

# WATER RESOURCES COMMITTEE

Council of the County of Maui

## MINUTES

August 17, 2016

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

**CONVENE:** 9:07 a.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Gladys C. Baisa, Chair  
Councilmember Michael P. Victorino, Vice-Chair  
Councilmember Robert Carroll  
Councilmember Elle Cochran (in 9:29 a.m.)  
Councilmember Don Couch  
Councilmember Stacy Crivello  
Councilmember Mike White

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Clarita Balala, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** David Taylor, Director, Department of Water Supply  
Paul Meyer, Deputy Director, Department of Water Supply  
David J. Underwood, Director, Department of Personnel Services  
Edward S. Kushi, Jr., First Deputy Corporation Counsel,  
Department of the Corporation Counsel

*Seated in the gallery:*

Jennifer M.P.E. Oana, Deputy Corporation Counsel,  
Department of the Corporation Counsel

**OTHERS:** Rosemary Robbins  
(2) additional attendees

**PRESS:** Akaku: Maui Community Television, Inc.  
Colleen Uechi, The Maui News

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CHAIR BAISA: ...*(gavel)*... Will the regular meeting of the Water Resources Committee please come to order. Today is Wednesday, August 17, 2016 and it's approximately about seven minutes after 9:00 in the morning. As a reminder, would everyone please check your cell phones to make sure that they're on the silent mode. I would appreciate that so we won't have any disruptions. I'd like to introduce the Members

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that are here this morning. I'm Gladys Baisa and I'm the Chair of the Committee, and the Vice-Chair of this Committee is Mike Victorino.

VICE-CHAIR VICTORINO: Good morning and aloha, Madam Chair.

CHAIR BAISA: Good morning. We have Mr. Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR BAISA: Good morning. And we have Mr. White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR BAISA: Good morning. We have Don Couch.

COUNCILMEMBER COUCH: Aloha. Good morning, Chair.

CHAIR BAISA: Good morning. And Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha and good morning, Chair.

CHAIR BAISA: Aloha. And Elle Cochran is a Member of the Committee, but she will be a little late. She had an emergency meeting she had to take care of but she'll be here as soon as possible. From the Administration, we have our Water Director, Dave Taylor.

MR. TAYLOR: Good morning, Chair.

CHAIR BAISA: And also with him this morning is Paul Meyer, the Deputy Water Director.

MR. MEYER: Good morning, Madam Chair.

CHAIR BAISA: Good morning. And we also have Ed Kushi, Deputy Corporation Counsel.

MR. KUSHI: Good morning, Chair.

CHAIR BAISA: Good morning. And we also have our wonderful Staff. We have Kimberley Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR BAISA: Good morning. You need to do your mic. And we have Clarita Balala, the Committee Secretary. Good morning, Clarita. And in our District Offices, we have Dawn Lono in Hana and we have Denise Fernandez in Lanai, and Ella in Molokai. And we'll be checking in with you ladies shortly. Members, we have two important items on our agenda today. Our first item relates to the recent changes made to the Water Fund budget about water fixture units and how this may affect people on the Upcountry water meter list and throughout the County. And our second item today

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relates to the Upcountry Water System Expansion Capital Improvement Fund. This fund was established during the 2015 Budget Session. We will begin our day this morning by taking public testimony. Testimony will be limited to the items on our agenda. If you wish to testify, please sign up at the desk located in the lobby or at one of the District Offices listed on the agenda. Testimony is limited to three minutes and upon request, up to one minute to conclude. At three minutes, the light will turn yellow and at four minutes, the light will blink red. If you are still talking at the four-minute mark, I will kindly ask you if you could conclude. When testifying, please state your name and who you are representing if you represent anyone else. We have established a connection to the District Offices and to be fair we will rotate through each of those sites and we'll be checking in with those sites right now. Ms. Willenbrink?

MS. WILLENBRINK: Thank you, Madam Chair. Hana Office, do you have anyone wishing to testify?

MS. LONO: Good morning. This is Dawn Lono at the Hana Office and I have no one waiting to testify.

MS. WILLENBRINK: Thank you, Dawn. Lanai Office, do you have anyone wishing to testify?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

MS. WILLENBRINK: Thank you, Denise. Molokai Office, do you have anyone wishing to testify?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

MS. WILLENBRINK: Thank you, Ella. Madam Chair, we have one person signed up in the Chamber to testify and that is Rosemary Robbins.

CHAIR BAISA: Members, without objection, we'll proceed with testimony.

COUNCILMEMBERS: No objections.

CHAIR BAISA: Thank you. Come on down.

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

MS. ROBBINS: Good morning, everybody.

CHAIR BAISA: Good morning.

MS. ROBBINS: Ongoing birthday wishes for you, Gladys.

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CHAIR BAISA: Oh, thank you.

MS. ROBBINS: This has been a busy month and it's only half over as far as water related issues are being examined by multiple committees within our government and certainly loads of people who are out in our community. I'd like to just set those up for us so that we know where you've been and some of us were able to see that on *Akaku* and others were able to be here for it. On the 3<sup>rd</sup> of August, there were a number of concerned citizens that came to this microphone. I just would like to remind us of what they said. There is a 33-year waiting list as far as the equipment is concerned. Another one, the list is a problem, change the law. Another one, why is the public excluded by way of executive sessions? Another one, before this list gets any longer, I've got another 19 years on my waitlist. Somebody else's, this is not I speaking. Again, it was asked by a different person, change the law originally dated in 1990, we need to have caught up with the reality of the numbers that we have in the equipment and the staff that we do and don't have. So thank you for piggybacking on that, that was on the 3<sup>rd</sup>. And then on the 5<sup>th</sup> of this month, the Committee of the Whole, so again, people got a chance to see that. The County came and asked us to have yet more money put out for legal address, Civil Case No. 16-0038-DKW-KJM, and we were asked to set out more money not to exceed \$75,000. Where have we heard that not to exceed, time and time and time and time again, and that one is now over \$2 million that we're paying for injection well abuse perhaps, up on the other side. And now we're talking about different areas, same problem, work not being done on time with the breadth of vision that goes back, acknowledges the current for what it really is and to be looking forward down the line if the planet continues to exist we're gonna be facing down the line, and anything that we're doing in terms of having people bear the financial burden for that. Most of them haven't been born yet. We keep getting bonds, remember another four-letter word for bond is debt so the children that are not even born yet are coming into a world wherein they have to bear this burden. Something is terribly out of whack on that. And we have coming up on Maui this week, a big meeting that's talking about the fact that we have funders who are willing to set up money to do the stuff that needs to be done, but they need to make sure that it needs to be done and thank you for your caution about that. Let's not give a whole number for the debt and talk about it as being just first increment. We've been through all of that. We can't deny it. So there we are, there was testimony given at this microphone about how we can recruit people who are seeing that broader picture 'cause they've been educated to do that.

