

WATER RESOURCES COMMITTEE
Council of the County of Maui

MINUTES

March 19, 2013

Lanai Senior Center, 309 Seventh Street, Lanai City

CONVENE: 7:03 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Michael P. Victorino, Chair
Councilmember Mike White, Vice-Chair
Councilmember Robert Carroll (out 7:15 p.m., in 7:26 p.m.)
Councilmember Donald G. Couch, Jr.
Councilmember Stacy Crivello
Councilmember Don S. Guzman (in 7:04 p.m.)

NON-VOTING MEMBERS:

Councilmember Elle Cochran
Councilmember G. Riki Hokama

ABSENT: VOTING MEMBERS:

Councilmember Gladys C. Baisa

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

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)
Scott Jensen, Legislative Analyst, Council Chamber, 8th Floor (via telephone conference bridge)

ADMIN.: Michele McLean, Deputy Director, Department of Planning
Joseph Prutch, Planner V, Current Planning Division, Department of Planning
David Taylor, Director, Department of Water Supply
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Pat Reilly
John Ornellas
John Stubbart, Director of Utilities, Lanai Resorts, LLC
Rosemary Robbins (via telephone conference bridge From Council Chamber)
Kurt Matsumoto, Chief Operating Officer, Lanai Resorts, LLC
Ron McOmber, Lanai Water Advisory Committee
Bill Kamai, Member, Investigative Committee of the Board of Water Supply

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Butch Gima, President, Lanaians for Sensible Growth
Stephen West, ILWU Local 142, Maui Division
David Green, Commissioner, Lanai Planning Commission
John dela Cruz
Alberta de Jetley
Sally Kaye, Lanai Water Advisory Committee
Others (15)

PRESS: Akaku: Maui Community Television, Inc.

CHAIR VICTORINO: . . . *gavel* . . . The meeting of the Water Resources Committee, March 19, 2013, here on the island of Lanai will convene. Thank you, public, for your patience and understanding that the other meeting ran a little bit longer, but it's the intent of this Chair to go through the public testimony first, after all the introductions and all that, and then take a recess to allow you and the Members to have something to eat and then get back into the business at hand. So with your indulgence let me start, first of all, asking everyone that has cell phones to please put them on silent mode or another form _____ so we won't be interrupted during the meeting. I'd like to introduce the Members here this evening. Myself, Chair Mike Victorino. My Vice-Chair from the Makawao/Haiku area, Mr. Mike White. And from East Maui, our representative Robert Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR VICTORINO: And from South Maui, our representative Don Couch.

COUNCILMEMBER COUCH: Good evening, Chair.

CHAIR VICTORINO: Good evening. And our representative from the island of Molokai, Stacy Crivello.

COUNCILMEMBER CRIVELLO: Evening, Chair.

CHAIR VICTORINO: And our Central representative from Kahului District, Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good evening, Chair.

CHAIR VICTORINO: Thank you. Excused as a voting Member is Gladys Baisa, the Chair from Upcountry. We also have the Lanai representative that is present this evening, that is they're Members of this Committee but they don't vote. Okay, I know that sounds unusual but that's how it is. We're a seven Member Committee, but all Members are allowed to participate. Our Lanai representative, Mr. Riki Hokama. And our West Maui representative, Ms. Elle Cochran.

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COUNCILMEMBER COCHRAN: Good evening.

CHAIR VICTORINO: Alright. From the Administration we have as resource people tonight. We have Dave Taylor, Director of Water Supply.

MR. TAYLOR: Good evening, Chair.

CHAIR VICTORINO: Good evening. And we have Michele McLean, Deputy Director from the Department of Planning. And Joe Prutch, Planner from the Department of Planning. And from Corporation Counsel, Mr. James Giroux.

MR. GIROUX: Aloha, Chair.

CHAIR VICTORINO: Aloha. Also our Committee Staff. Ms. Kim Willenbrink, Legislative Analyst.

MS. WILLENBRINK: Good evening.

CHAIR VICTORINO: And Yvette Bouthillier, the Committee Secretary. So these are all the Members. And then we also have resource people that we'll be calling upon this evening from the Lanai LLC. But before I do that, let me start with the District offices. In the Council Chamber, Scott Jensen, are you there?

MR. JENSEN: Yes, Mr. Chair.

CHAIR VICTORINO: Thank you. Dawn Lono from our Hana Office. Dawn, are you there?

MS. LONO: _____, Mr. Chair.

CHAIR VICTORINO: Thank you. Thank you guys for your patience, by the way. And Ella Alcon, our Molokai Office. Ella, are you there?

MS. ALCON: Good evening, Chair. I'm here on Molokai.

CHAIR VICTORINO: Thank you. And thank you, guys, for all your patience. Tonight we have one item that we'll be discussing, WR-16, Establishing a Lanai Water Advisory Committee. So at this time, I would like to call on public testimony, with no objections.

COUNCIL MEMBERS: No objections.

...BEGIN PUBLIC TESTIMONY...

CHAIR VICTORINO: Thank you. First testifier this evening is Mr. Ron McOmber.

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MR. MCOMBER: I would like to wait, please.

CHAIR VICTORINO: Okay, I'll put you at the end then, if that's okay, thank you. Alright, now moving to the next person that has signed up to testify, Mr. Pat Reilly.

MR. REILLY: Mr. Chair, may I take a seat? I'm a little _____

CHAIR VICTORINO: Right, right here, you can take that seat.

MR. REILLY: Okay, _____ test the microphone. _____

CHAIR VICTORINO: You okay?

MR. REILLY: I'll just _____.

CHAIR VICTORINO: Okay.

MR. REILLY: Thank you, doing a little too much running. Well, welcome to Staff and Council Members. For those of you who don't know me, I'm a 35-year resident of Lanai and retired from the Lanai High and Elementary School as a school counselor. My point tonight is you can see I, I do support establishing the Lanai, actually I'd probably say, reestablishing the Lanai Water Advisory Committee or LWAC. I've been attending these meetings essentially since 1985 when Mr. Murdock purchased Castle and Cooke and Member Riki Hokama's father, Goro Hokama, established the Lanai Water Working Group. That's a lot of meetings. Ms. Kraftsow, who worked for the Water Department, in my opinion did an excellent job in developing the Lanai Water Use and Development Plan which the Council adopted. In my own opinion, that 800-page plan probably, we'll never see anything like it again and it contains most the history of Lanai water. I've been following the PUC on Docket 2012-0157 and the sale of the utility. I just believe that the reestablishing of LWAC is a reasonable and prudent vehicle for timely communications and exchange of ideas and transparency with our community. It has worked, in my opinion, it has worked. It has been sometimes contentious as issues of water when you're dealing with limited water supply. But it's the only vehicle we have locally on the, on the island in order to exchange timely communications and to ensure that ideas from the community and my company are ongoing debate. I understand supply of the water system and why the Department of Water Supply was responsible for the Water Use and Development Plan, the PUC nor the Council has enough time to monitor that. So I'm looking for monitoring, maybe there's a magic meaning to that word, but it's, it's mostly for knowledge and transparent and clear exchange of ideas. And with the sale, with the recent sale in December, we're hearing about possibility of desalinization to produce additional water. Many changes will impact our, our water and it just seems prudent. Thank you very much.

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CHAIR VICTORINO: Thank you, and besides I never knew your name was Fairfax. I learned, 35 years I've known you, plus I never knew that. Thank you. Any questions, with that, any questions for Mr. Reilly? Seeing none, thank you very much. Next testifier is Mr. John Ornellas.

