ears. So again, I think it's confusing. It isn't really a problem, but I think it's confusing to the public.

COUNCILMEMBER COCHRAN: Thank you, Director. And I appreciate your saying that you will, you know, take in the information from these different departments, and, but I also feel very confident in our community that they are pretty well educated and understand who's entitled, who's in charge of what. So as you said, you don't have issue with keeping it there and I would like to keep it there, too. So thank you, Director, for your comments.

CHAIR VICTORINO: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much Chair. And I think Member Cochran is going where I was going to go. And what I'm understanding from the letter is that because the purview of the water supply, the County water supply essentially is Items G and M that maybe those are the items that we should emphasize and the rest can be looked at, but, you know, there's really no authority over them. But it doesn't really say that in the way this is right now.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: I would agree.

COUNCILMEMBER BAISA: It sounds like, you know, you're responsible for all of it, should comment on all of it, when really there's just two items that are your purview. But there would be no, you have no objection to us also mentioning the other things but being clear that those are in the purview of others?

MR. TAYLOR: I would concur with that. And frankly even this discussion is helpful because at least the people, the Council members understand what our role is and what the State agencies' role is. Even just the record of this meeting is just

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discussing it in public on, on the record is actually a help so everyone can be very clear about what is our role and what is not our role. And it's that confusion that is really my primary concern and however we end up dealing with it, you know, we'll certainly deal with, but I think as long as everyone agrees on who's doing what and there's clarity on that, I think we're moving in the right direction.

COUNCILMEMBER BAISA: It may be that we want to rearrange this list so that the stuff that's yours appears first, and then the rest would be also referenced but not necessarily you'd have to evaluate and have an opinion on all of it because they're with other people. That, that's the only comments I have, Chair.

CHAIR VICTORINO: Thank you. Other questions for the Department? Okay, so, so if I hear correctly then, my recommendation is to move those two items up to one and two --

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: --and all the other subsequent items would be if applicable. And I mean, I mean and that's, that's the way I would like to change it if there is no objections moving those two items to number 1 or A and B if that's, that's, that's what the Committee prefers, and then the rest would follow with "if applicable" all the way down the rest of these items. Is there any objections to that change? Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I know exactly what you're trying to do and I think the words "if applicable" are probably okay, but maybe we want to have some comment from Corp. Counsel as to how that would be --

CHAIR VICTORINO: That was my next step --

COUNCILMEMBER BAISA: looked at, yeah.

CHAIR VICTORINO: --but if you guys okay with that, --

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --then I would go to Corp. Counsel and ask Corp. Counsel if, if that would be alright putting those two as what the Department would be previewed to review and the rest if necessary or if applicable, whatever word you want to use. Mr. Kushi.

MR. KUSHI: Before I understand the question, you're asking if, to, out of this laundry list of items, to take out two of 'em and say that it's mandatory that the Department review one and two and then the rest of 'em if, if applicable you can reviews it?

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CHAIR VICTORINO: Yeah.

MR. KUSHI: I guess it's okay. But again, again, my, my understanding of that, this whole section is that before the Department of Health approves an engineering report, it has to have this information from the Department, so this is, the Department reviews this information at the pre-approval stage of an engineering report.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: So the Department of Health won't move on an engineering report unless they get comments from our Department.

CHAIR VICTORINO: Right.

MR. KUSHI: So if you want to do it that way, that's, that's, I see no problem.

CHAIR VICTORINO: Okay. So in other words, move those two up to be, if you want to use the word "mandatory" or the "shall review"? Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you Chair. Might we have a comment from the Director about that arrangement and how he would interpret it, cause he's the guy that's gonna live with it?

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Thank you Mr. Chair. I think the "shall review" those two and "as applicable" for the rest. I think plain language, that would be pretty clear to myself and my staff.

CHAIR VICTORINO: So with no objections, that would be my recommendation to amend that particular area, and as you see, she's already, Kim has already brought up G and M so that would become one and two, and the wording "where applicable" and the rest would follow. Is that, is that okay, Mr. Kushi?

MR. KUSHI: You know, Mr. Chair, on second thought, --

CHAIR VICTORINO: Yeah.

MR. KUSHI: --I'd, I'd recommend leaving it alone because, you know, I agree with the Director that the majority of these list of items to be reviewed are based on, are the State agencies' responsibilities. However, if the, our Department, the County Department, reviews the State comments, State agency comments, and disagrees with it, these comments, they should review 'em, not just leave it alone. I know

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I'm, I'm, I'm stepping on Director Taylor's toes at this point in time, but he should review all of, all of the comments, but special emphasis again on the expertise of Items G and M. So I'd, I'd say leave, leave it alone.

CHAIR VICTORINO: Okay. So your recommendation then is to leave it as is? Mr. Taylor, I mean, you're the one's gonna be, you're the one that has the feet to the fire, so go ahead.

MR. TAYLOR: As I, as I noted earlier, as long as there's clear understanding from everybody, the Council, the community, Corporation Counsel, of what the answers are, that we primarily review these, these things that affect us, and yeah we always may take a look at what other agencies are commenting and may give our two cents as applicable, as long as everyone's understanding, regardless of the language, that that's what's going to happen, we can live with any of the language.

CHAIR VICTORINO: Well, I guess we're back to square one again. I mean, I have no, no hard feeling, I'm going to leave this in and that was my plan from the beginning. I have no qualms with that. Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I can take the lead from Corp. Counsel that, you know, we might want to put all of it in there because all of it is relevant --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --even though it's not the purview of our Water Department, but I still would like to see it rearranged and the emphasis be on the things that, you know, he really has to do and all the rest of it be considered but even though it's in somebody else's purview. You know this idea of everybody understanding what this means is, is, you know it's not true. People pick up these things and they read what they read into it. So I would rather that it was clearly stated, what is his responsibility to do and what it is his responsibility to consider and review. And that could be just by rearranging it.

