

WATER RESOURCES COMMITTEE

Council of the County of Maui

MINUTES

October 30, 2012

Council Chamber, 8th Floor

CONVENE: 9:00 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair
Councilmember Joseph Pontanilla, Vice-Chair (out 10:35 a.m., in 10:50 a.m.,
out 11:45 a.m.)
Councilmember Gladys C. Baisa (out 11:58 a.m.)
Councilmember Robert Carroll (out 10:35 a.m., in 10:52 a.m.)
Councilmember Elle Cochran
Councilmember G. Riki Hokama
Councilmember Mike B. White

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:

Michael Molina, Executive Assistant, Office of the Mayor
Jock Yamaguchi, Executive Assistant, Office of the Mayor
Rod Antone, Communications Director, Public Information Office, Office of the Mayor
Pamela Pogue, Planning Program Manager, Department of Water Supply

OTHER Richard Pohle, Ph.D., Upcountry Meter List Association (WR-14)
Lionel Santos (WR-14)
Brendan Balthazar (WR-14, WR-18)
Bobbie Patnode, Vice-President, Kula Community Association (WR-14, WR-18)
Warren Watanabe, Executive Director, Maui County Farm Bureau (WR-14, WR-18)
Dave DeLeon, Government Affairs Director, Realtors Association of Maui, Inc. (WR-14)
Dick Mayer, Board Member, Kula Community Association (WR-14, WR-18)
Miriam Ishizaka (WR-14)
Others (10)

PRESS: Akaku: Maui Community Television, Inc.
Nanea Kalani, *The Maui News*

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CHAIR VICTORINO: . . .(*gavel*). . . Good morning. The Water Resources Committee meeting for October 30, 2012 will come to order. At this time I would like to take a moment and introduce the Members that are present at this time. Myself, the Chair, Michael Victorino. The Vice-Chair of the Committee and the Vice-Chair of the Council, Mr. Joseph Pontanilla.

VICE-CHAIR PONTANILLA: Good morning.

CHAIR VICTORINO: Our beautiful young lady from Upcountry, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our gentleman from East Maui, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

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

COUNCILMEMBER COCHRAN: Aloha. Good morning, Chair.

CHAIR VICTORINO: And our esteemed colleague from Lanai, G. Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR VICTORINO: Good morning. And at this time excused and I know he'll be here a little bit later, from the Makawao-Paia-Haiku area, Councilman...oh, in fact, just as I mention his name he comes in. So good morning, Mr. Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR VICTORINO: All right. So we have all Members present...all voting Members present. For the Administration we have the Director of the Board of Water Supply...the Department of Water Supply, excuse me, Mr. David Taylor.

MR. TAYLOR: Good morning.

CHAIR VICTORINO: And also from Corporation Counsel, Mr. Ed Kushi.

MR. KUSHI: Good morning.

CHAIR VICTORINO: And our esteemed and always efficient Staff, our Legislative Analyst Ms. Kim Willenbrink, and our Secretary, Ms. Yvette Bouthillier. Good morning, everybody. For being here, thank you. Before we get started--and we have some testifiers--I wanted to, you know, with your permission, take a quick moment and to thank Mr. Taylor and the Department of Water Supply for an outstanding job in the past tsunami emergency this past Saturday. Again,

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Mr. Taylor, on behalf of the County and the Council and all the people, we'd like to thank you for you guys' outstanding work, and turning water off and turning it back on, and keeping the inconvenience as minimum as possible. And that's a lot of work and we want to thank you for that and recognize your efforts, so mahalo from all of us, Mr. Taylor.

MR. TAYLOR: Thank you, Chair.

CHAIR VICTORINO: And then the next thing I'd like to do real quickly is, you know, take a moment...this morning I spent much of my morning on the phone talking to many family and friends on the East Coast because of my son and people I've met up there. And the devastation as you've seen on the TV is not near as much as they've been telling me on the phone, it's a lot different. And so I hope, you know, you'll take a moment in your own way and your own time, the people of Maui County, to pray for them, first of all...first and foremost. And secondly, as the Red Cross and other organizations call upon us for help, Maui County is always no ka oi. Maui County is the best. We reach out and help our brethren no matter where they are, whether they're in Japan or in Philly, Washington, in Boston, I don't care what state, we reach out. So it is my hope that as these...and I hope the devastation is a lot less than they've said, but from all the reports and everything, I think all of us have seen on the news network, we know it's been pretty extensive. So we're very blessed that our tsunami passed us with no damage, and we gotta thank the Lord for that part. So in your own way, people out there in the audience and all those in the gallery, let's remember them in our prayers, and that if help is asked for, please kokua and do the best you can. And God bless all of them. Anyhow, today we just have one item, WR-14, the Upcountry Water Meter Issuance. The Committee is in receipt of the following: the County Communication from myself relating to water meter issuance for the Upcountry area. Also, we have County Communication 12-216, from the Director of Water Supply, transmitting a proposed bill entitled, A Bill for an Ordinance Relating to Water Meter Issuance Provisions for the Upcountry Water Meter List [*sic*]. The proposed...the purpose of the proposed bill is (1) to require the Department of Water Supply to stop accepting applications for new or additional water services from the Upcountry Water System as of a date to be determined by the Council; and (2) to ensure that no water will be issued...no water meter--I should say--should be issued to any applicant who is not on the Upcountry Water Meter Priority List, "Priority List", as dated...to be determine...a date to be determined by the Council until all applicants, applications [*sic*] on the Priority List have been accepted...accepted water service or have been removed from the Priority List. And two, we have WR-18, Water Usage During Water Shortage Declaration. In other words, drought. The Committee is in receipt of County Communication 12-217, from the Director of Water Supply, transmitting a bill entitled, A Bill for an Ordinance Amending Chapter 14.06, Maui County Code, Relating to the Declaration of Water Shortages. The purpose of the proposed bill is (1) to authorize the Director of Water Supply, with the approval of the Mayor, to declare water shortages whenever water supplies become inadequate in any area of the County; and (2) to establish stages of water shortage based on the severity of the shortage: and (3) clarification of the Director's authority to control water use during these water shortages, including the application of water shortage rates. So we have a lot to be discussed today, and we will be passing out in a little while an update on the Bill 214, yeah?

UNIDENTIFIED SPEAKER: I did.

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CHAIR VICTORINO: Okay. You did already? Okay, you all have that bill, and we'll be discuss that a little bit later. But before we start that, let me start with public testimony. At this time we have four testifiers, so I would like to call them up. I will ask them, one, to state their name, and if they represent any organization, to please state what organization they represent. They'll be allowed three minutes with one minute to conclude. And I ask everyone in the audience and in the...on the Council Chamber to make sure their cell phones are off. And I will do that right now just to make sure I'm not the one that rings. Okay. I am on silent. Okay. So with no objections, I would like to start public testimony.

COUNCILMEMBER COCHRAN: No objections.

CHAIR VICTORINO: Thank you very much. First testifier this morning will be mister...Dr. Richard Pohle, and he will be testifying on WR-14. Upcountry Water Meter List Association, he's the founder of UMLA. Good morning, Dr. Pohle.

...BEGIN PUBLIC TESTIMONY...

MR. POHLE: Good morning, Chair. Thank you. I am Richard Pohle, a protea farmer on Crater Road, No. 653 on the Meter List, a doctor of physics, founder of the Upcountry Meter List Association, and candidate for County Council Upcountry. Water Director Taylor has correctly identified the Upcountry water problem as due to lack of well water during droughts, not a general lack of water. He will bring Pookela Well online to help supply, and raise water rates during drought to reduce demand. But because he will not consider acquisition of Piiholo South Well, his plan will fail for two reasons. First, because Pookela Well alone can only satisfy half of the list, individual award letters must be issued one at a time without reference to other neighbors on the list. Earlier this year, these tedious procedures took 7 months to issue 22 award letters for 59 meters. This approach will require many years to exhaust the list. Second, because the meter list will be closed, everyone given a letter will either accept their meter or reserve water in hope for infrastructure improvements later. No one will give up their list position--a valuable asset. Thus, all of the 1.3 mega gallons Pookela Well water will be reserved and meter awards will be halted halfway through the list. There will be three classes of people: those who have paid their meter fee and await miraculous improvements of infrastructure, they will lose their investment in six years; those beyond the halfway mark who await their meter award letters; and those not on the list who want meters which are now rationed. If both Pookela and Piiholo South Well were available, the entire list could be satisfied. Council could authorize blanket award letters, rather than individually tailored letters. Neighbors could then organize funding of their interrelated infrastructure. Why not accept Piiholo South Well as a source of new water? Piiholo South Well is ignored because DWS claims the well does not meet County standards. This claim explains the frustration of the Piiholo South owners who have paid top dollar for this "Cadillac of wells" and have tried to negotiate in vain for years. I have submitted to the Committee the communication between the DWS and the well owners during discussions for the purchase. I leave you to decide which side is insincere. Looking back at this four year fiasco, the new well owners of Piiholo South will still negotiate but are ready to take this valuable 1.7 mega gallon per day well private. This claim is also an insult to the prestigious engineering firm of Mink and

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Yuen that drilled this well using the most modern equipment and techniques. Rather than ask the new well owners to continue to negotiate with a biased Water Department, I ask this Committee to require DWS engineers to present their objections to Piiholo South Well here and give Mink and Yuen engineers a chance to respond. If Piiholo South is rejected out of hand by the DWS without good cause, the words “close the list” and “ration” meters will have high legal significance in future lawsuits. Thank you very much.

CHAIR VICTORINO: Thank you, Dr. Pohle. Any questions for the testifier for clarification of testimony? Seeing none, thank you very much. Next testifier is Lionel Santos, he’s speaking on his behalf. Mr. Santos. And he’ll be followed by Brendan Balthazar.

MR. SANTOS: I am Lionel Santos. I’m speaking in behalf of myself and hundreds more of families that own property here on Maui for centuries. My lot that I am trying to give away has been in our family for over 100 years, and it’s a problem. Right now I am better than \$11,000 just to try and subdivide the property which is none of you guys, thing. I see no reason why it takes us so much time with water thing to...because that’s only what’s holding up my subdivision, I have to have a water meter or a catchment. Now why can’t you guys defer some of the infrastructure thing that you want to do for people who don’t have that kind of money to put in their what have you? Why can’t you guys float bonds? You guys float bonds for everything else, but to improve water system and whatnot, you guys don’t give any what have you. I would like to see you guys do something for the poor people who own properties for lengths of time. You guys make rules for everything else, why can’t you guys make rules that the guys maybe have to hold the property for ten years before they can sell ‘em after you get your meter, and pay for whatever it is for the water meter and infrastructure. Forget about it. Because most people cannot...working people cannot afford what you want to pay for the infrastructure. I know one person that paid 100-something thousand dollars to the...for the infrastructure. They didn’t give them a meter, and they was promised that they were going to have money back. They had a letter because you didn’t go all the way, they only did what the County had asked them, the Water Department had asked them for. Then they said, oh, we didn’t go all the way, so we’re not giving you your money back that you’re supposed to be having. And last week Tuesday, Dave told me, told everybody that oh, that I’m going get money back when they put up my meter and what have you. I see nothing that you get any money back. We’re going to have to pay whatever you guys set up for. I wish you guys would set up something that is reasonable and not go nuts with the price of stuff that the poor people cannot keep their property who have had families here on this island for years. And worry about the tourists that’s coming and people who are moving in from away, I think it’s wrong. Thank you.

CHAIR VICTORINO: Thank you, Mr. Santos. Mr. Santos, wait, hang on. I definitely have one question before I let the other...you know this individual that you have referred to that got the letter from the Department of Water Supply refusing return of investment that they put in because they didn’t finish the complete line but only did what they asked him to do.

MR. SANTOS: Right.

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CHAIR VICTORINO: Would that person be willing to give me a copy of that? They can whiteout whatever they want, but what I'd like to do, I'd like to take it to the next step and take it to the Department. Because we set up the rule, that is correct, 75 percent after 2 years, you're returned your money. You know that's what we put up a number of years ago, Mr. Santos, and that's...there's no ifs, buts, or...but family subdivision was the key now. Family subdivisions. Okay. So, you know, I would like to get that from that person if you don't mind or tell that person call me.

MR. SANTOS: Okay. I'll talk to her today and --

CHAIR VICTORINO: Yeah, please. I'd be honored.

MR. SANTOS: --ask her to give you the...

CHAIR VICTORINO: Yeah, the information. Yeah, I would like to go, you know, go and check it out to make sure what you said, if it is true, then to take some appropriate action.

MR. SANTOS: Yeah.

CHAIR VICTORINO: Okay, please? Other questions from the testifier...for the testifier from the Council members? Seeing none, thank you, Mr. Santos.

MR. SANTOS: Okay.

CHAIR VICTORINO: Okay. Next testifier is Brendan Balthazar, and he will be followed by Bobbie Patnode. I think I...if I said it wrong, I apologize. I apologize. Mr. Balthazar, go ahead. Good morning.

MR. BALTHAZAR: Boy, I better start sitting next to Mike, I've been here so damn many times. Anyway, I was at that Upcountry water meeting, and from past Directors we had, I know you didn't want to take any kind of credit but, you know, you're doing one hell of one job. I asked Dave after the meeting, several testifiers...several people asked him questions about why not make reservoirs, and kind of floated over the darn thing, so I asked him. And he said well, gee, you know, digging one reservoir real expensive. You gotta put one liner to hold the water. Just wanted to say upfront, I made my own reservoir at 1.5 million gallons myself. Had six-seven guys on one Saturday come help me line 'em. You're right, you gotta put one liner. So I know about reservoirs. The scary part when I talked to Mike was that 'cause that thing that happened in Honolulu when the reservoir fell. Let me give you a little bit cowboy knowledge on one reservoir, okay. When you dig one hole in the ground, if you guys go in your guys' backyards, you dig one hole, put in one little plastic bag, you get acres and acres of dirt that going hold that water there. If you take the dirt like they do on reservoirs, when you dig the dirt out, they put 'em in around the reservoir in lifts and compact 'em. That figure is figured out by the engineers. Now if you have one 30 foot hole and you get one 20 foot bank and it fails, where you think going fail? The 20 foot that you guys put on the top. Look at a lot of the reservoirs that is around HC&S and some of the ranches, it's on a level ground, we get all the dirt around holding

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'em. Can't go nowhere unless you overfill 'em. So I know that reservoirs is expensive, like you said, but like solar, why everybody put in solar? Big expense, once you put 'em, no more electric. When we get the rain, you fill up the holes, okay. One of the things he said is why I thought we were going there and Dave said it's like buying toothpaste, when it's on sale you buy one whole bunch, in other words, when God giving you the rain, stuck 'em in the hole. We don't have the reservoirs, right. I think he was meaning the guy buying the toothpaste was toothless because never do no good, you know, buying all that toothpaste is for the guy without teeth because we can have all the rain and no water. I know he was agreeing about making one well in Kamole side, but remember, Kamole is on the bottom. Okay. So now I kind of told you guys a little bit about the reservoirs. I gotta get going because these damn lights going come on. The other thing was the graduated scale of the...to save water. Probably 2 million gallons, right, a day? Okay, my question is, you really think that these people that live in these areas that we were talking about, high end places like Kula 200 where they get all sprinkler systems and all that, you think he going say oh honey, gee let's turn off the sprinklers 'cause water went up by six dollars? The water going still go. They still going...they have the money, they going spend the...they the guys using most of the water. The poor grandpa that watering his eggplants is the guys that going suffer, they the ones that going be affected by the water rates. These water rates I agree with you though, you gotta do that, Dave. But I think what you need to do, you said when it rains we get real high rain, no usage. Establish one base rate, everybody get one water meter. Some houses get two people, some get seven. I live in Makawao, residential. I get ten horses at home, eight head of cattle, they all drink water whether rain or no rain. So my water usage going reflect like I get 50 people living there. So same like the guy watering his little eggplants but he not watering his yard. So I don't think that, that escalated scale going work unless you establish one fair base thing. Last thing before this...I go, I wanted to...

CHAIR VICTORINO: Go ahead, Mr. Balthazar. You get two items you like testify so I giving you six minutes.

MR. BALTHAZAR: Oh shit, man, now we going.

CHAIR VICTORINO: Okay, okay. Better watch what we say on --

MR. BALTHAZAR: Okay.

CHAIR VICTORINO: --public TV, please, Mr. Balthazar.