MS. WILLENBRINK: Four minutes.

MS. ROBBINS: To be able to find out what the institutions are that are providing folks that are coming out with current technology recognition, willingness to do the work, happy to share. We need to bring our kids and let them follow with them. It's like shadow your parent at work day. We, all of us as parents in the community have an opportunity to do that. So I just ask you to make sure that we don't just get stuck in the past. It's costing us a fortune and that's only talking about money. Where is the wellbeing of the community and the guests to our community? We're not hearing

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anything about that. Something's terribly wrong and we saw some of that result in the election too, so.

MS. WILLENBRINK: Five minutes.

CHAIR BAISA: Rosemary, if you could wrap it up, please.

MS. ROBBINS: That's it. It's all out there. So we need to move on well.

CHAIR BAISA: Thank you. And thank you very much for the recap, it kind of brought us all back to where we were a couple weeks ago. Thank you.

MS. ROBBINS: Right. Okay.

CHAIR BAISA: Members --

MS. ROBBINS: You're welcome.

CHAIR BAISA: --any need to clarify the testimony? Seeing none, thank you.

MS. ROBBINS: You're welcome.

CHAIR BAISA: Ms. Willenbrink, are there any other testifiers?

MS. WILLENBRINK: Madam Chair, there is no one else in the Chamber wishing to testify. If there's anyone in the District Offices that has a testifier, please feel free to speak forward. . . .(short pause). . . Madam Chair, there doesn't appear to be any testifiers.

CHAIR BAISA: Okay. Members, there are no testifiers in the gallery or in the District Offices. So without objection, I'd like to close public testimony for today.

COUNCILMEMBERS: No objections.

CHAIR BAISA: Thank you very much. So ordered.

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

CHAIR BAISA: We'll give Ms. Willenbrink a chance to turn off the mic here. Okay. Thank you very much.

**ITEM-6(3): DEPARTMENT OF WATER SUPPLY PRESENTATION ON WATER FIXTURE UNITS**

CHAIR BAISA: Members, item one on our agenda today is a Department of Water Supply presentation on water fixture units. Members, you have in front of you the County

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Water Fund that was approved by the Council earlier this year. The fee for new fixtures is on the last page. You also have a response I received from the Department of Water Supply relating to the process of notifying those on the priority list of this new opportunity. Right now, there are applicants on the list that just want to add a bathroom but prior to this new provision had reached the fixture count limit and needed to upgrade to a new meter. With that being said, we're going to ask Mr. Taylor if he would please provide some opening remarks and he's got Mr. Meyer to assist him. So, Mr. Taylor, go ahead.

MR. TAYLOR: Thank you, Madam Chair. Fixture units are in the Uniform Plumbing Code that's been adopted by the Council. Fixture units are a methodology so that appurtenances tied into a house like piping and things are sized correctly. So each sink, toilet, showerhead, et cetera, is listed in the Plumbing Code saying here's how many fixture units, gives a numerical quantity so that when the plumber looks at how big a pipe has to be, it's in the Code about how big that pipe has to be to support, you know, X number of showerheads, sinks, whatever. We use the same fixture unit numbers that are in the Plumbing Code to appropriately size water meters, so your water meter isn't too big or too small and it's sized correctly. So there has been ongoing concern raised that we're being sort of too stingy with how many fixture units we allow for a meter. People saying, well, you know, I just want another bathroom, I'm not gonna use any more water, why do I need a bigger meter, why is it stopping me? So in this year's budget, we're doing a small experiment. We've allowed--and the Council's allowed by passing the budget--essentially a 25 percent increase on each 5/8-inch meter for some extra fixture units if you pay for them. So it allows people who otherwise would need to either upsize their meter or people on the Upcountry list who were just waiting for a bigger meter for just a small number of fixtures an opportunity to come in, pay the appropriate portion of the water system development fee, and get a few extra fixture units, you know, essentially 25 percent more than they otherwise would have been allowed. That's why it's in the budget and why it had to be in the budget. The concern just so everyone's clear, a 5/8-inch meter, for example, is designed to handle 20 gallons per minute and not break. If you just hook one up to a pipe and let it flow free, about 30 gallons per minute will come out and that overflow will turn it too fast and will eventually break it. So our concern from the Department's side of sizing it correctly is we're trying not to allow too much peak usage so it breaks the meters. So that's why we have this concern. So we're trying to allow, again, this 25 percent increase to see how that goes. Simultaneously, we, and the Council in our budget allocated funds that we're doing a consultant rate analysis about what our rate structure would look like if we got rid of fixture units completely. Like Honolulu counts fixture units but then the Department decides what size meter should we give and their whole rate structure isn't built on what size meter, it's just water usage. So we're going to work on that as a proposal to Council saying, here's what it would look like if we completely get rid of fixture units. This is a middle step to allow some overload without... 'cause we need to do such a thorough analysis to go all the way. Any more details of how we do this and what the processes are the Deputy Director can brief you on those, but that's how we got here, that's why we're doing this, and that's why what some of the constraints are and what to expect in the future from

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what the procedures may look like if we completely get rid of fixture units. We'll be ready to talk about that probably next year in budget.

CHAIR BAISA: Mr. Meyer, any comments?

MR. MEYER: Thank you, Madam Chair. As Dave mentioned, on 1<sup>st</sup> of July with the Council's approval of the new budget, we put the limited fixture unit purchase program into place with the communication to the Council which enclosed our application form and the worksheet we use for evaluating fixture units. We also enclosed our press release to the public explaining this. The program has been a success. I would judge to-date we received the first application only four days after the program was initiated.

