

County of Maui Water  
Supply

BOARD OF WATER SUPPLY  
COUNTY OF MAUI  
OPERATIONS REVIEW COMMITTEE MEETING

Taken at the County Building, 200 South High Street,  
7th Floor, Wailuku, Maui, Hawaii, commencing at 11:00  
a.m. on March 6th, 2001.

Reported By: Rachelle Primeaux, CSR #370

ATTENDANCE:

Members Present:

Jonathan Starr, Chair  
Mike Nobriga  
Orlando Tagorda

Staff Present:

Herbert Kogasaka, Engineering  
Howard Fukushima, Corporation Counsel  
Fran Nago, Secretary  
George Tengan, Deputy Director  
Mike Quinn, Fiscal Officer

Others Present:

Bobbie Becker  
Barbara Luke  
Peter Stolle  
Mr. And Mrs. Cabrinha  
Ms. Robello  
Elliot Krash  
John Rapacz  
Daniel Grantham  
Madeline D'Enbeau  
Maryanna Knottenbelt  
John Siele  
Sherri Morrison

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CHAIR STARR: Good morning. I would like to welcome you to the meeting of the Maui Board of Water Supply Subcommittee on Operational Review and Evaluation. And I would like to thank our members, Mike Nobriga and Orlando Tagorda and my name is Jonathan Starr for coming and Fran Nago, our hard-working Water Board Secretary. And who else do we have here, Fran?

MS. NAGO: We have Mr. and Mrs. Cabrinha, Ms. Robello, Elliot Krash, John Rapacz, Daniel Grantham, Madeline D'Enbeau, Maryanna Knottenbelt, Peter Stolle. And I'm sorry, sir, I didn't get your name.

MR. SIELE: I'm John Siele.

MS. NAGO: Mr. Siele. We have George Tengan, Mike Quinn, Herbert Kogasaka and Herbert Chang from staff and Howard Fukushima. And I'm sorry, Daniel Grantham.

CHAIR STARR: Okay. Thank you all for coming. We did receive some written testimony, so I'm not sure if they were for this meeting or the last meeting, but I did get a few testimonies regarding meter issuance.

MS. NAGO: Right.

CHAIR STARR: I assume the other members got to see those, too, yeah. Mike and Orlando, you got those?

MR. TAGORGDA: Yeah.

CHAIR STARR: And I would like to open it up for public testimony, and you're welcome to testify either

on a particular item right before it's being held or at the beginning of the meeting on any of the three items. So do we have any public testimony? John Rapacz.

MR. RAPACZ: Thank you, Mr. Chairman and Committee Members. On the issue of issuance of meters, it's something that's been a subject before the Board since I was advising as a Deputy Corporation Counsel. And I was asked for an opinion at one point as to the Board's obligation to issue meters for vacant lots. The question came up about people who may have had vested rights; for example, if the Department had approved a subdivision, then if the subdivider moved forward with the subdivision and relied on the Board's approval or the Department's approval and spent money, then essentially, they would be entitled to receive a meter.

The question came up then about lots which were subdivided long ago or simply existed by some unknown means, and I think the current policy is that any vacant lot gets a meter. A request that was ever approved for a subdivision gets one, and part of my opinion put a limit on that particular situation. I said that even if the Board had approved a subdivision long ago, yet the subdivider waited a long time, didn't rely on the request, didn't do anything and then 20 years later says, "Okay, I want my meters now," the opinion says that you are not necessarily obligated to provide the meter at that point.

There should be some reasonable limit on how long your approval or recommendation for approval or your assurance should guarantee a meter for. Now, that limit is not specified in the rules and that's something that would be open to debate and to legal interpretation from your counsel. But I just wanted to bring that up in case you folks had not been presented with that issue or that possible point of view, that you are not necessarily bound to provide a meter to every existing lot unless that individual can establish that they somehow relied on Water Department approval and that they did so in a reasonable amount of time.

CHAIR STARR: At that time when you gave that opinion, did you also recommend a time, a time period?

MR. RAPACZ: I think that, and this is just by memory now, I think that we considered a six-year statute of limitations on it as would be comparable for a contract. In other words, as if it were a contract between the Board and subdividers to say we will provide a meter, and if the individual didn't request the meter within that six years, an argument could be made that the statute of limitations had expired on that agreement.

CHAIR STARR: Thanks. I would like to ask Corp Counsel just out of interest if that thinking is consistent with the current Corp Counsel's thinking?

MR. FUKUSHIMA: I think so. However, what John, and I think just inadvertently didn't discuss was, of course, the rules regarding the issuance of meters always apply such as the premises must be adjacent to a transmission line, being within a service area and not that you will have other users on the line. With that caveat, I believe generally, yes, what John has stated is our position on the issue.

CHAIR STARR: Anyone else to testify? Don't all rush at once. Seeing none, I would like to, if it's all right with the Committee Members, take the next Items, A and B, for discussion, take them together since I feel they are very interrelated in nature, very similar.

And I know we've heard a lot of testimony in recent weeks and a lot of, you know, very strong opinions and a lot of very emotional feelings regarding priority lists and the meter issuance policies. And, you know, I know I was hoping that this Committee can move toward, you know, a recommendation toward the Board as to how we feel we should proceed with this.