MR. BALTHAZAR: Now the other thing that I was kind of worried about this reservoir, I know you mentioned something, Dave, when somebody said about storage. He said oh I wouldn't drink that water. You know when we grow up, never have bottled water. All the houses up Makawao, plenty of 'em had cisterns. Hole in the ground, covered, no light. No light, no more limu growing. All these people, they drank that water, they bathed in that water, they cooked with that water. We never have all these pathogens and all of these stuff growing inside the water. See, Water Department they usually send you one notice that two weeks ago you should have boiled your water. You see what I mean? That is kind of one scare that I get. But I think the reservoirs, one of the things that one of the other ranches brought up was this, we have the ditch

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coming out, I know that they was trying to pressure you for buy the ditch. No buy the ditch, I agree with you. You said at that meeting and you showed us how wells are inefficient. Only 20 percent of the time you pump with 'em, which was trying to tell me that the time when we get all the rain, we should be storing 'em. So I think one time investment, you can fill up these holes with water, but one of the places where we get a lot of water is country side where the ditch coming from. This is the places to make this same type of reservoirs like HC&S get, flat, where not going overflow. When the ditch, like you said, 20-22 days a year, no water. Open the reservoir that you went save that water and fill 'em in the ditch, you can bring 'em out here. Last question that I had that I can ask, I wanted to ask you is if you can find out but maybe Dave can find out for me, we trying to save water, right, conservation, we trying to save this water and looking for means of how to get people to save water. Okay. Why is the Water Department throwing water away?

MS. WILLENBRINK: Six minutes.

CHAIR VICTORINO: Okay.

MR. BALTHAZAR: Okay. Now to...I want to know...to explain why, Mike, that we throwing water away. There's a guy that I call the water meter guy. He's Upcountry, a lot of you guys have seen 'em. He opens up the water, the fire hydrants, let the water go down the road. I stopped and I asked him, I said hey, why are you doing this? And he said oh, my boss said I gotta open up the hydrants so get the water moving. Isn't the water moving from the treatment plant and all to the houses, it's moving? I work Fire Department 36 years, that hydrant when you open 'em 2½, you talking 500 GPM. He not opening it all the way. So even taking it at 250, at half, right? Five people in one house, 50 gallons per person, that's 250 gallons. If he open ten meters that day, that's ten houses could use water that going down the road in the storm drain. This water is already treated, so why we gotta open up this thing? That really bothering me when I see this water going down the road. So my...in closing, I think we really should look at storing the water.

CHAIR VICTORINO: Thank you, Mr. Balthazar. And you make excellent points all around. I wanted to make one quick correction, a couple corrections, but the one that was really...that dam disaster wasn't Oahu, it was Kauai.

MR. BALTHAZAR: Or wherever it was, right.

CHAIR VICTORINO: Yeah, yeah. Well just so that the, you know, somebody no go look tomorrow and say what happened in Honolulu.

MR. BALTHAZAR: Oh, no, no, no.

CHAIR VICTORINO: It was Kauai, and so...

MR. BALTHAZAR: Okay, was in Kauai. Yeah, right.

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CHAIR VICTORINO: Kauai. Ka Loko Dam, yeah.

MR. BALTHAZAR: But the whole point is these dams is the way that they're built.

CHAIR VICTORINO: Yeah.

MR. BALTHAZAR: Yeah, it's kind of little bit cowboy knowledge. You don't piss on one electric fence, same thing, you know.

CHAIR VICTORINO: Right, right.

MR. BALTHAZAR: Just common sense with the whole deal.

CHAIR VICTORINO: Yeah. No, no, just so that, that correction. And as far as the other questions, I will make a...I had made some notes to ask the Department to get it in writing. You know I know some of the answers to these questions, but I don't like to get into long dissertations about 'em. But I will open the floor to questions from the Council members. Yes, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you, Mr. Balthazar, for being here this morning. It's really nice to have, you know, practical knowledge from hands-on kind of people, because sometimes you see things much more simply because you're actually doing it than people like us. So we don't really know. We talk about these things but, you know, we're not out in the field like you are. I was very interested in your comments about water storage and germs, 'cause I come from that history too. My grandparents lived on Maha Road and they had cisterns, and you said something about the sun, it was why it wasn't, why it didn't get polluted? I didn't follow that.

MR. BALTHAZAR: Well if you notice about...if you know about the cisterns, every cistern was completely covered.

COUNCILMEMBER BAISA: It was covered, it was --

MR. BALTHAZAR: Okay.

COUNCILMEMBER BAISA: --in the barn on the...under the floor.

MR. BALTHAZAR: Right.

COUNCILMEMBER BAISA: Yeah.

MR. BALTHAZAR: But the reason for that thing being covered, the sun comes in the water and that's where you get all the what we call limu and algae and all this stuff growing. Never have that in the cisterns. See, the worst thing that could happen with the cistern is my great grandfather used to kill as much pigeons as he could because they crap on the roof and then the water goes in there and contaminate 'em. But other than that, you storing that water, nobody got sick, never have

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nobody dying and nothing like that. So...and a lot of the problem with reservoirs, if they're so big, the wider you go the more evaporation you get. The smaller, the deeper, you know, that water going be less problem.

COUNCILMEMBER BAISA: So the reservoirs that I've seen, you know, I've taken the tour of several reservoirs. Mr. McClure took me on a tour and showed me all the Maui Pine ones and all the County ones and whatever. These are these big, broad things that are all spread out but they're in the sun, and the problem you talked about, the bird, would happen there.

MR. BALTHAZAR: Would happen there, that's why those reservoirs, all that water is usually channeled to the treatment plant where they can treat this water. Our biggest problem is when it rains and we have all this water, the ditch gets full, EMI throws the water down into the gulches so that the ditch don't overflow and all that water is lost. So my point is, if we have these storage we can still funnel that water to the treatment plant where Dave's people can treat that water and take out the contaminants.

COUNCILMEMBER BAISA: I think the people that worry about the ocean being degraded would also like this idea, because otherwise it's going to flow down to the ocean.

MR. BALTHAZAR: Exactly.

COUNCILMEMBER BAISA: That must be where it winds up.

MR. BALTHAZAR: Exactly.

COUNCILMEMBER BAISA: Okay. Thank you so much. Thank you, Chair.

CHAIR VICTORINO: Thank you. Other questions for the testifier? Seeing none, thank you, Mr. Balthazar. Okay. Bobbie Patnode, and followed by Warren Watanabe. And Bobbie will be speaking on behalf of the Kula Community Association on both 14 and 18. Good morning, Bobbie.

MS. PATNODE: Good morning, Chair. I wonder if I could ask a favor. If I could have Dick Mayer come up with me, because what we'd like to do is give you the results of the survey that we took at the Upcountry water meeting last week.

CHAIR VICTORINO: Well he's on...he's going to speak later.

MS. PATNODE: Can we give --

CHAIR VICTORINO: No.

MS. PATNODE: --the results...

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CHAIR VICTORINO: Just one at a time. And then if. . .(*inaudible*). . . I'll allow him to do it at his point of testimony.

MS. PATNODE: Can I have just one second to talk to Dick a minute?

CHAIR VICTORINO: Yeah, stop the clock. Stop the clock, yeah.

MS. PATNODE: Okay. Well I'm going to give it a start then, and then when --

CHAIR VICTORINO: Okay.

MS. PATNODE: --Dick comes, he'll do the rest.

CHAIR VICTORINO: Okay.

MS. PATNODE: How does that sound?

CHAIR VICTORINO: That's fine. Thank you, Bobbie. Go ahead.

MS. PATNODE: Okay. My name is Bobbie Patnode, and you got it right the first time.

CHAIR VICTORINO: There you go, see. I got it right.

MS. PATNODE: Yes. And I am Vice-President of the Kula Community Association. And last week we had a meeting Upcountry which was a presentation from Dave Taylor to I would say there was maybe close to 200 people came from a combined meeting of Haiku, and Kula, Makawao, Olinda, Paia. The whole Upcountry people. So we saw the presentation that you all saw a few weeks back, and then he very courageously answered questions. And we took a survey at the end, and I think you may have gotten...I'm hoping you're getting a photocopy of what the survey looked like. And I'd like to...Dick and I would like to give you the results of that survey. The survey...no survey is perfect and we know that. We had only 83 people answered the survey, but we think that's a pretty good number. And so let me just go through some of the first parts of the question. Some questions there was very strong agreement and some it was very mixed. One...the first question was one that was...there was a very clear direction on, which was should water rates for legitimate farming operations be subsidized, 83 percent answered yes. Then we also asked what would the amount of reduction be, and the average was about 34 percent. On question No. 2 which is quite interesting I think, should water rates be the same regardless of community location, 40 stated they should be the same islandwide and 39 said they should be higher where costs are higher. So the community is very mixed on that one. On question No. 3, should we encourage water conservation during droughts, the responses are very clear, 92 percent said yes. The Department of Water Supply should create a conversation rate structure during drought. And on question No. 4, who should pay additional costs for water source development for new users, there were three options provided. The first was to keep the meter costs low, that's the 6,000, but have water consumption rates rise rapidly at 11 percent a year. B was to allow water meter costs...or put the meter at 13,000 and then have the rates rise

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at 9 percent a year. And C was to put the meter at 25,000 and have the rates go up only 6 percent a year. 21.5 percent favored A, keep it at the 6,000. 57 percent or the most favored B which was go to 13,000. And 21 percent favored the higher level which is 25,000. So the 21 percent who favored the 6,000 are mostly people who are on the water list, water meter list already. But I think the interesting thing here is more than three quarters of the people said you could go higher than the 6,000. And I think what I'll...I'll stop right now because I know Dick is going to give you the rest of the information when he comes up. Or --

CHAIR VICTORINO: Okay.

MS. PATNODE: --if you want, we could have Dick come up now and do it.

CHAIR VICTORINO: Well I have other testifiers that lined up before Dick, so I gotta be fair to them. Okay.

MS. PATNODE: Okay. So I'll stop now.

CHAIR VICTORINO: Okay. Thank you, Bobbie. Questions for Bobbie or would you like to wait 'til Dick comes?

VICE-CHAIR PONTANILLA: Chair?

CHAIR VICTORINO: Yes, go ahead.

VICE-CHAIR PONTANILLA: Thank you. Thank you for this information, kind of interesting. I note that most of the people that were surveyed were basically from Upcountry area, and in regards to question No. 2, you know, these are people from Upcountry answering this particular question. Should water rates be the same regardless of community location or more due to the higher costs to deliver Upcountry water. Since, you know, I live in Kahului, maybe some of those questions should be, you know, taken from people from Central Maui, South Maui, West Maui, because, yeah, I know the rates are universal for Maui island, Maui County. So basically the question is, you know, leave it skewed in the sense that if you get my response I would say yeah, you know, the higher cost is Upcountry and here we are in Kahului, you know, we're kind of subsidizing for the usage of...to bring water Upcountry. So just a comment.

MS. PATNODE: Well I agree with you.

VICE-CHAIR PONTANILLA: Thank you.

MS. PATNODE: I think, you know, it's an interesting thing to me living on Maui that we have basically a principle that says we all share...we share the costs no matter where you live of all the community services. So this is interesting to me because I think it shows that the people who really want the water are willing to pay more for it if they have to to get it. But in general I think Maui people agree, we all share the costs.

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VICE-CHAIR PONTANILLA: Yeah. You know I used to work for a utility company and basically the telephone industry, and we had different rates for different islands. So, you know, if the cost is higher on Molokai or Lanai then they pay a higher rate which I think is fair for everybody. So thank you.

CHAIR VICTORINO: Thank you, Mr. Pontanilla. Other questions for the testifier? Seeing none, thank you, Bobbie. Next testifier is Warren Watanabe, and he's also testifying on items 14 and 18, followed by Dave DeLeon, David DeLeon. And Mr. Watanabe is representing the Maui County Farm Bureau as the Executive Director. Good morning, Mr. Watanabe.

MR. WATANABE: Good morning. Again, my name is Warren Watanabe, Executive Director of the Maui County Farm Bureau. The Maui County Farm Bureau on behalf of our commercial farm and ranch families and organizations offer these comments regarding WR-14 and WR-18. As we are all aware, agriculture cannot exist without reliable and affordable water. Water is not only critical for the producing of crops and animals, it is also important in the processing of agricultural products. The current weather conditions have reduced the supply of available water for everyone on the Upcountry water system. The projected long-range forecast is for a dry winter, normally our wetter season. Additionally, new studies from the University of Hawaii indicated reduced trade winds, trade wind days, the source of our surface waters. The Department of Water Supply recently asked for consumers to conserve water due to these conditions. We are concerned about the impact and future of agriculture with increased demand on the current system. We support increasing sources that are concurrent to any increases in demand. Recent analysis of Upcountry usage show agriculture to be the minority user, largely due to the downsizing of farms. Yet, the General Plan and public sentiment want expansion of farms. Will there be water if farms that existed in the past decade come back into production? Agriculture cannot continue with the current situation and will not increase without additional sources. Another concern is the proposed rates during a water shortage declaration. This proposal does not require a reduction in usage; however, the consumer pays a higher rate when they go over the target amount. We recognize that stage one and two are assumed to be for short periods of time; however, it should be noted that prior to and during these periods the weather is dry and hot, crops need more water to replace evapotranspiration and animals need drinking water. Our current agricultural water rates are double the State irrigation water rates. Will our farmers and ranchers be able to remain competitive with other producers on the other islands? We understand that the Water Department cannot operate as it has done in the past, and we should all contribute to improving the system. And that water is a community need. However, if the community wants agriculture to be viable, policies have to be in place to assure that this will occur. We ask that you consider our comments as you address this issue. Thank you.

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

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

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CHAIR VICTORINO: Go ahead.

COUNCILMEMBER COCHRAN: And good morning, Mr. Watanabe, nice to see you.

MR. WATANABE: Good morning.

COUNCILMEMBER COCHRAN: In your testimony there's a portion that relates to the General Plan which we all are very aware, a grueling process. And it says General Plan and public sentiment want the expansion of farms. Were you aware of all the Ag that we converted into Rural designations? And what's your comment in regard to that in preserving farms?

MR. WATANABE: Well Farm Bureau does support the Rural designation. I think we recognize that not...I think what...for Farm Bureau we recognize that, you know, for these lots in the Agriculture subdivisions, some of 'em are not really agriculture. So I think, you know, we need to make a distinction, and again, you know, for Farm Bureau that's why we say we support commercial operations. Now these are the people that are in the ag park, these are the people that provide for, you know, Foodland, for Safeway, those kind of things. And we're also looking at, you know, providing for State Department of Education in our institutions, our prison system. In order to do that we need to preserve our large tracts of land, and if we lose that, the contiguous lands, you know, we won't be able to produce I think, you know. We are concerned about the Omaopio/Pulehu areas. As you know, we all know our farmers are getting older. We would like, we agree with the Mayor and even with the State. I understand State Governor Abercrombie is also looking at establishing more State parks, ag parks. I think that is the kind of policies that we talk about for supporting agriculture.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Watanabe. Thank you, Chair.

VICE-CHAIR PONTANILLA: Chair?

CHAIR VICTORINO: Miss...okay, Ms. Baisa first and then Mr. Pontanilla. Go ahead, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I wanted to also comment on the comments about the General Plan. I just want to assure everyone that although some areas were converted from Ag to Rural that the Committee also made it very, very clear that there would be no limitations on the right to farm. And so we passed those things together, so I don't want anybody to feel that, you know, we're going to try to hurt ag. We would not. All of us believe strongly in farming and ag. What I did want to ask you, Mr. Watanabe, is I know this is new information and you probably didn't get to see. Were you at the meeting the other night?

MR. WATANABE: No, sorry. I missed it.

COUNCILMEMBER BAISA: Oh, okay. Well you'll get a copy of this survey. But that first question that asked about should water rates for legitimate farming operations be subsidized, I thought the answer was very interesting. 83 percent of the people were there said yes, so apparently there is

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a lot of sentiment in support of ag. So now we'll have to show that in the rules that we put together. So thank you for reminding us. Thank you.

MR. WATANABE: Okay, thank you.

CHAIR VICTORINO: Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. I have something interesting to ask you in regards to farming. You know we've gone through the General Plan and we had indicated in one Ag subdivision that we keep it as Ag, but this particular subdivision has private water system. And I would think, I almost guarantee you that the private water system is more expensive for the consumer in that particular subdivision. Would it be viable for people living in this type of subdivision having private water to farm and make money?