CHAIR BAISA: Wow. That's good.

MR. MEYER: To-date we received 27 applications --

CHAIR BAISA: Wow.

MR. MEYER: --for purchase of fixture units. The geographical dispersion is 9 came from the Central District, and 18 as you would expect from the Upcountry area.

CHAIR BAISA: That's wonderful. Do you think that has any effect on that meter list that we're so worried about?

MR. MEYER: It's hard to say. Nobody resigned their meter list positions as a result of their application for fixture units, and I could say that I would expect most people would keep their meter list position as a matter of course just to preserve that option. In terms of the 27 applicants, 2 were subsequently withdrawn, and 5 were fully paid and purchased, and 20 are pending. You might question why so many would be pending. We suspect that most of those 20 pending applications are pending completion of building plans and building permits when people add a bathroom, an addition to their home or an ohana or something like that. Of course that needs regular building permits so you need architectural plans, et cetera, so it may take a little while to get those done. So we suspect that's why there's only 5 that have actually purchased the fixture units and 20 that are pending. Other than that, the program seems to be meeting its intended purpose and it's more work for the Upcountry District engineer whom you met, I believe, a week ago, Jase Miyabuchi.

CHAIR BAISA: Well you may remember, Members, that has brought up several times in the Chamber about we'd like to see you do something about fixture units. And so when we did this change in the budget and they did send out a memo or press release, I didn't know if everybody became aware of it and I thought that this would be a very good opportunity to use some time of this meeting to talk about it. So if folks missed it and didn't read the paper that now they know about it and hopefully they'll see it and take advantage of it 'cause it will make a difference. Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Madam Chair. And thank you for bringing that up. My question would be and is real interesting that, you know, nobody removed themselves from the list. Would it be prudent to send a letter to anybody on the list and say if you were just waiting for, you know, to upgrade some fixture units here's what you can do and please be, if that's all you're waiting for, you know, some sort of letter to let them know that it's available, A. And, B, kind of gently prod them to remove themselves from the list if that's all that they were waiting for? I mean, that way they can...nobody can say we weren't notified because you send it either in their bill or separate letter to them.

MR. TAYLOR: I would just say your key question, would it be prudent? If the priority is to get moving through the meter list, then it wouldn't be prudent because every minute that staff is spending processing these fixture units they're not working on the meter list. If the issue is to get people building permits, you know, by sort of putting the meter list off to the side and having the same people work on these fixture things so that people can get, you know, building permits for ohanas and things, well then the time will go into that. It's really the same people working on both. So the question is do we want to advertise this a lot and have everyone come in instead of 16, you know, have 160 and for the next 6 months all we're doing is these and the guy who's number 2 on the list, you know, we just don't get to him 'cause we're processing everyone who's asking for extra fixtures? So I don't know the answer to would it be prudent. It would certainly...the more we advertise, the more it's gonna change the demographics of our workload.

COUNCILMEMBER COUCH: And this might be a question for Mr. Kushi, wouldn't it be, wouldn't that be something that it's a one-time temporary surge in work load that we could do professional services to handle just that for 90 days or whatever we're allowed to do or a temporary, some sort of temporary thing to allow the engineer to continue to do his or her work but also clear off that list?

CHAIR BAISA: Your microphone...got it.

MR. KUSHI: Member Couch, that's a personnel issue. You have the Director of Personnel here.

CHAIR BAISA: Mister...

MR. KUSHI: I think it's more appropriately directed to him.

CHAIR BAISA: Mr. Couch, if you could just hang on for a moment? Keep your question, further on we're gonna ask the Personnel Director, Mr. Underwood, to come down as we discuss item, the second item today, and he's here to help us and then we can ask him that question then, if you don't mind.

COUNCILMEMBER COUCH: No.

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CHAIR BAISA: Okay. Thank you very much. Any further questions about this? But wait, before I take questions, I want to ask you guys, if you don't mind, explaining what a fixture unit is. You know, to you folks it's your everyday language but to people in TV land, what is a fixture unit and how do you count 'em?

MR. MEYER: That's an interesting question. A fixture unit is a measurement device that was developed by the folks that prepare the Uniform Plumbing Code. It started, I believe, in 1932 as a mechanism for gauging the flow requirements for and standardizing the flow requirements for various devices that you attach to the water system, whether it's a lavatory, a toilet, urinal, faucet, a hose bib, whatever. Each type of device rated by manufacture has a fixture unit measure associated with it. That goes hand in hand with the flow requirements or the maximum flow capacity of that particular fixture in terms of gallons per minute. You're probably most familiar with irrigation heads, those are rated by how much water they allow to, given a standard measure of pressure like 40 pounds of ambient pressure. It will allow 3 gallons per minute or 5 gallons per minute or 1½ gallons per minute, that translates to fixture units. It's a measure that allows plumbers and water companies and architects and engineers to measure the size of pipe as Dave was explaining earlier, the meter size, the size of pipes, the size of valves, and other devices in a plumbing system to accommodate the flow requirements of the various fixtures. It also takes into account, interestingly, every 3 years a revision to accommodate current standards. For example, when I grew up most 3-bedroom homes only had one bathroom and needless to say that bathroom was always in use. Now a 3-bedroom home will have probably 2½ or 3 bathrooms and that doesn't mean people use the bathroom anymore, it means the flow requirements for those fixtures in a modern house are much different than the flow requirements of a house that was built 40 years ago, 50 years ago. So the Code is revised every 3 years to take account of not only the improvements in fixtures in terms of flow capacity and water usage but also people's habits in terms of the way people live.

CHAIR BAISA: Thank you.

MR. MEYER: I don't know if that's helpful.

CHAIR BAISA: No, thank you very much. Before we proceed, the Chair would like to note the presence of Ms. Cochran.

COUNCILMEMBER COCHRAN: And thank you very much, Chair.

CHAIR BAISA: And I understand you had a very important meeting. Thank you.

COUNCILMEMBER COCHRAN: Yes. Thank you for that time. Thank you very much.

CHAIR BAISA: Going on, Mr. White, you had a hand up.