CHAIR VICTORINO: Mr. Kushi, if we were to arrange it just the way it is up there making G and M one and two for lack of a better, and leave the rest as is, would that conflict or would that be a challenge your mind? 'Cause we just leaving everything as is but we're now putting that at the top of the list for which Mr. Taylor must review. I mean, that's his, his area of responsibility to review. So what is your response to that, Mr. Kushi?

MR. KUSHI: From a procedural standpoint, I don't see any, any problem --

CHAIR VICTORINO: Uh-huh.



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MR. KUSHI: --either way.

CHAIR VICTORINO: Okay.

MR. KUSHI: But the, from a, as far as procedure is concerned, this body won't see these reports.

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: It goes to the Department of Health.

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: And it's up to the Department of Health to check all the, you know, dot the I's and cross the T's or whatever before they approve the engineering report. So from a procedural standpoint, it doesn't matter to me. It shouldn't matter to you.

CHAIR VICTORINO: Okay, Committee, if there is no objections then I would make the following changes. A and B now be adverse impact of water needs of the residents currently being served and protected to be served by the department and then B adverse impacts of water needs of the residents currently on the country-- shouldn't that be Upcountry water list or it just country...County, I'm sorry, I'm reading country, I'm sorry--County "water list" for water meters, yeah? "Wait list" I should say, "wait list", I'm sorry, I'm reading, I'm reading backwards now, apologize. So if there's no objections, we could make that change and, and, and leave it like that. Do we have consensus? I don't know if we need a motion to make that big change. Mr. White, you have a comment?

COUNCILMEMBER WHITE: I just had a question for Mr. Kushi. Was his statement that he would rather we leave it as is, meaning leave it as it was recommended to read "any of the following applicable factors" or was his comment focused on leaving the wording as is with, without amendment?

CHAIR VICTORINO: Without change?

COUNCILMEMBER WHITE: Without change.

CHAIR VICTORINO: Change of positioning?

COUNCILMEMBER WHITE: No, well, because his comments were focused on the positioning not making a difference, but my question is whether he was in favor of or commenting --

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CHAIR VICTORINO: Mr. Kushi.

COUNCILMEMBER WHITE: --in opposition to the, the amendment as it's shown in the, in the bill?

MR. KUSHI: Well, my understanding is that, okay, the current language reads as follows "In reviewing and commenting on an engineering report, the director shall consider all of the following factors". You are amending that, that statement to say "the director shall consider any of the following applicable factors" and in my mind, I'm saying that, that language is fine and, and do your laundry list. Now if you want to prioritize and say "the director shall consider the following factors", one subsection, "the director may consider the following factors, if applicable" and list the other ones.

COUNCILMEMBER WHITE: So you are saying "applicable"?

MR. KUSHI: I can accept it either way.

COUNCILMEMBER WHITE: Okay. Thank you, Chair.

CHAIR VICTORINO: Okay. Other questions for the Department? If not, then I will, I guess, move, I guess to just to make this work, move to approve the amended changes as on the board to move the order as shown and moving the adverse impacts both A and B, now up to A and B, and leave the rest of the other areas. Ms. Willenbrink, am I...

MS. WILLENBRINK: Are you going for a consensus vote or a motion?

CHAIR VICTORINO: I can call for consensus, yeah, if that's what you guys want.

MS. WILLENBRINK: That's fine.

CHAIR VICTORINO: Is there a consensus on this? Any objections?

COUNCIL MEMBERS: No.

CHAIR VICTORINO: Seeing none, okay, and then we'll move on from there. And then we do have two amendments by Ms. Cochran. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you Chair. Yeah, first one is about infill and that I guess coincides with some of the testifiers this morning also in regards... So my recommendation for this amendment is to add the following language and I believe you all have a copy that was handed out. I don't know if Mr. Kushi and...okay. Section 14.01.040 Infill Development means a project composed of ten or fewer residential dwelling units on one or more contiguous vacant parcels

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within...and here's the bold type...I want to add in **already developed areas in** the service area of the Department's Central Maui water system or West Maui water system. Being that, that is exactly the definition of what infill means and it doesn't make sense for me to take it out. You know, if it is our intention to exempt infill projects, then we need to make sure that's what it is, and it's not just open spaces of land to allow, you know, runaway developments occurring just because it says "within the Central and West Maui areas." It needs to just state exactly what infill is and seems to me like we're taking out that exact definition which I don't understand why. So that is my motion, Chair, or recommendation for an amendment in this section.

CHAIR VICTORINO: Do I hear a second?

COUNCILMEMBER HOKAMA: Second.

CHAIR VICTORINO: Okay. Discussion. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Maybe the Department can comment on how they would, whether they see a difference between the original wording and this wording.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Thank you Mr. White. We see a difference. We're not exactly sure what either one really means. We've struggled with this definition. We have all kinds of drawings on dry erase, on dry erase boards trying to figure out, you know, how, what are we gonna do with this. Let's take for example the original language which just says "within the service area". So you've seen some of the presentations we've put on where we have maps of the service area. We have all the pipes on a big map. Okay, so we can take that kind of network of pipes and sort of draw a line around it and say that's the service area. And there might be a big hundred-acre parcel somewhere in there that has nothing on it but, but, you know, weeds. So if somebody has ten, a ten-unit subdivision or eleven-unit subdivisions right in the center of that, you know, in the center of a hundred acres, and they only do, you know, two acres or three acres of development, is that intended to be infill or does infill mean you're going right up against, you know, property lines where, you know, if this is the empty parcel, this room, are all these walls the backs of people's houses and is that infill? Or if it's just a piece right in the middle and there's still a lots of empty space between my new subdivision and the buildings, is that what you mean by infill? And then when it's not square and it's sort of at a funny angle, you know, we, we run into, you know, more questions about what exactly everyone means. And we've had, you know, on, on a dry erase board, like I said, ten different drawings trying to figure out exactly what are people intending. And so I'm not sure that I understand really what either of these mean, because I've never been exactly clear what...you know,

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everyone thinks they know what infill means. But again, when you have a large open space and you're not developing all of that open space, is that still infill if there's a, you know, a moat of empty space left around it? So we're not exactly sure what to do with either of this language.