MR. ORNELLAS: Aloha, welcome, Council members, to Lanai. First I want to, most of you were there the last time, the meeting concerning this, this, this resolution, and I saw it on TV. I didn't, I wasn't able to travel then, but it was a packed house and that was the reason because the company brought all these people there. Now look around you tonight. If you, if you, if you discount the, the new executives, you don't have that number here. You have us, the people of Lanai, the Lanaians for Sensible Growth, LWAC members. We want to monitor our water. We've been doing this for 15 years, developing the Water Use and Development Plan. We know the water, outside of maybe John, but we know the water. And we can hold the company accountable to the Water Use and Development Plan as an advisory. We wouldn't have any, we wouldn't have any objection to, you know, just stating the facts, getting the project, looking, does it, does it match, does it match the Water Use and Development Plan, does it follow? And then we could just give it a blessing and send it on its way. If not, then we can just say we don't agree with it, but we still send it on its way and it's up to the Lanai Planning Commission and up to you guys to take our, to take the recommendations or not. It's like any other board or commission that Maui County has. The difference is that this one, our water, our water is so precious to this island. You cannot believe what, what's been happening as far as the drought that we've been suffering. I mean we've had some rain, a little rain lately, but not enough. Deer is dying. So what does that mean to our aquifer that, that supposedly gives approximately 6 million gallons sustainable yield per day? It doesn't, it can't, because it ain't getting any water. So why, why do you need me to distance ourselves from home rule and, and put it on the Department of Water Supply, put it on CWRM, put it on you guys? You guys don't want, you guys don't want to deal with our water. Why don't, let people that want to do it, that live here, be an advisory to, to whomever that wants to, wants to take, wants to listen to what we have to say about our water situation? We cannot, we cannot allow somebody else other than this island, members of this island, to monitor our water because you know already Department of Water Supply doesn't have, doesn't want anything to do with us, CWRM, of course, doesn't want to do with us, deal with us. So, who else? You guys? No.

MS. WILLENBRINK: Three minutes.

MR. ORNELLAS: You guys too busy. Let us do it. Thank you.

CHAIR VICTORINO: Thank you, Mr. Ornellas. Any questions for the testifier? Seeing none, thank you. Next testifier is John Stubbart and he is with, representing the Lanai Resort, LLC. He is the Director of Utilities. Mr. Stubbart?

MR. STUBBART: Welcome to Lanai, Committee members. We have lots of testimony that express our concern that you received in your packets. I'm not going to go over that again. What I'd

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like to do in respect to the Committee is I'm gonna give my three minutes to Kurt Matsumoto for him to express some of our concerns and some of our things that we want to do in going into the future.

CHAIR VICTORINO: With the Committee's permission, of course, I, if that's alright with the Committee? Any objections?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections. Okay. So the next testifier is Kurt Matsumoto and he is with the Lanai Resort, LLC, the COO. And let me also say that if you have something to pass around, then let's get that passed around and then we'll...what's that?

MS. WILLENBRINK: Chair, you wanna check in with the other islands?

CHAIR VICTORINO: Oh, before I start with you, Kurt, let me check this and then you can ...*(inaudible)*... I'm sorry. Back in Maui, Wailuku, Scott, is there anyone there signed up to testify?

MR. JENSEN: Yes, Mr. Chair.

CHAIR VICTORINO: Oh, okay, okay, thank you. Good evening, the testifier, could you state your name and if you're representing any organization?

MR. JENSEN: Mr. Chair, the testifier is Rosemary Robbins. She'll be testifying on WR-16.

MS. ROBBINS: Aloha to everybody over there on Lanai. I'm here just as a moment in history. I am so happy to know that the opportunity is coming to the people on Lanai to speak for themselves. I know what it's like to be on an advisory committee, and some of the things that you may give advice on may not be the things that happen, but your voice will be heard, it carries through for the history passed on to all of you. Thank you.

CHAIR VICTORINO: Thank you, Ms. Robbins. Any questions for the testifier? Okay, thank you. Hana, Dawn, is there anyone there to testify?

MS. LONO: There is no one in Hana waiting to testify.

CHAIR VICTORINO: Mahalo. Molokai, Ella, is there anyone there to testify?

MS. ALCON: There's no one here waiting to testify.

CHAIR VICTORINO: Mahalo. Okay, so our next testifier will be Mr. Kurt Matsumoto.

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MR. MATSUMOTO: Good evening, Mr. Chairman, and Council members, I'm Kurt Matsumoto, COO for Lanai Resorts. Read my testimony to you. I want to thank you all for being here and addressing this issue. I appreciate the opportunity to speak in front of you tonight and address the question of the need for an ordinance formalizing the Lanai Water Advisory Committee to monitor the Lanai Water Use and Development Plan. First, I want to acknowledge the members of Lanaians for Sensible Growth for being vigilant about water use on Lanai for nearly 30 years. It's an admirable record and demonstrates the care and concern this group has for the island's future. I can understand the reasons for the group to continue to have an ongoing role with regard to monitoring the progress of the Water Use and Development Plan. They sacrificed personal time, worked long and hard with little recognition to develop the Plan, and they have the best intention to see that it is fulfilled in every way. However, I believe we can accomplish the same teamwork and trust-building within the Lanai community without any intervention by County government. Keep in mind that already in existence are the 1999 Board of Water Supply resolution creating the LWAC, which already empowers the Director to reconvene the LWAC as deemed necessary by the Director and the existing State Water Code which is actively enforced by the Commission on Water Resource Management. Much has changed over the last seven months. Lanai has a new majority landowner with a very different approach to the role and responsibility that comes with such a position. As the new landowner's senior representative, I plan to develop a healthy working relationship with the Lanai community. I will be taking action in many ways to reach this goal. It is our intention to improve the quality of life for the residents beyond just job creation. We will work with the community to create a model school, improve healthcare, build more primary housing, bring back commercial agriculture and grow food on Lanai to be consumed on Lanai. We have a desire to implement more renewable energy with 100 percent of our efforts focused on supplying the island of Lanai. Specific to water resource management, we have several approaches we have begun to work on. First we have started the process to initiate repairs to the water system and address deferred maintenance issues. Towards this initiative, \$10 million has been committed to be spent over the coming five years. Second, we have hired a professional conservation director who will begin work on April 2nd. Along with that position, we will add additional personnel who will work with the director to not only address conservation efforts throughout the island, but to put major emphasis on watershed management and begin efforts to staunch the decline of the main recharge area. It is our hope that we can stabilize the watershed and then begin to work to enlarge the recharge area on Lanai Hale. Along with the conservation efforts, we have increased the staff dedicated to control the axis deer population on Lanai Hale. Third, we have contracted with a company that is one of the world's leaders in desalination technology. We will be working with them to obtain permits to drill test wells and hope to have this work started by this summer.

MS. WILLENBRINK: Three minutes.

MR. MATSUMOTO: This is the foundation work, which will lead to permitting and building a desalination plant with a goal of reaching a 5 million gallon daily production level. In addition to these three major initiatives, I plan to implement an ongoing series of communication actions to inform the Lanai community at large about the Lanai Water Company and the Water Use and

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Development Plan. So first point being to ensure Lanai Water Company holds quarterly meetings to update the public on the Water Use Development Plan issues and implementing provisions including, but not limited to, the progress toward development of desalination facilities; meet quarterly with the Lanai Planning Commission to update the Commission and public on water issues, watershed programs, and provide workshops as reasonably requested as educational opportunities for the LPC membership; provide Department of Education with class instructions and tours as requested by the school; --

MS. WILLENBRINK: Four minutes.