You know, I know there are already definitely people that feel we should issue meters, that we

should issue meters to people on the waiting list and just start issuing meters Upcountry. On the other hand, we are in a state of drought emergency right now, and it's difficult for me to say that we're still never going to have shortage conditions again Upcountry. There are other people, and this includes the Community Associations and the Farm Bureau, who feel that until more source and more infrastructure is added to the system, that the system is inadequate and we shouldn't be issuing more meters to the system.

And clouding that is the fact that there are still people who are getting meters through different, you know, processes of the rules and have been getting meters, you know, including that empty lot rule. And then the people who have been patiently waiting on the list have been waiting and waiting and watching other development take place, so there's an unfairness there. I would like to open it up to the Committee to try to hear your wisdom on this and which way you would like to go.

MR. NOBRIGA: Mr. Chairman, I feel we do have established, although it is not by a rule or procedure, a list of people that have been either denied service by the Director or the Department, but they are listed on a first-come/first-serve system for want of a better word. It is my feeling that this list needs to be followed regardless of credits provided by or to some other parties. And if there is not enough water to fulfill the obligations of the list, then how can there be water available for other requestees to credits? It's like an oxymoron. The system that we have in place for Upcountry specifically has almost never been to the standards that we have had facing our Department or the Board for quite some time.

I still would like to see verification of source capacity for the Upcountry area and have it taken up by the Board, and either yay or nay, either we have water or we don't have water. Because if we don't have water, what's the sense giving people false hope that we're ever going to have more water? And if we are in a position to say that we have development of

water sources, then let's get the darn budget approved and get the thing running, you know. I'm kind of frustrated with this whole issue already.

It's a first-come/first-serve. So whoever came first should have meters if there is water, and apparently, there is water. Thank you. I have to go, I'm sorry. I'm being summoned. They can go on. I'll be back. There seems to be some developments in the other building on another matter. Hi Mom.

MR. TAGORDA: On these two issues, I don't know if we have to make a policy or rule in issuance of meter. And if I believe you choose ruling, I think we have some rule that was passed and it's in the Iao Management Rule on the issuance of meter. I think it's a first-come/first-serve, it's a good concept. However, we need to really update the priority list to make sure this is a correct list, and I think we can probably separate applicants in this list who will be able to get water service if there are water available within a time frame given by the Board.

If not, they go back to the end of the list. I think we also have to put in different columns the people we should give priority to, like farmers, Department of Housing, DHHL and residential owners Upcountry. And I think we should also bring out the findings of the Director, whether there is water available Upcountry, and let's discuss that. What's on the table, Mr. Chairman? I don't know if you want to bring that up, that matter, on our regular meeting, and let's find out if there are -- there is really water available so we can issue meters.

I think that findings of the Director that was brought up early part of 2000, that's very good information for the Board to relate their actions on this meter issue. And like I said again, I would like to reiterate that this priority list here is the correct priority list. If some of these properties have already water service, take it out. Because I don't want to see a priority list that's not a true reflection of what we should be handing to the public.

I have some information, I don't know if it's

true, that some of these properties here have already water meters. They already have water service. They already build their, you know, houses, so update this list. And I urge the Department to update this before we go on issuing water meters.

CHAIR STARR: One of the things you mentioned is, you know, to give certain priorities. I mean would you feel we should rearrange this list based on some kind of classification or -- I mean my own feeling is, you know, this is a first-come/first-serve list. I don't want to take out -- in my own feeling, I don't think we should take out the people, you know, classify them and reorder them. I would prefer to leave it in a chronological manner and serve people who have been waiting the longest.

MR. TAGORDA: I will agree with you, Mr. Chairman, that it should be on a first-come/first-served basis based on their dates of application; however, like I said again, on that meeting Upcountry, a lot of people don't want developers to be given meters.

CHAIR STARR: Well, perhaps --

MR. TAGORDA: We have to make some decision there.

CHAIR STARR: I don't think that we can --

MR. TAGORDA: Discriminate?

CHAIR STARR: -- discriminate. My own belief is that's our duty, if someone comes for a water meter, if there's water, we give it to them. They pay their fee, and if they follow all the rules, then it's theirs.

So the problem we do get to though is, you know, what is the adequacy. Because, you know, and it seems that there are many, many different opinions of what that is. I've heard the Director say that he feels that there's adequate water to give meters. My own

opinion is that a lot of the water that we have, even though we are in, you know, did have to go in a drought emergency about a month and a half ago, is borrowed water. You know, if we're using Hamakua Poko to fill up, you know, fill up the gaps, we know that Hamakua Poko, we're only able to use it under a declared emergency. We cannot issue meters against it and that ultimately it's earmarked for the central system. That we're using water, you know, the Kulamalu well, which is servicing Haiku, but all of the water from that well is ultimately earmarked for Kulamalu projects, and we know that.

You know, whether that is the right thing for the Board to do to allow, you know, someone to come in in a time of inadequacy and drill a well but just for their own project, you know, I don't know. But that has happened in the past, and the Board has allowed it.

So, you know, we have a well that's supplying the system, but ultimately, the water from that well is going to go to, you know, to the projects that it's, you know, that it was drilled to serve. You know, we did not -- we did not drill that well. I, for one, have wanted us to drill our well as soon as possible. We do have the funds, and I know you've been with me in the belief that, you know, we should make our water system adequate.