COUNCILMEMBER WHITE: Chair, the Director has done a very good job of --

CHAIR VICTORINO: Confusing.

COUNCILMEMBER WHITE: --of outlining, no, outlining exactly my, my concern. Because I don't, I don't have a problem with the recommendation by Ms. Cochran but I don't really understand what infill is.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER WHITE: Is infill going to be determined as a parcel that has development on one side of it, two sides of it, or three sides of it, or four sides of it? You know, infill to me seems to require that you have development on at least two sides of it, maybe three, maybe four, but I, I don't know how we --

CHAIR VICTORINO: Mr. Taylor.

COUNCILMEMBER WHITE: --how do we determine what infill is?

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: And sometimes I wish we had a dry erase board in, in this room so I could tell you what I'm talking about. Essentially we've narrowed it down to even when there's development on two sides, you know, just say for example there's, there's development along that wall and along this wall, we just drew a line from that corner to this corner and said that anything on this side of that line is infill and if it crosses that line, you know, maybe that's not infill. And again, if you have three sides, you just, you just connect the extents of the line. So we've drawn this stuff and I don't know whether that's your intention. And again, if it's completely contained within the four walls, but let's say this is a thousand acres, you know, this room, and there's just ten acre, a little ten-acre island of development, and there's still, you know 990 acres of, of open space as a moat around it, is that infill? So I don't know really how to determine that and the Water Department doesn't especially want to be the deciders of what infill means because, you know, we don't really feel that's our expertise.

CHAIR VICTORINO: Ms. Baisa.

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COUNCILMEMBER BAISA: Thank you very much, Chair. Chair, we had a testifier who testified on this. And I'm wondering of a definition or more information is in her testimony. We weren't able to get a copy. Could we please get that?

CHAIR VICTORINO: Do we have the, the copy? And, Mr. Kushi, would you look up in our County Code what infill means? 'Cause that's what is the governing factor. I could care less for opinions or for other things. I would like to know what our County Code says about infill. Mr. Hokama first.

COUNCILMEMBER HOKAMA: Chairman, you might want to consider maybe having some comments from Director Ridao of Housing and Human Concerns. That Department has had to help implement the execution of, of 201H's that dealt with infill projects like on Lanai. We have, we can understand completely on Lanai what an infill project is, it was all those empty residential lots within the existing City parameters.

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER HOKAMA: The community is well aware, understood it, the landowner was aware of it. When he came to Council, it was very clear. The Department understood it very clearly. We implemented and we have those now empty lots built and constructed as a finalized infill program, so. The County has experience, we've done it before. Maybe Mr. Taylor is correct, it's not for Water to make that determination, but another agency of the County might be better able to handle that definition of infill for us. And I just share that because we have done infill projects and have completed infill projects, Chairman. Thank you.

CHAIR VICTORINO: The fortunate thing about Lanai, there's a definite geographical and City limit built in. In other areas, we don't have quite that same privilege, so. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Similar question I had, like Member Hokama, in regards to infill developments. You know, I, I look at infill development at, at an array of type of housing that's going to be developed.

CHAIR VICTORINO: Uh-huh.

VICE-CHAIR PONTANILLA: 201H is one. Affordable housing is another infill. You know, we all talk about gap group as another infill as well as probably market homes. With ten lots or more, you know, that's when your affordable housing kicks in, right? And, you know, when I hear the Director talk about 1000 acres and 100 acres or 1/10<sup>th</sup> of that particular 1000 acres is being developed in the middle of this so-called lot, yeah I have a problem with that in regards to how do you create infill around that 100 acres. And, and, and to provide that service is something that, you know, that bothers me in regards to some of this infill

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projects. I, I can see what Member Cochran is trying to do, “already developed areas” and when that comment that’s written down “already developed areas”, I’m assuming that our infrastructure is already there to provide that particular type of service, be it sewer, water or whatever. So, yeah, infill, the definition of infill, I think need to be determined.

MR. TAYLOR: And, Mr. Chair.

CHAIR VICTORINO: Yes, go ahead.

MR. TAYLOR: If I can, as, as another example, I mean, just as a real world example, the Central Maui water system goes from Central Maui, Maalaea, and South Maui. So I could very easily draw a line from the corner of Waikapu to Maalaea, from the corner of Maui Lani to Wailea and say everything in there is infill because it’s all one water system. And that’s, I don’t know how many thousands of acres that it. And I don’t think that’s the intent of anybody, I mean that’s not my understanding of what infill would be, but if you just put it on the map and draw lines, that would probably be considered infill from a geometry standpoint. And I don’t think that’s what anyone wants. So that’s our confusion, we don’t want to be in the middle of that argument about us deciding, you know, a bunch of engineers getting their protractors out and, and defining infill in a way that the community didn’t intend.

CHAIR VICTORINO: Mr. Kushi, were you able to find a definition of infill per Maui County Code?

MR. KUSHI: Mr. Chair, I tried, and I can’t find anything. The only, the only definition that’s on the books right now is a definition that this bill, this ordinance created back in April.

CHAIR VICTORINO: So in other words, there’s never been a defining infill --

MR. KUSHI: Not in the Code.

CHAIR VICTORINO: --for infill, in the Maui County Code? Okay. Yes Ms. Cochran, I mean, Ms. Baisa.

COUNCILMEMBER BAISA: Mr. Chair, I believe that we have mentioned this over and over in developing the General Plan, so we might want to check there if there’s a definition in the General Plan references.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: My understanding from, you know, sitting in on many meetings and listening to people is the definition that most of us seem to be

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thinking about which is development around the parcel and then you going to fill in the middle, but I may be wrong so I think we should check.

CHAIR VICTORINO: Okay.