COUNCILMEMBER WHITE: Yes. Thank you. I'm trying to recall what my question was.

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CHAIR BAISA: Oh, I'm so sorry.

COUNCILMEMBER WHITE: I had the same question that Mr. Couch had, whether we should be notifying people on the water meter waiting list, but it is a little concerning that if this is a solution for...

CHAIR BAISA: Mr. White, you can move up your mic a little bit, kinda hard to hear. Thank you.

COUNCILMEMBER WHITE: I thought I was too close.

CHAIR BAISA: No.

COUNCILMEMBER WHITE: If this is a solution for some of the people that are on the water meter waiting list, is it appropriate for us to say this is an either/or proposition? Because I would agree with you it doesn't make sense to focus on processing these at the expense of moving people along on the water meter waiting list. Is there any way that we can make this an either/or proposition?

CHAIR BAISA: Gentlemen?

MR. TAYLOR: Dividing, excuse me, just by, if you just look at the list, this would not help anyone who wants a subdivision.

COUNCILMEMBER WHITE: Right.

MR. TAYLOR: Okay. So let's call that half the list or more. So people who are asking for a meter upgrade so they can do an ohana or an extra bathroom or something, if they just need a couple fixture units, it will help them, but if they're maxed out on their 5/8-inch meter and they want an ohana, you know, with 2 bathrooms and washer/dryer, there's no way that a few fixtures is gonna help them. They're still gonna have to wait. So if you look at the whole list, it's probably gonna be a pretty small sub grouping, people who want a meter upgrade who just need a few fixture units to make it. They're the only ones who would get, who would really be helped by this. So the question is, you know, how do we target them? How do we know, 'cause we don't know what anybody wants, and your next part of the question was a legal question, I think for Mr. Kushi really, of could we make it so if they take advantage of this they're bumped from the list and that's a question I don't know how to answer. I would have to give that to Mr. Kushi.

CHAIR BAISA: Mr. Kushi, any response?

MR. KUSHI: Madam Chair, as I recall, this legislation that you recently passed --

CHAIR BAISA: Yes.

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MR. KUSHI: --was not to whittle down the list, I believe, was to provide some sort of relief not only to the people Upcountry but island wide to get expander houses or possibly put in a cottage, so I think you're going from one step to another. Member Couch said, used the term gently, prodding. I'm not sure if there's any kind of legal definition or mechanism for that. You either say, you know, you get on the bus or get off, you know. So, Member White, I really can't answer that now. I think it's a different issue.

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

CHAIR BAISA: Okay. Yes, Mr. Victorino?

VICE-CHAIR VICTORINO: I waited for a while to listen to my colleagues' responses, and I never remember this to be the catch-all, end-all for the Upcountry meter list.

CHAIR BAISA: No. It was just a side benefit.

VICE-CHAIR VICTORINO: I remember the whole discussion being how would we help the entire County, because we had many constituents calling and saying, I want to add a basin, I want to add one more fixture but I'm at the limit and now I have to upgrade --

CHAIR BAISA: Buy a new meter.

VICE-CHAIR VICTORINO: --a new meter, upgrade my meter. So I don't know where everybody's going with this, but it's really focused on this will help those who actually want one or two more fixtures and not have to pay to upgrade the meter and that was what the intent of this was.

CHAIR BAISA: Correct.

VICE-CHAIR VICTORINO: So I don't know where this is all going, but I think we better focus on what it was intended. The public should understand that this is not to upgrade your meter. It is just to give you more fixtures if you are at that limit already, and 25 percent was a nice round number.

CHAIR BAISA: You recall correctly, Mr. Victorino, but at the last meeting, I don't know, were you here?

VICE-CHAIR VICTORINO: No, I wasn't and I reviewed the minutes. I heard the testimony.

CHAIR BAISA: But it came up that, you know, we were trying to find ways to cut that list and we're thinking well, if anybody is on that list only because they want a few fixtures, then maybe we'd take them off and we just saw that as incidentally but not the reason for doing the fixture units.

VICE-CHAIR VICTORINO: Well, the way the discussion has gone is like this is part of the reason --

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CHAIR BAISA: No.

VICE-CHAIR VICTORINO: --and that's what I'm trying to say if that helps some people get off the water meter list, that'd be great, but I would be very surprised like Mr. Meyer said if anybody takes themselves off --

CHAIR BAISA: Correct.

VICE-CHAIR VICTORINO: --you know, they're not.

CHAIR BAISA: We understand where you're coming from and that was not the intent.

VICE-CHAIR VICTORINO: Thank you. Okay.

CHAIR BAISA: It was just that this might in some cases help.

VICE-CHAIR VICTORINO: Thank you, Chair.

CHAIR BAISA: Any further comments, questions? Seeing none, Members, if there is no more discussion on the fixture units, again, the intent of this was to notify the public that it is available and if anybody doesn't know about it, now they know. And we're hoping that, you know, people know about it, maybe it'll save them some money and help them get their whatever it is they need done. Okay. Well, Members, being that this is concluded and there's no further discussion, I will defer the matter without objection.

COUNCILMEMBER WHITE: No objections.

COUNCILMEMBER COUCH: Madam Chair?

CHAIR BAISA: Yes, Mr. Couch?

COUNCILMEMBER COUCH: I still have my question to Personnel, so --

CHAIR BAISA: It's...

COUNCILMEMBER COUCH: --I don't know if that would still refer to this item. So I don't know if you want to defer it quite yet.

CHAIR BAISA: Can't we take your question up later? Could you please take it out, take it back, and write it down someplace and bring it up again?

COUNCILMEMBER COUCH: Well, I was gonna ask DPS and I'm fine with asking DPS if the item's already deferred, but if it's deferred I don't know what the Sunshine Law says about us going back.

CHAIR BAISA: Well, I'm not the expert on the Sunshine Law. Let's ask our legal person. Put your mic on again, please.

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MR. KUSHI: Yeah. I guess the issue is whether your question relates to this item or the next item.

CHAIR BAISA: It relates to both.

MR. KUSHI: Well, then, I think, it's within your, within the agenda item that you can ask the question.

COUNCILMEMBER COUCH: That's fine, I just wanted to make sure we were all safe. Thank you.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR BAISA: Alright. Moving on.