You know, do we though declare adequacy when right now we're living on borrowed water in the hope that we will be able to develop water before we have to give back the borrowed water with a well that, you know, we still don't have even a plan or location for? To me, that's the real question. You know, I know definitely some -- the Farm Bureau and the Community Associations feel we shouldn't. You know, I feel both sides. I feel for the people who have been waiting, and I also feel for the people who are existing customers who may become more -- who, you know, may see the system become more inadequate if we do that.

MR. TAGORDA: Again, Mr. Chairman, if we go back to the priority list, I think not all these people on

the priority list will be able to get water service even if we offer them water service because there are so many things that they will be required to do. And I guarantee you that a lot of those people are not ready to do those things.

So if we have like, for example, 200,000 gallons of water available when there's a drought now and we go on, try to contact all these people from the top to bottom until that 200,000 has been given up, I think that's going to be a long process, Mr. Chairman.

CHAIR STARR: I would like to ask the Director, this priority list, do you have a feel for how much actual water would be involved if we were to commit to try to issue to those people who were ready?

MR. CRADDICK: Well, the amount of water that I said that I felt comfortable in saying was available was around the number that Orlando had given, 200,000. Now, how many people that could handle on the list, the only experience that we have is the water that we gave out from the A&B agreement with Kilauea -- not Kilauea, what is it, Haiku Mauka, Haiku Mauka.

And out of that water where we were going through the list, I think we were going to go up to about 50 on the list, and I don't believe more than ten actually took meters. So if that's somewhere out of 50, 25 percent of them are actually taking the water when it's available to them. If that percentage held up, it would make it quite a ways through the list. Now, whether that percentage would hold up as you went further down the list, I can't really say. But that's the example that we have of a real situation where we started to go through the list.

CHAIR STARR: So you're saying only about one-fifth is actually --

MR. CRADDICK: In a position where they actually -- keep in mind, if we started going through the list, somebody could not necessarily be ready for

water and they could make the reservation and then they would have to get the system adequate within two years, but that was a possibility with the other two. And that was still the number that actually said, yes, I want the meter.

CHAIR STARR: So if that were the case, how many services would say 200,000 gallons?

MR. CRADDICK: I can't say that I've done a real analysis, and I don't know if Herb Chang has, because if it's a farmer coming in for a meter, obviously, it's going to be more water than a normal meter, if it's a larger meter that they're trying to get. There's a lot of variables in there.

CHAIR STARR: Have you analyzed this and seen what -- you know, are there large subdivisions in here that are just one of these numbers that would include a large amount of water?

MR. CRADDICK: Herb, do you have any feel on that, maximum number of lots?

MR. CHANG: I don't have real numbers. Just maybe like one or two large subdivisions.

MR. CRADDICK: When you say large, what are you talking about, ten lots?

MR. CHANG: Forty lots or something like that. The majority are real small, four lots, five lots.

MR. CRADDICK: And the 40-lot one, is that Kulamalu?

MR. CHANG: It's A&B's.

MR. CRADDICK: The Mauna Loa.

MR. CHANG: Mauna Loa. Yeah, but they need to put storage stuff in for that, don't they?

MR. CHANG: Right. But they're on the list though, on the waiting list.

MR. CRADDICK: So there are some up to 40. Keeping in mind Hawaiian Homes was on the list, but with the agreement that the Board entered into with them giving them 500,000 gallons, that also is accounted for in that shortage analysis given to the Board.

So in that scenario, Hawaiian Homes has its water up to the limit the Board agreed to give, and they are doing a well right now they started last -- a week or so ago.

CHAIR STARR: That's their test well?

MR. CRADDICK: Yeah.

CHAIR STARR: So they may be actually providing additional water into the system, yeah?

MR. CRADDICK: Hopefully, that would be the end result of it if their test was good.

CHAIR STARR: But that would be several years away before there would actually be production of water. So really we have no idea, no real idea of how much water would be consumed if we were to issue the whole list or, you know, a hundred places on the list?

MR. CRADDICK: Well, we would -- if we were -- I mean the Board could say, you could just go through the whole list, but I'm recommending to the Board that we don't give away anymore than 200,000 gallons. And long as we stuck to that, I'm satisfied we wouldn't have any problem even if Hawaiian Homes built up and even if the Dowling project built up.

And if all of the current meters that are not using water, we have I think it was about 7 percent of

the meters that are currently in place that are not using water, even if all those meters starting using water, we would still have a sufficient supply developed for average day and peak demand.

CHAIR STARR: You know, this 200,000 gallons that you think we have that we're not, you know, we're not using right now, where does that come from?

MR. CRADDICK: It's out of the Haiku well, mainly from that one.

CHAIR STARR: One of the things that had been on my mind was the possibility of separating Haiku out from the rest of Upcountry because, you know, it seems that Haiku is adequate, you know, or more than adequate right now.

MR. CRADDICK: How the system is operated is obviously under the Board's prerogative, but with the system that is in place, the water from Kamole Weir that used to serve Haiku can be delivered anywhere in the system, so why Haiku should have priority, it's a money issue, let's put it that way. It's not an availability of water issue for the other areas. It's a money/pumping issue to get the water to the higher elevations.