MR. TAYLOR: Mr. Chair.

CHAIR VICTORINO: Yeah.

MR. TAYLOR: We, we did, when, when the bill was changed, you know, a number of months ago, we got together with the Planning Department for exactly that purpose to see if the Planning Department could help us fine tune a definition for us to use. And we didn't really reach any conclusion that was adequate for this purpose. It's used, the term, as Member Baisa said, infill's used by planners with general concepts, but again to take a map of a large area that's developed and not developed and be able to draw lines and say this area is infill and this area isn't, I don't think that anyone, including the Planning Department, is ever really made the definition so precise that it gives that kind of clarity. It's more of concept than it is a, a sort of a mathematical, you know, methodology.

COUNCILMEMBER BAISA: I think we're looking for more than lines and I think it's really important that because of the seriousness of the issue we're dealing with, that we have a clear definition in our minds of what we're talking about. And, like I said, I, if it isn't in the General Plan, you know, the terms, the definitions, then probably it's something that my Committee needs take a look at, too.

CHAIR VICTORINO: And then maybe, maybe where this is all leading 'cause it isn't in the Maui County Code as a definition. I mean we have defined it in the ways we thought were applicable to our various Committees. Maybe it's time to really have a definition of what infill is.

COUNCILMEMBER BAISA: Maybe we should request something from Planning Department because it's used throughout the General Plan. I think we ought to know what we're talking about.

CHAIR VICTORINO: Well I would think so, too.

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yeah, I just want more comments from Mr. Kushi if, may, do you think that we would be able to figure this out by ourselves? I mean, you know, maybe get, if we can reach Planning, great, but I think we're really close here. You know, the A&B proposed property where the old Kahului

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Shopping Center is, that I think in our minds is infill, you know. Another project, Wainee Village in Lahaina I believe has been determined as infill. So there's areas that we have dubbed this concept to, and we just need to put it in some legal language and hope you'd perhaps, Mr. Kushi, can guide us on that at this point.

CHAIR VICTORINO: Mr. Kushi, go ahead.

MR. KUSHI: Well, Mr. Chair, Member Cochran, you know, for, for purposes of this bill, you can call it whatever you want.

COUNCILMEMBER COCHRAN: Uh-huh.

MR. KUSHI: You know, I don't, I mean, it doesn't matter what Planning Department calls it for its General Plan or, you know, whatever. But for purposes of this bill --

COUNCILMEMBER COCHRAN: Uh-huh.

MR. KUSHI: --you can define it whatever you want to call it, infill. And again, I remind the Committee, we talking only about ten units or less. We're not talking about major developments that, we, to be exempted from this "Show Me the Water" Bill.

COUNCILMEMBER COCHRAN: Thank you, Mr. Kushi.

MR. KUSHI: The other comment, Mr. Chair, I had --

CHAIR VICTORINO: Yes, sir.

MR. KUSHI: --Member Pontanilla mentioned 201G. Again, I'm not sure if they wanna go a 201G for ten units or less to qualify for infill, you know. And, and again, your previous definition had, of infills, said it had to be consistent with the General Plan, community plans, and those are one of the areas that that 201G applicant wants to get away from.

CHAIR VICTORINO: Question, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: No questions.

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR VICTORINO: Any other questions? Yes.



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COUNCILMEMBER COCHRAN: Well, no, just a comment. Yeah, thank you, Mr. Kushi. And just some kind of consistency, you know, if we're using that term here and it's also in the Planning, then just to have a common definition would really be helpful, I think, for everyone, all around. And I guess that's what I'm just trying to --

CHAIR VICTORINO: I think --

COUNCILMEMBER COCHRAN: --determine.

CHAIR VICTORINO: --that is not a possibility here. I mean, we're dealing with one issue and maybe Ms. Baisa's Committee, when we go back to the General Plan, maybe getting a definition or eventually once that's done, sitting down and really getting a definition of infill, because I think it's conceptually what we all thought it was, based on a Planner, based on Council members, based on people in the community, what an infill is, something that has development adjacent, around, or close to it, right? I think that's the concept, but as Mr. Kushi's pointing out, there's never been a Maui County Code to define infill, and maybe that's the next step we need to have, is a definition of infill so we won't have this confusion, whether its Water, whether its Planning, whether it's land use, or I don't care what it might be, right? So at this point I'd like to focus on this and this item because like Ms. Cochran said, we're close. So, I mean, again, when the definition is maybe completed or done by whomever and whatever Committee, at that point that would become applicable because it says infill. So again I don't, I don't wanna stop the whole process to now define infill. I think we know conceptually what we want. The question is do you want it with that wording or the wording that was proposed earlier? That's the only thing that, that I'm, I'm, I guess the question I'm gonna call for is Ms. Cochran's amendment or what it is. So unless there's further discussion, I'm gonna call for the question. All those in favor of Ms., of the amendment as stated, say aye.

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: Those opposed? Okay, let the record read seven ayes, no opposed, okay. All right, so, and then that's the way it will read the infill, where development is, is adjacent or--what is the word you used?--already developed areas, okay.

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

**NOES:**        **None.**

**ABSTAIN:**    **None.**

**ABSENT:**     **None.**

**EXC.:**        **None.**

**MOTION CARRIED.**

**ACTION:**    **Approve amendment to main motion.**

CHAIR VICTORINO: All right, moving right along, you had one more, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes, thank you, Chair. And it's about the I think where we left off at the back of this 14.12.070 on the review --

CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER COCHRAN: --process and the, the language is excellent. "The Council shall review this chapter every two years." And my amendment is to add in the following, and I believe everyone should have that on their desk, the, the bold type which says **provided they have received a report from the Department of Public Works delineating the following data from the previous two years: A. The number of dwelling units approved with private water source improvements; B. The number of dwelling units approved with county water meters; C. The number of affordable units developed and exempted from Chapter 14.12 and their source of water; D. The number of workforce housing units developed and exempted from Chapter 14.12 and their source of water; E. The number of dwelling units developed in 10 unit or less subdivisions exempted from Chapter 14.12 and their source of water.** And, Members, if we are to review this ordinance for its effectiveness then I believe we better have some very, very sound data to review, to review and, and that reflects that actual impact of this water policy. Otherwise, I mean we just don't have any grounds for, for really substantiating, you know, is this, is this working or not, does it have unintended consequences down the road? So this is just my added, I guess, added protection and I guess throwing in to the review process at the time that we revisit in two years.