MR. WATANABE: I think it would be difficult, and I think that's one of the reasons why...actually Farm Bureau several sessions ago had included agricultural water systems. Because in the area of I believe was Launiupoko they had a private water system and the water rates were going up. So we had established that the...I believe and I mean probably Director Taylor can correct me if I'm mistaken, but even on a private water system you do get your rates established with the PUC.

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

CHAIR VICTORINO: Thank you, Mr. Watanabe. And I think you're absolutely correct as far as PUC handling private systems. Is that correct, Mr. Taylor, as far as rates are concerned?

MR. TAYLOR: Only some. They have to be big enough. If they're small and they're partnerships for example --

CHAIR VICTORINO: Yeah.

MR. TAYLOR: --then the PUC doesn't get involved. So they have to...the PUC has some limits, and when you go above a certain size, it's PUC regulated, but if you're below that then it's not PUC regulated.

CHAIR VICTORINO: But we don't regulate it? We're not in line to do anything with these private systems, are we?

MR. TAYLOR: The County has no relationship to them at all.

CHAIR VICTORINO: Okay, thank you. Mr. Watanabe, also I'll close by saying that, you know, when neighborhoods and when certain areas wanted to stay Ag, we allowed them to stay Ag. When they wanted to change to Rural...when it was overwhelming, you know, it was easy to change. Now some of these communities had, you know, a little differences, you know, like not everybody...like what you saw here, 40-something percent, 30-something percent, you know,

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that kind of numbers, right. And so it becomes difficult to change over to go one way or the other. But Ms. Baisa is correct, we have made it imperative that no matter who's doing farming where and now, that if it changes to Rural, they cannot be affected in any way, shape, or form. That they can continue unimpeded. Again, unimpeded. They cannot be pushed out by new CC&Rs. They are grandfathered in, if you want to use for a lack of a better term, for perpetuity, in other words forever. So long as they farm and they farm, no one else can tell 'em no. So that's something that we've made very clear. Some of the changes are because the neighborhoods asked, because of the residents asking. Some of the people wanted the change, some of the people who lived there wanted the changes. So despite that subject being brought up which I didn't really think was...or I didn't want to talk about, I just want it cleared for the record, okay.

MR. WATANABE: Okay.

CHAIR VICTORINO: Any other questions for Mr. Watanabe before I let him go? Thank you, Mr. Watanabe, we appreciate everything. Dave DeLeon --

MR. WATANABE: Thank you.

CHAIR VICTORINO: --from the Realtors Association of Maui. He's the Government Affairs Director. Good morning, Mr. DeLeon.

MR. DELEON: Good morning and aloha. Thank you for this opportunity to speak in favor of the Department of Water Supply's proposal to use existing resources, County resources to supply water to property owners in the County's Upcountry water list. I am Dave DeLeon speaking on behalf of the Realtors Association of Maui. We recently also had a meeting with the Director and heard his proposal, and the members from our association were very impressed with the analysis, the careful analysis of the current situation Upcountry and as a result, decided to support the proposal. And when we were reviewing that, we were impressed with the fact that the current Upcountry surface system, that the points that the Director made were including that the Upcountry surface system periodically faces high demand when it stops raining, but really truly dries up. Whether the County adds additional water meters or not, when the system does truly dry up, there's not enough water now to meet the existing demand. Keeping additional property owners off the system does not make any real difference in those situations. A demand management system meant to ration usage when the system is dry is the better way to address these high demand/low water periods. The Director's proposal anticipates addressing about half of the existing Upcountry water list. RAM wishes to express its support of the proposal in its entirety and respectfully suggests that the Council treat the group of bills that would implement this proposal as an interwoven package. Remove one, and the remaining components will be rendered meaningless. RAM also wishes to reiterate its support for a policy that would increase water rates enough to allow for the robust upgrading and improvement of the current water, our current water system. We fear that a failure to increase rates will result in a collapsing system, much as Honolulu is now experiencing. Lastly, while we were having this discussion, it came to our member's attention that Maui County does not have a community improvement district. It's sort of like what Mr. Santos was talking about, where people can hui together but use the bond

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capacity of the County to do community improvements that the County's not going to do, but the...through assessments the owners could repay the County over time. This is a common practice throughout the country and we think it's overdue here. Mahalo.

CHAIR VICTORINO: Thank you, Mr. DeLeon. Questions for the testifier? Seeing...oh wait, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Mr. DeLeon, for being here. And you and I had conversation on the community improvements area, district. Can you kind of explain, because I look at the Upcountry water meter list and probably, you know, there are a bunch of people that are living on the same street or whatever. Will the community improvement district apply should there be more than five, between five and ten potential users?

MR. DELEON: Thank you for the question. I believe it would be whatever the County Council decides over time, you know, when you actually create the policy with what it is you're aiming at doing. There is a community right now in Kihei that needs to improve their intake of their water. They have one meter for like about 50 homes and they can't afford to do that. Right now they can't get building permits because the County won't give them building permits until they do it, but they don't have the half a million dollars to do it. If there was an improvement district system, then they could make that improvement using the County's bonded rate and pay it back over time. One thought that came up in this discussion was well if and when we ever decide to put sewers into Makawao, who's going to pay for that? Makawao's overdue for sewers, but is the whole community going to pay? The whole County going to pay for that? Or is that particular community going to pay for that when that improvement's made? This is just, you know, you could find a number of experiences, it's not just with the Upcountry water situation. But I also think about the Maui electric system where one person makes an improvement and gets paid back overtime as other folks come on that line. So there are a variety of scenarios that can...ways of doing this. And as I said, it's a common practice all over the country. I'm sure there's a variety of scenarios that apply there.

VICE-CHAIR PONTANILLA: Yeah. You know coming from a utility company, we had something like that, and we called it aid to construction where, you know, a group of people will construct and they get paid back overtime as more users come on the line. So I thank you for your comment and response. Thank you.

MR. DELEON: You know I'd like to suggest though that we don't get bogged down with the community improvement districts in this conversation though because we have enough complications already. I just wanted to bring it up in this context. Thank you.

VICE-CHAIR PONTANILLA: There's a lot of things . . .*(inaudible)* . . .

CHAIR VICTORINO: Let's not add any more to this whole picture. Any other questions for Mr. DeLeon? Thank you. Next testifier is Dick Mayer and he's with the Kula Community Association, on the board, and he will speak on I guess finishing up the survey, completing the survey that Bobbie started earlier. Mr. Mayer.

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MR. MAYER: Thank you, Chair. Yes, I would like to continue. And Bobbie got as far as question No. 4, I'd like to continue and then make several other comments.

CHAIR VICTORINO: No problem.

MR. MAYER: Should the County Council provide as many meters as possible for Upcountry landowners or limit the issuance of new meters after carefully considering additional costs and impacts on County and State service's infrastructure if more water meters are issued and homes built? Of those replying to the question, 54 percent, mainly those who are on the meter list think the County should issue as many meters as possible, and 35 percent, mainly non-farmers think the County, considering all the impacts, should limit new meters. Water Director Dave Taylor said at the meeting that the Water Department should not be the vehicle for controlling growth, and the Department of Water Supply should provide the infrastructure to support growth according to the Maui Island Plan. However, residents still see water meters as a controlling tool. That's something for you to consider. Question six. Are the water meter...are you on the water meter list? If yes, knowing what the value of your property will increase if you get an additional water meter, how much would you be willing to pay for a meter if you could get it this month? 43 percent out of the 83 responding indicated that they were on the meter list, and 37 stated they were not on the list. And those on the meter list would be willing pay an amount--I think this is a number that you may find helpful--they would be willing to pay \$13,700. That doesn't mean that, that's the number you have to come up with, but it does give an indication of what people who are on the meter list think is the value of the meter to them. In addition to the numerical questions we also asked some open-ended questions. In the survey's...and by the way, those comments were sent to you separately, each to your own box, and I think I'll leave a copy here for the Chair to distribute to the Committee as well. In the survey's open-ended section to recommend, for recommendations to the Council, 48 people commented. There was generally positive response to the presentation made by Mr. Taylor and work being done by the Water Department. Nine were in favor of the proposed plan, seven emphatically said get going. 14 residents recommended that the work be done to build reservoirs. It would be helpful to have the numbers run on how the peaks and valleys in Director Taylor's charts could be smoothed by additional storage, reservoir or water tanks, and how the costs would be incorporated into his plan. Additional comments discussed and there were many of them: conservation, desalinization, the need to spend now to create infrastructure for the future, catchment, and the long wait for meters experienced by so many on the water meter list. I'd like you to turn to the last page...oh, excuse me, the next page of the survey form where you'll see a spreadsheet. That will give you a detailed breakdown of how people responded, and we tried to break down the overall responses into some subgroups. So you'll see on Lines 4 and 5 how farmers and non-farmers differed. Lines 6 and 7, how people on the meter list and not on the meter list responded. And then the interesting question, what would they like to see be the rates and the cost for a meter, and you have the three alternatives there. Low cost for the meters but rapidly growing rates, a middle level, and then one where people pay a lot for the meters but that keeps the rates from increasing rapidly. And you can go across, and I don't want to take the time right now to go through it in detail, but you'll see the differences in what they want. And also those who want to provide meters right now, as many as possible, and those who are saying, hey hold

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up a bit, let's consider how we issue these meters. I just want to make one or two personal comments on the proposals, and this is separate from the survey itself. These are my own comments now, not based on the list. I looked at the ordinance and I didn't see what happens after the list is concluded. After the list is concluded, right now it says no more names will be signed up, but there are as you know from the Maui Island Plan many projects that are not on the list that are very sizeable, such as Haliimaile 330 acres, Ulupalakua Ranch 230 acres. Those are not on the list, and so some consideration because some of these projects are very, very large, how you'll handle that. Let's see, can't read my own writing. Well let me stop at that point. Thank you.

CHAIR VICTORINO: Thank you, Mr. Mayer. Questions for Mr. Mayer? Seeing none, thank you very much for your efforts. And thank you to all the associations, Olinda, Haiku, Makawao, and Kula for that meeting. I think it was very helpful. I think it was helpful for those who were able to watch it, those who were in attendance, and for us, you know, Council who could just sit there and observe and hear what was going on Upcountry. So thank you very much and all the community associations for their diligent work.

MR. MAYER: Thank you. And you asked us also to prepare this report so you can use it --

CHAIR VICTORINO: Yes.

MR. MAYER: --Friday for the full Council.

CHAIR VICTORINO: That's correct. Thank you very much, and I appreciate that, Mr. Mayer. So if you'd just give it to the Staff and we'll take it from there.

MR. MAYER: Okay, thank you.

CHAIR VICTORINO: Thank you, Mr. Mayer. And the last testifier who has signed up, Miriam Costa Ishizaka. If I said that wrong, I apologize, 'cause we're trying to correct it. And she's speaking on her behalf, and she's speaking on item WR-14. Miriam.

MS. ISHIZAKA: Good morning, Council members.

CHAIR VICTORINO: You have to speak up, and bring the mic closer to you, please.

MS. ISHIZAKA: Okay, I'm sorry.

CHAIR VICTORINO: Yeah, yeah, and then try get closer to the mic so we can hear you.

MS. ISHIZAKA: All right. Can you hear me all okay now?

CHAIR VICTORINO: Yes.

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MS. ISHIZAKA: Okay. Thank you very much for having me this morning. It is a pleasure to be here with you all. What I do have to say is that I am old school and I am born and raised in Makawao, and what has happened to Makawao is just an...it's just...it's mind blowing to just the one street that I live on. When I lived on that street there was only 12 houses, 12 to 15 houses maximum. We all gave land for a sidewalk to be given...to be built, it's never been built. We donated into our property, we gave the County land to build the first fire hydrant because they changed it from Agriculture to Residential. My great grandmother gave each one of her children a quarter...a half a acre and that was in the 1940s. Now in 1972 I was on the porch of my grandma's house, and these men from the Water Department all came up and they wanted to put up a water meter and they wanted to put up the fire hydrant and do all kinds of stuff. And I'm standing there with my dad and my grandpa, and I'm listening to this and he was promised a water meter, and this was 40 years ago. Now it's always been a gentleman's agreement, it's always been a handshake, it's always been no worry, brah, I going get 'em, you know, you going get your meter. Well I'm surrounded by houses and I'm the only blank lot without a water meter. The only blank lot. On that lot I have my dog kennel which is a barn from my great grandmother in the 1940s which my father fixed up and made it solid enough that it handled Hurricane Iniki, Hurricane Ewa, never did budge or anything. There's no electricity, no water, no nothing. I get my water that I grow my vegetable gardens before I got hurt, and that was from a water hose from my uncle next door because he used to be a farmer but now he's very old. But I find it very, very disconcerting and disheartening that people never ever kept their word. And I don't understand politics, I don't understand all these numbers that you give out, subsidize this, do that. We've been paying high taxes, 'cause I've been gone for 30 years, every time I come home it's to come home and work on the ranch with my dad, and I never saw what happened to the rest of Maha Road. I went down Maha Road and I was like my God, the hill is gone that we used to slide down in our cardboard boxes. My God there's all subdivisions over here. This is all our playgrounds that turned into subdivisions, and yet I'm the one small parcel in the middle of everybody with no water meter. And this was promised 40 years ago when I was 11 years old. We used to have a mom and pop store right across Komoda Store in Makawao. It was a butcher and fish market, and was like Hasegawa's, it had everything from china to needles, pins, flags, the American flags, it had all kinds of stuff. I'm kind of animated 'cause I'm an original guava, okay, this is how original guavas are. Okay. And there's not many who can say that they are original guavas, because not many of 'em have been there for a couple hundred years like how we have been there for a couple hundred years. And we're just down the road from each other. And you know that barn was there forever and that's where we milked our cows and our goats, and all our chickens and we farmed and everything like that, and we had the first fire hydrant over there. Everybody else benefitted from the fire hydrant. We never got anything, you know. We have a private easement going into our property, houses on two sides, I'm in the middle...actually it's not mine, it's my dad's. I'm speaking for the family 'cause the only one disabled right now and I can't work, and so I'm in the middle and there's nothing that I can do about it. And everybody on the side has a meter. And I don't understand all these numbers that you guys give out or anything like that, but I believe in living off the land 'cause that's what we've always done. We grew our own vegetables in our gardens and we ate from that. Moving away to Oahu, just Oahu and having to buy my own vegetables for my salad and my own bananas and fruits, I was just appalled. And my own beef, oh, that just got me. But

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that's the price you pay for living in the city and for pursuit of a career in nursing which they recruited me from Maui to Oahu.

CHAIR VICTORINO: Miriam, can I ask you to complete. You've...

MS. ISHIKAWA: I'm done. Portuguese again. Okay, you guys have a wonderful day.

CHAIR VICTORINO: Hold on, hold on, hold on just in case --

MS. ISHIKAWA: Okay.

CHAIR VICTORINO: --somebody wants to ask you a question. One moment please.

MS. ISHIKAWA: Okay, anybody with any questions? 'Cause I just want people to...

CHAIR VICTORINO: You going take my job? Can I have my job? Okay, I know you're Portuguese but I am too, so wait.

MS. ISHIKAWA: Okay.

CHAIR VICTORINO: Let me do my job, please.

MS. ISHIKAWA: Okay, okay, I'm sorry.

CHAIR VICTORINO: Okay. Does anyone have questions for the testifier? Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Mr. Victorino. I guess we should all raise the flag this morning, right, the Portuguese flag. Anyway...

MS. ISHIKAWA: Hello!

COUNCILMEMBER BAISA: Thank you for coming this morning, Miriam.

MS. ISHIKAWA: Yes.

COUNCILMEMBER BAISA: Question, are you on the water meter list?

MS. ISHIKAWA: Yes, I am. I had to re-register.

COUNCILMEMBER BAISA: Where are you on it?

MS. ISHIKAWA: Presently, now after re-registering, I am 1,148. This is after my father died. The original building burnt down. Nobody seems to know when it burnt down, but I remember the original Board of Water Supply was in Naska behind Budget Rent A Car, that burnt down. When that burnt down who knows what happened to the paperwork. Dad was very comfortable,

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everything was all setup with our farm and everything like that, nothing got followed up. When he went to follow up they says we got no paperwork on you.

COUNCILMEMBER BAISA: I see.

MS. ISHIKAWA: Everybody was dead, you know.