Now, from a money perspective, if you said, "Look, we just don't have the money to pump it up, so we're only going to let Haiku go forward," those people in Haiku, that's a money issue for the Board.

CHAIR STARR: That's certainly not a call that I would want to make is to not provide water because of the cost of pumping. I think the Board is, you know, is committed to providing water no matter what we have to do to provide it if we can, if we can provide it.

MR. TAGORDA: Mr. Chairman, I think this issue is a matter of answering questions like who, what, where; who it would be offered to, where it's going to be offered and what will be offered. Are we just

going to be offering private meters or a bigger size meter? Based on this priority list, if you segregate this thing, you would find out those answers.

MR. CRADDICK: I think they've looked at it, and I believe Herb does have some analysis. I just don't think we have it right here right now. I know they've done some analysis on how much water they think each request was made.

CHAIR STARR: Do you have any of that data with you, Herb?

MR. CHANG: I have one that's not quite completed.

CHAIR STARR: And can you give us at least a feeling, David? I know you've got to run back to the other meeting.

MR. CHANG: I can go back to my office and come back.

CHAIR STARR: Let me take a short recess here, just about three minutes.

(Recess taken.)

CHAIR STARR: Back to order. We had someone who came in a couple of minutes late but asked if she could give testimony, and I said that she's more than welcome to. Please come up and give us your name before you start, please.

MS. LUKE: My name is Barbara Luke.

CHAIR STARR: Go ahead.

MS. LUKE: Good morning. I own property in an old subdivision that has a lot of water history attached to it. Since it is next to Kulamalu, Dowling's development, most would assume we have access to water. We don't. I'm here today to speak for all those Upcountry property owners who are in the

same position. I, like others, feel the Water Department has access to far more information than the average citizen. We can't afford to pay engineers to check out every possibility the Water Department tells us we may have. Is there any way the Department can work with us to give us a detailed, documented format of what we can do to bring water to our properties? Many of the properties similar to mine have been owned for many years by hard working local residents.

My family has owned this property since 1989. I know some have owned similar property for far longer. Since 1989, the cost of a water meter has gone up substantially. Many of us feel we are drowning under the wave of developers who come in and override any chances of the average Upcountry citizen getting water.

Recently, Maui Land and Pine expressed their desire to develop the area above the Pukalani Superette. This is all in my immediate neighborhood. At one time, Mr. Craddick told my husband and I to wait until Kekaulike High School was built, at which time we could get water. Since this conversation, Kekaulike and Kamehameha Schools were built and Kulamalu is selling commercial lots.

We still have no water to our almost nine-acre ag lot. Some citizens have gone to sharing a meter with a neighbor or two and others have put up catchment systems, filled them with County water but obtained building permits by saying they are purely on catchment. The rainfall in the this area is very low, so a catchment system is not an efficient alternative, but perhaps an inconsistent backup. Can we put all development on hold until we meet the needs of the citizens who have been patiently waiting all these years to get legal County water?

CHAIR STARR: Thank you. You know, I'm looking at some of these worksheets here. And, you know, one of the things that I'm realizing more and more is that as you go through the list, you know, people are asking for very, very different things. You know, a lot of times I have -- I have this imagine of the list of people, all people looking for a single

five-eighths meter for their ohana or their kuleana lands, but, of course, a lot of the entries on the list are very large meters or for multiple meters, ten meters and nine meters.

And, you know, if we were to go and start issuing a limited amount of water to the list, we would have to decide whether we give a certain minimal amount to each person on the list, and then, you know, if we get through it, then start going and giving out larger meters or multiple meters, or does each, you know, would we limit it to five-eighths-inch meters only or just give out whatever was originally applied for even if someone was asking for, you know, several one-inch meters? Mr. Tagorda, do you have a feeling on this?

MR. TAGORDA: I think those are all good ideas you just gave, Mr. Chairman. But I think before we go on to those details, I think the Board should really adopt a rule on the issuance of meters. And I would -- I'm not too sure, but I think if you look at this priority list again, the 200,000 might be even enough to really satisfy this list here.

Because what I get from before is if you give out water, all this list, you need 480,000 gallons only. But a lot of these people is not going to get their water meter because they're not ready. So to me, before we go on to details, like you said, is we adopt a rule in issuing a meter based on all those informations that we have and based only on the availability of water binding from the Director, who gave it to us. And if it's only 200,000 gallons, that's all you have to give away based on priority list.

If number one is not ready, you go to number two until you consume, you give away the 200,000. But we have to adopt a rule to give away issuance of meters.

CHAIR STARR: I don't know if we need a rule or just a policy. Mr. Counsel, you had some other comments to make, too, I believe.

MR. FUKUSHIMA: Yes, if I may, Mr. Chairman.  
It's the considered opinion of the Department of Corporation Counsel that a rule regarding the issuance of water meters for the Upcountry area is important. And it is necessary.

From what I'm hearing from the Committee Members today, there are policies which the Committee wishes to consider as to who is going to get the water. It's not a matter of simply going down the list. Because these policies may effectuate changes in the list, it may effectuate changes in the priority of names on that list, we believe that these policies should be adopted by rule.