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COUNCILMEMBER WHITE: If that's a motion, Chair, I'll second it.

CHAIR VICTORINO: Okay, thank you.

COUNCILMEMBER COCHRAN: Yeah, it's a motion, thank you.

COUNCILMEMBER WHITE: Kind of a long one, but.

COUNCILMEMBER COCHRAN: Sorry, I was trying to explain my motion.

CHAIR VICTORINO: Okay. Seeing no discussion, all those in favor, say aye. Oh, I'm sorry, Mr. Hokama, I'm sorry.

COUNCILMEMBER HOKAMA: Thank you, Chairman. I understand what our colleague is trying to accomplish. I'm not sure, you know, the way I read it is that if the Department doesn't provide all this information, that then we're not going to review it in two years. I don't think that's the intent. I think we are going to review it and that they would like to have these components of information available as part of the reporting but not if we don't get the information, we don't review. 'Cause that's how I potentially read it, if it's not provided, we not reviewing. You, you understand --

COUNCILMEMBER COCHRAN: Um.

COUNCILMEMBER HOKAMA: --my point, Ms. Cochran? So, you know, we might wanna adjust the language so that at that biennium's review, these components shall be required as part of the information from the appropriate Department 'cause I don't know if it's Public Works. I think maybe we would need some assistance from Water Department. We might need some assistance from Housing and Human Concerns on the affordable units and then maybe from DSA regarding the permits that were processed and approved. So that would be my suggestions to revising this motion. Thank you.

CHAIR VICTORINO: So you would --

COUNCILMEMBER COCHRAN: Thank you Mr. Hokama.

CHAIR VICTORINO: --like to add shall, shall, you know, every two years shall provide reports from Department of Public Works, Department of Water Supply and Department of Planning? Wouldn't that be the three that would be involved in this?

COUNCILMEMBER COCHRAN: Housing and Human Concerns.

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COUNCILMEMBER HOKAMA: Housing, yeah. And that's what my thing was, just the, the appropriate Departments.

CHAIR VICTORINO: Appropriate Departments, okay. So then to, so changing it to shall provide, shall, shall, no, no providing, right? Shall --

COUNCILMEMBER COCHRAN: Shall receive?

CHAIR VICTORINO: --shall receive reports from the appropriate Departments for the following data for the previous two years. Is that what you're asking, Mr.? So if there's no objections, Ms. Cochran, we make that a friendly amendment?

COUNCILMEMBER COCHRAN: Yeah, no objections.

CHAIR VICTORINO: Yeah, okay. Mr. Kushi. And now you heard the change that they're asking for.

MR. KUSHI: Yes. I think staff can, we can work it out.

CHAIR VICTORINO: Okay, good.

MR. KUSHI: So the basic intent is that in its review --

COUNCILMEMBER COCHRAN: Uh-huh.

MR. KUSHI: --the Council shall --

COUNCILMEMBER COCHRAN: Uh-huh.

MR. KUSHI: --have all this information. Mr. Chair, my, my question is, and I apologize to you for not bringing this up earlier.

CHAIR VICTORINO: Yeah, no problem.

MR. KUSHI: What if you don't review it? Is it repealed?

COUNCILMEMBER HOKAMA: Then, then we violate our own law then, I guess, Counsel.

CHAIR VICTORINO: Yeah, we said over here, Council shall...

COUNCILMEMBER HOKAMA: We, we mandating ourselves to do this work.

MR. KUSHI: Oh, you know, it's happened before.

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COUNCILMEMBER HOKAMA: That's, that's true, Counselor. I understand that.

MR. KUSHI: I would suggest maybe for, for consideration --

CHAIR VICTORINO: Uh-huh.

MR. KUSHI: --some sort of language said that Council shall review this chapter every two years and by resolution or by ordinance reenact the chapter with or without amendments; otherwise, chapter is repealed.

CHAIR VICTORINO: Comments on that, Members?

COUNCILMEMBER HOKAMA: That was the purpose of this proposal, yeah, 'cause we wanted to get away from an automatic sunset, Counselor.

MR. KUSHI: Right.

COUNCILMEMBER HOKAMA: You know, so.

MR. KUSHI: But, you know, again if you just leave it like that --

COUNCILMEMBER HOKAMA: Yeah.

MR. KUSHI: --and don't do it, then, then, well...

COUNCILMEMBER COCHRAN: There's no repercussion.

CHAIR VICTORINO: Anybody have suggestions? I, I have...Mr. Taylor, I mean...

MR. TAYLOR: Yeah. If I may, I have another suggestion as well. The Council is constantly taking things up for review and sending letters to the departments asking for information. What if instead of saying you shall get this from Public Works or Water or anybody else, you just say your review shall be based on this information. And when it's coming up, staff will pull this out and write letters to the appropriate department, saying we request this information rather than saying who's giving it to you and, and, you know, making sort of this an ordinance to the Administration. You ask us for information all the time about any number of things. So I've never really seen an ordinance that orders us to give you information so you can deliberate. It's really just something you ask for as we go. So maybe if it just said you shall take this into account and then as the time comes, you send us letters asking for information. So that's again just my suggestion. I think the results are the same. I think we're just looking at how to clean up your, your, your actions and your implementation.

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CHAIR VICTORINO: Well, gentlemen and ladies, I'm, I'm at the crossroads. I have no problem either way. Just so long as number one, it's reviewed --

COUNCILMEMBER COCHRAN: Uh-huh.