MR. MATSUMOTO: --during the summer, engage students to act as participants and observers in the company's efforts to improve water resource development and management; provide a conservation program for our customers and the general public on reducing water use and saving on water bills; provide a drought response plan to customers and the public; provide a private meeting opportunity on every-other-month basis on a scheduled day for customers and public to come into the Lanai Water Company and Lanai Resorts office to voice issues and concerns; introduce a website with information on Lanai Water Company issues and resources. I want to close by leaving you with a quote, which I feel is appropriate for today's discussion. A good government may indeed redress the grievances of an injured people, but a strong people can alone build up a great nation. If you replace the word "nation" with an "island", this quote reflects my personal sentiment that a strong collaboration between the majority landowner and the residents of Lanai can do more to improve our water resource management than any ordinance can accomplish. Thank you.

CHAIR VICTORINO: Thank you, Mr. Matsumoto. And with the Committee's permission, I would like them to hold off on questions. Mr. Matsumoto, you will stay as a resource person for this evening, right?

MR. MATSUMOTO: Yes, I will.

CHAIR VICTORINO: Okay, if you don't mind, Members, so that we can finish public testimony, we will hold Mr. Matsumoto as a resource person after we get, we reconvene the meeting after our recess. Moving right along.

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Our next testifier --

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: --is Mr. Ron McOmber.

MS. WILLENBRINK: Chair?

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CHAIR VICTORINO: Yes.

MS. WILLENBRINK: Did you want to check with the Chamber one more time?

CHAIR VICTORINO: Oh.

MS. WILLENBRINK: Cause he said, our first testifier.

CHAIR VICTORINO: Okay. Well, let me, let me go one more here and then I'll go back to the Chamber, okay, please. Okay, first of all, let me call upon Mr. Ron McOmber and he's testifying as a representative of LWAC. Mr. McOmber?

MR. MCOMBER: What Kurt said is, is fine. Okay, we found him to be very honest and very forthcoming, no question. That's not what the question is here. We have a group of people that have busted their butt for over, for almost 30 years. We were brought into the fold under Riki's dad and the Water Resource Commission and the Governor. The Governor said I want to see a water working group on each island, I mean, the CWRM said, I want to see this done on every island and every County, and we took that challenge and we took it to heart and we worked on it. And at that time, it was a hell of a job. You know, we're not asking for, we're not asking to be a regulatory agency here, folks. This is a grassroots organization and it does, it falls right in line with what Kurt's doing. Come to us, we'd like to be part of you then, but you can't just go down the street and talk to someone who has no idea what the hell's going on with our Water Code. It just doesn't work that way. You can bring the list here, one member from a non-profit organization, a member from the business community. Most of these people have no idea what our water situation is. We go down the street, we've, we've seen what happens here. We see a well and the well's being tore down or being taken out, a well head's being taken out. Who do you think asked the question, why is that being done? We do. We as a community would take it back. But that was cut off when the Water Department said, we don't have to recognize LWAC anymore, cancel, you just forget about them, they've done their job, the Water Use and Development Plan, which we did, hours and hours and months and years on that. We're the ones that got the watershed fenced off because we agreed that it was an important thing. It had nothing to do with anybody else but the LWAC people that did this. It's a slap in the face to the people that did all this work to take this organization and say it's not worth anything and we need to establish that. It's not going to have any impact on what Kurt's doing or what the company's doing but we would like to be in concert with them. We'd like to know it because there's few of us that care about this place as much as he does. He was born here, I wasn't. But I've been here 43 years, I love this place. And I just don't believe that we need to go backwards and, and, again, we're not asking to be a regulatory agency. We, we can't stop the development. We don't even intend to do that, but if they come up with some harebrained thing, then they don't do their desal and they want to continue development, we're going to ask, do you have the water, and would they show me the water thing? This is the same thing we're talking about.

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MS. WILLENBRINK: Three minutes.

MR. MCOMBER: I don't distrust Kurt. I don't distrust him at all. But I'm pleading that LWAC is a functional, good organization on this island that needs to continue. And with your graces, we'd like to do that. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. McOmber. Questions for the testifier? Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Mr. McOmber, you listed off a couple things in the Bill that you said you weren't, it seems like you said you didn't like them in there. You said one member from a nonprofit community...

MR. MCOMBER: No, I didn't say that. I didn't say that. I said they've restructured it and we, we'll live with that. I mean, if that's what they have come up with, we'll live with that. But I didn't say I didn't like it. I just, my concern is we need to educate these people right from the ground up, and there's some people that should be on this Committee that you don't have to educate of what's going on.

COUNCILMEMBER COUCH: But you realize that all of these folks have to live on Lanai, right?

MR. MCOMBER: Of course.

COUNCILMEMBER COUCH: All these people that are on the Committee?

MR. MCOMBER: Absolutely.

COUNCILMEMBER COUCH: Okay.

MR. MCOMBER: They're Lanai residents. And who else should take care of their water?

COUNCILMEMBER COUCH: Okay. And if this Committee or the Advisory Committee was there, it's, you're saying that it's not regulatory, which it sort of isn't?

MR. MCOMBER: No, it's not.

COUNCILMEMBER COUCH: But it's, but, yet another layer of --

MR. MCOMBER: Bureaucracy.

COUNCILMEMBER COUCH: --process to go through? Bureaucracy?

MR. MCOMBER: No, no. That, see that's what the misunderstanding is here. All we're asking for is if XYZ developer comes in and says I'm gonna build 700 homes in _____ or out in

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somewhere out here, and we're saying where you getting the water from? You know, do you have the resources for that? All we want to do is look at this. We know what the water situation. We know what we have in the aquifer. We know how bad the aquifer is and how, how tender that aquifer is. We, you know, we, we talked with Patsy Mink's husband and we talked with all these people all these years, good hydrologists that know Lanai, Swede Desha. All these people that we talked about Well 1, Well 1 concerned taking a lot of water out, water that...there was stuff down at Manele. Well 1 was susceptible to going dry on us lots of times because they'd over pump it.

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

CHAIR VICTORINO: Any other questions for Mr. McOmber? Seeing none, thank you very much.

MR. MCOMBER: Thank you.

CHAIR VICTORINO: Now I go back to our Offices. Wailuku, Scott, do you have anyone that's there to testify?

MR. JENSEN: Mr. Chair, there're no further testifiers.

CHAIR VICTORINO: Thank you. Hana, is there anyone there?

MS. LONO: The Hana office has no one waiting to testify.

CHAIR VICTORINO: Thank you, Dawn. Molokai, do you have anyone there to testify?

MS. ALCON: No, there's no one here waiting to testify.

CHAIR VICTORINO: Thank you. The next testifier, and if it's okay, please E-mail us and let us know if you have anybody, all three Offices. In the meantime I'm going to try to finish up and then come back to you one, one more time, okay? Alright, next testifier here is Mr. Bill Kamai and he is a Board of Water Supply member and he was on investigative committee and he was a member of that committee and he's here to report on some of their findings. Mr. Kamai?