If there is going to be a policy that agriculture be favored over say residential use, again, something like that should be evidenced in a rule. And the reasoning for that type of priority, because it's the policy of the Board to encourage and promote agriculture as an example. But, again, because there are a number of other issues than just issuing meters, because there's evidence to believe that not everybody on the list is prepared to go forward with their development, that there are on the list requests for different size meters, how does the Board wish to deal with that? Does it want to deal with five-eighths-inch meters? Does it want to deal with everybody in order on the list regardless of the amount of water that they're requesting? These are policies that have to and should be considered by the Board, and they would best be put in place by a rule.

We -- there was a rule, a proposed rule that had been circulating I believe approximately a year and a half to two years ago, which incorporated the list and which made certain arrangements for say how do you take someone off the list if they're not prepared to go forward with development; that is, we do have a framework from which to work from. It's not like we're going to be starting from scratch. There is something out there. And we would wish to reiterate our opinion that we believe that a rule is important because it's not simply issuing meters. There are a lot of policy considerations. There are a lot of other things that must be taken into consideration

than simply issuing meters. So in short, maybe not in short, but that is the opinion of the Department of Corporation Counsel.

CHAIR STARR: Would there be any legal question if that rule were to say, you know, say, you know, each applicant on the list would get, you know, first option at a single five-eighths meter until everyone who is ready to take a single five-eighths is served, and then it would go back to the top and start with, you know, additional units beyond that? Would there be any legal question in, you know, giving people service but not the service they're asking for; if someone is asking for a one-inch, only give them a five-eighths and so on?

MR. FUKUSHIMA: In my opinion, no, not particularly. But if that is a policy that is to be adopted, I would certainly expect that there would be a reasonable explanation that there be reasons, a rational basis for that type of policy, which would limit the size of meter that you would get. But because we all know there's a shortage, that policies that go toward addressing that shortage and offering at least some service to some people, I don't have a problem with that. And I don't believe there's any legal problem with that if it's framed properly.

CHAIR STARR: I know my -- the one thing I feel strongly about is I don't want to create an artificial priority on this beyond, you know, when people applied. And I know that that in itself is, you know, maybe imperfect enough, but at least it's, you know, that's the best we have in terms of, you know, some kind of fair way of dealing with it.

You know, I would also feel that it would make sense to allow the issuance of, you know, a basic unit of -- a basic unit of water before we start issuing, you know, some people several one-inch meters and, you know, get down to a certain point and then not be able to give other people a single five-eighths. I also think that there should be rule making. I think

that's the right way to do it.

MR. FUKUSHIMA: So perhaps a recommendation from this Committee, if I may suggest something, Mr. Chairman, would be to recommend referral in this to the Rules Committee or recommend to the Rules Committee that it act or consider the rule that's already -- and if my memory serves me correctly, I believe there is already a proposed rule in the Rules Committee, but urge the Rules Committee to take prompt consideration of that proposal.

CHAIR STARR: You know, I do feel that we should recommend that rule making be done. And, you know, perhaps we can go, you know, go a little bit farther on that. You know, that rule will definitely have to take into account, you know, whether the priority list is kept in place, which I for one think it should be. It will have to take into account what is actually, you know, what will actually be issued, and, you know, at what point, you know, what we will have to get to the bottom. Say we get to number 3 and person number 3 isn't ready to accept a meter, what happens to them? I think that was in that rule. Do you have the text of that?

MR. FUKUSHIMA: Not with me, Mr. Chairman, I'm sorry.

CHAIR STARR: I don't have that either.

MR. FUKUSHIMA: If I may, you know, it is those issues that concern our Department if you do not have a rule, and how are those types of situations or those -- how are you going to handle that in a fair and reasonable manner if you do not have a rule?

CHAIR STARR: Well, it's not just having a rule. I think we have to have a fair way of dealing with it.

MR. FUKUSHIMA: And that's precisely the reason to have a rule. It will set forth the procedure to

handle the issuance of meters.

CHAIR STARR: Do you want to create a motion now, or would you like to --

MR. TAGORDA: I would like to move, Mr. Chairman, that we adopt a rule in the issuance of meters Upcountry and refer it to the Rules Committee.

CHAIR STARR: Let's have a short recess. Let's have a two-minute recess here.

(Recess taken.)

CHAIR STARR: Back to order. Now, the Chair's recommendation is that we do two things here. And one is in keeping with the motion we're working on, which is to make the strongest possible recommendation that a rule that the Board possibly working with the Rules Committee formulate a rule that will allow -- that will talk about meter issuance and it can be similar to the one that was under consideration previously, but just that a rule be put in place regarding meter issuance in general. And so is that in line now with your thinking?

MR. TAGORDA: Yes.

CHAIR STARR: So we will be recommending that a rule be issued as quickly as possible, as expeditiously as possible that will allow for a policy on the issuance of meters. And the second thing is that I would like to suggest is that we -- this Committee continue to work on recommendations as far as an operational way of issuing meters Upcountry if the Board feels the -- feels that there is sufficient water to do that.

So I want to defer, you know, defer the item but also request that the Board -- the Board do rule making. And then perhaps before the next Committee meeting, the Members of the Committee, if the Committee stays constituted as such, will come up with

some ideas, and possibly at that next meeting, we can constitute some direction for advice to the Board.

MR. TAGORDA: I have no objection, Mr. Chairman.