**ITEM-9: UPCOUNTRY WATER SYSTEM EXPANSION CAPITAL IMPROVEMENT RESERVE FUND (MISC)**

CHAIR BAISA: Our second item today is the Upcountry Water System Expansion Capital Improvement Reserve Fund. As I mentioned earlier, this fund was established during the 2015 Budget Session. At our last meeting, there were a number of suggestions to speed up the process of getting meters to everyone on the Upcountry water meter list in a timely manner. I scheduled this today to see if this fund can be used to assist this effort in any way. I confirmed with Budget Staff that there is 5 million in this fund currently. I also confirmed that 2.4 million has been set aside for infrastructure improvements. I have asked Mr. Underwood, the Director of Personnel Services--and if you would join us down here please--if he could be here with us today to discuss the possibility of outsourcing some of the work load during the reserve, I mean, using the reserve fund. Mr. Taylor, do you have any opening remarks?

MR. TAYLOR: Madam Chair, just in general, I think there's really two issues about the reserve fund that the Committee had from last time. We could...we talked about how to use the reserve fund, possibly paying people to help us and that was one of the questions that I think you had for Mr. Underwood, how would we, tied into what we talked about two weeks ago into our work load problems. The second was could we use the reserve fund to help pay for distribution line improvements, meaning that if there's five people on the same road and we could use these funds to put in that line so they didn't have to do the improvements, but those people aren't in order, number one, two, three, they're scattered through the list, is there some way to modify the ordinance to allow us to use this fund to do that? And I, my understanding it's really those, sort of those two questions --

CHAIR BAISA: Correct.

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MR. TAYLOR: --that wanted to be discussed today and it was at the last meeting that I suggested we may need Mr. Underwood and/or Mr. Kushi for these two items because it gets into some legal issues that I'm not qualified to respond to.

CHAIR BAISA: Mr. Underwood, any, would you like to make some remarks here and let's see where this goes.

MR. UNDERWOOD: No, I'll just be happy to answer any questions that you have.

CHAIR BAISA: Okay. Well, Mr. Couch?

COUNCILMEMBER COUCH: Well, same question is for a situation where it's just an increase, a temporary increase in work load, a significant temporary increase in work load, can we hire somebody to handle that work load and then, you know, hire an outside service to handle just that work load so that we can continue on with our regular flow of work?

CHAIR BAISA: Go ahead, Mr. Underwood.

MR. UNDERWOOD: Okay. Maybe I'll start with some kind of setting the landscape --

CHAIR BAISA: Absolutely.

MR. UNDERWOOD: --of how contracting out works.

CHAIR BAISA: Yes.

MR. UNDERWOOD: Okay. By statute, all personnel services performed by the County are supposed to be done by civil service employees. Yeah, that's what the statute says. There has been two major supreme court, Hawaii Supreme Court decisions which kind of lay out the framework of when you can contract out versus having civil service employees do it. One was the Kono decision which was a case on the Big Island. The County of Hawaii was opening a new landfill and it contracted with an outside provider to provide those services. That was challenged legally and it went to the Hawaii State Supreme Court and the Supreme Court ruled that you could not outsource work that had been customarily and historically performed by civil service employees. Earlier this year, there was another decision rendered by the State Supreme Court against the City and County of Honolulu regarding refuse collection. The City and County of Honolulu had been, had had a practice of collecting refuse at no charge from a certain number of multi-family units, apartments and condos. It was specialized equipment that was used, front loaders trucks, and the City Council had decided they were no longer gonna procure those trucks and get out of that business. That was also challenged in court and went to the State Supreme Court, and the State Supreme Court said that that also was unlawful privatization of public work. So that's kind of sets the landscape. So in general, if work has been customarily and historically performed by civil service employees, we cannot contract it out unless there's a specific exemption for it in a statute somewhere. Yeah. The

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exemptions for the County are found in HRS 76-77, there is 16, 17 of them. So we'd have to find is there a specific exemption that would allow us to outsource based on work load and I'm not aware of one that allows specifically based on work load.

CHAIR BAISA: Mr. Couch, does that answer your question?

COUNCILMEMBER COUCH: Well, I think. And I understand the intent of the Kono decision and I don't know what the name of this other decision is and I respect that and, but this is something we do hire consultants to do things that we maybe could do in house eventually a couple years later, so I'm not sure how this couldn't be similar to that. It's not, we're not taking anybody's job, it's just we're helping somebody get through a small bump in the road.

MR. UNDERWOOD: Normally...

CHAIR BAISA: Please, just go right ahead.

MR. UNDERWOOD: Okay. Normally what I think the court has looked at is does that service continue. That was the analysis they made in the most recent decision which was even though the City and County basically got out of the business, they even quit doing it, they were no longer performing that service at all, because that service continued and was picked up by private contractors, they ruled that that was privatization. So if there's a case where there truly is a short-term demand for a service, we're gonna build a treatment plant or something like that and that service ends and goes away then, I think, we're on pretty safe ground contracting out, but if it's a service that's gonna be ongoing such as reviewing meter applications, maybe there's a spike in the volume but that service keeps going, I think we might be subject to challenge on that one.

CHAIR BAISA: So even if we narrowed it down to we only need help to finish the Upcountry meter list and then that's it 'cause the list ends, that wouldn't, couldn't slide through? Yeah. There is an end to it. Mr. Kushi, you will stop us if at any point we're getting into something that we should probably not discuss publicly. I'll count on you.

VICE-CHAIR VICTORINO: Chair?

MR. UNDERWOOD: I think either the court has used the Nature of Services Test, so it depends --

CHAIR BAISA: The nature of services?

MR. UNDERWOOD: --on the type of work that's being done so as long as it's the same type of work that's being done and that work continues, I think that's gonna fall within the court's analysis. So it's, like I said, typically if there's a major spike in the work load, if it's the same type of work, the court has kind of said that if that type of work is traditionally done by civil service, we should be...it should still be done by civil service.

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CHAIR BAISA: Okay. Thank you. Mr. Victorino, you trying to get in here?

VICE-CHAIR VICTORINO: Well, no, I --

. . .*(cell phone ringing)*. . .

