

County of Maui Water
Supply

BOARD OF WATER SUPPLY

COUNTY OF MAUI

REGULAR BOARD MEETING

Taken at the Kahului Shopping Center, 65 West Kaahumanu

Avenue, Unit 29, Kahului, Maui, Hawaii, commencing at

9:05 a.m. on May 22, 2003.

Reported By: Rachelle Primeaux, CSR #370

IWADO COURT REPORTERS, INC.

ATTENDANCE :

Members Present :

Mike Nobriga, Chair

Clark S. Hashimoto, Vice-Chair

Kent M. Hiranaga

Stacy Helm Crivello

Michael Victorino

Kenneth M. Okamura

Dorothy R. Pyle

Sally Raisbeck

Staff Present :

George Tengan, Director

Jeffrey Pearson, Deputy Director

Ed Kushi, Corporation Counsel

Cathy Howard, Secretary

Jacky Takakura, Information Specialist

Herb Chang, Engineering

Alva Nakamura, Engineering

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CHAIR NOBRIGA: Good morning, everybody. I will

call the Board of Water Supply meeting to order this morning 9

a.m. Thursday May 22nd at the Kahului Shopping Center. With us

this morning is Board Member Sally Raisbeck, Board Member

Dorothy Pyle, Board Member Kenneth Okamura, Board Member Mike

Victorino, Board Member Stacey Helm Crivello and Board Chair

Michael Nobriga.

Also with us this morning is Director George Tengan;
esteemed Corporation Counsel Edward Kushi, Junior; head of
engineering Alva Nakamura. Also from engineering we have Herb
Chang. We have Jacky Takakura, major administrative something;
Cathy Howard, board secretary and Rachelle from Iwado Court
Reporting. Also with us today is Wayne Boteilho, Deputy
Director of Planning that sits on the board in ex-officio
capacity. I would also like to recognize the presence of our
Vice-chair Clark Hashimoto. Are there any announcements?

Mr. Wayne would like to address the body. I think

this is a nice, appropriate time Mr. Boteilho.

MR. BOTEILHO: Thank you.

CHAIR NOBRIGA: He'll give us some words of wisdom

or pull out some wisdom tooth.

MR. BOTEILHO: Thank you, Chair and Members of the

Board of Water Supply. Wayne Boteilho, Deputy Planning

Director. This really is a courtesy call. We noted you have

some new members coming on, so we would like to say that we,

that with this new administration, we would like to work

together much more with the Board of Water Supply. Yeah, we

have -- we have a whole new policy that we would like to see

much more planning in the issuance of permits and not only planning, but the coordination between departments. And I think, you know, really Public Works, Water Supply and Planning, that's the big three as far as managing growth.

So basically we would like to offer our help and we would like to ask for the Board's help and the Department's help in planning much more, you know. Okay. In our worst case scenario, there would be thousands of water meters issued, and this is devoid of planning, there would be thousands of water meters issued in areas that don't have schools, don't have adequate parks, roads, you know, that brings up safety

concerns. But in the best case scenario, we would work together and at least the Board would be aware of where Planning -- Planning is coming from and where Public Works projects, the status of those sort of things.

Yeah, we are going to be working on a general plan soon, and that's -- this time it's going to be much more developed, and it's going to include much more timing and timing of infrastructure, and so we will be working with the Board of Water Supply to help us complete our general plan.

Just some things possibly that we could ask if the Board could

help us with is that when projects come before you, if we could -- and we will be working together, of course -- but if we could have the -- more information on the capital improvement projects of the Board of Water Supply, current and proposed. Also, and again, this is coherent with Planning, so we would be working with you, too, but if we could have the status of the goals set by the community plan implementing actions and implementation responsibilities.

For example, what is the status of the completion of the water improvement master plans by community plan region.

And the water use and development plans for Maui, Molokai and

Upcountry water systems as applicable to the project. Also if we could have information like how does this -- how is a certain project consistent with the water use and development plan, environmental effects and assessment of primary and secondary impacts and the cumulative short and long-term environmental effects of the proposed developments including, but not limited to, aquifer recharge, current and proposed well head areas, water quality and water shed management.

And finally and probably the most important, if we could work together to issue permits, and we have permits, too, you know, issue permits based on a regional basis. And when I

say regional, that's what I mean planning instead of parcel by parcel. And the guy next door, you know, we don't know what he's doing, so finally, a regional system of water availability.

Basically, we would like to gauge to what extent the number of approved projects and anticipated growth burdens the Department of Water Supply. And for this we'll be -- again, we'll be working with you to provide data and analysis on current and proposed consumption, so I guess just to sum up, I guess in a sentence, we would like to work with the Board and the Department of Water Supply to look at -- to look at water

on a regional basis and more of a planning basis. And with that, I shall end. If there's any questions.

CHAIR NOBRIGA: Thank you, Wayne. I would like to recognize the attendance of Board Member Kent Hiranaga.

Questions? Mr. Victorino.

MR. VICTORINO: Wayne, that's all fine and dandy, and I'm happy to see that the Planning -- the ability or the necessity to work together has to come preferably on both departments and I think that's really going to help everybody do a good job. What I'm concerned with is the Upcountry water

issue, the people that have been waiting for meters for years and years and years, okay, and now the new administration comes along, and how is that going to impact them because they have been waiting for so many years?

All the studies, regional or water needs, water accessibilities and all that kind of stuff is important, but these people have waited some ten years plus and even longer for some. How is that -- and is there some special consideration from the Planning Department to look at these things that we try to accommodate or take care of this situation? Is the Planning Department going to work real

closely with the Water Department and say, okay, yeah, we'll

try to help these guys, get this taken care of and once and for

all move on?

MR. BOTEILHO: Yes, yeah, you know, if somebody --

really if somebody has been waiting a long time and they're on

the list and their number is on the list, we don't have a

problem with that. Maybe I'm going a little bit on the edge a

little bit, on the plank a little bit. Maybe the guy is lower

on the list, the guy is last on the list, maybe we could work

with you on that, but it's more future growth.

MR. VICTORINO: Right.

CHAIR NOBRIGA: Ms. Pyle.