CHAIR VICTORINO: --and we have the criterias. And actually I'm gonna ask for an F yet, I'm gonna put another criteria in there, but either way, by resolution or, you know, I just want to make sure that somehow, someway this is looked at, that whoever the future Councils and Committees will look at it, okay. Mr. Hokama.

COUNCILMEMBER HOKAMA: One idea, Chairman, that I would ask you and the other Members to consider then, following some of the comments from Corp. Counsel and the Water Director is to require the report, whatever the, at whatever interval is, the Committee feels, appropriate. And by requiring the report, the report must be transmitted to the Council Chair for posting on a Council agenda, where at a Council would take action either to file it, refer it to Committee, and more likely if it's referred to Committee, then the Committee Chair can then schedule the appropriate meetings to review that report. And that might be another way of having this information before the Council, requiring that report after a period of time.

CHAIR VICTORINO: The only thing I worry, Mr., Mr. Hokama, and I agree with you, it's just that what if the group decide, oh, we just going file 'em?

COUNCILMEMBER HOKAMA: And then those nine Members need to be able to --

CHAIR VICTORINO: Yeah, well, no --

COUNCILMEMBER HOKAMA: --to explain to the community why --

CHAIR VICTORINO: --that's, that's...

COUNCILMEMBER HOKAMA: --they took such action.

CHAIR VICTORINO: Yeah. Well, I, I, well, I, I...that's my concern if you have that option and a group decided to...or a five-four vote to go ahead and file it, then no review would be done. And I think the intent was to have a review. So I want some language in there that makes sure a review is done with all these and I want to add something else to this and, and, with your approval. But before I get to that, I want some kind of language and I think this kind of covers it, that it would be done. Again, no offense to you, Mr. Hokama --

COUNCILMEMBER HOKAMA: No, no, no, no, no . . . *(inaudible)*. . . offense to you.

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CHAIR VICTORINO: I, just this idea of I can just file it. I mean if you got a group of five that said "we're not interested" --I mean, you know, that I would be worried about that, you know. I don't want that to occur, so. Yes Ms. Cochran.

COUNCILMEMBER COCHRAN: So where's my proposal, recommendation in there?  
It's not \_\_\_\_\_.

CHAIR VICTORINO: All of that would fall underneath that.

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: So we're not --

CHAIR VICTORINO: In other words --

COUNCILMEMBER COCHRAN: --typing that in?

CHAIR VICTORINO: --we're changing the first line of yours where it says "provided they received a report from the Department of Public Works deline... No what we're saying now is that same thing, but every two years shall be reenacted by the chapter by resolution with or without amendments provided that the Council has received the reports from staff to work on the rest of the, yeah and they're gonna work on the rest. But this would make sure they have to do it.

COUNCILMEMBER COCHRAN: Right. But I think "provided" was one of the sticking words that we don't want in there.

CHAIR VICTORINO: Yeah, yeah, we take ...

COUNCILMEMBER COCHRAN: Because that, yeah, okay. So alright I just thought I was going to see it and then we, you know, vote on it --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: --rather than --

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: --thinking that.

CHAIR VICTORINO: So we're trying, we're trying to make it where, you know, we can take out that "shall." I still like "shall", the, wait, the Council has to receive the report somehow.

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COUNCILMEMBER COCHRAN: Right. That would be --

CHAIR VICTORINO: Yeah, I think --

COUNCILMEMBER COCHRAN: --the trigger...

CHAIR VICTORINO: ----with the proper wording, yeah, yeah.

COUNCILMEMBER COCHRAN: Yeah, I mean it's not like only if we get the report, then we review.

CHAIR VICTORINO: No, no, no, no, no.

COUNCILMEMBER COCHRAN: We have to review along with this required reports from these particular departments.

CHAIR VICTORINO: And then, yeah, okay, so, so, so...

COUNCILMEMBER COCHRAN: So I know.

CHAIR VICTORINO: Ms. --

MS. WILLENBRINK: Chair.

CHAIR VICTORINO: Yes.

MS. WILLENBRINK: Perhaps Mr. Kushi and I can work out the language during morning break.

CHAIR VICTORINO: Okay. I can do that. And then the last thing I wanted to add an F and because it was brought up by a number of people today. I want some kind of language and, and, Mr. Kushi, you know, where kuleana issues are also reviewed, you know, because that cannot be lost in the shuffle. And so if somehow language can be worked out in, in that area, Mr. Kushi, during the break. You and I can talk about it...

MR. KUSHI: What section, Mr. Chair?

CHAIR VICTORINO: That would be under...you know, on the same section A, B, C, D, E, then I would have an F there, but that would be under the two-year review. I'm sorry, under the two-year review that Ms. Cochran, you know this, this amendment that Ms. Cochran put out. You know, she had three areas, I mean five areas of review so I just wanted to add the sixth one which would be F and, under review, for review purposes, yeah.



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MR. KUSHI: I'll discuss it with you.

CHAIR VICTORINO: Yeah, okay, okay, okay. Why don't we take our mid-morning break. I want everybody back at 10:35. Hopefully we can get these languages done. This meeting will stand in recess 'til 10:35. . . (*gavel*). . .

RECESS: 10:23 a.m.

RECONVENE: 10:36 a.m.

CHAIR VICTORINO: Water Resources Committee meeting of February 28, 2011 [*sic*] will reconvene. Okay, we have put up changes on the 14.12.070, and the change reads, incorporating what we had discussed...Mr. Hokama and Ms. Cochran, "A. The Council shall review this chapter every two years and shall reenact the chapter by resolution with our without amendments. B. As a part of the review, the Director shall provide reports to the Council on the status of this chapter and shall include the following:" and all of the following is what you originally had put in Ms. Cochran, those --

COUNCILMEMBER COCHRAN: Yes.

CHAIR VICTORINO: --are the wording that we put in. So with no objections, that's the amendment I would like to bring forward.