CHAIR STARR: So that's the way we will be proceeding on a two-prong approach, rule making and also to try to work on some more direction. And I'm going to request that staff finish up this document here because, you know, I know the estimated gallonage figures, they stopped doing it at some point, and they need some more staff work. I would like to bring this up to date, and I would like to make sure it's ready for -- ready when taken up next time.

So I would like to move along to Item C, which is the evaluation of the Director. And I have handed out to members a draft of the possible way of dealing with the Director's evaluation. And in creating this, I've gone back through several previous evaluations and also through the Qualserv, the Qualserv document in which the American Waterworks Association helped the Department in finding shortfalls and identifying them.

And out of the Charter -- Charter obligations of the Director, the Qualserv and other matters that have been discussed before the Board, I created a list of candidate questions. And that was suggesting that this Committee come up with a grouping of questions. And those questions would be passed along to the Board, and the Board can -- if the Board decides to proceed with this methodology, then the Board would further refine these questions, maybe eliminate some or add to these questions. And then when the Board is satisfied with the pool of questions, then each member of the Board will take the list and will have a question -- an answer sheet, you know, like this one and will mark the answer sheet yay or nay for each question or leave it blank.

And based on the scoring of the answer sheets, then that will determine whether the Board has confidence in the Director or not. You know, to my mind, that's the clearest way to do it. In the past years, there have been various methods. Most have actually led to the writing of essays by the Board

Members, which wasn't, in my mind, really a -- an evaluation where, you know, as far as I'm concerned, the Charter states that the Board shall appoint, evaluate and remove the Director.

And so it needs to periodically, and I believe it should be done once a year really, grade the Director and decide whether it wants the Director to continue or not to continue as Director, and I see that as our duties. Anyway, what are your comments, Mr. Tagorda?

MR. TAGORDA: Since it's only you and me only in this Committee, Mr. Chair, I pick up actually, out of the nine or ten -- out of the nine or ten questionnaires, that you -- questions that you passed to me, I pick up five and I modify some and I -- and I change some of the wordings. I hope you don't mind though. So I pick up number one. If you want to read it to the public, that's up to you.

CHAIR STARR: Is there a modification on number one?

MR. TAGORDA: No, there's none.

CHAIR STARR: Question one would be, "Provide clean water efficiently is the mission of the Department of Water Supply. It's the responsibility of the Director to guide the Board in providing for an adequate supply of water."

And then the question is, "Has the Director provided unwavering direction for the provision of Maui's current and future water needs?"

MR. TAGORDA: I also choose number two. You can also read that one, and there's no alterations or amendments to that.

CHAIR STARR: Okay. Number two is, "Has the Director been consistent in carrying out the directions and stated will of the Board and in accepting their criticism?" Okay.

MR. TAGORDA: I pick up number five,  
Mr. Chairman, and I think number four --

CHAIR STARR: Let me go five.

MR. TAGORDA: Okay. You go five.

CHAIR STARR: "We are mandated to maintain the  
current County Water Use and Development Plan."  
And the question is, "Has the Director and his  
staff kept in place an approved water use and  
development plan?"

MR. TAGORDA: And I also added after that  
sentence, "Has a water reuse strategy plan been  
developed over the past three years?" The same  
number, same question. Has a water reuse strategy  
plan been developed over the past three years?  
Because we talked about this when I got into the  
Board. And I think that's been --

CHAIR STARR: My suggestion is I think that's a  
good question, but I would be happy to -- can we make  
that a separate question?

MR. TAGORDA: Since you are dealing with the  
water use development plan, I attach it to that. It's  
up to you if you want to make it a separate question.  
But if it's a separate question then, you just have to  
-- don't put it in. Because I've got more questions  
that I made that I want you to choose from.

CHAIR STARR: Frankly, I would prefer if we had  
a lot of questions, and then the Board as a whole can  
pick out the ones they want to use.

MR. TAGORDA: And I will tell you which  
questions I did not pick up, did not choose from your  
questionnaires.

MR. FUKUSHIMA: Not wanting to interrupt you,

but we got into the reuse issue. Correct me if I'm wrong, but I believe that's more of a Public Works issue because the reuse of water, the use of reclaimed water generally comes from our wastewater plants. And the Water Department generally has nothing to do with reclaimed water, but you can encourage the use of reclaimed water, of course.

MR. TAGORDA: But, like I said now, it's supposed to be in coordination with the Director of Public Works in the reuse. A plan should be formulated to the water, you know, to reuse that water from those plans.

MR. FUKUSHIMA: Okay.

CHAIR STARR: In other words, this was something that the Board had asked the Director to do or had told him to do, and so but I do see it as a separate item from five. If you want, we can handle it.

MR. TAGORDA: No problem, Mr. Chairman. I also pick up your number six question and added something on it.

CHAIR STARR: Okay. I'll read the question. "The 1998 guidelines for the Director called for the existing 1997 rules to be completely rewritten as they are in need of review and updating. Has the Director been instrumental in recommending rules and regulations to the Board for adoption as mandated by Charter?"

MR. TAGORDA: I also added, "And enforce current rules fairly and consistently."

CHAIR STARR: Yeah, I had that as a separate.

MR. TAGORDA: I disregarded your number four question, "Does the Director enforce the rules of the Board of Water Supply?" So I added to your number six.

CHAIR STARR: Yeah.

MR. TAGORDA: And I also choose, pick up your number seven question, Mr. Chairman.