MS. PYLE: I'm not sure about some of this because obviously I'm new here, but it does seem to me that the charter changed this board to an advisory board, not a decision-making board. So I'm still confused. I probably will be confused for a long time as to exactly what position this board now has in the issuance of any kind of water meters. It's not essentially our decision any longer to issue or not issue water meters. Perhaps there's going to have to be -- our rules are still in confusion. How the rules for this Water Board are going to be established, what they are going to say is something that's

going to have a big impact on what we can or cannot do, so I think that's something that I need more information about and perhaps we need from the Planning Department and from the Water Department a better understanding of what the actual issuance of water meters now is based on, not a decision from this board obviously. It can't be.

So the Planning Department and the Water Department do need to work very, very closely in hand because the infrastructure of this island is far behind in many ways. And that's not to say that people who have been on the list for a

long time don't deserve water meters. Obviously they probably do, but that's not necessarily in our hands anymore at least the way I see it. So is someone from the Planning Department going to be in attendance at the Board meetings from now on?

MR. BOTEILHO: Mr. Chair.

CHAIR NOBRIGA: Good question.

MR. BOTEILHO: At this point, I cannot guarantee that, you know, but I can guarantee that we'll be working with you on your plans because, you know, if you folks help us on a general plan, we should help you folks on your plans, too, so I can say that. And I guess one last thing is that, yeah, and

that's why we're here now because we are aware that you have to adopt rules and you're starting new, so we just wanted to come in and on a conceptual basis say that we should work together and we should plan better because, you know something, Maui is too small.

CHAIR NOBRIGA: Any other questions?

MS. RAISBECK: Yeah.

CHAIR NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: Thank you so much for coming today,

Wayne. I think it's wonderful to see the intent on both sides to have a much closer relationship between Water and the

Planning Department. And I think that probably the disconnect between the two in the past is what led to the charter change so that there would be a closer relationship and more cooperation.

I would join Dorothy in saying I think it would be wonderful if you could have a staff member from Planning attend our board meetings as ex-officio and who could question and give us information about what's going on in planning. And similarly I noticed the other day that the Water Department -- the Water Department can have a member -- I mean the member of Water is ex-officio a member of the Planning Board. And if a

representative from this department were, maybe not attend

Planning board meetings, which are so long, but at least be

very aware of what's going on in the Planning Department and

able to be a liaison with the Board about planning.

I think that would be helpful, and I join Dorothy in

our somewhat feeling at sea about what our role is in what

the -- in regard to the rules, because certainly the rules that

exist need to be clarified as to what the charter change means

and what also needs to possibly be examined in terms of how

they relate to the community plan. So I would certainly

welcome, as I say, as close cooperation as possible with the
Planning Department and I am very glad to see you here, thank
you.

MR. BOTEILHO: Okay, thank you. Mr. Chair, if I may
comment.

CHAIR NOBRIGA: Yes, Mr. Boteilho.

MR. BOTEILHO: Yeah, we plan and we hope to have
someone here at every meeting, but, you know, I'm not going to
sit here and guarantee it. I cannot guarantee it. And that's
another point, you know, is that we realize it takes time. It
takes time to set up the systems of working together, you know,

if you're going to do it right. So it's not like we're coming, telling you folks to do things. We're just offering, hey, you know what, we've got to work together in the future. Thank you.

CHAIR NOBRIGA: I would like to recognize the attendance of Deputy Director Jeffrey Pearson. Any other questions? I have a final comment. The charter of the County of Maui remains and still mandates the Department of Water Supply follow the general plans of the County of Maui and the community plans of the County of Maui. Unfortunately, the last almost 40 to 50 years, the Water Department is the only

department having the balls enough stand up to control and
create smart growth within the community. If it hadn't been
for the unavailability of water and the unavailability of
distribution, who would know what the community would look like
today because of rampant growth?

The Planning Department continually provides
applicants almost a blanket authorization to proceed with their
developments and leaves it to the Department of Water Supply
and this board in the past to say you can and you cannot
proceed, so hopefully, at some point, the Planning Department
and the Department of Water Supply will recognize the general

plan and the community plans in creating authorizations for the community to embrace smart growth in a time-released formula so that we can ensure and guarantee that the economic development of the island continues to flourish and prosper.

MR. BOTEILHO: Point well taken, Mr. Chair, and, yeah, and I would agree what's been missing from our general and community plans in the past is timing. That's the thing that's been missing.

CHAIR NOBRIGA: Thank you, Mr. Boteilho. Sorry, Mr. Okamura.

MR. OKAMURA: No, no, I agree with you. I think it would seem simple enough like you would have houses built where the water lines are and not anywhere else or where the -- in areas, you have growth in areas where there's available water, and so that would be good if that kind of thing could be followed. I don't know what kind of future development, water development there is planned right now. Maybe you could base the planning also on that. I'm sure you know where the water is and where the water isn't.

CHAIR NOBRIGA: Thank you.

MR. BOTEILHO: Okay. Thank you, Chair, Members.

CHAIR NOBRIGA: Thank you, Mr. Boteilho. Good to see you over here.

MR. BOTEILHO: Good to see you guys.

CHAIR NOBRIGA: It's always good to see somebody else from the Planning Department every meeting so we can hash it out. There is no minutes to approve. We're moving on to Item 5, testimony from the public. First signing up to testify, Mr. Dick Mayer. Good morning, Mr. Mayer.

MR. MAYER: Good morning, Mr. Nobriga.

CHAIR NOBRIGA: Nice to see you come down.

MR. MAYER: It's very nice to have the opportunity

to get up here, and I wanted to say something, except it's all been already said. The Chair having said it very, very well I think, and I think Mr. Boteilho also coming down here said it very, very well. The two need to work together. We all know in the past that the two have not worked together. Each group has not sent members to the other's boards. The departments have not always worked together. And I think just the comments I'm hearing this morning indicate that we probably have an opportunity now to begin coordinating the two and perhaps others as well, both County and State.