VICE-CHAIR VICTORINO: --understand what --

CHAIR BAISA: What's that?

. . .*(cell phone ringing)*. . .

VICE-CHAIR VICTORINO: --Mr. Underwood is presenting to us and again we have case precedence so, I mean, it's...

. . .*(cell phone ringing)*. . .

VICE-CHAIR VICTORINO: Is it pau school already?

. . .*(cell phone ringing)*. . .

VICE-CHAIR VICTORINO: Oh.

. . .*(laughter)*. . .

CHAIR BAISA: We're going to take a brief recess while we take care of this.

. . .*(cell phone ringing)*. . .

VICE-CHAIR VICTORINO: Okay.

CHAIR BAISA: Just for a minute. We're in recess. . . .*(gavel)*. . .

**RECESS: 9:47 a.m.**

**RECONVENE: 9:49 a.m.**

CHAIR BAISA: . . .*(gavel)*. . . Members, will the meeting please come back to order and thank you for that little break there. When we went into a recess, Mr. Couch, you...no, Mr. Victorino, I'm sorry.

VICE-CHAIR VICTORINO: Yeah. I was...

CHAIR BAISA: We gotta bring you in here. It's all, you know, I really understand this about the two ends.

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VICE-CHAIR VICTORINO: Yeah. We live on the end of the world, no problem. Anyhow, my question to you is I understand there's precedence because of certain court cases that have been ruled on by the Supreme Court; however, would it behoove us to at least to attempt to make this change and to see if there's any legal ramification? In other words, we talk about what you've mentioned about the Kono case and the other, but I believe this may fall out of the realm of that case but unless we do it we'll never know whether it can or cannot happen. And I guess that's what I'm asking, Madam Chair, is we have a specific challenge right now in the Upcountry water meter list and having additional help to expedite whatever can be expedited. I mean, we reduce by 100, 200, 300, 400 meters, that's 300-400 people that get meters, get going in whatever they've been waiting to get going with. So I'm okay with that, and like Mr. Hokama said many occasions, sometimes we've got to challenge the system, we've got to challenge the State and/or our system to see how effective we can be and sometimes maybe letting the court's tell us that it can or cannot happen. But at this point in time, could we if we wanted to do this, allow the Department to do this and see if there's any ramifications? Obviously, you want to check with the unions and whatever else you might want to check with but again temporarily like you said, Madam Chair, for six months, whatever, you can put a definitive time frame if you want to and that way we lessen the opportunity of foreverness [sic] or continuum more on the fact that, boom, we're gonna do it for six months and then it's over. We should get caught up and if we're not caught up, well, that's our fault, but this consultant or this additional help comes in and gets the job done for us and those constituents and those people who have been waiting are the benefactors, not us, they are the benefactors. Mr. Underwood, what would your comments be to that?

MR. UNDERWOOD: It sounds like the question is kind of a question of legal risk so that's not really my...

VICE-CHAIR VICTORINO: Well, then maybe Mr. Kushi if you don't mind, Madam Chair?

CHAIR BAISA: We can ask Mr. Kushi, but I also have a question for Director which is related.

VICE-CHAIR VICTORINO: Yeah.

CHAIR BAISA: Do we do any outsourcing in the Department already? Mr. Taylor and then Mr. Kushi.

VICE-CHAIR VICTORINO: Mr. Taylor, green.

MR. TAYLOR: Thank you, Mr. Victorino.

CHAIR BAISA: The mics, we keep forgetting these lights. Okay.

MR. TAYLOR: We have outsourced engineering contracts for various things. We have had internal closed-door meetings with both of these two gentlemen, the Mayor, Managing Director, other department heads that have discussed where the line is and without

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Mr. Kushi's express consent about what is allowed to be said in open session about how we draw those lines, I'm uncomfortable talking about what exactly we do and why because it may cross that line of legal risk sort of thing, so I will have to bump that to him.

CHAIR BAISA: Mr. Kushi?

MR. KUSHI: Madam Chair, Member Victorino, I think I can discuss this in open session, be it a hypothetical situation, not only relating to the Water Department, to all departments. As I understand the situation and I know the issues about privatization but this is not a privatization issue. As I understand the situation, this Department has a lot of vacancies for engineers, four or five possibly. And I guess the question is if those positions were filled, could the job be done? Apparently not. These are engineering tasks so until these positions are filled, the work load increases and then life goes on. I believe this may be a ripe situation, ripe for a temporary hire outside of any civil service list for a temporary term not to exceed 90 days. These would be at-will employees, they will not be private contractors, they will be hired by the County at-will, no civil service status. They don't even have to be qualified, but they need to in the appointing authority's opinion or discretion be able to do the job. Example, these...the assignments we're talking about, the water list review, fixture unit review, maybe it's too, engineer might be too overqualified. What about an engineering aide or a high level paralegal type, you know? Again, there are various ways to do it, but the Department needs to coordinate with the Personnel Department. In terms of funding, I don't think I see a problem because he has five vacant engineering positions so it should come from the A Account. So, and again, you don't have to pay 'em at the engineering rate, you know. Basically, temporary County employees at-will, you hire 'em today, they can't do it in two weeks, get rid of 'em, okay. That's my take on this shortage situation. But again, it needs to be coordinated with the Department and the Personnel Department.

CHAIR BAISA: Thank you, Mr. Kushi.

VICE-CHAIR VICTORINO: Thank you, Mr. Kushi. And again, Madam Chair, I think this is what we're looking for, possible solutions.

CHAIR BAISA: Yes.

VICE-CHAIR VICTORINO: You know, we know the problem exists and we know there's reasons why certain things cannot occur, but these are possible solutions we need to look into because, you know, Mr. Taylor, no offense to you or your Department, if every time you come in and cannot get the job done because you're five, three, four, five short engineers, that doesn't solve the problem. And I think we gotta be proactive and I like this idea. I would like to request that they look into it. Mr. Taylor and Mr. Underwood, look into these options and bring it forward and let's do it, I mean, funding is there because, right, these five engineers, no jobs. Oh, Mr. Kushi raised his hand so I guess he has something.

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CHAIR BAISA: Go ahead, Mr. Kushi.