MR. KAMAI: I wish was that in depth. My name is Bill Kamai. I am a member of the Maui County Board of Water Supply Investigative Committee. I'm here to provide testimony on behalf of the Board of Water Supply on the establishment of the Lanai Water Advisory Committee. The Board had previously discussed the proposed establishment of the Lanai Water Advisory Committee would be unnecessary additional layer of regulation without regulatory authority. First of all, it's a private water system. Secondly, it's already regulated by various regulatory agencies. The Commission on Water Resource Management that oversees aquifer health, sustainability and adequacy. The Department of Health regarding water quality, public safety and health. Public Utilities Commission for rates and fees. The Lanai Water Use and

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Development Plan is not an ordinance, nor is it law. Thus, such a monitoring advisory committee would have no authority over the implementation on the Lanai Plan. Anyone can form a committee now. There's no way to stop them from expressing their concerns about water or any other issues before the Lanai Planning Commission. Committees such as this made of persons with undefined water expertise advising the Lanai Planning Commission on undefined water related matters is questionable in itself and should not be established. The Board of Water Supply feels that there is no need for the establishment of a committee as it sets such a bad precedence for private water systems throughout the State. Thank you.

CHAIR VICTORINO: Thank you, Mr. Kamai. Questions for the testifier? Seeing none, thank you, Mr. Kamai. Next testifier is Mr. Butch Gima and he is representing Lanaians for a Sensible Growth. He's their president. Mr. Gima?

MR. GIMA: Good evening. I'm asking you to vote in favor of establishing the LWAC by ordinance. I'm sitting down because I get very nervous when I'm testifying about something very passionate. I've been working on this committee for 20 years. So this is not decoration, folks, 20 years. I could be doing a whole lot of other stuff besides going to committee meetings, reading all the documents. Now I was at the first Water Resources Committee Meeting where you voted in favor of this ordinance. I was very disappointed with all of you that you guys voted 8/1 to send it back here especially because I asked several of you, okay, do we need to come over to testify? If so, then I will bring over some people to testify to provide some balance. Now I was told, nah, no need, no need. And then when you guys were slammed with testifiers, I wasn't called to say, hey, provide some testimony over the phone. I was very disappointed. Now the purpose of this bill is to establish LWAC by ordinance and it has several roles. One, and very importantly, is to monitor implementation of the Water Use and Development Plan. County and State agencies aren't going to do that. The Board of Water Supply resolution states that the LWAC be established to develop and implement the Water Use and Development Plan, not just develop, but implement the Water Use and Development Plan. Secondly is to advise, advise the Lanai Planning Commission on water-related matters that come before them. Thirdly, to comment on all applications before the Planning Department as other State, County and Federal agencies do. So that's, that's the purpose. The composition, we, we offered what we felt should be on the LWAC. You guys changed it. We can live with it. LSG is no longer listed on the proposed ordinance. So if anybody says, well this is an LSG initiated thing, no, we're, we are not, we are no longer in the proposed ordinance, but we feel very strongly that home rule must prevail. Now, I'm getting sick and tired of people saying, agencies saying that this is going to add another layer of bureaucracy. Has anyone taken the responsibility to provide you specific language or what that additional layer of bureaucracy is? No --

MS. WILLENBRINK: Three minutes.

MR. GIMA: --no they haven't. And even if there were to able, be able to do that, have they demonstrated to you that it would be detrimental to the implementation of our Water Use and Development Plan or detrimental to our community? No. So you can pretty much conclude it's

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a lot of rhetoric. Now I'm sure I expect all of you have thoroughly gone through the Department of Water Supply and Lanai Planning Commission's deliberations in writing on this issue. I expect that you have reviewed the flow chart I provided you the last time to show the proposed process by which LWAC would operate. Now all of the oppositional language is weak, additional layer of bureaucracy, too expensive, already regulatory controlled and authority already exists, Planning Department lacks the expertise in water resource management --

MS. WILLENBRINK: Four minutes.

MR. GIMA: --will set precedence for Molokai and Maui and the private water systems, the Water Use and Development Plan is not an ordinance or law, those are weak, weak, weak reasons to oppose establishing LWAC by ordinance. Please, I beg you, to you guys, you guys would demonstrate leadership by making the right decision. Often the toughest decision to make is very easy to vote against this bill, because you guys won't have to face us on a daily basis. However, if you vote for what's right for our community and it's water, if you vote for the bill, you will have to face constantly all those who are offering oppositional language, the Planning Department, the Mayor and/or the Department of Water Supply, Board of Water Supply. I am testifying on the assumption that your Committee makes informed decisions and that you likewise expect that of all County-related decisions. Hearing no objections to that, then I would expect you would want the same for decisions concerning our water, and LWAC is the entity to do that. However there are those who purport that these decisions be made by the Lanai Planning Commission, Commission on Water Resource Management, Department of Water Supply and/or the Lanai Water Company. The first three, the Planning Commission, CWRM and Department of Water Supply, cannot as they are unable to make informed decisions. They haven't been dealing with this like LWAC has. You surely do not want the purveyor of our water to be the sole decision maker. That would be irresponsible on your part to allow that. Again, the LWAC is the best and most logical choice.

MS. WILLENBRINK: Six minutes.

CHAIR VICTORINO: Mr. Gima, I'm gonna ask you to conclude in thirty seconds 'cause I gave the other side and I'm gonna also ask you also to be here as a resource person. Is that alright with you?

MR. GIMA: I beg for your indulgence because, like I said, I asked if we needed to be at the, at the hearing the last time. You said, no need come. So can you give me a few more minutes?

CHAIR VICTORINO: Okay, and I not going be unfair to others and then I'll never stop this. So I'll give you thirty seconds to conclude and ask you to stay as a resource person.

MR. GIMA: How's about if I come back until the last guy, when the last guy's pau, I'll come back and finish mine?

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CHAIR VICTORINO: No, Mr. Gima, I said resource, okay. So thirty seconds to wind up and then you can be here as a resource for LWAC. Thank you.

MR. GIMA: The County cannot have it both ways. They cannot say you cannot have home rule but not take responsibility. Everybody's hunting, nobody wants to take responsibility, LWAC does. This is our water. This is our livelihood. This is our community. There's no skin off you guys back. There's no accountability if something goes wrong. There's no ownership of the stewardship of our water. LWAC has ownership. We want to assume ownership of the stewardship of the water. Remember now, designation of, water management designation was deferred by the Commission on Water Resource Management back in the '90s with the understanding that an entity such as LWAC continue to deal with water-related issues and to mitigate the conflicts between the major landowner and the community. So please don't, please don't forget that. Thank you.

CHAIR VICTORINO: Thank you, Mr. Gima. Now I'll ask everyone again. I will use Mr. Gima as a resource for LWAC and if you'd hold your questions till then, that way we can get through with the rest of the testifiers. Thank you, Mr. Gima, and please stick around, we really do need you, okay? Next testifier is Mr. Steve West and Mr. Steve West is representing the ILWU, Local 142, Maui Division.

MR. WEST: Aloha, Council members. This is a very, very contentious, very contentious issue. The ILWU came to inform Council Chambers on this issue back in, I believe it was December, and we took a very strong position against this and we remain strong and remain passionate that this is not the time and the place to do this. We have a, we have a owner that has...you had your time, I'll have mine, okay.

CHAIR VICTORINO: Alright, I will not, okay, speak to the Committee, do not respond to others --

MR. WEST: Alright.

CHAIR VICTORINO: --and I'll ask everyone to show respect and let each testifier complete their testimony.