And an example is the question of water meters,

whether it be 100, 500, 1,000, 1,500 meters issued Upcountry, they could be issued relatively quickly. Houses could be built, but there are no schools for the kids to go to Upcountry. We would then need to coordinate with the Department of Education, so I think bringing Planning in here, which we'll be able to look at. We don't even know if there are enough telephone lines or electric lines or et cetera, et cetera. We don't even have 24-hour ambulance in much of the Upcountry, so what we need to do is make sure that when we issue water meters and do the various things that people aren't

led to believe, oh, I can build a house and my kids will be able to go to school here if there are no classrooms. Because the DOE takes five years to ten years to get a school built.

So I'm hoping that the two of you will be able to work together in the future and a lot of the work would be done not at a board meeting necessarily, but by the staffs of the two and presenting to the boards perhaps for final approval. A lot will depend, of course, on how your rules are written up, and we're urging that as soon as you can, to get your rules set up so that the Board, now your board, given the charter change, will be able to operate effectively knowing that the rules that

you're operating under are really reflective of the changes taking place in the charter.

So hopefully you'll get the rules done, you'll continue or you'll begin really working with the Planning Department and any other department that needs to be brought into the process of making sure Maui goes into the right direction. Thank you.

CHAIR NOBRIGA: Thank you, Mr. Mayer. Any questions? Thank you. Anyone else wishing to testify at this time? I would like to turn the program over now the Director George Tengan and his able-bodied assistant Jacky Takakura to

give us a brief history of all the plagues and whatnot and the good times of the Upcountry system. Jacky.

MS. TAKAKURA: Good morning, everyone. The purpose of this presentation is to give you an overview of how we got to where we are today regarding issuing meters in Upcountry Maui. You might have noticed that we don't talk about issuing meters in other parts of the county like Lahaina or Molokai or Hana or even Central Maui really, and that's because Upcountry is an area, if not the prime area, that is most hard hit by droughts and water shortage.

If you think about it in terms of geography, that

makes sense. The higher elevation makes it difficult and expensive to bring water up from sea level and the climate, especially if you go south along the slopes of Haleakala towards Kula and Ulupalakua, it is very dry. Before I get into the nitty-gritty about the rules and everything affecting the meter issuance, I want to just read to you a couple of paragraphs from this publication called the Chinese in Kula: Recollections of a Farming Community in Old Hawai`i. This was published by the Hawai`i Chinese History Center, and this excerpt is from Farming the Land.

"The curse of Kula farming is drought, and unfortunately it occurs every several years. Until 1905, there was little water piped into the area, and during droughts the farmers had to pack barrels of water on mules from Polipoli Springs, or from the beach or Olinda both about eight miles away. During severe droughts, the whole community suffered. Some people went as far as Makawao, over ten miles, for a few gallons of water. Cattle and horses died of thirst in the fields, and entire crops were ruined. Before 1905, one small pipeline, a half-inch in diameter, brought some water from Polipoli Springs. The water was stored in a tank on the main

Kula road and supplied water to those who needed it. The pipe opening was so small, however, that the water flowed in a trickle and it took many hours to fill one barrel.

"The Kula pipeline was built in 1905, during perhaps the worst drought in Kula history. A large water source was discovered in Olinda northeast of Kula, and the government approved a request to construct a pipeline from that location to Kula. Once the pipeline was installed, the community enjoyed a full water supply. In fact, there was so much water that every few thousand feet a hole was tapped in the pipe to release the excess air and water pressure. The Kula children

found great enjoyment in this, for these 'little geysers'

introduced a world of mudpies and water battles."

So that was way back when, but now I want to go to

1977, and you can see the droughts and water shortages have

affected the area since people first resided there. In 1977,

our rules came out. And you probably all have a copy of this

book. And if you don't have it, it's pretty much in its

entirety on our website, Mauiwater.org. And the rule that

affected the Upcountry area was the Kula Rule, which was passed

in November 1st, on November 1st, 1977. And this rule

specified no new water meters, except for the five-eighths inch

meter, which was the standard residential meter for extension and connection on the Upper Kula Line.

For the Lower Kula Line, you could get a water meter but it wouldn't get larger than one-and-a-half inch, and none of these meters could be agricultural, no new agricultural meters. And the purpose of the rule was to regulate the issuance of water meters from the Upper Kula water line and the Lower Kula water line and the approval of subdivision requests affecting transmission of water from the Upper Kula water line to the Lower Kula water line until there was a dependable

supply from those two water lines.

Also, applications for subdivisions shall not be accepted by the Department or approved by the Director when the subdivisions require or will require connections or extensions from the Upper Kula or Lower Kula water lines. This rule was extended or amended nine times from 1977. The last time it was approved was in 1991 for a 24-month period to 1993. There were only two changes made during this time. The first one is rule 2-16, which you might be familiar with, and that allowed family subdivisions and that's 1983.

The following year, customers who were already on

the Upper or Lower Kula water lines could convert to agricultural rates, but you already had to be a customer. You couldn't be a new agricultural customer. So the Kula Rule was extended up until 1993. Just before it expired, the shortage condition came about and that finding was implemented on March 16, 1993.

And this is based on the Department of Water Supply Rules 2.1 and 3.1, and the thing about this one is now it affected the entire Upcountry water system, not just Upper Kula, which included Upper Kula, Ulupalakua and Kanaio or the Lower Kula system, but also the Makawao system, which is pretty

much the rest of the Upcountry area, Makawao, Haiku, Pukalani
and Haliimaile.

And what this finding said was that the Upcountry
water system had insufficient water supply developed for fire
protection, domestic and irrigation purposes to take on new or
additional services without detriment to those already served
in the regulated area. Let's look at those rules upon which
this finding was based. Rule number 2.1 regarding requirements
for subdivisions; specifically, extensions or connections of
the water system from the subdivision to the public water
system shall be approved provided that the Department has a

sufficient supply of water to take on new services without detriment to those already served; and likewise, 3.1, which is specifically regarding water services. 2.1 is subdivisions. 3.1 is water services. Any prospective consumer whose premises are within service limits established by the Department and adjacent to a distributing main where pressure conditions permit may obtain water service provided that the Department has a sufficient water supply developed for domestic use and fire protection.