MR. KUSHI: Yeah. Before you continue on, again --

VICE-CHAIR VICTORINO: Okay.

MR. KUSHI: --this is an administrative issue.

VICE-CHAIR VICTORINO: Right.

MR. KUSHI: Okay. You guys are legislative.

VICE-CHAIR VICTORINO: Right.

MR. KUSHI: So it's really up to them to do what, with what they can do.

VICE-CHAIR VICTORINO: Thank you for drawing the line in the sand. I wasn't trying to go do somebody else's job, but I just want to say that I like the ideas and hopefully they'll take it on and see it brought forward. Thank you, Madam Chair.

CHAIR BAISA: Yes. And thank you, Mr. Victorino. Mr. White?

COUNCILMEMBER WHITE: Thank you, Madam Chair. I like the direction that Mr. Victorino hit it off in. I have a couple of questions. One, it's my understanding that the Honolulu Landfill is managed by Waste Management, not by the County. So the question I would have is how did that come about? And we also have in Maui County Parks, Police, and possibly some other departments that are using IMUA Rehab Services for, you know, people to clean bathrooms, clean parks, and so forth. And I'm sure that those responsibilities may have at one point been Park responsibilities, but it's my understanding that the union is okay with this because it serves a group of individuals that I think all of us would want to support. I don't know about the Waste Management situation on Oahu, but it seems to me that it might be appropriate for us to engage the union and you may have already done that, Mr. Taylor or Mr. Underwood, and ask for their thoughts on what we may need to do to solve this problem for a whole bunch of citizens in a short timeframe. I can't help but think that the union would be somewhat accepting of us having to go out and get people because this is not...I understand the work load issue, but we're in a situation where we can't get the...we can't fill the positions. So if we're unable to fill the positions, then would they be willing to allow us to go and outsource for a while and give us a certain length of time? That way if we get their concurrence ahead of time, then there's not going to be a legal challenge down the road. Anyway, I like the fact that everybody's talking about it, and I really appreciate the direction that the questions and the comments are going. Thank you, Chair.

CHAIR BAISA: And thank you, Mr. White. You know, this was brought up at our last meeting. I thought it was really important that we follow-up. I promised everybody that all the ideas that we got would be followed up on, because we're at the point

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where we all know we've got to do something, that we cannot keep saying, we cannot, we cannot, we just gotta do something. And so we're looking for possibilities and we're gonna, you know, track down every one of 'em, and I think that, you know, what I'm hearing with the advice from Mr. Kushi is probably that we should, we could, maybe the Director could or this Committee could write a letter to the Mayor asking him or Mr. Taylor to look into this so that we can see where this can go. It's not for us to do because it's administrative but we could provide the suggestion. Any comments, Members?

COUNCILMEMBER CRIVELLO: Chair?

CHAIR BAISA: Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. And I appreciate Mr. White and Mr. Victorino's comments because I think I brought that up at the last time --

CHAIR BAISA: Yes, you did.

COUNCILMEMBER CRIVELLO: --the session that we had. And I like what Mr. White just said and, you know, it's not for us to direct Administration as to, but we have a problem and it's a heavy backload of work that cannot be accomplished with your skeleton crew that you have. I hope and would you consider the suggestion to engage with our union leaders and employees to further the discussion as to how we can resolve this with their partnership and collaboration. It's not to take...there's nobody's job to take, it's to respond to the needs of our public. So I'd just like to just add that message that perhaps we can engage dialogue and in your closed-door sessions extend the table to include our union leaders for that. Just wanted to add that, Chair. Thank you.

CHAIR BAISA: Thank you very much, Ms. Crivello. I think I know where most of us are going and...Mr. Taylor, any comments, or Mr. Kushi? If not, I'd like to move on to another issue that was brought up, another question that is part of this and that was we had couple ideas that came up last time and one was the idea of outsourcing and the second was the idea of how can we make it possible or can we make it possible that people could partner on the list, like number 2 and number 50 and number 1,000 because they all live on the same street and could we take care of it because it would be out of order and can we do that? So I'd like to ask Mr. Taylor, any comments or then Mr. Kushi.

MR. TAYLOR: Madam Chair, I have no comments, it's, that's a question about what is allowed within the ordinance or a change of the ordinance which is more of a legal question.

CHAIR BAISA: Okay. Mr. Kushi?

MR. KUSHI: Yeah, Madam Chair, I kind of concur with Director Taylor, but just one comment if, in open session is that partnering for infrastructure purposes and I guess

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the situation would be, I'm number...my number comes up, my neighbor is 20 spaces, I mean, 25 numbers below me and we live on the same street, the infrastructure improvements would help him as well as me. I see nothing wrong in partnering and it's a private matter. The neighbor's money would not come to us; it will go to the person whose number comes up, but if we issue that person a meter there's a different issue because he's jumping the list.

CHAIR BAISA: Members, any questions in that regard? Mr. Victorino?

VICE-CHAIR VICTORINO: That has been the million-dollar question when it came to the Upcountry meter list. The intent, if you're well aware of, was to get people an opportunity because prior to that it had been assumed and presumed that there was favoritism, sometimes nepotism, sometimes other means of people getting their water meter while I waited for my water meter. So this Upcountry list was developed back in the late '80s/early '90s to take care of that. Not realizing that what the profound effect would be is years later, you've got this list now how do you deal with it. I mean, that wasn't thought about. It was just let's get them all on the list and get 'em off our back and that was what the Department of Water Supply and the Board of Water Supply at that time was thinking. And no offense to nobody, not to make anybody feel bad. So here we come to today. We have this list, by ordinance it's a list there and anytime you start jumping that list you open yourself up for legal action, because if I'm 130<sup>th</sup> and Mr. Taylor is 160<sup>th</sup>, but Mr. Underwood is 100<sup>th</sup> and he gets it but Mr. Taylor lives right down the street and he runs to 'em and says, hey, Underwood, let's connect the pipe and we'll pay it together and I'll get my meter also, that's not gonna work and I think that's what Mr. Kushi is trying to say. So how do we work cohesively? I don't know unless we're able to change the system, but I think then you'd be opening yourself up for more legal action also. Because if I'm waiting and I'm like 10 away or 30 away or 50 away and somebody that's 150 away jumps me, do you not believe I might take offense and take some legal ramification to justify my stance? I don't know. I think so. So anyhow, what I'm trying to get to, Madam Chair, I don't know if there's an answer to that question because we've been discussing that since I was on the Board of Water Supply which is over 15 years ago in total and it's no one has ever been able to come up with an answer. And unless Mr. Kushi can give us a definitive answer, which way we can go and I don't think there is. That's the million-dollar question, right there. That's the million-dollar question.