MR. WEST: Thank you. But at this, this point in time, we believe that this, this is, this is not the time and the place to do this. We brought you 300 signatures from our members that feel very strongly about that. I hope you still have those, those signatures on file. I would just strongly urge you to vote this measure down at this, this point in time. Thank you.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, next testifier is Mr. David Green. He is testifying on his, for himself. Mr. Green?

MR. GREEN: Good evening. My name is Dave Green. I have been a fulltime resident of Lanai for the past six-plus years. I am currently a member of the Lanai Planning Commission. The Lanai

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Planning Commission reviewed the draft bill in question on June 20, 2012. Unfortunately the Commission did not have enough members present to take a binding vote. However, the majority of Commissioners present at the meeting did not support this bill. I believe strongly that you should not vote for the bill to formalize LWAC for the following reasons. The Lanai Planning Commission did not request the Maui County Council to formally establish LWAC as an advisory committee to the Commission. A formalized LWAC would be redundant to the Planning Commission and an unnecessary bureaucratic process, be an expensive duplication of effort and an inefficient use of scarce County resources. The Planning Commission is the authority that already has a formal responsibility to consider the availability and use of water in approving project and zoning requests. The Planning Commission, being located on Lanai, fulfills the desire for home rule that LWAC proponents have articulated as a justification for its formalization. For the last 10 years, a Planning Committee member has been a member of LWAC, provided an effective communication link between the current LWAC and the LPC, and LWAC has made recommendations to the Lanai Planning Commission in the past on water issues. Members of the current LWAC attend nearly all meetings of the Planning Commission and are very frequent testifiers about water issues. They are not shy people and I'm sure they will continue to make their views known to the Commission through their testimony. The bottom line is that LWAC can continue, continue to make input into the existing process without being formalized. In addition, John Stubbart, head of Lanai Water Company, attends nearly all Planning Commission meetings and has presented on the various water reports to the Commission. He has been very forthcoming in answering Commission's questions. Lanai is a small community and we don't need the formality and expense of Sunshine Laws, Corporate Counsel and Planning Department personnel participation, recorded proceedings with fully transcribed minutes that would be required for every LWAC meeting if this bill is passed. Finally, Mr. Gima stated in his written testimony to Lanai Planning Commission that formalizing LWAC is necessary because, and I quote, historically Castle & Cooke and the Lanai Water Company will often do right only when their back's against the wall, end quote. While this may have been the case in the past, Lanai has a new majority landowner --

MS. WILLENBRINK: Three minutes.

MR. GREEN: --with a new attitude and a strong commitment to open communication. I believe that we should give Lanai Resorts the benefit of the doubt before proceeding to add additional oversight of bureaucracy through a formalized LWAC. Thank you.

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

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you, Mr. Green. You'd mentioned something about the, the folks would be if there was no LWAC, the folks would be able to still talk about the issues. The problem I see there is how would they get advanced notice of an issue as, if it were a formal committee they would be able to go through the whole process as opposed to just individually check plans if they happen to get plans?

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MR. GREEN: As I mentioned, there has been a member of the Lanai Planning Commission who's formally designated as a member to LWAC, and that has provided that communication in the past, and notification.

COUNCILMEMBER COUCH: So you're saying the Lanai Planning Commission would be, would do that to this informal group if it wasn't official?

MR. GREEN: It, that's been the process in the past and it could continue to be the process.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR VICTORINO: Any other questions? Seeing none, thank you, Mr. Green. Next testifier is John dela Cruz and I cannot read who you're representing, Mr. dela Cruz, so I apologize.

MR. DELA CRUZ: Overall I represent myself and --

CHAIR VICTORINO: Okay.

MR. DELA CRUZ: --the people of the Lanai community.

CHAIR VICTORINO: Okay, thank you.

MR. DELA CRUZ: I wasn't going to testify. I wanted to sign up because I wanted Butch to finish but Butch said he doesn't need my three minutes. I do want to say though, you know, given all that is happening. You could've choose, made a decision and let him finish. I wanted to hear what he says because in many ways he represents me because I don't do the research that he does. I don't come up and speak for the community like he does, okay. I got to say though that every once in a while he irritates me too, but what he says makes sense. He is very sincere in what he's doing, and he cares for the community. So I really wanted to hear what he said and, you know, watching what's going on. We're not going back to 1990 when David Murdock flew all these people to Maui and just overwhelmed the Council, seems like everybody wanted what he said, 'cause he ...*(inaudible)*... and it looks like we're going back to that, and ILWU is getting in step with the program here, just like 1990. So we need people like Butch. Thank you very much. However, you know, however this comes out, I would like people like Butch to be able to take the time to speak _____. So in the future, if you going to limit him to three minutes, let me know and I'll come up and give my three minutes to him. Again, thank you very much.

CHAIR VICTORINO: Thank you, Mr. dela Cruz, but I allowed him six minutes, more than three. So ...*(inaudible)*...

MR. DELA CRUZ: _____ ten then.

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CHAIR VICTORINO: Oh, well, that's okay, anyway, ten then. ...*(Inaudible)*... Thank you, Mr. dela Cruz. Next testifier is Alberta de Jetley, and I apologize, Alberta, you got stuck between another paper. I apologize, my dear. Sorry.

MS. DE JETLEY: Thank you, Mr. Chair. This is actually going to be a commercial for the Lanai Water Company. As, as the largest farmer on Lanai, I don't want to have to depend on a committee like LWAC. I applaud the work that they have done in the past, but I don't really see the necessity of having them in the loop now. If they want to continue doing water issues, fine, they can continue doing water issues, then they can come inform you, but I don't see the need to formalize them for the County. Since Mr. Stubbart joined Lanai Company and the Water Company, the service and the communications between them and my farm has been excellent. I believe in Mr. Matsumoto and when he says that he is going to have quarterly meetings to explain whatever is happening with the Water Department. I want to be able to go directly to Mr. Stubbart. I want to be able to go directly to hear Mr. Matsumoto without having to be channeled through a committee of, like LWAC. I want it straight from the horse's mouth. I think people like the ILWU, if they get their members voting in support of Lanai Resorts, LLC, good and great. We want to be able to go directly to the source and not be channeled through a water committee. Thank you.

CHAIR VICTORINO: We'll have a slight recess, slight recess. . . . *gavel* . . .

RECESS: 7:50 p.m.
RECONVENE: 7:51 p.m.

CHAIR VICTORINO: . . . *gavel* . . .

MS. DE JETLEY: Do you want me to start over again?

CHAIR VICTORINO: No, no, no, we got already your testimony. My apologies, everybody. We knew one day this would happen. Any questions for the testifier? Seeing none, thank you, Ms. de Jetley.

MS. DE JETLEY: Thank you.

CHAIR VICTORINO: And going back to the neighbor island. Wailuku, do you have anyone who is there to testify?

MR. JENSEN: No, Mr. Chair, there are no further testifiers in the Chamber.

CHAIR VICTORINO: Hana, do you have anyone there to testify?

MS. LONO: No, Mr. Chair, there's no one waiting to testify.

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CHAIR VICTORINO: Ella, is there anyone there in Molokai to testify?

MS. ALCON: There is no one here waiting to testify.

CHAIR VICTORINO: Ladies and gentlemen, with no objection, I'm gonna, you know, go from a little normalcy that we normally wait to the very end, and I would like to release these people 'cause it's almost 8 o'clock and no one's here to testify. With no objections from the Committee, may I release the neighbor island Offices from public testimony?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: No objections? Okay, the three neighbor island locations, we will release you from public testimony and say good night.