So basically, they were saying if there was

sufficient supply, then it would be okay; however, there was no sufficient supply. This was taken to court. A complaint and summons was filed saying that the Department of Water Supply was trying to make a rule without following the proper rule-making procedure. The rights were violated. So what the finding came out, that the Director's finding was a rule, which is invalid because it wasn't following the proper Hawai`i Revised Statutes Chapter 91. It was just a finding. There were no damages or anything. It was just that we did not properly promulgate the finding, and it's currently on appeal.

Now, the reason that the shortage finding came about

was based on that 2.1 and 3.1, there was inadequate supply and that's why we, the Department of Water Supply, continued to deny applications. According to corporation counsel, the Director should review individual applications to determine whether the applicant had received some commitment from the Department through official assurances to provide water service prior to that date of March 16.

So after that, the waiting list came about, and this was published in the newspapers. And the purpose of the list was to determine the priority of applicants who were denied water service. And this was done in reliance on that judgment

being upheld. And the Department needed an orderly process to deal with those people who were denied service because ideally water would become available at some point. So people who were denied additional water service for subdivisions, water service requests and building permits needed to get on the list.

According to the opinions from corporation counsel, these requests had to be looked at on a case-by-case basis. They wrote, "When a request for a new meter is made for the

Upcountry area, there may also be a need to do an analysis of

either, one, whether that person has a vested right to a meter;

or two, whether some facts exist indicating that the person has

expended money and relied on official government assurances such that they proceeded with the project believing in good faith that they would be able to obtain service if certain improvements were completed. These determinants are made on a case-by-case basis and are dependent on the facts involved."

So the Department would have to look at each one to decide, and here is a copy of the ad that was printed in the Maui News and the Haleakala Times. And again, this was November 1994. And what it's basically saying is that the Board is reviewing its list of people waiting. If you were

refused a water meter since 1977, you may qualify based on the date of your request. Please send in your TMK, your address, description of your need, what is it you want, if it's a building permit, a subdivision, a water service request and any documentation, especially dated evidence of your request. Mail that in, and we would put that together and come up with a list.

Since that time, water has become available. We got some water from Alexander & Baldwin in 1997. We put some wells on line. Haiku well came in service in 1999, and that provides about 0.3 or 0.4 million gallons per day. Hamakuapoko wells we

have used in times of drought emergency, and that's been available since 1999. We are not currently using it at this time, but we are working on it. The memorandum of understanding signed with Alexander & Baldwin in 2000 increases our allotment from the Wailoa ditch, and that guarantees more water, especially in times of drought when the upper reservoirs are running low. And also the Kaupakalua Well, which came into service two years ago. And that's what you see in the picture.

Keep in mind though that Kaupakalua Well, the amount in there is earmarked for development for specific projects.

Most recently, the Upcountry meter issuance rule was passed and that was October 4th, 2002. And the purpose of this rule is to provide uniform handling of applications for water service from the priority list. Properties with vested rights or reliance were given 60 days to apply for or reserve a meter. And then the meters would be offered to those on the priority list.

Now, the rule allows this 60-day time for the purpose of allowing applicants with premises without water service, but not on the priority list that have any preexisting rights to water or have expended funds in reliance upon official government assurances dated before the priority list

date November 2nd, 1994, to come in and pay for or reserve an allocation of service capacity.

After that 60-day period, which expired on December 3rd, 2002, water service will then be offered to applicants that are on the priority list and are in need of additional water or are creating new lots that have been denied water service since that Kula Rule, 1977 on the upper and lower Kula water systems or since 1993 on the Makawao water system.

These requests for water service shall be limited to one meter size upgrade to the next larger meter size or a

single five-eighths-inch meter per request for a planned subdivided lot, but they shall not exceed the number of lots created by the subdivision. Presently, we've offered meters to approximately 50 properties on the list, and they at this point have to decide if they want the meter or not, so that's where we are now.

Let's just look at some of the statistics for Upcountry. This is a graph of the number of water meters in the Upcountry area. You can see back in 1964, about 30 years ago, it was just a little over 2,000 services. The two blue dots, the first blue dot shows the date of the Kula Rule, and

then the second one is the shortage. You can see it seems like the slope is a little bit higher between the Kula Rule and the shortage, and it seems to slow down a little bit after the shortage.

But currently, as of June 30th, 2002, we're at 9,175 water services, and that's for all of Upcountry. Just looking at the agricultural meters only, Upcountry has about 10 percent, almost 10 percent agricultural meters. You can see that after 1977 until about 1984, that slope is pretty much flat and then in 1984 when there was that change to the rule where existing customers could switch over to agricultural

rates, it goes up a little bit. Then it's been fluctuating.

Regular meters have been showing a pretty steady pattern of growth, and we're at 8,472 the last fiscal year.

The total consumption in terms of water used last year, we provided 2.7 billion gallons. On average, this comes out to about 7 and a half million gallons per day. Out of the total for Maui County, we provide about 34, 35 million gallons per day. And you can see these ups and downs. They probably reflect droughts and other things that impact the water consumption.

Now, what did these two rules do to meters, issuing

meters? What I did was I looked at how many meters were issued

each year from the time of the Kula Rule in 1977 up until now.

And on average, during time of the Kula Rule from 1978 to 1993,

there were almost 60 meters issued per year on average.

Since the shortage after 1993 up until now, that average has

gone down to about 40 meters, and this is for only the Kula

area, Upper Kula, Lower Kula, Ulupalakua and Kanaio.

You can see that the shortage did slow down the

issuance of meters. What's next? Well, we have more source,

and specifically, the Pookela well design and construction.

The design contract, we've done our work, and we submitted it to County Council. We're waiting for the approval of transfer of the money so we can award the design contract and issue the notice to proceed. Also, we're working on studies for the Lower Kula raw water reservoir. That would be a very big reservoir to serve or provide water to the Piiholo reservoir.

And, of course, continued tank and water line replacements and upgrades. Specific projects we have on the fiscal year 2004 books are the Kokomo tank replacement in Haiku to bring that up to size that is adequate for the area. Also, the Alae tank replacement in Kula and water line improvements.

The biggest ones are first, the Lower Kula Road water line improvement project and then the Keokea water line improvement projects on Middle Road.