CHAIR STARR: Okay. Let's stay on six for a second here. I have that as number four, "Does the Director enforce the rules of the BWS?"

You know, I'm trying to keep the questions, you know, kind of single issue so that it's easier. I don't want a situation where, you know, maybe, you know, one thing is really done very, very well and one thing is not done at all and then it becomes impossible to answer in a simple yay or nay.

MR. TAGORDA: Okay. Just the late addition then.

CHAIR STARR: Should we keep four as a separate question?

MR. TAGORDA: You can, but I didn't pick that up. You told me to pick up five, right?

CHAIR STARR: No. Frankly, I would like to come out with 20 questions, and then the Board can cut them down.

MR. TAGORDA: Okay. Go ahead, yeah.

CHAIR STARR: So, you know, basically, you feel we should keep that as a separate -- we can keep that as a separate?

MR. TAGORDA: You can keep that as a separate if you want more questions then, Mr. Chairman.

CHAIR STARR: Okay. So enforce the rules, and then numbers -- how about number three, do you want to take that out?

MR. TAGORDA: You know, giving a fair evaluation to the Director, it seems that this question is very

negative. "Does the Director have the confidence of all sectors of the public?"

CHAIR STARR: So you feel that's too subjective?

MR. TAGORDA: That's too subjective. I think this is just going to be just no, and I would like to give him a fair share.

CHAIR STARR: I agree. Let's take that out. And then number seven.

MR. TAGORDA: I pick that one up, too, Mr. Chair.

CHAIR STARR: Okay. In other words, you would like to keep that?

MR. TAGORDA: Yeah, keep that one.

CHAIR STARR: That one reads, "The 1998 guidelines state an effort needs to be made to start building a good relationship with the Council and the Mayor."

And the question is, "Has the Director been successful in coordinating the affairs of the Department with the Mayor and the County Council as mandated by Charter?"

MR. TAGORDA: Okay. And I'm sorry, I didn't pick up your number eight question, because to me, this is not the Director's kuleana. "Does the Board of Water Supply have the funds needed to properly maintain the system and provide for the needs of tomorrow?" I think that's not the Director's thing to deal with.

CHAIR STARR: I buy that. I had some question with that one myself. And then nine.

MR. TAGORDA: Number nine I just rephrase. I

just -- it's same thought, "Knowing your Director's past and present performance, would you hire him again?" Same nine, I just changed the wording.

CHAIR STARR: Orlando, I'm sorry, I think you're on the old one.

MR. TAGORDA: Yeah, I'm reading the old one and the new one.

CHAIR STARR: Yeah, nine is Qualserv.

MR. TAGORDA: Number 10, I pick that one, too.

CHAIR STARR: Nine is okay?

MR. TAGORDA: Nine is okay.

CHAIR STARR: Let me just read nine, which is, "Qualserv highlighted the following weaknesses in the leadership and organization of the Department in 1998. Have these been rectified? Organizational structure creates functional difficulties. Poor delegation of authority. Cross-divisional thinking and communicating is limited. I call that Silos Effect (sic). Conflicts exist between the Board, Council and Utility Administration. Ad hoc decision making and shifting of priorities creates organizational disruption. Information flow is often one-way and controlled by senior management, and information is not well documented and/or shared. That came right from the Qualserv. And then ten.

MR. TAGORDA: Ten, ten is okay, Mr. Chairman.

CHAIR STARR: "Would you hire the Director today for his position given your past experience?"

MR. TAGORDA: That's a good question, very good question.

CHAIR STARR: Have you got anymore?

MR. TAGORDA: I have some question that deals with his specific accountability, that he's responsible for plans. He's supposed to develop plans and implemented these plans to improve the public's view of the Water Department. And I don't see any of those plans being developed or implemented, and I also have some questions on has there been a well-conceived, strategic plan finalized since the Qualserv recommendation made in 1998?

Are they rigorously implemented? That's my question. And then five years ago, there was a rate increase implemented for pipe replacement. Have the lines been replaced and to what extent? And my last question is does the Department have a conversation plan? Is the public aware that the Department has a conservation plan. Does the public participate in anything besides shower head replacement? Those are the questions.

CHAIR STARR: Okay. You know, let's go through them one at a time and see how -- you know, if it's okay, I would like to try to work to make them, you know, single answer questions, or if they're more than that, split them up.

MR. TAGORDA: Okay.

CHAIR STARR: So which is --

MR. RAPACZ: Mr. Chairman.

CHAIR STARR: Yeah, go ahead.

MR. RAPACZ: When I testified earlier, I only testified on the first item, and there was nothing before us to testify on, and this is an item I wondered if I might.

MR. RAPACZ: I would like to add some items to your list before you consider all of them.

CHAIR STARR: John Rapacz. State your name.

MR. RAPACZ: Thank you, Mr. Chairman. John Rapacz. Now that I've heard some of the proposed criteria, I would like to add three more if I could. First of all, has the Director established and maintained a reputation for honesty, integrity and fair dealing, which inspires confidence -- which inspires public confidence in his direction of the Department?

And if you're not getting these, I know you can get them from the reporter, if you can hear me okay.

Second, would he have the Director provided objective information to the Board and the Committees for their decision-making, or has he provided primarily the information which would support his preferred outcome?