COUNCILMEMBER BAISA: Yeah, we have this problem, we're living too long.

MS. ISHIKAWA: But he didn't live long enough 'cause he should be here.

COUNCILMEMBER BAISA: Well, you know, I, like you, I've seen the changes in that area, 'cause we both grew up there.

MS. ISHIKAWA: Yes, and it's very disheartening.

COUNCILMEMBER BAISA: And, you know, I've wondered because I'm on the water meter list, too, and there's a lot of subdivisions built all around me from people that, you know, didn't live there.

MS. ISHIKAWA: Right.

COUNCILMEMBER BAISA: And I'm waiting for my water meter, but, you know, I...what we have to do is...I understand the frustration, I have that same frustration. But I'm trying to find an answer, and I'm kind at peace because I think we have an answer in front of us. Mr. Taylor has made a proposal. We haven't had one for years and years and years. There's been no hope, there's been no proposed solution. We finally have one in front of us. So for me, I think we need to imua, go forward, try and make this solution work so that all of us who have waited so long might see an answer, you know, might see the end of this. And that's what's on the table here. The stories are sad and the stories are many. I've heard them, you've heard them, we've all heard them for many years, but, you know, what we have before us now is a possible solution. So for me I want to try to make that happen so that we don't have any more stories, and people like you can get taken care of and your kids, my kids, all our kids. So this is where I'm at. So I want to thank you. Thank you for your patience. I want to apologize for all the mistakes, the grief and everything's that happened, but we've got to forward.

MS. ISHIKAWA: I agree.

COUNCILMEMBER BAISA: 'Cause if we don't, we not going get nothing.

MS. ISHIKAWA: I agree.

COUNCILMEMBER BAISA: Thank you.

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MS. ISHIKAWA: And Mr. Taylor has done a wonderful job in doing that. I must commend him on that.

COUNCILMEMBER BAISA: Yeah. So we'll try our best, and be patient little bit more. Thank you.

MS. ISHIKAWA: The thing...I have...may I interject one more thing?

COUNCILMEMBER BAISA: Very quickly, yes.

MS. ISHIKAWA: Okay. When that Water Department burnt down, a lot of the records got destroyed. He was one of 'em, because when it was transferred from paper to computer I believe it was a human oversight.

COUNCILMEMBER BAISA: It may be a mistake but we can check into it.

MS. ISHIKAWA: Thank you very much.

COUNCILMEMBER BAISA: Thank you. Thanks a lot.

MS. ISHIKAWA: Thank you, all.

COUNCILMEMBER BAISA: Thank you, Chair.

MS. ISHIKAWA: Have a great day. God bless.

CHAIR VICTORINO: Okay, hang on. Anybody else have any questions for Miriam? Miriam, I'll say also that, you know, just to finish up, you know, since everybody was running my meeting so I didn't have a chance to put a word edgewise Yeah, thank you. First of all, we cannot, and you know that, we cannot change the past, we can only make the present --

MS. ISHIKAWA: Correct.

CHAIR VICTORINO: --and make the future better, right?

MS. ISHIKAWA: Correct.

CHAIR VICTORINO: Mr. Taylor has presented a plan which we're going to review today, and I hope you stay and kind of watch it or if you go home, watch it on TV. It is to address your problems, the Santos' problems, the Balthazars' problems, and everybody else's problem Upcountry. Is it the end all? Will it correct every problem? Probably not. There's never a perfect solution, but this is the opportunity that we have worked on for many years. You know 11 years since I started the Board of Water Supply and that problem existed before I even came on. So it's something that we've wanted to do, now we're here, we're going to do it. Will it be perfect? Will it solve all the problems? Absolutely not. Absolutely not. This is not a magic wand, this is not mana from heaven, it is a man-made, best scenario solution, and hopefully yours and

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everybody else out there will come up with some reasonable conclusion to your water meter issue. All the rest, we cannot change. And, you know, we can check into your files. If we find it, fine. If we don't, it doesn't make a difference. It's now we gotta move from this point forward. So I hope you understand this is where we're at today and we want to move forward, so that, Miriam, when I see you on the street you no going say I never get my water meter, you're going to say I got it finally.

MS. ISHIKAWA: You think so?

CHAIR VICTORINO: Yes. Thank you, dear.

MS. ISHIKAWA: I will. Thank you very much --

CHAIR VICTORINO: Aloha.

MS. ISHIKAWA: --for your time. Have a great day. God bless.

CHAIR VICTORINO: Miriam was the last testifier to sign up. I will give anybody who has not testified, I'm sorry, that's the rule, who has not testified an opportunity to testify. You may come up to the podium. Seeing none, then with no objections, ladies and gentlemen, I'd like to close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Thank you, Committee.

...END OF PUBLIC TESTIMONY...

ITEM NO. 14: UPCOUNTRY WATER METER ISSUANCE (CC 12-97, CC 12-216)

CHAIR VICTORINO: Well, Mr. Taylor, why don't we get started? 'Cause I'll take a break about 10:30, so I'll let you get started. And you know first of all we've got to...let's start with, excuse me, let's start with WR-14. That's the one where it's A Bill for an Ordinance Relating to the Water Meter Issuance Provisions on the Upcountry Water Meter System. The purpose, again, of this proposed bill is (1) to require the Department of Water Supply to stop accepting applications for new and additional water services for the Upcountry water system as of date to be determined by this Council; and (2) to ensure that no water meter will be issued to an applicant who is not on the Upcountry Water Meter Priority List "Priority List" as of the date to be determined by the Council until all applicants on the Priority List has accepted the water service or have been removed from the Priority List. The purpose of this bill will be considered today, and we'll see what the comments...and I will start with comments from the Water Department. Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Chair. First, let me say that we in the Department and the Administration are incredibly optimistic about moving forward. We've given, we gave the

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Council a presentation about a month ago. We showed the same presentation to the Upcountry folks a week ago. I've given some other...the same presentation basically to some other community groups, and as complex as this issue...as these issues are, I don't think I've ever seen something so complex where the public is obviously is so up to speed and educated. I think we see from the testimony today that everybody understands where we're coming from, everybody understands how all these things fit together. I think the Council understands, the public understands, and I think we're in this unique position that everybody's up to speed, everyone's educated, and really all we're debating is the implementation measures. The bills in front of you, I think we explained during your presentation how they're all linked, how together they show a plan. I would just point out that in your deliberations, besides the two bills today, the accompanying bill that's in the Budget and Finance Committee, there's also future rates and fees. And as we explained in the presentation, the actions we take on these bills also are linked inexorably to future rates and fees. So I would just ask not to forget that, because actions we take are going to have direct impacts on future rates and fees which are not in front of you right now. So there's a number of things that are tied together. I think it's just most important that as we discuss the details we keep seeing the forest through the trees and recognizing that these decisions we make on any one bill, the sum of the parts is really what we're focusing on. And so we'll be happy to answer any questions and help you in any way to understand the overall concept. Thanks.

CHAIR VICTORINO: That's it, Mr. Taylor?

MR. TAYLOR: I think we went through the plan in the presentation.

CHAIR VICTORINO: Okay.

MR. TAYLOR: I really don't have anything to say about this specific bill, I think it speaks for itself.

CHAIR VICTORINO: Okay. Questions for Mr. Taylor on WR-14? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much. Before I forget, I want to make sure I ask you, Mr. Taylor. I have so many questions. I mean I'm sure we'll be here for a while. Mr. Mayer during his testimony asked a question, what happens after the list is concluded? Can you address that, please?

MR. TAYLOR: Based on this bill in front of you, it establishes a last day to sign up. First I want to point out that since the meeting when we discussed this about a month ago, there have been I think more than 100 applicants, because people are worried that the list is going to end. So the list is now longer than it was when we gave you that presentation.

COUNCILMEMBER BAISA: Okay.

MR. TAYLOR: This would establish a last day to sign up. So assuming that this whole plan is approved and we go to number one, then two, then three and we get through the entire list, the list is then gone. At that point it's just like the other areas, there is no list. So if we have water

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and people come in, it's first come, first served. If we don't, we just say we can't help you. But there is...this would end with not having a list once everyone on the list is taken care of one way or another.

COUNCILMEMBER BAISA: So what I'm hearing is...Mr. Chair, if I might follow up?

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER BAISA: So what I'm hearing then is the areas that have just been tentatively approved in the Maui Island Plan...of course none of that is real until the Maui Island Plan is finally approved, but tentatively the areas we've added would have to wait if they're not on the meter list right now?

MR. TAYLOR: That's correct.

COUNCILMEMBER BAISA: Okay. I just wanted to make sure that was clear. Thank you, Mr. Chair.

CHAIR VICTORINO: Thank you. Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. In regards to the list, do you have a timeline of when this list would be done? A roundabout amount of time?

MR. TAYLOR: We estimate it will take between two and three years to get through the entire list.

COUNCILMEMBER COCHRAN: Okay. And could it be expedited even quicker if...you remember when we did with the Real Property Tax office to go for outstanding payments. If your Department was staffed, I don't know, one or two more people for example, and maybe to process it through, would it help expedite at all?

MR. TAYLOR: Staffing is probably the single most limiting resource in going through the list quickly, so more resources would help get through it faster.

COUNCILMEMBER COCHRAN: Thank you. Thank you. I have others but I can defer to other Members.

CHAIR VICTORINO: Yeah. Mr. Hokama?

COUNCILMEMBER HOKAMA: So for this area that's...we're talking about, the Upcountry area, would this mean that if you get final subdivision approval you're going to get your meters for your lots?

MR. TAYLOR: I think right now my understanding is that you can't get final subdivision approval without water connection. I believe that's correct. So if you're on the list you basically probably have preliminary subdivision, you can't get final subdivision. So if you come up and you're number one on the list at some point, then you get a water meter, then you can get final

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subdivision approval. I believe that's the steps that would occur. I see Ed Kushi looking at the ceiling, he may have some --

COUNCILMEMBER HOKAMA: Well, I just want --

MR. TAYLOR: --additional comments.

COUNCILMEMBER HOKAMA: --it to be clear that if you do receive your final subdivision in this geographical area, the way I'm understanding the proposed ordinance at this time, you're going to get one water meter.

MR. TAYLOR: I think the order is opposite. I think you can't get final subdivision until you have water. So basically if you've been in for a subdivision, you're on hold at preliminary subdivision because you're on the water list. So once you accept your water meter then you can go back and then you can get final subdivision. Right now it's lack of water service that is holding back people from getting final subdivision. I believe that's how the rules work in DSA.

COUNCILMEMBER HOKAMA: Okay. I just want to make sure so that everybody is clear.

CHAIR VICTORINO: Mr. Kushi, would you, being our legal advisor, make sure that, that answer or the appropriate answer is given? I don't want to make Mr. Taylor left out --

MR. TAYLOR: I appreciate that, Mr. Chair.

CHAIR VICTORINO: --to be hung and dried. Go ahead, Mr. Kushi.

MR. KUSHI: Mr. Chair, Director Taylor is almost correct.

CHAIR VICTORINO: Almost, okay.

MR. KUSHI: There's two rules applying here in the Upcountry area. One is the...don't even think about the meter issuance rule, think of the Show Me the Water Bill as far as subdivisions. So that comes into play since I think 2009, whenever you guys passed that. So that controls whether or not you get final subdivision approval, and it's based on Show Me the Water Bill, show me a water reservation, or show me a private water system, then you'll get final subdivision approval. However, this Upcountry meter rule trumps that if it's in that area, because there's simply no water and the Director cannot issue a meter unless you're on the list and your number gets called, and then you're issued a reservation. You can get around that by doing a private water system agreement which we have no, you know, jurisdiction over. So his answer was half correct. There are some subdivisions who did get final approval prior to the Show Me the Water Bill, but they simply don't have a meter because we don't have water. So there's some instances where there's some final subdivided lots and there's some pending subdivided lots. Now another consideration that you should also know is that the Upcountry meter rule, as far applying for a, or being on the list, you can only apply for an upgrade of an existing meter or one 5/8 inch meter per lot or how many...the number of lots in a proposed subdivision. So, you know, your plans

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about this Maui Island Plan, whatever it is, I'm not privy to that, you have these large parcels. Unless they get through subdivision and create a number of lots, they cannot get on this list.

COUNCILMEMBER HOKAMA: Okay. That is with the current status, though, right, Mr. Kushi?

MR. KUSHI: Correct.

COUNCILMEMBER HOKAMA: Because this bill is going to kind of eliminate it in a sense, the list. We're going to get rid of the...we're going to work to reducing the list 'til it comes to zero, right? This is the proposal?

MR. KUSHI: The proposal before you does two things. One, it ends the current list as of a date certain, so then the Department just works with this one list. And I believe he answered the question about what happens thereafter. There'll be no thereafter because until you exhaust the applicants on the list. Secondly, it changes the reservation term. Throughout the County, if you come in for a water meter, you pay the fee but you're not ready to hook up. Everyplace else but Upcountry has...can be issued a reservation for two years plus two six-month extensions for a total max of three years. Within the last couple years you folks passed a law specifically for Upcountry to extend that term to five years plus two six-month extensions. This bill before you deletes that, it goes back to the regular two years plus one. Those are the two elements before you.

COUNCILMEMBER HOKAMA: Thank you. Thank you, Mr. Kushi. Chairman, thank you at this time, I appreciate my opportunity.

CHAIR VICTORINO: You're welcome. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Director, the question I have is I understand the process that we're going through. We're going to offer meters to those on the list in the order in which they appear, and if they choose not to take advantage of it then at the end of the process they can then come back and request water as a group, you know, with others that can share in the cost. Is that correct?

MR. TAYLOR: Not only is that correct but whether or not...assuming we get through the whole list, whether or not you were ever on the list or you weren't on the list, everyone just has the same ability to come in as individuals or as groups and apply for meters. So once we get through the whole list and the list is gone then everyone's on equal footing regardless of whether or not they were previously on the list.

COUNCILMEMBER WHITE: And if we're...my concern is if we're not adding source, it seems that we're going to end up having to generate yet another list at the end of this list. And how will...I guess my question is, how will we deal with the new requests if not by creating a new list if we don't have the source?

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MR. TAYLOR: That's a great question and I see some Members shaking their heads, and there will be...essentially if we get through the list and run out of source and there's still all of this demand and there's no list anymore, so essentially everyone would just be told you're going to have to wait but there's no waiting list. And we could have a sort of notification list. We could start...we could make an ordinance like this again and start a new list. Ideally from an engineering standpoint, I think one of the mistakes that was made a very long time ago is there's one list instead of three. At the very least I would recommend once this is gone, if there are going to be lists again, there should be three lists. A Haiku list, a lower system list, and an upper system list. One of the problems we have is that although the systems are linked, they're not linked so that it's easy to move water from one place to another. That capacity is limited. So for example if we developed water in Haiku but the first 50 people on the list live in Upper Kula, we're supposed to offer people in Upper Kula water but we really can't get it there. So the systems although they're lightly linked together, they're not strongly linked together. So if we were going to have lists, once this is gone I would recommend that there's at least three lists. That way we're not treating people, you know, at lower elevations in Haiku as the same as high high elevations at, you know, people at 3,000 feet in Upper Kula. So we would have to look at what to do with those people later, but at the very least if we were going to start lists, I would recommend different lists for different areas.

COUNCILMEMBER WHITE: Well that's an interesting comment because I don't think we've heard that. But that brings me to the second part of this, and that is that as people decline...basically the people that are going to decline the water meters in the first round are those that have infrastructure challenges that are too big for them to handle. But it seems that we should be instead of just simply saying once this list is done you start all over again, we should be dropping them into a one, two, or three list depending on their location and do it by the area in which they're residing to see if there are other people. I mean there should be some process by which we help them join up with other people, and in doing so, assess what our true source needs are. I'm a little concerned that if we're going to use up...I think the estimate was that if we go through half, if half the people accept then we're, we've used up all the water that we're, you know, we have currently. So we're going to have to get more source whether it's Piiholo Well or somewhere else. At least...and maybe you can address that, whether we have enough source to get through the whole list.