Okay, all of this, the rules, the memorandum of understanding, all of this is posted on the website Mauiwater.org if you want to look back at them and reread them. They're not that hard to read even though they are rules, if you want to just look at that. If you read them slowly, they're not too bad if you want to look at that.

Anyway, we'll answer questions now about this. This was just the chronology of events, and anyways, if anybody has

any questions, we can answer them now.

CHAIR NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: Thank you, Jacky. It's wonderful to have so much -- to have so much information. I would like to have a copy of what you were reading from. I realize it will be in the minutes, but if I could have a printed copy immediately, there's so much detail in what you said that I would like to have that available, so I guess that's all I really wanted to say, Mr. Chair.

CHAIR NOBRIGA: Questions? Kenneth, Mr. Okamura.

MR. OKAMURA: Thank you. That was really good. I

learned a lot from that. How do you determine where the

improvements will be made like the replacement and upgrades?

Do you have -- how do you determine what the priorities are and

how do you determine that, how is that determined?

MS. TAKAKURA: Well, when we work on our capital

improvement program, which we do every year, we look at things

like where we have the most breaks, you know, where we have our

oldest pipes, where we have things like pressure problems or

inadequate, you know, where we get the most calls for pressure

problems or not enough water, things like that.

And then also, you know, we have to make sure things are in compliance with our water system standards and compliance with the safe water rules, too, so a lot of different things go into that.

CHAIR NOBRIGA: Ms. Pyle.

MS. PYLE: It would seem that since this board is now, I'm assuming, an advisory board, that when the discussions about CIP improvements and so on come up, that those are the kinds of issues that hopefully as a board we will be able to offer some comment and input and advice about, so I think that's one of the really important roles that perhaps we should

have, if not yet.

MS. TAKAKURA: Yeah, every year we do have a workshop with the Board on that before we submit it.

MS. RAISBECK: Mr. Chairman.

CHAIR NOBRIGA: Yes, Ms. Raisbeck.

MS. RAISBECK: I did think of another question.

Jacky, on the slide titled "Water Available," could you give me the amounts for each of those? You just gave the amount for the Haiku well.

MS. TAKAKURA: Okay. Alexander Properties, that's 175,000 gallons. Haiku well, we provide on average between 0.3

and 0.4 million gallons per day. Hamakuapoko wells, ideally we would be able to draw about a million and a half.

Operationally, it's been more like about, from the two wells about 0.75 million gallons per day.

The memorandum of understanding, the increasing allotment from the Wailua ditch would be up to, I believe it's up to 12 million gallons per day; is that correct? Or is it 8? I have to call on Herb Chang for this, and the Kaupakalua well, we've been taking about 0.6 or 0.7 million gallons per day for this one, and I would like to bring up Herb Chang on this.

MR. CHANG: As far as the memorandum of

understanding, I don't know if the numbers were 8 or 12.

MS. TAKAKURA: Yeah, with the memorandum of understanding regarding the allotment from the Wailua ditch, it's between 8 and 12. That's on the Internet, too, under Board of Water Supply. And it depends because it depends on what the flows are. Operationally though, we wouldn't take more than 8 because that's the maximum the Kamole treatment can treat.

MS. RAISBECK: Thank you.

CHAIR NOBRIGA: Any other questions? Mr. Hiranaga.

Mr. Hashimoto. Mr. Hashimoto followed by Mr. Hiranaga.

MR. HASHIMOTO: Mr. Chairman, Jacky was talking about replacement and upgrades. Can we have an update on that Ulupalakua land the next meeting, what's the status of that?

CHAIR NOBRIGA: Mr. Hashimoto, we'll schedule something with the Department for the report on the status of progress with the Ulupalakua upgrade next meeting.

Mr. Hashimoto -- Mr. Hiranaga, sorry.

MR. HIRANAGA: I guess with the charter change, I saw a note on the slide that the Council has to approve transfer of funds in order to begin the Pookela well, and so I

just wanted to know how long that's been pending before the Council and if they're going to take it to full Council or go to committee. And I'm trying to get a time frame as to when those funds will be approved.

MR. TENGAN: Mr. Chair, we're working with the Council on that item. It's on the agenda for tomorrow. I've talked to the several -- in fact, all of the Council Members, and I haven't gotten an any indications that they won't be willing to waive the Council rules and to refer to committee. I expressed the importance of committee or encumbering those

funds prior to June 30th. If that doesn't happen, then we would have to go back to the Council to do a budget amendment, so they're aware of -- of the importance of approving the transfer before June 30, and hopefully, they'll do it tomorrow.

MR. HIRANAGA: Thank you.

CHAIR NOBRIGA: Follow-up question to that, Deputy.

What -- about what time in the agenda is this matter supposed to come up before them?

MR. TENGAN: The meeting starts at 9:00 tomorrow morning, and it begins with the typical testimony from the

public. I don't have the agenda here. It's about six or seventh on the agenda.

CHAIR NOBRIGA: Probably lunch time. Okay, thank you. Mr. Victorino.

MR. VICTORINO: Mr. Chair, I don't know if this is an appropriate time for this request, but I'll put it out and you can maybe put it in the agenda somewhere else. My question is one that I would like and I think some of our new members would like to know, and I'm still considered new because I don't know half these things either. We have a lot of agreements with, memorandum of understanding with A&B and other

entities out there, and I would like to request that somewhere soon we put a workshop as part of our agenda that we could have a portion of our meeting dedicated to that and understanding what each and -- each and every one of these agreements are comprised of and how they're triggered, when they're triggered, what purpose they were put in there. I think it's very important for us to know that. Whether we're decision-making here or not is not the point at this point.

We should know what these agreements are so we can help with the Planning Department and the rest put these things forward, so I don't know if that's possible, Mr. Chair, but if

I could request that.

CHAIR NOBRIGA: I'll look into scheduling a workshop at the earliest convenience to go over specifically the agreements in the Upcountry area. That would include the A&B memorandum of understanding, the Dowling agreement, Kulamalu, the agreement that we have with Haleakala Ranch, Maui Pine, use of surface water and other such systems up there.

Also, in that review of the capacities at Kamole and try to explain that we can treat the water at Kamole better when it's not turbid, and the turbidity of the water is when we

don't have water. But we have plenty water, and we have to

treat water. We cannot treat as much water because it's

turbid. It's cool, man. Thank you. Any other questions?