COUNCILMEMBER COCHRAN: Yeah, I believe the "shall enact this chapter by reso" was inserted as a suggestion by our Corporation Counsel and if...and he's not here...to, to just get elaboration on that, 'cause I think it kinda changes, you know, I want it mandated to happen every two years and not only if we, this body enact it by a reso. So my question is does that hamper, I mean can it be overlooked and then in the end it just never...

CHAIR VICTORINO: No, it says "shall" reenact this chapter. So in other words every two years it has to be done.

COUNCILMEMBER COCHRAN: So it's guaranteed?

CHAIR VICTORINO: What I read is it has to be done every two years.

COUNCILMEMBER COCHRAN: But even, the, the initial sentence "shall review every two years" is stating that.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: It --

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CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: --to begin with. So I'm just, I guess if Mr. --

CHAIR VICTORINO: Mr. Kushi.

COUNCILMEMBER COCHRAN: --Kushi can --

CHAIR VICTORINO: Yeah. 'Cause Ms. Cochran's --

COUNCILMEMBER COCHRAN: --help.

CHAIR VICTORINO: --confused right now. So can you clarify it for her, please?

COUNCILMEMBER COCHRAN: The, Mr. Kushi, your suggestion in the first sentence  
"and shall enact this chapter" so on. Just ...

MR. KUSHI: Mr. Chair, sorry I, I gotta go there, I --

COUNCILMEMBER COCHRAN: Oh, cannot...

MR. KUSHI: --can't see.

COUNCILMEMBER COCHRAN: Oh, oh, oh, you need kupuna font?

CHAIR VICTORINO: We gotta get bigger fonts, okay. Know that feeling.

MR. KUSHI: I believe the discussion was that, to take out the reenactment and language.  
This is just part of their review. And based, based on, my understanding is based  
on my review, you may, may amend the chapter or repeal it. And to clarify, I  
would say that the first sentence would read the Council shall review this chapter  
beginning July 1, 2014. The Council shall, and, and every two, every two years  
thereafter, the Council shall review this chapter, something to that effect, give it a  
date certain.

COUNCILMEMBER COCHRAN: Uh-huh, uh-huh, okay.

MR. KUSHI: Fourteen. Yeah. 'Cause I won't be around by that time.

CHAIR VICTORINO: Fourteen, not 2012.

MR. KUSHI: And every two years thereafter, yeah. Correct. B would read, "As part of  
the review, the Director, in consultation with other departments, shall provide the  
report to the Council."

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COUNCILMEMBER COCHRAN: And should we list those departments?

MR. KUSHI: I think the --

COUNCILMEMBER COCHRAN: Or no need?

MR. KUSHI: --the issue speaks for itself.

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: Okay, you guys comfortable with that? Yeah, big F, give me F, what you wanted. And then we gonna go number, now that we get numbers not F now, so it would be number six. Mr. Kushi, you and discussed, what was the wording that you suggested that we put in for number six?

MR. KUSHI: Something to the effect of maybe the effect, the effect, if any, on developments, on developments allowed pursuant to this chapter on native Hawaiian kuleana rights."

CHAIR VICTORINO: Okay. So that was number six I wanted to add so that that's also incorporated in the review process yeah. So are we comfortable with that, ladies and gentlemen? Okay, so if I could have a motion to...

MS. BOUTHILLIER: There's a main motion on the floor.

CHAIR VICTORINO: Well I'm going to ask for amendment to the amendment, I guess, because...in fact why don't you withdraw your amendment and we just start all over, Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay, if that'll make it easier --

CHAIR VICTORINO: And you withdraw your second --

COUNCILMEMBER COCHRAN: --and cleaner.

CHAIR VICTORINO: --okay.

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: Yeah, so now --

COUNCILMEMBER COCHRAN: That's fine.

CHAIR VICTORINO: --you can go ahead --

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COUNCILMEMBER COCHRAN: I withdraw and --

CHAIR VICTORINO: --make amendment.

COUNCILMEMBER COCHRAN: --I, my motion is to insert what's on the board.  
Should I read it all?

CHAIR VICTORINO: No, no, no, no, you don't have to read it all but, okay. Is there a  
second?

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: It's been seconded by Mr. White. So the motion is the changes  
on 14.12.070 the Review process as shown on the board, and it's been moved by  
Ms. Cochran and seconded by Mr. White. Any more discussion? All those in  
favor, say aye.

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: Opposed?

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

**NOES:       None.**

**ABSTAIN:    None.**

**ABSENT:     None.**

**EXC.:       None.**

**MOTION CARRIED.**

**ACTION:     Approve amendment to main motion.**

CHAIR VICTORINO: So now we get back to, I'd like to have, I'd like to now  
recommend a motion to accept the changes on WR-8 as amended and the filing of  
this communication.

VICE-CHAIR PONTANILLA: So move.

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CHAIR VICTORINO: Been moved by Mr. Pontanilla. I need a second?

COUNCILMEMBER CARROLL: Second.

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: Second by Mr. Carroll. Okay, any more discussion? Yes Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I'll be happy to defer it to Mr. Pontanilla and Mr. White first since they made the motions, Mr. Chairman, but if not I'm happy to give comments at this time.

CHAIR VICTORINO: Mr. Pontanilla, you have anything you'd like to say?

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman. Just wanna say, Chairman, for your tenacity in trying to move this thing forward, I, I know it's been really tough on you in regards to the many concerns that we all have and trying to resolve it. So I'm ready to move on. Thank you.

CHAIR VICTORINO: Thank you and thank you for all you guys' help in making this, bringing this forward yeah. Mr. White, do you have anything you'd like to add?

COUNCILMEMBER WHITE: Thank you. I agree with Mr. Pontanilla. And thank you for your perseverance on this. My feeling is this, this continues to move the bill in the direction of helping some of the smaller developers as we make improvements in our Water Department to allow for them to expand their service areas. And I think the amendments that Ms. Cochran brought forward today are very responsible and, and good, good amendments. And so I, I support where this is moving, Chair.