MR. TAYLOR: I think I can address that by stepping back and taking a little bigger picture view. We have since your presentation done another analysis of tying some of the things we've done in the past together, and I will tell you what our...what we did and what our results are. We took the Maui Island Plan population projections through 2030 for each area, Central, South, West, and Upcountry, and we said assuming that those growth projections equal the same amount of water increases, how much volume of water is that. Then we took that volume of water demand and we looked at the engineering necessary of what would have to be built for the core system requirements, source, treatment, transmission, storage, et cetera. Then we looked at based on how meters, what, for example, what percentage of meters right now are 5/8, 3/4, et cetera, assume the same. And we laid out what is it going to take between now and 2030 to meet Maui Island Plan demands, how much would that cost, and how much would meter fees be. So the numbers we came up with for Upcountry was around between 50 and 100 million dollars. So the

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point is that once...if we go ahead with this plan as proposed, once this water is gone the next thing is going to be dozens and dozens of millions of dollars. And the actual cost per meter excluding interest for Upcountry to pay for that is about \$24,000. So we can do it, I mean we've laid out a plan basically on a big map with Sharpie pen type of engineering things and we've costed that out, and it can be done. But it's basically bringing Haiku water, pumping it all up, you know, pumping some sort of groundwater up to Upcountry, but it's a huge cost. I mean much, much more than has ever been spent. It can be done, but again, that comes out to about \$24,000 per meter. So that would be the next thing that would be done, and it's just going to be monumentally more expensive than anything that's been done Upcountry before. So we're back to that question of can we afford it, do we want to afford it, and how are we going to pay for it. But we have some light engineering plans, it can be done. But that's how we would have to address the next bunch of people, and it is going to be again much, much, much more expensive than anything we've done before.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Thank you for all of those comments. Kind of, you know, it all makes sense. Two questions. One is that, you know, as we go through the issuance of, you know, if you want your water or not, there are, you know, like my colleague here mentioned about, you know, certain individuals may have to pool their resources together in order for them to build infrastructure. Can we provide some kind of data probably to those property owners on a given street or road that, you know, in order for you to have your request done that, you know, you gotta build this infrastructure and these are the people that live in the area that you can talk to in regards to sharing costs?

MR. TAYLOR: We can probably do that in...as ballpark estimates. What we've done previously that I went through in the previous presentation, our engineers went through everyone on the list and did a rough calculation of what improvements they need. So we have the data, I mean it's in files and files. We've never really sorted it in a way geographically to say well you three people live on the same street so let's put all this together and send you a letter and let you know what's going on. It could be done. You're talking about, you know, 1,600 letters and X number of engineering man hours. It can be done, it wouldn't be easy, it would take a lot of man hours. But it...we have the base data, it would just be a matter of, you know, probably a few hundred man hours basically to sort it and get those letters out and things like that. But we...like if you gave us a street, I could come back this afternoon and tell you the situation with that street. Unfortunately, there's hundreds of different locations.

VICE-CHAIR PONTANILLA: Right.

MR. TAYLOR: So it's just a matter on man hours.

VICE-CHAIR PONTANILLA: Yeah. And I think the people living on those streets would, you know, appreciate that type of information. The second question that I had is in regards to, yeah, you

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know, if we're going to create the new list then, you know, segregate it so that you get Haiku in one area, probably Makawao in another area, and Upcountry, Kula. In regards to the priority that we do the work, if we got water in Haiku, will that be the number one priority to satisfy Haiku first before we move on?

MR. TAYLOR: That comes down to one of the priority policy issues that I've put in front of the Council. Obviously the Council approves individual CIP projects. So let's say there was a well in Haiku we could drill or let's take this Piihola South Well that's in Makawao. The Council's going to decide which one to fund. So let's just say there were three lists, and at some...someday the Council is going to have to decide through CIP which one or fund both or whatever. And whichever one we had we'd say look this serves this area so we'll start on, you know, list number two. That would ultimately be a Council decision.

VICE-CHAIR PONTANILLA: But you would provide in regards to...I guess looking at the numbers which would be the more priority.

MR. TAYLOR: We could show you bang for the buck.

VICE-CHAIR PONTANILLA: Yeah.

MR. TAYLOR: We couldn't really tell you priority but we could say look, if you make this acquisition or this well development, it'll cost this much and we can serve, you know, 172 people. Where this other one costs a little more and only serves 150 people, so, you know, bang for the buck is over here. We could put that information together, but ultimately it would be the Council's decision about whether to prioritize one area or another as the Council does with parks and roads and everything else.

VICE-CHAIR PONTANILLA: Yeah. So as you do your CIP, you would provide that kind information?

MR. TAYLOR: We would certainly base our recommendations on that kind of information. I think our basic prioritization is bang for the buck, the most service for the most number of people. We tend to hit those areas first. But if there was some discussion of wanting to serve a different area that didn't fit into that criteria, obviously we could shift.

VICE-CHAIR PONTANILLA: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: You're welcome. Mr. Carroll? Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Well, Chair, are we going to take a break? Otherwise, I will ask a question.

CHAIR VICTORINO: Well I was thinking about taking a break. I'll let you ask your question, and then we'll take a break? How's that sound?

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COUNCILMEMBER BAISA: Fine with me. Okay.

CHAIR VICTORINO: All righty.

COUNCILMEMBER BAISA: It's been mentioned several times...I'd like to ask Mr. Taylor a question. It's been mentioned several times both in testimony and both in the discussion about the Piihola South Well. I would like to and I don't know how much you can discuss, I don't know if there's any negotiations that are sensitive or whatever, but what the situation is with the discussion of buying that as a source.

CHAIR VICTORINO: I think, Mr. Taylor...

MR. TAYLOR: I can answer it in a general way.

CHAIR VICTORINO: General way, yeah, okay, okay. Yeah, 'cause I was going to say I don't...yeah, okay. Go ahead, general way. Go ahead.

COUNCILMEMBER BAISA: Yes, and I understand that if it's sensitive, you know, you don't have to answer, but if you can, I think it might help.

MR. TAYLOR: What we showed in our presentation is the projects that are ongoing in one way, shape, or form right now are getting the H'poko Wells working, the Waikamoi Flume, and changing the Olinda Treatment Plant to chlorination so we can mix water. Okay, those are things that are ongoing that are our first priorities. Those should absolutely be done first. Probably the next thing we'd want to do is build a reservoir of somewhere between 25 and 50 million gallons at the Kamole Treatment Plant. That's probably the next best thing to do. The cost for that is about the same as developing a well, but we felt if we got more money we would do that first. Then if there's more money after that, the next thing would be a well, either a well that's existing or develop our own well. But the point is, we don't even yet have funding for that reservoir. We haven't talked about rates and fees and how much we're willing to put into Upcountry. This is why I think the discussion of any particular acquisition is premature, because the first thing we need to talk about is we need to make sure we're going to adequately fund the existing projects, then are we going to adequately fund the Kamole Reservoir. 'Cause that's gotta be next. And then if we want to fund more for Upcountry, then the question is okay, what's the best way to spend that money. And it's not 'til that last discussion that frankly I think we should even decide whether or not that well is good for us. I don't even think it's...I think it gets too detailed too early where we're not ready to have that discussion about a particular well. I'm still unclear about how much total money we're willing to put into Upcountry over the next ten years which is I think the first question before we can talk about specific acquisitions.

COUNCILMEMBER BAISA: Thank you, Mr. Chair. And thank you, Mr. Taylor. I think that's very clear. Thank you.

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CHAIR VICTORINO: So we're going to take our mid-morning break. I'll ask everybody be back at 10:45. That's about 12 minutes, 11 minutes. This Water Resources Committee meeting is now in recess. . . .(gavel). . .

RECESS: 10:35 a.m.
RECONVENE: 10:49 a.m.

CHAIR VICTORINO: . . .(gavel). . . The meeting of the Water Resources Committee will reconvene. You know it's your Chair's desire that we would be able I would hope to get one if not two of these completed, because we only have one meeting in November and that's November 15th. That's the only scheduled meeting we have, and I understand, you know, that General Plan and others are trying to grab up all kinds of dates. So, ladies and gentlemen....well...

COUNCILMEMBER BAISA: I gave up my dates.

CHAIR VICTORINO: Yeah. Well I see there's a schedule out with Council meeting on the 15th. There's all kinds of stuff, so I don't know what exactly is going on next month. So all I know is for the Water Resources Committee meeting we only have one meeting next month, so I need to try to accomplish as much as we can today. And knowing that the next meeting would, you know, for Mr. Taylor to implement this plan, you need this completed so that we can have first and second reading. Isn't that correct, Mr. Taylor? Preferably, I guess.

MR. TAYLOR: What we put on in the presentation is there's three bills --

CHAIR VICTORINO: Yeah.

MR. TAYLOR: --and we felt before moving forward we would need all three bills passed second reading to be sure that all the pieces are in place.

CHAIR VICTORINO: Well I can only assist you on the two bills that are in front of me. The other one is in Budget and Finance, and that would be up to that Chair to make sure that, that one was completed. But I can only ensure that these two get completed, yeah. So anyhow, let's go back and, you know, I was doing some research because, you know, Show Me the Water Bill has come up and also some other mention about the exemption for Upcountry. You know we had put together installation of water meters installation...oh, insurance of water meter reservation. This was 14.13.060 where the water meter reservation affecting the Department's Upcountry water system, and applications shall have five years from date of issuance of the water meter reservation to complete water system improvements, after which the time the reservation shall expire and that the premise shall be, yeah, the premise will be removed from the priority list. And Mr. Taylor had mentioned in the new draft that now has been removed and put on as every other area, two years with two six-months extensions. So that's something also I want the Members to remember that we did that because we knew Upcountry had unique situation and unique problems. Mr. Taylor has informed me that he would prefer two years like everybody else, because how else would we get rid of the water meter list. I'm not sure if I buy that one real quick, but, you know, again, just something for all of us to understand what these changes

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mean to the people of Upcountry. And it's very important we understand these different dynamics, yeah. I'll continue the questioning. Ms. Cochran, you had said you had more questions.

COUNCILMEMBER COCHRAN: Thank you. Thank you, Chair. So let me just get this straight. We're looking at the September 28th communication?

CHAIR VICTORINO: Mr. Taylor, I think that's...

COUNCILMEMBER COCHRAN: Yeah, is that what we're...in our binder?

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: Okay. And so my number one first question and this is probably for Mr. Kushi, I guess. The subject matter is in regards to amending Chapter 14.13, then the bill itself doesn't even state that. So I'm just wondering...I'm just trying to relate the wording, cross referencing and it doesn't seem to match.

CHAIR VICTORINO: I think, Ms. Cochran, you're referring to the top of the bill number...

COUNCILMEMBER COCHRAN: The bill...yeah.

CHAIR VICTORINO: And it says 2012, right?

COUNCILMEMBER COCHRAN: And then it says a bill for an ordinance relating to water meter issuance provisions, so on, but on the initial communication it says a bill for an ordinance amending Chapter 14.13. Should that not be saying the same thing?

CHAIR VICTORINO: Mr. Kushi, I know you know the answer to that one. Go ahead.

MR. KUSHI: As a practical matter, they're one and the same, but you may be technically correct. So maybe the bill should make a reference to Chapter --

COUNCILMEMBER COCHRAN: 14.13.

MR. KUSHI: --14.13.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Kushi. So, Mr. Chair, I just thought that it was odd that it wasn't saying the same thing, basically.

CHAIR VICTORINO: It's not odd, because almost every time we get something like this the bill number is usually left out until it's finalized and then we put in. That's my experience in the past.

COUNCILMEMBER COCHRAN: Yeah, right.

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CHAIR VICTORINO: So I'm not going --

COUNCILMEMBER COCHRAN: . . . *(inaudible)* . . . sir.

CHAIR VICTORINO: --get into that. I'm not going to get into a discussion about that. So long as Mr. Kushi said it's one and the same, then it's one and the same. Okay? Thank you, Mr. Kushi.

COUNCILMEMBER COCHRAN: I don't think it's one and the same. So and then my next question then is--but I'm going to go back to this--is for my Mr. Taylor in my first inquiries in regards to expediting this process with extra staffing, if that would help, and I believe you said yes.

MR. TAYLOR: It would help, but we look at the timing of extra staffing. I mean assuming that the Council approves in the FY '14 Budget another engineer just to help with Upcountry or something. Okay. So we'll get that approval in, on July 1st. By the time we even advertise for that it's going to be the end of 2013. We get somebody onboard mid, early to mid 2014, and, you know, have to kind of get them trained into this. So if we knew we were going to be doing this two years ago and added a position in last year's budget, it would really help. It would certainly not hurt. But by the time that, any extra body comes on is going to be a pretty long time from now.

COUNCILMEMBER COCHRAN: So you're saying it's no use at this point?

MR. TAYLOR: I'm not saying it's no use, I'm saying that assuming all of our existing staff stays and we get another position, that other position isn't going to be onboard for quite a while. So depending on how early we get started on this, until they're onboard and up to speed, until that point they're not of help. Now whether or not it takes the two to three years and, you know, puts it on the lower end of that, you know, that might be the case. But there's no way we're going to be able to bring on for example two engineers in the next six months and have them be up to speed on this already. So there's only going to be a limited amount we'll be able to expedite is my point.

COUNCILMEMBER COCHRAN: Okay. Okay, thank you.

CHAIR VICTORINO: Mr. Hokama, anything else you would like to?

COUNCILMEMBER HOKAMA: No.

CHAIR VICTORINO: Thank you. Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR VICTORINO: Mr. Pontanilla?

VICE-CHAIR PONTANILLA: No.

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CHAIR VICTORINO: And Mr. Carroll? None? Ms. Baisa?

COUNCILMEMBER BAISA: Yes, thank you, Chair. One last question, and I was asked this during the break and I think it's important we address it. And it's in regards to the letters that are sent out to people when they're notified that they might get a meter. It says they would have 30 days to respond. The question is, after they respond and they say okay I want a meter, how do you decide or who decides how much infrastructure has to be done? How is that calculated? Who does it? The reason the person asked this, you know, maybe I wouldn't want to put my \$6,000 down if I knew that my, you know, infrastructure's going to come to 300,000 which I can't afford. So they kind of wonder about the timing of that and how it gets done.

MR. TAYLOR: Great question. And that's...the answer to it is why it takes two to three years. The requirements for infrastructure are in their offer letter. We don't just send a letter saying you're being offered a meter, infrastructure needs to follow. That letter is custom designed for that applicant where it says 641 feet of 8-inch line, a pressure reducing valve, et cetera, et cetera. The letter's written in such a way that they can take it to a contractor or to an engineer to say can you give me a price for this, so that way they have the information and in those 30 days they're able to make a complete evaluation of their situation.

COUNCILMEMBER BAISA: Thank you very much. That makes it very clear. Thank you, Chair.

CHAIR VICTORINO: All right. Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. So I just...I guess the reason I asked about the ordinance amending Chapter 14.13 is exactly what we're doing. So as long as I can get assurances that this isn't gonna be lost in translation some year down the road when Mr. Kushi is not here and we're all not here, that people are gonna understand what this bill that we're looking to work and pass today is about exactly and what it's relating to. So I mean I still have kind of an uneasiness and I'm not totally satisfied myself that it is saying the same thing, because one says amending the other doesn't say it at all.

CHAIR VICTORINO: Mr. Kushi, I guess that question is I guess addressed to you I hope. Thank you, Mr. Kushi.

MR. KUSHI: Mr. Chair, Member Cochran, with the assistance of staff maybe we should reword the title of the bill and say, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

COUNCILMEMBER COCHRAN: Yes.

MR. KUSHI: Does that satisfy you?

COUNCILMEMBER COCHRAN: Excellent. Thank you.

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CHAIR VICTORINO: And what does that mean?

COUNCILMEMBER COCHRAN: Yes. I, concur.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER COCHRAN: I appreciate Mr. Kushi's amendment.

CHAIR VICTORINO: It's not an amendment. That hasn't been approved by anybody.

COUNCILMEMBER COCHRAN: Or suggestion.

CHAIR VICTORINO: Thank you. Okay, can you change that Ms. Willenbrink because it already says that on the front page. So if we do that on the "A BILL FOR AN ORDINANCE AMENDING 14.06, [*sic*] MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

MS. WILLENBRINK: Yes, Chair, and I have that language, but it would be an amendment so consensus or vote.

COUNCILMEMBER COCHRAN: Consensus.

CHAIR VICTORINO: No.

MS. WILLENBRINK: It's amending the bill.

CHAIR VICTORINO: I'll make a...I'd like to have a motion to change it to "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, RELATING TO THE WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER COCHRAN: So moved, Chair.

VICE-CHAIR PONTANILLA: Second.