Yes, Ms. Pyle.

MS. PYLE: This is not directly related, but it is.

I believe at the last meeting we were discussing the Board's

rules, and I think Mr. Kushi explained to us that because we

were not necessarily an entity anymore that we were not allowed

to redo our own rules without the County Council's go-ahead or

without their determination that we should do that.

Is this particular item going to be on the County

Council's agenda also since they're going to be discussing the

Pookela Well and something that comes from the Water

Department? It does seem to me that the rule making, it may

not come up in their meeting immediately, but can we please ask

this be placed on their agenda as soon as possible so that we

can begin to do something about the confusion of our rules?

CHAIR NOBRIGA: I'll draft a letter from the Chair

to the County Council Chairman and the Chairman of the Water

Resource Committee.

MS. PYLE: Thank you.

CHAIR NOBRIGA: Asking him to please expedite their

deliberations. Okay, Cathy. Any other questions?

Ms. Raisbeck.

MS. RAISBECK: Yeah, before I was actually on the board, I noticed in the Water Resources Committee that they had an agenda item in their notebook in which they had requested the corp counsel's office to provide them with an updated, a revised set of rules by I think it was May 5th, and perhaps you could ask Mr. Kushi what the progress has been on that.

CHAIR NOBRIGA: Thank you, Ms. Raisbeck. Mr. Kushi, would you be able to shed some light on that?

MR. KUSHI: I wasn't following with the question,

but there is, as far as I know, there is an assignment on the desk. It's probably overdue. It's from the Chair of the Water Resources Committee, Mr. Mateo, and I think it's that -- this item that you're talking about is going to appear on this first committee meeting, which is I believe sometime in June, early June.

MS. RAISBECK: Thank you.

CHAIR NOBRIGA: Thank you. All right. We should all be there then. Any others questions members?

MS. PYLE: Will we be invited?

MR. VICTORINO: It's an open meeting.

CHAIR NOBRIGA: I think so. Okay. Can we move on then on the agenda to unfinished business? Before we go into unfinished business, I remember last meeting we asked for something from corporation counsel. Is that ready? We'll have a recess at this time of 15 minutes.

(Recess taken.)

CHAIR NOBRIGA: I would like to reconvene the Board of Water Supply's meeting. We are under unfinished Communication 02-41. I would like to ask Petitioners Leslie Blair and Laurie Bishop, the trustees, and Attorney Crockett to

take the stand. Corporation counsel was kind enough to supply us a copy of the agreement that has been going back and forth between you and them all. Is there any statements you wish to provide us at this time?

MS. BLAIR: I can't think of anything else. I think we've maybe come to an agreement.

CHAIR NOBRIGA: State your name.

MS. BLAIR: My name is Leslie Blair. And I think you have all the information, and we just received some more information this morning, and it sounds fine to us.

CHAIR NOBRIGA: Thank you. Corporation counsel, any

comments?

MR. KUSHI: Yes, Mr. Chair. First I apologize for not having copies for all of you. I know you have to share. If the Chair would like me to explain, or the document speaks for itself.

CHAIR NOBRIGA: I don't believe all of us had the opportunity to go into depth into the agreement. Would you please summarize it for us, Mr. Kushi?

MR. KUSHI: Yeah, I'll try, Mr. Chair. Mr. Crockett and myself have reviewed this agreement that's before you, and, in fact, it's just off the press this morning. But he

submitted the initial draft. I reviewed it, discussed it with the Director. I sent it back for some revisions. He's incorporated the revisions. In essence, what this is is a subdivision, a request for the Department to sign off on the Blair subdivision or R&H subdivision pursuant to the rules, our rules, any subdivision from LUCA or DSA as it's called is referred to the Department. That being the case, the Department of Water Supply has its own rules in terms of subdivisions.

I believe that the rule, two rules; one, in the

named subdivision, there should be requirements and agreements and improvements. The second one is that any subdivided lot, any new lot resulting from a subdivision should have its own separate meter. This case arises from -- the background on this case, if I will try to summarize, is that the initial property is about 13-plus acres.

The parties who owned the property before the Petitioners built two structures on this property in the late '80s or early '90s, in 1992 I believe, they had proper building permits, two separate building permits. And at that time, they entered into separate fire protection agreements

because the system as it was then as well as it is now is inadequate for fire protection. These agreements are recorded against the property. They are -- they still encumber the property. For personal reasons, the Petitioners wanted to subdivide the property into two lots, from one to two lots and just have their own piece of the property.

They had one meter there. Before the subdivision, there's one meter, and it serves both dwellings. As a result of the subdivision, they will have one meter serving both dwellings again. Again, it's contrary to the rules; however, the Water Department rules also provide for modifications by

the Department, and it says subject to Board approval.

However, as we all know, the charter changes says you really can't overturn or, you know, tell the Director what to do, but we have come to you for advice, for your recommendation.

In essence the agreement says this: To allow the Director on behalf of the Department to sign off on this subdivision. The sole purpose of this subdivision is to just convey each party its own lot. There will be no issuance of any new meters. There will be no fire protection agreement, improvements installed. On the other hand, the applicants have agreed not to do any work, not to apply for any building

permits for the entire property, okay.

In the event they do, then a new meter will be required. Then water improvements for a fire protection system will be required. This agreement will be recorded against the property. They've indemnified, the agreement is that they indemnify our signing off on the subdivision. In essence, they're not related, but we're treating them as a family subdivision, okay. This is how the agreement was structured.

In my discussions with the Director, he's satisfied with the agreement but we wanted to come to you.

CHAIR NOBRIGA: Thank you, Mr. Kushi.

MR. KUSHI: And have your reflections.

CHAIR NOBRIGA: Any questions, Mr. Victorino?

MR. VICTORINO: Not so much questions, because we've gone through this back and forth, back and forth. But reviewing this and knowing that the Director has given his approval to this, I would like to recommend that we accept this agreement and encourage the Department to get this agreement completed.

CHAIR NOBRIGA: We have a motion on the floor to recommend --

MR. HASHIMOTO: Second.