MS. NAGO: John, if you could speak up because I'm not going to catch you on the tape.

MR. RAPACZ: You want me to repeat that one?

MS. NAGO: If you could because you went down at the end.

MR. RAPACZ: That question was, has the Director provided objective information to the Board -- I'm sorry, complete and objective information to the Board and Committees for their decision-making, or does the Director provide only the information that would support his preferred outcome?

And the final one, has the Director demonstrated his ability to persuade the Councilmembers to pass appropriate rate and fee increases sufficient to meet system costs?

CHAIR STARR: Thank you for your input. What do you think of some of these suggested questions?

MR. TAGORDA: They are very good questions,  
Mr. Chairman.

CHAIR STARR: Could I ask you to write those  
down on a piece of paper for me.

MR. RAPACZ: I can.

CHAIR STARR: I do feel that we would want to  
make some changes, but if you could write them down  
for me quickly, that would be helpful.

Let's go back to your suggested ones, Orlando,  
and work to get them.

MR. TAGORDA: I think that's the same thing what  
Mr. Rapacz said just then. Were plans developed and  
implemented to improve the public's view of the Water  
Department? This is all dealing with the Council and  
things like that, you know.

CHAIR STARR: And we do have -- you know, I was  
thinking that his question relating to the Council,  
that I think that's already covered, you know, because  
we do have a question ready that, "Has the Director  
been successful in coordinating the affairs of the  
Department with the Mayor and County Council?"  
Because that's taken directly from the Council  
wording, because that's mandated by the Charter, so I  
prefer to keep that in the wording as mandated. Now,  
as far as public perception, you know, that's --

MR. TAGORDA: A different one.

CHAIR STARR: Yeah, that's a different  
question. And I -- you know, as a representation of  
honesty, you have it as a --

MR. TAGORDA: The public's view of the Water  
Department. Not only the Director of this Department,  
the entire Department.

CHAIR STARR: And I had something -- I had, "Does the Director have the confidence of all sectors of the public," which was too subjective. I don't think the way I originally had it was good at all. Can I get your wording down, Orlando?

MR. TAGORDA: You can have that and you just have to take out what you can express and submit it to the full Board.

MR. TENGAN: Mr. Chair, may I say something.

CHAIR STARR: Yes.

MR. TENGAN: On this, the Board developed some kind of measurement criteria. I think the evaluation is going to end up pretty much subjective, so I would suggest that the Board consider some measurement goals or whatever. That's all I wanted to say.

CHAIR STARR: Okay, thanks. Well, you know, I've done a lot of research on this, and basically, I tried to take questions that came from the criteria that was created over the last three evaluations in the Qualserv, you know, basically or directly from the Charter mandates.

MR. TENGAN: If you want to discuss the Qualserv criteria, too, maybe the Board should look at areas for improvement or opportunities for improvement rather than on the weaknesses of the Department. I think that would be more positive for everybody to look at.

MR. FUKUSHIMA: And along those same lines, this is a good beginning, but I would like to comment on the grading. Very few things in life are black and white, and what you have is yes, no or blank. What I would suggest is that for every question that is decided upon, that you have a scale of 1 to 5 or 1 to

10. You may even want to weight some of your questions more than others. And then you're going to end up with a number score at the end.

This way you're going to say is 6 a passing score? Is 7? Seven, yes, is a passing score. But the other way, you actually come up with a total, an objective total based on the questions you're asking, and you grade each question separately rather than just a yes or no.

CHAIR STARR: That's a good suggestion. It's actually something that occurred to me last night after I had, you know, been working on this, and I think that's a good suggestion that perhaps it should be, you know, we should have a numerical, you know, 1 to 10 for each question and then add them up. What do you think about that?

MR. TAGORDA: Well, 1 to 10 would be very -- it's really hard. I picked up some of those evaluation forms before we had the meeting, and I had some like minus and pluses, something like that. And then it's a rating of 1 to 5. Sometimes you put marginal, adequate, you know, excellent, commendable, all those things that you can put on those columns. On your questions, on each question, you have to set some column of 2 or 5 or 10 depending on how you are going to rate.

CHAIR STARR: So, in other words, it should be a 1 to 5?

MR. TAGORDA: One to 5 is okay.

MR. FUKUSHIMA: You know, as long as -- and you can say zero as being -- or 1 is very poor; 2 is mediocre; 3 is average; 4, good; and 5 superior or something like that. Because normally when you're -- when you're either hiring somebody or you're evaluating somebody, you use things like that so you can get something more concrete at the end.

CHAIR STARR: Okay. So then I would be willing to go that way if you agree.

MR. TAGORDA: Yeah.

CHAIR STARR: I will -- if it's -- you know, if it's acceptable, I would like to suggest that we -- and I think we should have a motion to, you know, to send our recommendations for evaluation based on questions to the full Board. And I will, you know, I'll fine-tune this and may ask counsel to help in some wording with that, he had some good suggestions, and then pass them along to the full Board as a recommendation.

MR. TAGORDA: No objection, Mr. Chairman.

CHAIR STARR: Okay. By consensus, we'll be creating this question pool and passing it on to the full Board for hopefully action at the next meeting. Anyway, I have a motion to adjourn. Thank you. The meeting is over.

(The meeting concluded at 12:25 p.m.)

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