CHAIR VICTORINO: Excuse me.

COUNCILMEMBER COCHRAN: Oh.

VICE-CHAIR PONTANILLA: Chair, I move. . .

COUNCILMEMBER COCHRAN: Oh, sorry.

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VICE-CHAIR PONTANILLA: I move for the amendment “A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM”.

CHAIR VICTORINO: Do I have a second?

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: Thank you. It’s been moved and seconded. Any more discussion? All those in favor, say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: All those opposed? Okay, so that’s been changed.

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

CHAIR VICTORINO: Any other discussion on the...

VICE-CHAIR PONTANILLA: Chair?

CHAIR VICTORINO: Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Question for Mr. Taylor. In regards to the letter that you sent out and you have all those numbers, correct me if I’m wrong, but the letters that you sent out...and if they, the people are living on the same street they wouldn’t know that the other people that wanting water in that same area received similar letters with the same numbers?

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MR. TAYLOR: Well to be clear, there's two possibilities with your question. One question is let's say we're just at the beginning of this process and we know we have a lot of water, so maybe we're sending out 50 letters all at once. So in one possibility in those 50 letters we're sending out all at once, we do know that there's three other people on that street and we can include that because we're sending all those 50 letters at once. It's probably more likely that these batches are going to go out at different times. So even though you're getting a letter and there's three other people on your street, they're not getting offers in your batch. You know you may No. 5 and they're No. 1,311, so we could tell you hey, there's all these other people but we have no idea if they're ever going to get offered meters. So there's two different situations, and the second is more likely.

VICE-CHAIR PONTANILLA: Wow. Okay. Thank you.

CHAIR VICTORINO: Any further questions for the Department? Okay. Seeing none, then I will make my recommendation.

COUNCILMEMBER COCHRAN: Oh, sorry, Chair. No questions for Department. So are we going to go through this bill kind of word for word, in essence? There's a couple real minor changes I'm looking to do. So you just want to take this all in one fell swoop motion then right now?

CHAIR VICTORINO: Yep. And if you want to amend anything then you bring up your amendment.

COUNCILMEMBER COCHRAN: Okay. So I'm looking at...

CHAIR VICTORINO: Excuse me. I make my recommendation to pass on. . .oh pass out "A BILL FOR AN ORDINANCE AMENDING 14.13, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM".

VICE-CHAIR PONTANILLA: So move.

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: It's been moved and seconded. Anyone wants to make any amendments?

COUNCILMEMBER COCHRAN: Yes. Thank you, Chair. So I'm looking at Section 14.13.040, Water Service Requests, and towards the end it's giving I guess like a date certain. And my question is I know I've seen this in other bills and things, ordinances where we do upon adoption, I think, of this ordinance it will then go into effect. We don't like put an actual number date, I guess. So I'm just wanting to know what's the difference between doing it one way or the other. 'Cause I'd like to see upon adoption of this that we're working on versus an actual date.

MR. TAYLOR: Let me start with that answer and then hand it over to Mr. Kushi. We had a lot of discussion on this while we were making the drafts. At some point obviously a date needs to be put in here. I think it's up to the Council about, for example, let's say you want to put this off until after budget for example because you want to change the rate and fee structure before you

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do this. Well you may not want to have this 'til July 1st. On the other hand, if you're ready to go right now maybe you do want it upon adoption. So it's really up to you on where this fits in with your overall policy about what kind of...do you want an early date or do you want a later date so you can do more things in the interim. But as far as the legal differences, I'll hand that over to Mr. Kushi.

COUNCILMEMBER COCHRAN: Thank you, Mr. Taylor.

CHAIR VICTORINO: Mr. Kushi.

MR. KUSHI: Yeah, Mr. Chair, as the Director said we had some discussions about this, and, you know, I would recommend also before you pass this out for first reading that this puka be filled. But the general theory is this, I mean the general concept is this, all ordinances/laws are effective upon a date of approval. Some can say effective today. The ordinance passes today but the law will take effect three months from now. State does that all the time. I think it was a matter of practicality for the Department, because whatever date you fill in whether...or if you don't fill it in, it's the date that the ordinance is adopted, there'll be a whole rush to the Department to get on this list. So I think it's one, from a practical standpoint, preparing the Department for this cascade of applications. Secondly, also there are some laws very rarely that go against the general rule that needs to be really justified to apply a law retroactively, and we left this open for your consideration. To apply a law retroactively you must be very firm, state your reasons why, and it's really against the general rule, but that's the second consideration. But again, basically two considerations or three. One, to apply retroactively which I believe you can't really even get into it at this meeting. You need to consider all the factors and possibly eliminate potential vested rights. Two, let it lie, don't say anything and have the law apply when you finally adopt it and the Clerk signs off, and hopefully the Mayor doesn't veto it. And then, you know, the date is the date, whatever it is. Or three, put it prospectively, put it two or three months in advance so the Department can prepare. I hope that answers your question.

COUNCILMEMBER COCHRAN: Yeah. Thank you, Mr. Kushi. So I mean I guess I would just...I mean you're saying that it's already going to go into effect when this ordinance goes into effect, anyways. And so I guess if there's a date to be here and it sounds like Mr. Kushi would like us to fill in these blanks before passed out, then definitely we need some discussion on that and to fill in these numbers if we are. I'm comfortable with just using it saying no dates and, you know, accepted upon passage of this ordinance or whatever that wording we use, adopted. But if it's going to assist Mr. Taylor and his Department in expediting this or at least controlling the cascade of permits as you were saying, then I'm definitely for assisting Department to have a smoother transition going on here. So I'm just trying to, Chair, you know, I'm not trying to complicate the issue here, I just want to make sure that we're vetting out all the needed important details. So we got blanks and I definitely want to at least fill in the pukas or eliminate them altogether.

CHAIR VICTORINO: Well, Mr. Taylor, you're the one that's going to be in your Department, and we've discussed dates and, you know, you said it's up to the Council, right? So if you were to prefer, if I was to give you Choice A and Choice B, Choice A being when this takes effect or

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Choice B a certain date. Say like we said today, let's use today or tomorrow, October 31, 2012. What would you prefer?

MR. TAYLOR: Earlier the better. The idea of this bill was to take people who are already on the list and say look, you're the ones who've been on this list, we're going to get you taken care of. Not to open up for a very long time to get a whole bunch more. So the earlier this takes to do...this goes into effect, the better for the Department.

CHAIR VICTORINO: Okay. So it is this Chair's recommendation then that, that date be filled in with the date October 31, 2012. That's my recommendation, it's up to you guys to decide.

VICE-CHAIR PONTANILLA: Chair?

CHAIR VICTORINO: Yeah.

VICE-CHAIR PONTANILLA: It would be when the...when we pass the bill, particular date whenever it is.

CHAIR VICTORINO: You rather leave it at that?

VICE-CHAIR PONTANILLA: Yeah. Then it becomes, you know, as Council you have first reading, second reading, after the second reading . . .*(inaudible)* . . .

CHAIR VICTORINO: Well I have no problem, I'm just listening to Mr. Taylor and what he has just suggested. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I think upon approval is our only option for an early date unless we go through the process that Mr. Kushi just mentioned of having possibly an executive session just...or further sessions to discuss how we are justifying back...essentially making a retroactive effective date. Is that not correct, Mr. Kushi?

CHAIR VICTORINO: Go ahead, Mr. Kushi. You can...

MR. KUSHI: Yeah. Let me restate it again. Okay. Your suggestion that you apply it today, effective today, even if you pass it two months from now. Then you're applying a rule, an ordinance or a rule or a law retroactively.

COUNCILMEMBER WHITE: Right.

MR. KUSHI: The law frowns upon retroactive applications of any laws, that's in the State Constitution, that's by case law, et cetera, provided, if there's an urgent need by the legislative body to do so. To date, you haven't shown that need. If it's a matter of departmental convenience, that's not enough. Secondly, from a public standpoint and this is just, I'm just offering my opinion, the public didn't know about this date, okay. Now in my mind you haven't given the public adequate notice that you're cutting it off as of today or even next week or even if...before the

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law passes. So at a minimum, unless you're ready to go into executive session and discuss this whole thing, I'd recommend upon the effective date of the ordinance passing or a date in the future.

MR. TAYLOR: Mr. Chair, if I may?

CHAIR VICTORINO: Yeah.

MR. TAYLOR: The Department is completely in agreement with what Mr. Kushi just said. When I said at the earliest possible, what I meant was the day the Mayor signs the bill into law I would think is the earliest day possible. I wasn't requesting a retroactive date.

CHAIR VICTORINO: Okay. I think that's clear enough right now, and I'm not going any further with that. We'll leave it be as it is, as upon approval.

COUNCILMEMBER COCHRAN: Oh.

CHAIR VICTORINO: Upon approval.

COUNCILMEMBER COCHRAN: Very good.

CHAIR VICTORINO: I'm not...I'm...my recommendation was to stir conversation, and I think I got the answer I needed. Yes, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I know you're anxious to get this done; however, there's a few things we've got to deal with it. It has occurred to me and I have no problem with this idea of it taking effect on when we pass it, and hopefully that'll be soon because we don't want that list to get much longer. But just one little hitch, if we said this is the, that list and this is no more, sorry, what happens to Hawaiian Homes? Requests for Hawaiian Homes? Is that an issue we need to think about or will they get their meters anyway whether they're on the list or not on the list or whatever? Because they're in my area, I think up in Keokea and Waiohuli, I better find out.

CHAIR VICTORINO: I always thought they were exempt and...yeah.

COUNCILMEMBER BAISA: I just want to be sure.

CHAIR VICTORINO: You know I'm pretty certain at that, but let's let the legal people answer the question.

COUNCILMEMBER BAISA: Yes. Thank you.

CHAIR VICTORINO: Mr. Kushi, I guess it falls back to you.

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MR. KUSHI: Yes, my understanding is that the Department of Hawaiian Home Lands for homestead properties has a constitutionally reserved allocation for water. That being said, I think they're above and beyond this list that you're creating.

COUNCILMEMBER BAISA: Yes.

MR. KUSHI: But again, if there is no water, there's no water. Traditionally, what the DHHL has done is to participate with the Department. That's what they did for their Waiakoa homestead project, and in turn the Department reserved a bulk allocation of meters for that project. As far as I know of, they're not on the list at this point in time, but by State law they are...have a reserved allocation.

COUNCILMEMBER BAISA: Okay. Thank you very much. Just wanted to be sure. Thank you, Chair.

CHAIR VICTORINO: I think that's pretty clear, and I think all of us pretty much understood that being...

COUNCILMEMBER BAISA: I would, thought too, but I wanted to be extra sure.

CHAIR VICTORINO: Yeah, no, no, that's good, and make sure it's clear and that there's no question. It's part of the minutes --

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: --and there's no interpretation later.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR VICTORINO: All right. Any other discussion? Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Again, I appreciate the Chairman trying to make sure we all understand what we're going to be voting on. So I just want to say this is my understanding because we had discussion earlier about three different potential lists if we were to recreate lists. But currently we have one list and if we pass this we're going to go with number, numerical order, one, two, whatever it is, thousand something. That would be correct, Mr. Taylor?

MR. TAYLOR: That is correct. The three lists...

COUNCILMEMBER HOKAMA: Regardless of the region, of the system --

MR. TAYLOR: Regardless.

COUNCILMEMBER HOKAMA: --upper system, lower system.

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MR. TAYLOR: The three list was simply part of my answer about what I would recommend if we were to do something else in the future after this was resolved. It was just sort of a future discussion topic, and it does not have anything to do with this bill.

COUNCILMEMBER HOKAMA: So we're going to go numerical order?

MR. TAYLOR: I'm sorry, could you repeat?

COUNCILMEMBER HOKAMA: We go by numerical order?

MR. TAYLOR: That is correct.

COUNCILMEMBER HOKAMA: Number one goes before number ten?

MR. TAYLOR: That's correct.

COUNCILMEMBER HOKAMA: Okay, thank you, Director.

CHAIR VICTORINO: Any other questions? Mr. White.

COUNCILMEMBER WHITE: Mr. Chair, I don't know whether you need an amendment to Section A of 14.13.040 where you have the date open. I'm wondering if we...whether it's a nonsubstantive change or we just make that effective as of the date of approval, the Department will not accept any applications.

CHAIR VICTORINO: Mr. Kushi, you see that one? That's on 14.13.060.

COUNCILMEMBER WHITE: Yeah. And again in .060 as well.

CHAIR VICTORINO: Yeah. Yes, that's the two ones.

MR. KUSHI: Yes, 14.13.060 is about it, Mr. White. Yes, with the assistance of Staff we will reword it such that the intent of this body is that whatever changes occur would be effective upon the approval of the ordinance.

COUNCILMEMBER WHITE: Okay, thank you.

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR VICTORINO: Yes, Mr. Hokama.

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COUNCILMEMBER HOKAMA: Then wouldn't we just delete those two since we have Section 5 of the proposed ordinance?

CHAIR VICTORINO: Section 5...

COUNCILMEMBER HOKAMA: Last page just before Mr. Kushi signed off.

CHAIR VICTORINO: Oh yeah, this ordinance shall take effect upon approval.

MR. KUSHI: Mr. Chair, but what...we need to put some reference of that into Subsection 040 and Subsection 060.

CHAIR VICTORINO: You have to have something there?

MR. KUSHI: Yes.

MS. WILLENBRINK: Chair?

MR. KUSHI: Because without any reference then it continues.

CHAIR VICTORINO: Yeah.

MS. WILLENBRINK: I kind of worked out a little language just simply to say, upon the effective date of this ordinance, the Department will not accept any new applications be placed on the priority list, and similarly on, in 060.

CHAIR VICTORINO: Would that be acceptable, Mr. Kushi?

MR. KUSHI: No, because you need to identify the ordinance, 'cause this will be part of the Code. So we can figure it out.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: Upon the effective date of this ordinance.

MR. KUSHI: Ordinance, what number.

CHAIR VICTORINO: Okay, yeah. Okay. I would hope that this would be, you know, something that you can complete. I understand where the dilemma is, and I don't want to hold up the whole process. We're this close, I think we understand what needs to be done. Yes, Mr. White.

COUNCILMEMBER WHITE: Do you need a motion to give them the...

CHAIR VICTORINO: I don't think we do. I think this is, you know...

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COUNCILMEMBER WHITE: Okay.

CHAIR VICTORINO: Mr. Kushi, do you need a motion or this would be nonsubstantive and you can make those changes?

MR. KUSHI: I believe the intent has been expressed and it's clear. I don't feel you need a motion.

COUNCILMEMBER WHITE: Okay.

CHAIR VICTORINO: Okay. Everybody clear now?

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: Okay. Any more questions?

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yes, thank you, Chair. I'm trying to think back on some other ordinances where a sunset clause has been proposed or added into. Is this such a bill or whatever that would benefit from such a clause as in to, you know, put a date certain on when we want this to continue to be in effect to urge Department and people to move this out. And say hey, by this date by golly we want this list done, and if not, then all of that comes back to this body to further discuss and figure out how come it didn't happen.

CHAIR VICTORINO: Mister...

MR. TAYLOR: I think in this case it would harm the intention rather than help it, because essentially you would all of a sudden, let's say there's 100 people left on the list on this date and you hit that sunset date. Well now the list just comes back into being and people can start signing up. Now there's 101, 102, and 103, we so revert back to how it is today, and I don't think that's the intention. I think the intention is, if we get to the end, let's talk about maybe doing something different, let's not just have it go back to this thing that created the mess in the first place.

COUNCILMEMBER COCHRAN: Chair, can I have Mr. Kushi chime in and see what he feels about that comment just now, if you don't mind?

CHAIR VICTORINO: Mr. Kushi.

MR. KUSHI: Yes. Initial discussions with the Department and Administration did include discussions about sunseting this whole chapter. Our office chimed in and said, you know, look, we know what you want to do but I think at this point it's too premature to sunset a chapter that has controlled the Upcountry water system for the last how many years. Knowing your intent to get rid of this list, what if you don't get rid of this list within the sunset period? And in any event,

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when you sunset an ordinance, the rights that have vested or were created or any obligations incurred when the ordinance was in effect survives the sunset of the bill in any event. So our advice to the Administration was not to sunset it but put certain deadlines or dates that this list would cease to exist or cease to grow and just work with that.