CHAIR NOBRIGA: -- acceptance of this agreement and
urge the Department to move forward with modification of
subdivision. Seconded by Mr. Hashimoto. Any questions?

MS. RAISBECK: Yeah.

CHAIR NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: Thank you, Mr. Chairman. So again,
to get clear what this agreement entails, it allows the party
to share a water meter between two separate lots, is that
correct, or to allow the subdivision while sharing a water
meter between two separate lots, correct?

MR. KUSHI: At the end of the day after subdivision,

that would be the result.

MS. RAISBECK: So that after -- and up until now,

the rule has been two separate lots can't share a water meter;

is that correct?

MR. KUSHI: Correct.

MS. PYLE: Unless it's a family subdivision.

MS. RAISBECK: Family subdivisions are allowed to

share water meters?

MR. KUSHI: No.

MS. RAISBECK: No, okay. So this is a change

that -- go ahead.

MR. KUSHI: Family subdivisions, my understanding of family subdivisions was the intent was regardless of the meters just to subdivide and issue a deed of conveyance to family members. It did not -- it did not involve sharing of meters. The sharing of meters is a different rule. It's a different rule in terms of our subdivision rules. In 1994, the Board passed the rule saying that as a result of subdivisions, any subdivision, each new lot should have a separate meter.

MS. RAISBECK: So, okay, I'm not quite sure what

your correction meant because I thought I said this will allow
after subdivision the two lots to share a water meter,
correct?

MR. KUSHI: At the end of the day, correct. You'll
have, instead of one lot with one meter serving two dwellings,
you have you'll have two lots with one meter serving both
dwellings.

MS. RAISBECK: Okay, correct. And the other element
involved is that they are allowed to defer any improvements for
fire protection?

MR. KUSHI: Correct. In essence, you can say defer,

and the triggering clause would be when they apply for any building permit or for any work on the property.

MS. RAISBECK: But up until now, the standard procedure has been that any subdivision requires the subdivider to put in a distribution line such that full fire protection can be -- can be afforded?

MR. KUSHI: Correct.

MS. RAISBECK: And we've had many people here asking for waivers of that because of the great expense sometimes of putting in a distribution line adequate for fire protection, correct?

MR. KUSHI: Correct.

MS. RAISBECK: So my question of the Director I guess would be does this imply then that these two waivers will be available to anyone who wants to complete a subdivision and share a water meter and defer fire protection, would this same, these benefits be offered to everyone else who comes in requesting that?

MR. KUSHI: Before I let the Director respond, I must clarify one thing, is that before this subdivision, the facts of this case was that they had applied for proper building permits under one lot.

MS. RAISBECK: I understand.

MR. KUSHI: And at that time, they signed fire protection agreements, which, otherwise, the Department would not sign off on the building permits, so in terms of coverage for fire protection from the Department's standpoint, from the County's standpoint, from the liability standpoint, I believe were covered. But as to your questions, I'll defer to George.

MR. TENGAN: Thank you, Mr. Chair. I believe under similar circumstances, we would have to take the -- take a similar action. That's the only way I can answer the question

now. We would have to look at the circumstances behind the situation and the request, and if the circumstances are the same or similar in each, we would have to grant the request.

MS. RAISBECK: Okay. Mr. Chair, my concern

basically is that I see this from what little I know about how the rules have been interpreted in the past, this really represents a policy change and I just wanted to make sure that it is a policy change and not just something, you know, that -- I think when rules exist, one has to be careful that they're enforced uniformly for everybody, or in this case, waived uniformly. Thank you.

CHAIR NOBRIGA: Thank you, Ms. Raisbeck. I do not

believe it is a policy change. Yes, no? Any other questions?

Mr. Okamura.

MR. OKAMURA: Mr. Chairman, I think this isn't a

policy change per se. I think the rules allow for special

circumstances or conditions, and I think this is a special

circumstance.

CHAIR NOBRIGA: Thank you. Mr. Hiranaga.

MR. HIRANAGA: My recollection is that this

applicant had come before the Board before with the same

request at which time prior to the charter amendment the Board

had denied a request. Is that a correct recollection?

MR. CROCKETT: No, it was never -- the petition was filed before the charter amendment, but there was no action taken by the Board, so it was never denied. Technically, we're still here on the petition that was filed way back last fall.

MR. HIRANAGA: I guess I have grave concerns about this because, like Sally says, we do have rules, and this is basically the Director is going to grant a waiver, a variance from the rule, and it will then create I believe numerous additional requests of people wanting to subdivide a lot, share a meter for two existing homes, sign the fire protection waiver

indemnification agreement. And personally, reviewing the application, I see no real reason for granting this request.

The two parties have undivided fee interests, can't figure out how to, how to finalize their estate, and but I don't see any reason why the Director is planning to grant this request.

Thank you.

CHAIR NOBRIGA: Thank you, Mr. Hiranaga. Any

further questions? All those in favor of voting on the motion to recommend approval of the agreement granting modification of subdivision requirements, signify by saying "aye."

(A chorus of ayes.)

CHAIR NOBRIGA: Opposed, "nay." Hand count. All

those in favor, signify by say raising your right hand.

One, two, three, four, five.

All opposed? One, two, three. The vote is five to

three. Motion carries.

MR. CROCKETT: Thank you very much, Mr. Chairman and

Members.

CHAIR NOBRIGA: Moving on to item 8 Communication,

Communication 03-08, notice of appeal to the Board of Water

Supply for determination by the Director, Department of Water

Supply, dated March 20, 2003, filed by James W. Geiger for

Petitioner, William O. Abreu. Mr. Geiger.

Good morning, Mr. Geiger, because I know you're not

Mr. Abreu.

MR. GEIGER: I'm not Mr. Abreu. Good morning,

Mr. Chair. I've had some discussions with Corporation

Counsel. We're going to ask that the Board defer any hearing

on this at this time so that we can have an opportunity to meet

with the Water Department.

CHAIR NOBRIGA: Thank you, Mr. Geiger. Any

opposition? No. So ordered.

I love doing that. Thank you. Communication 03-09,

a letter from David and Leonora Masters requesting a waiver in

order to receive an additional water meter. Hi

Mr. and Mrs. Masters.