UNIDENTIFIED SPEAKER: Okay, good night.

UNIDENTIFIED SPEAKER: Good night.

CHAIR VICTORINO: Thank you. Okay, okay, now, the last testifier who signed up to testify here on Lanai is Ms. Sally Kaye and she is a representative of LWAC. Sally?

MS. KAYE: Good evening. I'd actually like to just hang out as a resource because my interest and appreciation of water goes back to Riki's father, Goro, who was my mentor in the '70s along with Swede Desha, and I've been a member of LWAC and on the Planning Commission and the person that was appointed by the Planning Commission to be on LWAC. So, I, if you have questions, I'll just hang out as a resource.

CHAIR VICTORINO: Okay, Ms. Kaye, we will, we will do that. Before I close public testimony on Lanai, is there anyone else who hasn't signed up that would like to give public testimony? Last chance. Seeing none, with no objections, Committee, may I close public testimony?

COUNCIL MEMBERS: No objections.

...END OF PUBLIC TESTIMONY...

CHAIR VICTORINO: Thank you. And I will call a ten-minute recess to allow all my Members some food and some necessary indulgence, and we will reconvene in ten minutes. This meeting stands in recess. . . . *gavel* . . .

RECESS: 7:53 p.m.
RECONVENE: 8:17 p.m.

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ITEM NO. 16: ESTABLISHING A LANAI WATER ADVISORY COMMITTEE
(CC 12-133, CR 12-124)

CHAIR VICTORINO: . . . *gavel* . . . The Water Resources Committee meeting of *...(inaudible)...* so late already, March 19th will reconvene. It is your Chair's desire tonight and talking to various parties and I would like to defer this matter for six months. And by deferring this, will give all the parties concerned opportunity to work out the differences but also understanding that LWAC and its present form is still in existence according to Corporation Counsel. So the LWAC that exists today is still the LWAC that was organized originally and will still, and the company, I will ask you to make sure you participate as it was when LWAC, and is now a part of...Corporation Counsel, Corporation Counsel has said LWAC as its original form still exists today. Now, six months, I will give everybody a chance to work out the differences. If not, and it still comes back to us, then we'll make a decision one way or the other. Well, I am saying there is enough differences, enough questions, so at this time, what I will do is I will allow both Mr. Matsumoto and Mr. Gima an opportunity to come up because there were questions by the Members and I wanna, as resource people, give the Members a chance to ask these questions. So, Mr. Gima and Mr. Matsumoto, would you come up? And, Members, I will give you an opportunity to ask them questions since they're here, and that way you can get clarification in your mind on matters and questions that are, that you have. Mr. Gima? Okay, Ms. Kaye, you was also a resource.

MS. KAYE: He just asked me.

CHAIR VICTORINO: Okay. Mr. White, do you have any questions for the resource people?

VICE-CHAIR WHITE: No.

CHAIR VICTORINO: Not at this time. Mr. Hokama, do you have any questions for the resource people? Mr. Carroll, do you have any questions for the resource people?

COUNCILMEMBER CARROLL: No, but thank you for being here *...(inaudible)...*

CHAIR VICTORINO: Mr. Guzman, do you have any questions for the resource people?

COUNCILMEMBER GUZMAN: Not at this time.

CHAIR VICTORINO: Thank you. Ms. Crivello, do you have questions for the resource people?

COUNCILMEMBER CRIVELLO: Not at this time, until we return.

CHAIR VICTORINO: Ms. Cochran, do you have questions for the resource people?

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COUNCILMEMBER COCHRAN: Thank you, Chair, and aloha, good evening. My question to you folks being as you stated from here and know the water and all this, what in, in your estimate or, I guess, maybe facts, does the hotel and resort use in gallonage per day versus just the town's, the town folk people? Is there like a, do you happen to know a figure _____ of usage, thereby justifying why we need a town, you folks, you know, need a town voice in the mix here?

CHAIR VICTORINO: Mr. Gima?

MR. GIMA: I, I don't have a specific amount and, but over the last let's say five years and I note that in the Water Use Development Plan, approximately 67 percent of the water that is pumped every day goes down to the Manele Project District. So they're pumping about 2 million gallons a day. So two-thirds of that goes down to the Manele Project District. But that is not the only reason why we want to have LWAC institutionalized by ordinance. Now if you allow me, Chair, in your recommendation to defer, are you suggesting that Director Taylor rescind his letter or start calling meetings every month as LWAC has been meeting for the last 20 years, is that what you suggesting?

CHAIR VICTORINO: Were you, when you asked that question, my question to you is, in the past, has the Director of Water Supply attended your meetings?

MR. GIMA: Over the last 20 years, I can probably count on one hand the number of times. It's, it's usually their staff that attends the meetings, but I'm referring to the letter Director Taylor sent to LWAC saying that we no longer exist and the only meetings that will be called will be, will occur when he calls a meeting. And that is the reason why Castle & Cooke at that time, a good year and a half ago, stopped coming to the LWAC meetings. They have not been at the table at LWAC for approximately a year and a half.

CHAIR VICTORINO: Okay, let me go back to Corporation Counsel. One moment, please. Corporation Counsel, Mr. Giroux, where there was an opinion that LWAC still existed as it originally was formed, my question to you is, if they have, could you explain to them what this means to them and to the island of Lanai?

MR. GIROUX: Thank you, Chair. Normally you have Ed Kushi here who has ...*(inaudible)*...

CHAIR VICTORINO: Sorry.

MR. GIROUX: But since you guys are _____ put me on the spot. My, my understanding is that Mr. Taylor is looking at the LWAC as far as what, what its responsibilities and duties are under the resolution. And basically, the purpose of a meeting would be to develop the plan. The plan has been developed and that's, that's why the County is taking the position that, you know, they're, they're not going to be putting the, that type of resource and that type of meeting together because the purpose to develop the plan has been achieved.

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CHAIR VICTORINO: But wasn't it stated develop and implement the plan? Now there was a word called implement the plan, okay. We've developed the plan. Now the plan needs to be implemented. My question is, how do we talk about implementation?

MR. GIROUX: Right. And, and that's the difficulty of, of having a board that at one time was quasi autonomist which had powers of resolution and then being transitioned to the Charter, and now the Board as it stands now doesn't have the authority to alter those types of resolutions. So it's, so it's gonna, eventually these matters are going to have to be resolved through Council as far as how this interpretation of the word implement or do you, do you even want to, to have that resolution as a whole to continue to be part of the County process.

CHAIR VICTORINO: Mr. Hokama, you had a question?