COUNCILMEMBER COCHRAN: Thank you, Mr. Kushi. If I can ask a question of Mr. Kushi? So I'm trying to...the part that puzzles me with Mr. Taylor's answer is about this list continuing to grow if it doesn't get completed by that sunset date. How...is that a given, a guarantee? Is there not such a clause to the clause that can prevent that from happening? Because it says, you know, I guess it says upon...this goes into effect once list is completed, no...no, once this goes into effect, nobody can sign up, is that right? So if the list isn't completed, we come to the sunset date, nobody can sign up anyways at that time, am I...is that correct?

CHAIR VICTORINO: Mr. Kushi.

MR. KUSHI: Yes. The lease...the list will cease and not grow but it will still exist. The balance of the chapter deals with how you implement that list. So sunseting the entire chapter will not be proper at this point.

COUNCILMEMBER COCHRAN: Well so why I'm even bringing it to the table is because I feel like it's a little bit more of a hammer behind this Department to fulfill these promises that have been sitting around, as you stated yourself, 20, 30, whatever years, people have died waiting. We all know this, Ms. Baisa knows. And I think this is just something where it should just put a little more, you know, urging, prodding to the Department and people that this is the date and hey, be done by this date. And maybe it's that two to three years, because that's what you claimed earlier it should take this long. So if we put it there, you said it here, it's on record in public eye that it's within two to three years. So if we put the date there, again, if it's done, yay, if not, well then we're going to have to go...we need to extend it. But you need to explain why and you need to explain how you're going to make it happen.

CHAIR VICTORINO: Madam Chair...I mean Madam Cochran, let me stop you right here. I think I get your point, but I want to do something even different than that. Because to me, you know, I understand what they're trying to say. What if like we've done in the past, after three year you have a review of the whole thing. After three years we mandatory review this. Whoever the Council is sitting here, well then you would have to explain why you haven't done or if you have, where you're at at that point in time. You're not sunseting it but it's a mandatory review. I think we've done that on a number of bills in the past, and that way it accomplishes what you're asking for, it accomplishes I think what you're asking for. It's a compromise but at least we know where we're at in three years. Would that be acceptable and somehow can be put in this ordinance?

MR. TAYLOR: From the Department's standpoint, the Council whether you write that or not always has --

CHAIR VICTORINO: I know, I know, I know.

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MR. TAYLOR: --audit authority over us to review anything, so that really wouldn't be a condition on us, it would be a condition on this body. So that's okay with me.

CHAIR VICTORINO: And maybe that's what this body needs. Maybe that's what this body needs. Yeah.

COUNCILMEMBER COCHRAN: Yeah, I think it's a good reminder.

CHAIR VICTORINO: Yeah, yeah. So if you guys would like to put something like that, a three-year review, mandatory three-year review. That way whoever is sitting in these chairs, if it's you or me or somebody else, it's got to be reviewed so that Upcountry people would know where we're at, at that point.

COUNCILMEMBER COCHRAN: Yeah.

CHAIR VICTORINO: You know so...

COUNCILMEMBER COCHRAN: Two.

CHAIR VICTORINO: Two. You guys prefer two. Okay, I'll it open up to two years. I will, I'm awaiting for an amendment for two years if that's what the body feels. I'm waiting. Somebody make an amendment.

COUNCILMEMBER COCHRAN: Yeah, I'll make a motion, Chair, to put in a clause, and I guess the wording will be done by our Staff and Corporation Counsel to put in I guess--

CHAIR VICTORINO: Mandatory two year review.

COUNCILMEMBER COCHRAN: --mandatory two year review of said ordinance.

CHAIR VICTORINO: If that's okay, Mr. Kushi, or whatever wording will you think would be appropriate that we would have to have a review in two years. Mr. Kushi.

MR. KUSHI: Yeah but what if you don't?

COUNCILMEMBER BAISA: I'll...

COUNCILMEMBER COCHRAN: What?

MR. KUSHI: What happens?

COUNCILMEMBER WHITE: What's the penalty?

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MR. KUSHI: I mean, you know, this body can do, like the Director said, audit or investigate any department that they so please. I recall an ordinance that had a provision about review and sunseting, and it was initiated by a report from that very department. Then it will start the ball rolling for the legislative body's review. Maybe that would be a trigger in this case. But in any event, it can be put in but I don't see the significance of it.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Mr. Chair, I think over the years in this Committee at the Board of Water Supply, there are...there's at least once a year a request to have an update on the Upcountry water system. And there's never been a law requiring it, but it's always something that everyone's interested in. And I can't imagine that even without any language requiring it, this body isn't going to ask us at one of the Water Resources Committee meetings to give an update. So I don't think it really accomplishes anything, and again, what if you don't do it? There's really no penalty. And I think you're going to do it anyway, so I think it doesn't really accomplish much.

COUNCILMEMBER BAISA: Chair.

CHAIR VICTORINO: Well there's been a motion--

COUNCILMEMBER BAISA: Point of order.

CHAIR VICTORINO: --there's not been a second.

COUNCILMEMBER BAISA: I would second it for discussion so we can discuss it.

CHAIR VICTORINO: Okay. All right here we go. Now we can discuss it. Thank you. Go ahead, Ms. Baisa.

COUNCILMEMBER BAISA: I'd like to say that, you know, I hear what everybody is saying and I am 99 percent sure like Mr. Taylor is that regardless of how this goes, there will be discussion.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: Because whoever's sitting in that Upcountry seat is going to get continually bombarded as well as the Water Chair about what's happening. You know that as well as I do.

CHAIR VICTORINO: Yep.

COUNCILMEMBER BAISA: So it's never going to go away; however, I don't see any harm in putting it there. If it's a reminder and it makes people feel more responsible about making sure that it gets done, I don't think it hurts anything. So I can support her motion.

CHAIR VICTORINO: Yes, Ms. Cochran.

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COUNCILMEMBER COCHRAN: Thank you, Chair. So I mean just to follow right quickly with Mr. Taylor's...his comments is, goes straight to my point. These annual reports are done year after year after year and yet we're still in the same predicament, so this is why I'm trying to figure out a way to hold the Department responsible and get on it. Light the fire under it to make it happen already, because I don't even live up there and I feel the frustration big time. So that's why I'm trying to say, and Mr. Kushi's says well what if you don't do it, well that's why if there's a sunset clause in there, it has to be done. Right? And you guys are held liable or accountable for what you promise you're going to do in two years, period. So that's why I'm...sorry, Chair.

CHAIR VICTORINO: Well that's not what the motion is now.

COUNCILMEMBER COCHRAN: Well...

CHAIR VICTORINO: It's not that, so don't be making...

COUNCILMEMBER COCHRAN: No, I know.

CHAIR VICTORINO: Now you're making comments, that's not what the motion is, okay?

COUNCILMEMBER COCHRAN: Okay. I'll go with what's here.

CHAIR VICTORINO: So let me correct you right there. I'm going to stop you right there --

COUNCILMEMBER COCHRAN: That's fine.

CHAIR VICTORINO: --'cause that's...we're not making...we're only...

COUNCILMEMBER COCHRAN: Right, right, right. Two years.

CHAIR VICTORINO: We review.

COUNCILMEMBER COCHRAN: Two years. Yes.

CHAIR VICTORINO: Yeah, review. Not no sunset, okay, so that the Committee is clear on what we're discussing. Okay?

COUNCILMEMBER COCHRAN: Fine.

CHAIR VICTORINO: Thank you, Ms. Cochran. I just wanted to make sure we're clear. Okay. We know the pros and cons. Whether we do it or don't, it's up to this body. Putting them...putting their feet to the fire and all this other stuff, well maybe we should put some resolution that we'll tar and feather the Director, I don't know, you know. Maybe something new this year, I don't know. But anyhow, all joking aside, you know, I really mean I think the review was just a way

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to make sure that it gets done, that nobody forgets about it. Whether it's the Water Chair, whether it's the Upcountry representative, whether it's the Makawao/Haiku representative which I know our constituents will never let us forget no matter how many years we go down the line. But I think this is a way to make sure it gets done, at least that. Okay.

VICE-CHAIR PONTANILLA: Chair?

CHAIR VICTORINO: That's the compromise. Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Whichever way you or we go --

CHAIR VICTORINO: Yeah.

VICE-CHAIR PONTANILLA: --you know I...the big question though will be the sitting body at that time, you know, their responsibility in moving forward on some of the recommendations made by the Water Department.

CHAIR VICTORINO: Yeah.

VICE-CHAIR PONTANILLA: Okay.

CHAIR VICTORINO: Understood. And exactly, it costs to do it, and I think we all understand that now. We're pretty aware of that. Mr. White.

COUNCILMEMBER WHITE: Thank you, Mr. Chair. Just to be clear, is the motion to have us review the status or for them to provide us with a status review report or whatever?

CHAIR VICTORINO: For them to provide it to us.

COUNCILMEMBER WHITE: Okay. I don't have a problem with asking for that review, but I have to say that the onus is really on us to provide the funding for them to even begin to do it. So, you know, it really all falls back on us, and like was said, those of us who are representing Upcountry are going to be on this anyway. And so I'm supportive of it, but I don't really think it's necessary for the reasons that have been . . .(*inaudible*) . . .

CHAIR VICTORINO: Well and again I agree with you, I'm just saying that for this it still falls back to Budget and Finance and when we go into budget and what the Department sends down and what we agree to or not agree to.

COUNCILMEMBER WHITE: Right.

CHAIR VICTORINO: It's clear with this survey that they agree to pay more, that's something that's come loud and clear from Upcountry, and that some of them even agree that they're willing to pay more than Central Maui and others. So this survey helped us get some of that. Here's actual proof, writing, black and white, right? So there's no question in people's mind. So all I'm

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saying is this review would just ensure that we're kept up to snuff, and if you want to make it annual, he can bring it annually, but every two years we would have that and hopefully be done with it by that period of time. Yes, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. It basically would, you know, kind of be like a CIP review in regards to trying to satisfy the water requests for those people that living Upcountry as well as Paia, Haiku, Makawao. That's all it is.

CHAIR VICTORINO: Thank you. And then let me make one more point very clear. When we accept this we take away now the five year issuance of meters and bring it back to two year like everybody else. So just want everybody clear on that one. That's a very important one 'cause we worked hard to make the changes a number of years ago because the Upcountry meter people were asking for extension of time. So we're changing it now from five years to two years like everybody else and two six-months review. You guys all clear on that? Okay. Any more questions? Seeing none, all those in favor of the amended ordinance as...

COUNCILMEMBER BAISA: No.

COUNCILMEMBER WHITE: Oh no, we haven't passed the amendment.

COUNCILMEMBER BAISA: Amendment.

CHAIR VICTORINO: Oh, we haven't done the amendment yet. Okay.

COUNCILMEMBER BAISA: The amendment.

CHAIR VICTORINO: First on the amendment, all those in favor of the amendment, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR VICTORINO: Opposed?

COUNCILMEMBER HOKAMA: No.

CHAIR VICTORINO: If I count right I hear six ayes, one no.

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

NOES: Councilmember Hokama.

ABSTAIN: None.

ABSENT: None.

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EXC.: None.

MOTION CARRIED.

ACTION: APPROVE AMENDMENT TO MAIN MOTION.

CHAIR VICTORINO: Okay. And then any more discussion on the ordinance as amended?

COUNCILMEMBER HOKAMA: Chair.

CHAIR VICTORINO: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: It's been interesting the discussion for a, how we've been approaching the Department for a departmental proposal. Okay. You know I understand some of the concerns of confidence of follow-up on the proposal, but damn if a Department and Administration would propose something they don't intend to implement and complete. This will still be, will be before the end of this Administration's tenure, and I'm sure Mr. Taylor if he's proposing this, he and the Mayor have expectations to do their best to effectively eliminate the list. You know so for me, you know, why would they propose something if they don't intend to implement and fulfill. So I'm willing to give them that opportunity, and I'll give them at this time my confidence to fulfill their obligations that this ordinance proposal is setting up for the County Code. Other than that, Mr. Chairman, you know, if this standing Committee in the future terms does its job like how you have approached it, if Budget and Finance does its job, within any fiscal year the Upcountry discussion is going to be discussed a handful of time. Especially with rates and fees, if this subject matter Committee will take Budget and Finance positions that all standing Committees prior to the budget do their preliminary budgetary reviews and then again we're going to do it during Budget and Finance during the rates and fees and everything else with the taxation component of our budget, we're going to be talking about this like I said at least in my mind five times by May. So, you know, I foresee enough oversight concerns being taken care of. I think the question now from what I hear from my fellow colleagues is the level of confidence to make it happen, Chair. Nothing, it's nothing else. I just consider it a matter of confidence, and at this point in time I personally am willing to give Director Taylor my support to see if he can make this work. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hokama. And you hit a key point, you know, you said the Chair's support or the Chair's willingness to keep bringing this forward. I think I've worked with Mr. Taylor over the last. . .almost two years, Mr. Taylor, and gave you whatever you asked me to, and whatever we discussed we brought forward, but I cannot speak for other Chairs in the future and that's the real challenge in my mind. I mean every Chair may have a different approach and what happens then, okay. But this ensures the two-year review, ensures that that has to be done somewhere along the line. And I think I agree with you, we have the confidence in Mr. Taylor and this Administration, but in futuristic Administrations and whatever, I think I want the door, you know, I want the door closed, I don't want the door left open so that

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everybody can fly the coup and then we start all over again, yeah. So I thank you, Mr. Taylor, and I thank, all of you, for all discussion. So with no further objections, I will call for the question on the ordinance as amended. All those in favor, say “aye”.

COUNCIL MEMBER: Aye.

CHAIR VICTORINO: All opposed? Let the record show seven ayes, no 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: FIRST READING of revised bill; and FILING of communications by C.R.

CHAIR VICTORINO: Thank you, ladies and gentlemen, for that. I thought that was going to be the quicker one, but I'm sorry that was the longer one.

MS. WILLENBRINK: Chair.

CHAIR VICTORINO: Yes.

MS. WILLENBRINK: Do you want to...

CHAIR VICTORINO: And file the communication. Thank you. I was gonna get to that. It's so good to have Staff that makes sure you don't miss any little thing. Thank you very much.

**ITEM NO. 18: WATER USAGE DURING WATER SHORTAGE
DECLARATION (CC 12-217)**

CHAIR VICTORINO: Now we have the other portion and we have approximately half an hour, and I don't know if we'll be able to get this done because there's a lot of discussion. I think more

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discussion on this one than the last one and it's my hope if we don't do it. . .we don't get it done today that definitely we come back sometime in November. If not November 13th then we'll see what date I can arrange for another meeting, but I do wanna complete and that one, it would be WR-16. . .or WR-18 Water Use [*sic*] During Water Shortage Declaration. Now you all have received a changed ordinance, and I don't know if the public's been able...Kim, did the public get a chance to review it also? The change?

MS. WILLENBRINK: What's your question, Chair?

CHAIR VICTORINO: Did the public get a chance to see the revised ordinance, 12-217?

MS. WILLENBRINK: I don't believe so.

CHAIR VICTORINO: Okay.

MS. WILLENBRINK: You mean the one that was handed out today?

CHAIR VICTORINO: The draft that we just received, yeah. Okay. Anyhow, if we have a few copies if we could give to those who are interested, I would appreciate that. WR-18 is Water Use [*sic*] During Water Shortage Declaration. The County Communication 12-217, from the Director of Water Supply, transmitting a bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO DECLARATION OF WATER SHORTAGES". The purposes of the proposed bill are to (1) authorize the Director of Water Supply, with the approval of the Mayor, to declare water shortages when water supplies becomes inaccurate...inadequate, I should say, in any area of the County. This is important, any area of the County; (2) establish stages of water shortage based upon the severity of shortage; and (3) clarify the Director's authority to control water use [*sic*] during a water shortage. Okay. So you all have the revised copy of 2...I mean 12-217. All of you received that. That's a...has the red stamp on top. Does anyone not received...has not received that copy? Seeing none, I guess everybody has. Okay. And that says Draft No. 5. Mr. Kushi, at this time would you quickly or as best you can, tell us what the difference between Draft No. 5 and the prior draft that was in the binder.