CHAIR BAISA: And thank you very much for asking it because that is the million-dollar question, can we mess with the list? Can we change the rules? Mr. Kushi?

MR. KUSHI: Madam Chair, Members, we've had discussions with my staff as well as with Director Taylor and his staff. We have some suggestions, some alternate proposals, but I think these are best discussed in executive session.

CHAIR BAISA: Members?

MR. KUSHI: They might not be remedies, but they're just proposals.

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CHAIR BAISA: Mr. White?

COUNCILMEMBER WHITE: Yeah, I would like to have that discussion, because I think it's, you know, we've changed some of the rules like we allowed more flexibility for two-lot subdivisions. I would like to know if there are things that we can do to change the rules that would allow certain combinations as we've discussed, people are on the same street and at different places on the list. Are we able to do what is sensible and combine them? And if so, how can we do it in order to, you know, keep somebody from suing us? Or, you know, there are certain risks that we're gonna, we're taking no matter what we do here. And the current policy is simply not working and it's gonna take us a lifetime to work through this list and so I'm more than happy to go into executive session and see if there are ways that make sense for us to move forward in a more sensible and expeditious fashion.

CHAIR BAISA: Thank you, Mr. White. Chair will entertain a motion to go into executive session.

VICE-CHAIR VICTORINO: So moved, Madam Chair.

COUNCILMEMBER WHITE: Second.

CHAIR BAISA: Okay. We would have to include in that motion that we could have an executive meeting pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County.

VICE-CHAIR VICTORINO: So moved, Madam Chair.

CHAIR BAISA: We have a motion --

COUNCILMEMBER COUCH: Second.

CHAIR BAISA: --by Mr. Victorino --

COUNCILMEMBER WHITE: Second.

CHAIR BAISA: --and a second by Mr. Couch. Any discussion? Seeing none, all those in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR BAISA: Opposed say "no." Motion carries.

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

**NOES:**   **None.**

**ABSTAIN:** **None.**

**ABSENT:** **None.**

**EXC.:**   **None.**

**MOTION CARRIED.**

**ACTION:**               **APPROVE; RECESS open meeting and CONVENE executive meeting.**

CHAIR BAISA: Ms. Willenbrink?

MS. WILLENBRINK: Yes, Madam Chair. Would you like to take the morning break at the same time?

CHAIR BAISA: I thought it might be a good idea that we will recess for executive session and take our morning break. So let's try to be back here in 15 minutes. Meeting is now in recess. . . .(gavel). . .

**RECESS:**       **10:10 a.m.**

**RECONVENE:** **11:21 a.m.**

CHAIR BAISA: . . .(gavel). . . Will the meeting please come back to order. We'd like to, I'd like to thank all of you for the executive session and thank you for the folks who came to assist us with the discussion. It was very productive. The Committee is going to be producing a request. And, Mr. Victorino, did you have anything that you wanted in particular in that letter?

VICE-CHAIR VICTORINO: Well, Mr. White had brought up some ideas that we kinda shared so, I mean, shared, when I say shared, similar ideas. For me, prioritizing the water meter list which if and where these people are asking for meters, distance from the positioning of our water system, also if we cluster like we've been discussing --

CHAIR BAISA: Correct.

VICE-CHAIR VICTORINO: --how we can cluster and how many meters do they want, one meter, two meter. I mean trying to keep to a specific number so that we understand what is needed.

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CHAIR BAISA: Correct.

VICE-CHAIR VICTORINO: I think that's what I'd like to see done. I know Mr. White has a few other suggestions to add to that, but somehow where we can start prioritizing instead of this numerical first come, first serve. I think that's what maybe the public's looking for. That's maybe what we need to be working towards so that we can finally work on this list and get it done somehow someday in the next whatever timeframe it might be.

CHAIR BAISA: Thank you very much. Mr. White, anything to add?

COUNCILMEMBER WHITE: Thank you, Chair. I think the question for me is whether we can prioritize the list by doing things similar to what we did with the two-lot subdivision by adding three-lots subdivisions, by adding the ability to move forward if you have a single house lot as opposed to a large subdivision, having the ability to move forward if you are in a specific part of the system that has, already has the infrastructure and the capacity to provide water. I believe Mr. Taylor last meeting mentioned elevation has a lot to do with availability or readily available source and infrastructure. So I'd like to, you know, give them some of the ideas, but I'm sure they're gonna have other ideas as well that I would like their thoughts on with respect to both workability and legality.

CHAIR BAISA: Wonderful and we will also be following up. Director Taylor has stated that he would check into the idea of temporary hire.

COUNCILMEMBER WHITE: Right.

CHAIR BAISA: And so I'd like to...I think we have the meat of what we are going to talk about. We have excellent notes and we always have good minutes to help us in drafting a letter. And I'd like to thank all of my Committee for working so hard today, and I'd like to thank the folks who came to be with us and we will definitely be following up. This is a very important matter for this Committee. We want to solve the questions of how do we deal with the Upcountry meter list and I think we're all devoted to that. So without any further discussions today, or any questions, any comments, Members, before we adjourn? Seeing none, I'd like to again thank everybody and this meeting is adjourned. . . .(gavel) . . .

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

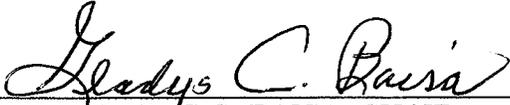
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**ADJOURN:** 11:25 a.m.

APPROVED:



GLADYS C. BAISA, CHAIR  
Water Resources Committee

wr:min: 160817:mb

Transcribed by: Michelle Balala

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CERTIFICATE

I, Michelle Balala, 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 8<sup>th</sup> day of September, 2016, in Makawao, Hawaii



Michelle Balala