COUNCILMEMBER HOKAMA: Chairman, not a question. You know, part of the confusion is, you know, sometimes our people may not fully comprehend, I guess, the intent. When this resolution, in 1999, was adopted by the Board, they were semi-autonomous. Okay, currently the Board comes under the Mayor and the Council. So until the Council abolishes this Committee, this Committee exists. The Board doesn't have that authority. The Director doesn't have that authority, not according to what we understand the current Charter states. So, you know, I, I, you know, I'm ready to make my, my comments on what, what's before this Committee this evening. And again, if you feel that six months is going to give enough time for an epiphany to occur and you gonna have this magic solution, you know, I, I'm willing to give you the, the support, Chairman, but, you know, my thing is, it's kinda interesting the situation this Committee is in, because we're asking, what's before us is a proposal to create LWAC by ordinance, yet there is still an LWAC in existence. So it's kinda interesting for the community to watch this circle of circuses go around and around. But all I will say, Chairman, and for my fellow Committee members, there's a reason why the Board in the early '90s and in '99 had the authority, created the LWAC and it wasn't just for the Water Use and Development Plan. So as Lanaians who have to live, who have lived through four different owners, I can tell you, there is a reason why the Board created this language. There's a reason why it's existed for this many years and there's a reason why there's passionate testimony here this evening about this consideration. And if you understand our history of who we are as an island and where we came from, from the plantation days, you would understand the significance of what is before this Committee. It is hard for those who have come after development has occurred, to understand what we went through from the '50s development proposal at Hulupoe Bay was a manmade atoll with six _____ with a _____ regime, oceanic properties, the '70s, '80s and then, of course, our last _____ with the last owner. So, you know, Members, I, I hope you guys take all of these things into consideration, but I think the predicament for myself and of the community is, we have an existing LWAC, and yet we have something that proposes create an LWAC. And so, you know, maybe we need to take the time as a County to figure out what the hell we doing.

CHAIR VICTORINO: Mr. Gima?

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MR. GIMA: In response to your recommendation to your Committee about deferring it for six months, let me say two things. One, Kurt and I have had many discussions prior to this meeting about a whole range of ideas. Kurt and I grew up, I trust Kurt, I can tell him what he has done for this community just in a short tenure and how, how his management team is following in his footsteps in terms of meeting with different members of the community. I don't doubt that what he said tonight will be followed through, but I also told him that if he keels over tomorrow, I have no confidence that somebody's going to come up and follow or if Ellison should get rid of him in two months, I have no confidence that there's going to be someone who can do what he's been trying to do for this last three months, thus the request for institutionalizing LWAC by ordinance. Now, if you guys should _____, if you guys should decide to defer for six months then I think it's only fair that you, all of you, let LWAC know what your criteria is to approve or disapprove so that we can take responsibility with providing you information so you can make an informed decision when you make the decision on this bill. I don't want to wait six months and be a crap shoot, knowing, not knowing what your criteria is. I want you to take responsibility, ask questions. I want to be able to answer your questions and I want to know what your criteria is on whether you gonna pass it or not. That's your responsibility. I'm offering you my responsibility and LWAC's responsibility. Without doing so, I would be very disappointed in you as individuals and the process by which you guys are governing sitting behind that table.

CHAIR VICTORINO: Thank you, Mr. Gima. Mr. Matsumoto, any questions for Mr. Matsumoto or, you know, I want, because some of you had questions and I want now an opportunity to open up the floor.

COUNCILMEMBER COUCH: Mr. Chair, can I get my turn?

CHAIR VICTORINO: No, da kine wanted to go first, right, Don? Were you raising your hand? Oh, Don Guzman? No?

COUNCILMEMBER COUCH: You went down the line, but you didn't recognize me.

CHAIR VICTORINO: Oh, Stacy, Stacy, go ahead, Stacy. I know somebody's hand went up, I'm sorry. Go ahead, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I think there's more so of a comment than a question coming from me. I also come from a rural landscape and I can value the participation, the heartbeat of your island. I also can appreciate the new landowner. I can appreciate when I'm talking to Lanaians, how they're feeling. There's a very positive, upbeat of hope and good things that are flowing through the island. But with that flow, I recognize and can appreciate what was before us. History that comes from the people of this land is of vast value. As much as I can appreciate other participation, I can understand where the LWAC plays a role in protecting the water pond that the lily pads float on that the frogs will have their water to float on. I cannot see this as a threat to the new landowner. This is not personal. I cannot see this

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process as being a threat after history tells it was formed from the bottoms up, where governments really begin. That's where governments is. It starts from the bottom and if we don't feel this pulse that's beating, we can say with emotions, but with so much knowledge that comes with history, I think, if you ask me tonight and it may be a very, maybe very different from the rest of my colleagues, but I would support that the LWAC still be in existence to, in, in formulating a stronger balance that Lanaians, they can, and can set forth for, for all of our islands, cause without water we have no life. Without the resources and protection of those that worked all these years to, to be the third eye, if we want to say that, will be contributory, I think, to the development and for the generations to come. And I say this with emotions because I come from an island where the fight is always for the water and maybe not so much for the water but for the generations to come. So I, I hear where the new landowner, it's to take care of today's people, for the generations to come also, and I hope we can find a medium of balance that the people from LWAC are not people from Timbuktu but people of this land which I can appreciate. And that's my personal manao.

CHAIR VICTORINO: Mr. Guzman? I mean, no, not Mr. Guzman, Mr. Couch? I'm sorry cause I know ...*(inaudible)*...

COUNCILMEMBER COUCH: Must be late. Thank you, Mr. Chair. First to Mr. Matsumoto, you know, I kind of agree with what Mr. Gima said. What happens if you get let go tomorrow or whatever? What assurances would your company have to make sure that their voices are heard?

MR. MATSUMOTO: Well, first of all, you know, our position is that as, as was just mentioned that LWAC is actually in existence. You know, it's, the resolution, the only way the resolution can go away is the Council has to address that. I don't, I don't know how to address your question because, you know, I would love to be able to sit here and say, you know, there is definite guarantees, but this landowner comes in telling all of us that he has a desire to see the lifestyle of the island preserved and protected and taken forward in ways that previously was never even imagined by people who live here. You know, right now all we have can, that we can show for it is faith. We're literally just seven months into this ownership. In time, I think that there can be evidence of all of those intentions and, and visions that are put forth, and then maybe then the tenure of this kind of a discussion would change. So as you mentioned about history, history can change, the course of history can be diverted, it can take a different direction. You know, perhaps there is, there is a latent feeling still that, you know, if it's too good to be true, it can't be true, right? We've heard this before. We've seen this kind of activity happen before. The previous landowner came in and spent a lot of money, made all kinds of promises and none of it came true. And, and I can acknowledge that, I lived through it, a portion of it myself. You know, there is, all I can sit here and tell you is that I made the choice in spite of all of those difficult years that I spent here, knowing full well what I was going to walk in to. I made the choice to come back and take on this responsibility cause I had faith, I had trust, I believe that this person is going to transform this community in a way that a lot of us never even imagined. I want to give him the opportunity to do so. I want to give him the opportunity to prove that a landowner can have a very positive relationship with the community, that we can do things

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together and we don't need to have government involved. We don't need to have government tell us everything that we do. I think what you have to consider tonight is whether or not the law that you are considering is good law or not. Is it a good precedent for you to set? Is it something that you, you really believe is going to correct some kind of a problem or ensure that a problem doesn't exist like this in the future. You know, I understand that, there is, there is a need to have a voice. What I presented to you was a way for the entire community to understand what happens in the water use and the development of the resources on the island. I sat in this very room and I watched Butch work so hard to talk to members of a committee about water use and was just, just not able to get them to understand what his position was and, you know, I really felt bad, you know, having, having actually lived through a portion of the reason why the LWAC was created. I understand all of that. So, you know, that's the reason why I did reach out to him and instead of trying to come to this group and say, you shouldn't even come up with an ordinance, to kill the resolution and just do away with it, you know, this is a private water system, you got no business dealing with us, I committed to him that no matter what the outcome is tonight, that we would still sit down with, with LSG. We would sit down and share all the information about water because there is nothing for us to hide. It should be transparent. So, you know, in terms of a guarantee, you know, I'm, I'm confident that I can present what the landowner's intent is tonight that no matter who sits in this chair, whatever I presented to you tonight, it will be followed through with.