MR. KUSHI: Okay, Mr. Chair. We apologize for submitting Draft No. 5 this morning; however, we...our office had some concerns and we worked it out with the Administration, and we are in concert to bring Draft No. 5 forward for your consideration. The differences between the, let's say Draft 4 is the one in your binder and No. 5 . . .(*inaudible*). . . are as follows. I believe the key difference is the due process notification, advanced notification provisions in Draft No. 5. We expanded the notice and publication of the declaration of water shortage provisions. Basically we created a new subsection, and it's on Page 2 of your Draft No. 5. In essence, we stated that...the Draft No. 5 states that before a water shortage can be declared, it needs to be published in a newspaper of general circulation, at least bimonthly, twice a month. But the first notice to be published at least seven days, seven calendar days in advance of the start of the water shortage. That satisfies our concerns about advanced notice, due process implications. In addition, we also state that the notice shall contain, shall state the duration of the water shortage

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period as determined by the Director. It should also state and list the various measures, restrictions, and schedules that the Director has established to control water usage during the shortage period. Those are the main elements that we came up with. And also, it says that the Department where possible, in some cases it may not be possible, shall use its best...shall mail the notice to the various consumers affected; however, such non-receipt of...non-receipt of such mail notice shall not affect the declaration itself. Aside from that, those are our main concerns, the main differences between Draft No. 4 which was in your binder and Draft No. 5. Touching on Draft No. 4 which you had before you in the binder, it basically worked off the existing Chapter 14.06 entitled Control of Water Usage During Droughts. We expanded that to include water shortage, and define water shortage as not only droughts but mechanical malfunction, human error, and natural disasters or other events in addition to drought. We then authorized the Director with the approval of the Mayor to make the declaration. And based on the Director's expertise and discretion to declare the severity of a water shortage, and we set it in Stage 1 and Stage 2. Those determinations were based on the Director's estimate whether or not the anticipated water demand in a specific area, it could be parts of Kula, one street in Makawao, one block in Haiku, et cetera, where the anticipated demand in that area is projected to exceed the available water supply by up to 20 percent, that's Stage 1. Anything more than 20 percent is Stage 2. Okay. Stage 1 and Stage 2 we came up with those figures because you will have before you a companion budget bill that automatically says if a declaration is Stage 1, your water shortage rates will go up. The rates will go up due to the water shortage declaration for all categories. Stage 2 your rates would go further up, but you will get to see that bill later. Aside from that, the violation provision still remains, that any violation of the schedules, measures, restrictions may be subject to the water meter being yanked subject to appeal before the Board of Water Supply, and subject to a \$100 reinstallation charge. In addition, any person violating the measures and schedules established by the Director--this is why we made it clear that it has to be published and so stated--will be, may be charged with a violation, and upon conviction a fine up to 500 bucks which would then be a District Court State matter. Aside from that, Mr. Chair, I know it's quite a change in direction, but in concert with the Department's mission to have provisions in case of emergency situations, this is what we came up with.

CHAIR VICTORINO: Thank you. Mr. Taylor, I will give you an opportunity. I've gotten Mr. Kushi's, you know, changes. First of all, are you comfortable with Draft No. 5, and your comments along with that, please.

MR. TAYLOR: Well as Mr. Kushi noted, the Administration worked with Corporation Counsel to come up with this draft. I think the changes represent one of the difficulties in that from a functional standpoint we would want to immediately upon knowing that there was an incident, immediately take measures to cut back usage, but that is in conflict with as a public agency giving people ample notice that there's going to be rate changes. So this was essentially a compromise, a seven-day compromise. Just be aware that for example, you know, we had a tsunami warning the other night. Let's say that hadn't been a warning and there had been some damage, and that damage had been to power systems that affected half of our systems. What would have happened? Well we would have gone on the radio immediately saying we may be short of water for a month or two, you know, who knows, and these rates are going to kick in a week from now. So in the interim we'll just ask for people's, you know, cooperation. So that's

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an example of how this would work. So the first bill you saw said essentially the radio message would say immediately as of tomorrow these new rates go into effect. This change is saying hey, seven days from now these rates will go into effect. So that's the practical implication of this. And again, it's giving the public some, some warning. We're certainly hoping that the public doesn't take advantage in those seven days in between, you know, use all the water and dry the system out, but that's the balance, the tough balance between giving people ample warning and trying to take immediate measures. But otherwise, I think Mr. Kushi did an excellent job of walking through what this bill does.

CHAIR VICTORINO: Thank you. We'll start with Mr. Carroll and work our way right across the room. Give you a first opportunity. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. Even though my area is not one that I imagine any restrictions unless we have a war or something, but I've gone over this wording several times and from the experience that we've had in the past, I think this solves a lot of the problems that we had with water restrictions. I think this will be accepted more by the public as fair. I think it's easier for the Department to enforce and to make the decisions necessary in a timely matter [*sic*]. And somebody might find something with this, but right now as I'm holding this newer document, I think it's just fine. Thank you.

CHAIR VICTORINO: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Just a couple of things. It was very timely this morning that we had the results of the survey that was done at the meeting, and it was interesting to see that 92 percent of the people that responded said that they would support having drought rates. So I think that's a very clear message. The other was just one quick question. When this drought effect...rate goes into effect, does it affect anybody that's on Ag rates in any way?

MR. TAYLOR: The...this bill basically empowers the actual rates that are in our budget amendment proposal --

COUNCILMEMBER BAISA: Right.

MR. TAYLOR: --that have been sent I believe to Mr. Pontanilla's Committee. Our proposal for that does affect Ag rates. That bill could be changed to not affect Ag rates, to affect Ag rates more, et cetera, et cetera. This really empowers that bill, but the details of what would be affected are basically...are going to be the end result of what you decide in that Committee with that bill.

COUNCILMEMBER BAISA: So what...

MR. TAYLOR: There's some rate schedules in that bill that when it gets discussed in Budget and Finance Committee you're free to modify those.

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COUNCILMEMBER BAISA: I'm thinking that we might have to because I certainly do not want to cause any harm for the farmers. You know when there's less water and they have to pay more for it, what's going to happen to their crops?

MR. TAYLOR: So this is one of the central issues, and I think it came up...it's come up a number of times. One way that I think to simplify for the Members to think about it is as I think I've mentioned before, just imagine that we found a certain amount of water. You really want to make a decision about do you want all of that water going to meters, do you want all of it staying in reserve for drought, half and half, 70/30, et cetera, and how you feel about that is going to drive the issue we're talking about. And so to give us some strong indication of what your preference is for that, we can tailor these actions to meet that policy requirement.

COUNCILMEMBER BAISA: Well that's my only hesitation about this. I think it's a very good idea. I think people should have to pay more if they use more, but my angst is over not wanting to hurt ag in any way. And, you know, we already hear from the farmers there isn't enough water for them to grow what they want to grow, and so now if we put a financial burden on them, too, I'm not comfortable. Thank you. We gotta deal with them somehow. They have to be taken care of especially. Thank you.

CHAIR VICTORINO: Well I think this portion of the bill doesn't address that. I think what Mr. Taylor is saying is we need to go and when we get to the Budget and Finance, that's in that part of it.

COUNCILMEMBER BAISA: Well when we get there we have to do something, but we cannot ignore them. Thank you.

CHAIR VICTORINO: No, and I'm not saying that, but that's a good point to be made. And in fact, not only that but who has priority over hospitals, schools, you know, all these. There's a lot of little, yeah, nuances that we're going to have to work on when we get to that point, but right now this one basically gives him the authority and the Mayor. And I think that's what all of this is all about, giving them the authority. The next section, if I'm correct, Mr. Taylor, when you go to Budget and Finance then we get specific on which areas and what and how much and all that, right?

MR. TAYLOR: That is correct. So originally only the other two bills, the Budget and Finance bill and the bill you just passed out of Committee were the only two we had. This was sort of a housekeeping bill, if you will, to empower the Budget and Finance, different rates. It's really those drought rates that drive our decision making about how many meters we're comfortable giving out. For example, if...when we hear that in Budget and Finance Committee, the Council feels that they don't like those rates at all. Even though this bill empowers those rates but they're so small or they don't do very much, we may have to go back to our analysis and say well in that case we can't really give out as many meters as we were thinking, because basically we're going to have to save this water for drought because we have no way to cut it back. So the more we can cut back, the more meters we can give basically, and the less you're comfortable cutting back, the less aggressive we're going to be, the less we're comfortable giving those meters out. So that's the back and forth between leading certain groups out of drought

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restrictions or making them more or less aggressive, that's going to balance against how many meters we feel we can support during the rough times.

COUNCILMEMBER BAISA: I understand the concept, I just want to make sure we don't hurt the real farmers. Thank you.

CHAIR VICTORINO: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And in regards to the notice and publication of declaration, that seven-day window, are we setting ourselves up for any type of liability for like acts of God? Haleakala is a dormant volcano, it's just sleeping, what if it blew one day? How are you going to predict and warn the people ahead of time? So just want to make sure we're not going to be liable.

MR. TAYLOR: Well I'll just start from a practical standpoint. Whether it's acts of nature or acts of man or human error, there are obviously a number of scenarios where basically no warning, we can have major cutbacks in our ability to produce water. Member Carroll said, you know, he felt his area was sort of immune, I would basically agree because his area has so few backup systems to each other, really just two things going down simultaneously and Hana could have no potable water. Because it's not a very...there aren't a lot of systems that back each other up. So though there's always going to be lots of rain, we could have a dual mechanical failure and all of a sudden, you know, we have to shut off water to Hana for a while. So these kind of things can happen very unexpectedly, very quickly. Again, we're going to get on the radio right away like we always do. What we would be advertising is that these rates come in seven days from now. Now the event might be over before that, that's obviously true. Again, this is a balance between fair public notification and the fact that we're trying to react very quickly to something that we didn't know was coming and we don't know the duration of. So it's a tough balance. I wish we could find some way to communicate immediately with everybody in some fair way, but obviously that's not always possible.

COUNCILMEMBER COCHRAN: Right. I kind of wanted Corp., legal answer to this though. Thank you, Mr. Taylor.

CHAIR VICTORINO: Mr. Kushi.

MR. KUSHI: Well if I understand your question and a scenario would be this natural catastrophe --

COUNCILMEMBER COCHRAN: Right.

MR. KUSHI: --a huge tsunami, Haleakala exploding. These are events of natural disasters, and at then, at that point in time, the emergency powers of the County as well as the State in terms of civil defense would then kick in. My understanding is that once the Governor declares as such, they can trump anything. And in a case, to me that's a separate category, it's a civil defense, emergency type of nature situation. These bills are meant to address drought and water...other causes of water shortage, mechanical failures. Imagine if our biggest well in Wailuku shuts

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down, we need to do something, and we need to alert the public that, you know, we don't have enough. So those are the...this is the intent of all three bills.

COUNCILMEMBER COCHRAN: Thank you, Mr. Kushi. And, Chair, another follow-up?

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER COCHRAN: Thank you. So just following up on Ms. Baisa's concern about our farmers and commercial ag people and what have you. Up above, about the restrictions, control of water usage at a time when it's deemed, you know, necessary. How...are they protected, these people who are like in commercial ag and, you know, they can't cut back water on crops. You know our personal usage we can, but as in big ag commercial people, how are they going to be protected?

MR. TAYLOR: This is one of the big issues. If we look at the Southwest right now, they're saying the same thing. We've got farmers in Texas that are saying exactly that and they're cut back because the Colorado River does not have enough water to meet everyone's needs. We have to recognize and that was a big part of the presentation a month ago, in when it's dry there is just not enough for everyone's needs. So if the Council's policy is going to be agriculture first and everyone else has to cut back massively, then when you see the rate schedule, you can modify that to sort of make that policy known in your numbers. You could...we do have in our proposed bill Agricultural Stage 1 and Stage 2 rate increases for drought. You could cut those out and you could jack up the other categories if you like. That would fulfill that policy. Our recommendation in that other bill is that everyone suffers a little bit. Ag suffers less because their increases are much less than the other categories. That is our proposal, to include them. If, again, this body feels that you want to leave them completely out and make sure they get all their water, as long as you're clear that everyone else is just going to suffer more to make up for that, you know, so be it, we could implement that. The details of that will really be in that rate schedule that's in the Budget Amendment. So this empowers that rate schedule, but that rate schedule can change. It can change every year depending on how the, this body sees it. So again, this is sort of a housekeeping bill to enable there to be a drought rate structure, it doesn't set the drought rates or say which categories are included or not. So if that is your policy, I would recommend just dealing with it in that rate structure and make the modifications you see necessary.

COUNCILMEMBER COCHRAN: Thank you. I was...about the restrictions. Not so much about rates but just as in source, once these meters are put up and running then I'm told it's not going to affect our ag users, our agricultural commercial people. And so I just want to see that there's some kind of protection that when there's shortage, not just drought but any type of water shortage, that, you know, they're somehow protected. I mean to be rest assured that the Department will be always looking for more source, more quantity to fulfill all the users and ag being a big user or we'd like, I'd like to see more ag users. You know so it's not, I'm not even addressing rates, I'm more addressing this restriction that's going to be put upon people during shortages whether that's due to human error, act of God or whatever. But...so, you know, and

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this meter list which we're trying to up and fulfill, that the current people aren't going to be, you know, hampered by their existing uses.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: I think your concerns are something the Department shares and I think everyone shares. I think we struggle because the whole point of this is there is some uncertainty in the future that either us or agricultural users or any other users, we may just not have enough water during events for everyone. So if there is a clear policy that this Council wants to set about any groups that are left out of any sort of water cutbacks and which group should take the brunt of it, if that is known to us or you want to make those modifications in here, you can implement that policy through statements. What this bill says and what the other ordinance says is when we're in trouble, we all have to somehow share that trouble. If there are certain categories of users that you want to leave out of suffering, you just need to make that known through language in these bills.

COUNCILMEMBER COCHRAN: Right. Thank you, Mr. Taylor. Thank you, Chair.

CHAIR VICTORINO: You know I'm looking at the time, we're almost at 12:00, and I think some of the Members had to leave and already two of them have left and somebody else has to leave pretty quick, and I'm beginning to, you know, lose quorum and, you know, and there's still more to be discussed. So I don't know, should I recommend passage of this or you guys want to spend more time on this, because we're going to have to set another meeting to finish this up.

COUNCILMEMBER CARROLL: Chair?

CHAIR VICTORINO: If I can find the time, I'd find the time. Go ahead.

UNIDENTIFIED SPEAKER (From the gallery): . . .(*inaudible*). . .

CHAIR VICTORINO: No comments from the gallery, please. Okay. Please. Go ahead, Mr. Carroll.

COUNCILMEMBER CARROLL: Chair, like I said, I've gone over this bill several times and I am well aware of the history of all the water regulations that we've had and all of the things we've gone through, and I find no fault with this bill. I think it is something that will really help us in the future, and I'm ready to vote on it. Thank you.

CHAIR VICTORINO: Is that the sentiment...Mr. Hokama?

COUNCILMEMBER HOKAMA: You know I would like to ask my questions, Chairman, because I have some area I need clarification on before I can vote on this.

CHAIR VICTORINO: And I think there was still a few more.

COUNCILMEMBER HOKAMA: And then, yeah, Mr. White hasn't asked, Mr. Pontanilla.

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CHAIR VICTORINO: Okay. Well let's go run as long as we can and then, you know, 'cause no later than 12:15.

COUNCILMEMBER WHITE: Yeah, I need to leave before that.

CHAIR VICTORINO: Okay. All right. Then I'm going...with no objections, I'm going to defer this matter to the next scheduled meeting I can schedule. I don't know when that will be. With no objections to the body. Is there any objections to deferring it?

COUNCILMEMBER HOKAMA: No.

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Okay, thank you. And I want to say thank you very much. The discussion today was very good, and I appreciate everybody's take, the public as well as the Council members, Department, Mr. Taylor and Mr. Kushi, and of course our Staff. So with no further ado, I will adjourn this meeting, and we will bring this forward at the next date certain when we can reschedule another meeting 'cause I think the 13th is, has a special Council meeting and I think I'm gonna lose that day. So as soon as I can schedule something I'll take quorum and try to set something up. This meeting of the Water Resources Committee of October 30th, 2012 is adjourned. . . .(gavel). . .

ADJOURN: 12:01 p.m.

APPROVED:



MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:121030:ds

Transcribed by: Daniel Schoenbeck

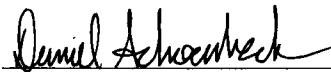
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CERTIFICATE

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 23rd day of November, 2012, in Kula, Hawaii

A handwritten signature in black ink, reading "Daniel Schoenbeck", written over a horizontal line.

Daniel Schoenbeck