CHAIR VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I appreciate your handling of this matter, Chairman. I know this is a very serious issue for us and it's, it's a Countywide issue. You know, I get it when I go home of people sharing their thoughts and comments regarding our water philosophy and direction. Chairman, you know, I think part of this current discussion period is healthy for us to give some discussion and debate on the matter. While I understand the need to adjust to certain economic times, Chairman, you know it still comes to a point for me to understand whether or not this will really work. You know, we already have made exemptions for affordable housing, we've made exemptions for infill, we made exemptions for qualified housing under State law, we've made provisions for many things that are exempted that does not need to provide the County an

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assurance of long-standing water availability. And so my, my, my concern to me is then what are we really trying to do? You know, we've heard comments from various people representing various projects that the County or the public sector should take the greater responsibility of developing water resources and that it was unfair to put the burden on the private section and then once they develop a lot, to again burden them of standing in line waiting for a water meter or an allocation agreement of how much water they should have for what they've developed. And then, you know, we get that unique component in 14.12.040 under the letter B that even if you get a written verification of long-term water from a private system, that still doesn't assure anybody, and the County does not give any assurance, that you gonna get water from that private water system down the road. So why go through all this process of putting in plans of something that no one is giving assurance of anything. So I just bring up these points of interest for me that at this point, Chairman, you know, I, I take the responsibility, I accept that, I think we've heard it from Director Taylor that the County needs to take its responsibility, get the resources that the Department needs, and make the Department implement our projects and to get this system to a point where, whether you're a small developer, a family developer, a bigger developer, you have fair and equitable tribune by the County on considerations of developmental projects. Not reaching my lifetime, Mr. Chair, but I would hope that that would be some of the directive and policy that this Committee can recommend to move forward. And, you know, I hope to my pleasure that this proposal, if it goes forward, will do what this Committee intends. I have my doubts because I still think there's other factors that influence the development more than the water, and currently it is the ability to get cash to pay for projects such as what this proposal will hopefully do for this County. So I just share my concerns, Chairman. You know, I think we, we should be looking at how to help the Department construct and get things done within more finite financial considerations. And, of course, I'm, I'm referring to the flume from 10 million to a 13 million, okay, so. I'm anticipating the specifics on that project because that's the kind of things that I wanna support. And in the past, the County did those projects. We flew in the choppers. We did the sections of the flume during bad seasons, good seasons. Sometimes maybe we only had three hours of productivity per day but the County performed. And my point is that the County perform and I expect the County to perform again. And so, Mr. Chairman, with that, I have great reservations with, still yet, with this proposal. Thank you very much.

CHAIR VICTORINO: Thank you. Other comments? Seeing...

COUNCILMEMBER COCHRAN: Chair.

CHAIR VICTORINO: Seeing, Ms. Cochran.

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COUNCILMEMBER COCHRAN: Thank you, Chair. Yeah, this is a still, even, and I thank Members for support on the amendments today. You know, I, like Mr. Hokama, have still concerns. And, you know, bottom line is, I don't see any problem with what this bill originated and intended to, to do, along with pushing a conversation plan and along with giving monies to Department for source development in conjunction, you know, with the, the Water Availability Bill, conservation efforts and monies. So for me it could stay intact and yet we could push for those other two components which is conservation and, and more budgetary for source development on behalf of the Department. At this point, you know, I again appreciate the amendments put forward and I believe it really does improve this bill to where, yes, I, I do hope and pray that it moves forward in the direction that we intend this to happen, which for me is, you know, protection of our water source and moving responsible developments forward where, where is needed. Thank you Chair.

CHAIR VICTORINO: Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I'll be very brief. I will be supporting your bill. I'd like to thank you for bringing it forward. I know how tough it is to try to shepherd something through and I appreciate that. I had the opportunity to spend some time with Mr. Taylor, and I really appreciate the fact that he is willing to take the time and sit with any of us to really explain what he's trying to do, how he's trying to do it, and how you working with him to get it done. And based on that, I am happy to support this today. Thank you.

CHAIR VICTORINO: Thank you. And I wanna... Mr. Carroll, you have anything you'd like to add?

COUNCILMEMBER CARROLL: I support. Call for the question.

CHAIR VICTORINO: Well, before I, I will make, I'll make my couple quick brief remarks and then... yeah, you know, all, I know, I know some people have to leave. So let me go real quick, and then, I, I wanna thank all of you and the audience and all those who participated, because, again, it's not my bill, it's not your bill, it's the people and we're doing this for the people and I want that always made known, okay. And that's not something I backed away from. It's not easy. I don't always look for the easiest things to do, but I wanna look where we can get more productivity in what we have. I want the Department to be more responsible for what, where, developing sources and all the other things they have to do. We're the ones that set the policy. We gotta give 'em the guidance so we need to keep moving in this area. And I wanna thank the Department, I wanna thank Staff for putting the wording together so that now we're at a point where we can take a vote and I think a comfortable vote feeling good about getting the changes. So I'm gonna call for the question. All those in favor, say aye.

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COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show seven ayes, no noes.

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

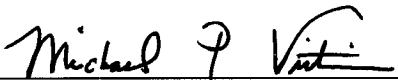
**MOTION CARRIED.**

**ACTION: FIRST READING of revised bill; and FILING of the communication by C.R.**

CHAIR VICTORINO: And I wanna thank the Committee, thank the Staff, thank the audience, thank everybody. This meeting of the Water Resource Committee for February 28, 2012 is adjourned. . . .(gavel). . .

**ADJOURN: 10:53 a.m.**

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Water Resources Committee



WATER RESOURCES COMMITTEE  
Council of the County of Maui

February 28, 2012

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CERTIFICATE

I, Annette L. Hoopii, 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 21<sup>st</sup> day of March, 2012, in Haiku, Hawaii.

  
Annette L. Hoopii