COUNCILMEMBER COUCH: Okay, thank you. This question then is Mr. Gima. When you had your LWAC meetings, you had the Sunshine Law that you have to follow, right?

MR. GIMA: We, I think we got a Corp. Counsel ruling that we did not.

COUNCILMEMBER COUCH: I'm sorry.

UNIDENTIFIED SPEAKER: It is my understanding that groups such as LWAC, that were created by resolution are not subject to Sunshine Law.

COUNCILMEMBER COUCH: Mr. Giroux?

CHAIR VICTORINO: Thank you, Mr., can you address...

UNIDENTIFIED SPEAKER: I'm sorry, Mr. Chair can I speak to ...*(inaudible)*...

CHAIR VICTORINO: We're going all over the place now and I think, I'm sure you would like Mr. Giroux to respond to that question?

UNIDENTIFIED SPEAKER: Correct.

CHAIR VICTORINO: Mr. Giroux?

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MR. GIROUX: I would have to check with my office but, I mean, as far as where I sit right now, I'm really hesitant. If the board is taking on government responsibility that they would be exempt from any type of Sunshine Law. So, but I, I can check with my office and see what kind of rulings or memos that they've produced.

COUNCILMEMBER COUCH: Mr. Chair, I still have a follow-up for Mr. Gima.

CHAIR VICTORINO: Okay, go ahead.

COUNCILMEMBER COUCH: Okay, Mr. Gima, I do know that if, if this law passes then you would be under the Sunshine Law, it's my understanding, because it is ordinance, then you realize that the time and expense it would be to notice every meeting, have an official recorder and everything that is wrapped up in the Sunshine Law, you can't, you could no longer have your meetings, you know, if you have a group of you go to the Blue Ginger and want to have a chat, you couldn't, and in fact, in fact if you were actually a group that is under the Sunshine Law now, that I think there's three of you in here now, and you guys would be in violation of the Sunshine Law tonight. If you were under the Sunshine Law, are you guys willing to put up with that?

MR. GIMA: Yes, I believe I asked, I answered Councilmember Carroll's similar question when I testified several months ago.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

CHAIR VICTORINO: Further questions for our resource people? Okay, seeing none, thank you for your patience. Again, Committee, it is this Chair's feeling that, you know, deferral for six months to allow all parties to continue on and presently this LWAC that is in existence, as far as I can say and as far as Corp. Counsel has indicated, still exists. Is that correct? And there's a question about implementation but I'm not, that's not the question. So with that being said that I would hope that part of that LWAC meetings will continue on and that the company's representative would be there conducting this meeting, I mean they never, and I don't know if you want to call Mr. or a representative from the Department of Water Supply in that that's the understanding you guys rarely called him anyhow. Is that correct, Mr. Gima?

MR. GIMA: No, that's not correct.

CHAIR VICTORINO: You guys called them every time you had a meeting?

MR. GIMA: No, we took the responsibility of calling the meeting.

CHAIR VICTORINO: No, no, no, that's not my question. When you have a meeting, do you call them, the Department of Water Supply to send a representative over? Can you come up, can you come up because you don't want to answer the question and not be on record?

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MR. GIMA: Are you asking me if I called Director Taylor after he issued --

CHAIR VICTORINO: No, no, no.

MR. GIMA: --the letter or before the letter?

CHAIR VICTORINO: Before the letter.

MR. GIMA: Okay.

CHAIR VICTORINO: Okay, and you had meetings,--

MR. GIMA: Yes.

CHAIR VICTORINO: --would you call the Department to have a representative come over to attend your meetings?

MR. GIMA: No, we didn't have to because they routinely attended the meetings. They called the meetings.

CHAIR VICTORINO: They called the meetings?

MR. GIMA: No, I called the meetings.

CHAIR VICTORINO: You called the meetings? Okay. And then they would come over when you called the meetings?

MR. GIMA: Yes.

CHAIR VICTORINO: Okay, I just wanted clarification on that, okay. Okay. Okay, so I gotta admit this is a tough one, gang but...

COUNCILMEMBER CARROLL: Chair?

CHAIR VICTORINO: Yes, go ahead, Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Actually this is a question for the Chair. Six months, are we going to come back to Lanai for this meeting? 'Cause we'd also deal with _____.

CHAIR VICTORINO: Well, I would have to ask Chair, the Council Chair, for permission. I mean, I cannot commit to that at this point in time.

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COUNCILMEMBER CARROLL: I would ask for the Chair's intent.

CHAIR VICTORINO: My intent would be yes, but, you know, I don't, I don't know if I will get the yes from the Chair because of the expense involved.

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR VICTORINO: Okay, so, I mean I just want to be honest about intents and what I can do, but everybody in this room, we all have intentions but what we can truly do at the end may be, may be a little different. But I want to make it known tonight that I really would like to see this community work it out amongst themselves before we create an ordinance and then we have to do all these other things that would change the dynamics for a long term. And I don't know if it would be good or bad, I don't know the future, I don't even know the results of the future, but I would rather you guys try to work it out first. I think, and I apologize to anyone who spent an evening here and think we've accomplished anything, or nothing, but I really feel we did accomplish a lot because at least now everyone has spoken their mind, we've heard it all, we did it here on Lanai, okay. So with no objections...

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR VICTORINO: Yes.

COUNCILMEMBER COUCH: I have a question of Corporation Counsel if he can do something between now and the six months.

CHAIR VICTORINO: And what is that?

COUNCILMEMBER COUCH: Mr. Chair, I would like to see if Corp. Counsel can look at a solution that might be that the LWAC be a part of the Lanai Planning Commission as a subcommittee maybe and at, attend the same meeting at the same time so there's no duplication of staffing and whatnot. See if that's a feasible. . .I mean if we go...

CHAIR VICTORINO: Can you put that in writing and then bring it to me.

COUNCILMEMBER COUCH: Oh, okay.

CHAIR VICTORINO: Bring it to writing 'cause I end up, then you, you, you know and I'm not going to even ask for the answer at this point.

COUNCILMEMBER COUCH: Okay.

CHAIR VICTORINO: Put that in writing --

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COUNCILMEMBER COUCH: Okay.

CHAIR VICTORINO: --and then we'll go from there.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR VICTORINO: And any other Member who has a question that they would like answered by Corporation Counsel on procedures and all that, please put in writing, get it to me, and I'll make sure it's forwarded to Corporation Counsel. So with no objections I would like to defer this matter six months certain, and I know when I say six months we're talking--what is this March?--September of next. . .of this year sometime in September, six months. No objections to defer this matter six months?

COUNCIL MEMBERS: No objections.

CHAIR VICTORINO: Okay. Ladies and gentlemen, thank you very much for your patience. I know we were into two meetings and we spent another, almost four hours plus here, and I wanna thank you all for your patience. And I hope, I hope we can find a solution that this community can band together and work together. Thank you very much. The Water Resources Committee is now adjourned. . . .(gavel). . .

ACTION: DEFER pending further discussion.

ADJOURN: 8:46 p.m.

APPROVED:



MICHAEL P. VICTORINO, Chair
Water Resources Committee

wr:min:130319:ap

Transcribed by: Annette L. Perkett

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CERTIFICATE

I, Annette L. Perkett, 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 15th day of April, 2013, in Haiku, Hawaii.



Annette L. Perkett