MR. MASTERS: Yes, good morning.

CHAIR NOBRIGA: Please come forward and take the hot
chair.

MR. MASTERS: No, honey, you've got to come up here,
too.

CHAIR NOBRIGA: State your name for the record.

Speak into the microphone.

MR. MASTERS: Having been raised in the Philippines during the Marcos era, she's very reluctant to get in front of any governmental body.

CHAIR NOBRIGA: We're not that bad. Good fun.

MR. MASTERS: I would just like to make one comment if I could before we start. My name is Dave Masters. I would like to make one comment to Ms. Pyle regarding the Board's authority. If everybody here is willing to give the Mayor the benefit of the doubt of being a man of his word, in March of this year, there was an article in which he stated that he

would gladly acquiesce to the recommendations of this board

because you are the folks that have the experience.

MS. PYLE: It's still a recommendation. That's all

it is.

MR. MASTERS: Yes, ma'am, I understand, but he said

he would acquiesce to your recommendation.

MS. PYLE: Well, he may or may not, but it's only a

recommendation.

MR. MASTERS: I understand.

CHAIR NOBRIGA: Thank you.

MR. MASTERS: If I could try to explain our

situation, in the years past when we've had water breaks and things out in Maui Ranch Estates and in the area where we live, which is actually Takitani farm Lots, my wife and her family have been waiting for over 20 years for enough water to actually farm.

I've had situations where I had beautiful sweet corn growing in the late fall/early winter and then a drought hit, and it just dries up on the stalk. So until we can get enough water, I won't be out plowing and tilling and weeding and doing all that stuff again. Our current situation came to being when my wife's father was diagnosed with throat cancer a couple of

years ago. Mom immediately said, sell, sell, we've got to sell their half of the property.

My father-in-law has no life insurance. If tata had died, mom would have been totally destitute, so nobody else in the family could do anything, so it fell upon my wife to buy out her parent's half of the property. That was in the fall of 2001. December 2001, we get in the mail a copy of this flier from Maui Ranch Estates water board or water entity saying that there would be only one water meter issued on the new system per TMK.

I was just curious if the Board had been informed

prior to this that there were at least one lot. Our situation where we have multiple homes, three legal, fully permitted houses on this five-acre farm lot, and this is a farm. This is not, as my old friend Mr. Wayne Nishiki asked, a goat tied to a tree. No, we have been farming this. We have three houses on it.

During our meeting with Mr. Tengan on February the 24th, I asked Mr. Chang if we only had two houses, would they allow us to put up a third one, and after talking around it for a while, he finally said no, in most circumstances, they would

not allow it because there won't be enough flow. Well, that's the situation that's being imposed on us.

Prior to this, there were -- there are at this point three meters on the old system. Nan Powell had assured us on more than one occasion that we would have three meters. I had actually asked Mr. Craddick about getting an ag meter so we could get a lower rate so we can actually farm and maybe even make it viable. He said, no, you don't want that. That's way too expensive. So we left it that we would be getting three five-eighths residential meters. So when we got this flier in December of 2001, we immediately came to the Water

Department to find out what was going on, and we were told this is what the Board had decided, that there would only be one meter per TMK.

You folks have been here for a while. Were you informed there were houses where we would actually be getting less flow after the new system goes in? Which was actually when I talked to Mr. Ted Matsua from the U.S.D.A. in Hilo, they were willing to provide a good chunk of the funding, he was dumbfounded. He said, "How can we put in a new system and you folks are going to get less water than you had before?"

At this point, I've already gotten a second lateral

put in. Mamau Place where we live has been a dirt road. It's been a dirt road forever. After they finish, it's going to be surface. It's going to be an all-weather road. I was told I should wait and come back and dig up this new surface and have the tack put on after there was already pressure in the line.

Well, having dug many, many miles of water line and set water pipe, the 8-inch and 12-inch ductal iron, it's a lot easier to do it, put your tap on when there's no pressure and you've already got your trench open. It took them about 15 minutes to actually put in the lateral, so the lateral is in.

What I'm trying to avoid is having to spend \$10,000, we're

already on the list, having to spend \$10,000 to put a water tank, buy a prepressurization pump, a bladder tank to supply these three houses and then have a contractor come in and dig up 300 feet of the yard across two driveways to tie everything together on to one five-eighths meter.

Now, we're not going to use any less water or any more water whether we have two meters or we have one meter with a tank. The meter may be spinning like crazy 24 hours a day, but we won't use any less or any more if we get the second meter. It's just going to avoid our having to spend an extra

\$10,000 to put in a tank that hopefully won't be there more than a year. I was told by Alan, the engineer for the Ulupalakua project, that once the Pookela Well came in and that the 500 and some names on the list should go out within a year. So if it's just that temporary, we're hoping that the Board will recommend that we go ahead and get the second meter. We would gladly pay for it. We don't -- we're not going to ask for a third meter. We need two meters to supply the three houses according to the Water Department's own standards.

CHAIR NOBRIGA: Thank you.

MR. MASTERS: Anything you want to say?

MS. MASTERS: No.

CHAIR NOBRIGA: Thank you. I don't think the Board is really familiar with your specific request. A lot of the Board Members don't really know about the upgrading of the system that Nan Powell had worked on. Normally we ask for a staff report on this. If there's no objections, we're going to ask for a staff report next meeting, and we can all be on the same wavelength.

MR. MASTERS: Okay.

CHAIR NOBRIGA: Okay. Mr. Hiranaga.

MR. HIRANAGA: I have a question.

CHAIR NOBRIGA: Yes, sir, proceed.

MR. HIRANAGA: I'm happy that Mr. Boteilho is present. Two houses and a cottage on an ag lot, is that, are you allowed to have two houses and a cottage on an ag lot?

MR. BOTEILHO: No, you're allowed one farm dwelling and one farm caretaker dwelling. The third one would have to be by special use permit, but they may be grandfathered. I don't know.

MR. MASTERS: These have been there since 1980.

MR. HIRANAGA: So, you know, it may be a moot point

if one of those houses is actually illegal. I'm not sure if they had building permits for all three structures.

MR. MASTERS: Yes, all houses were fully permitted.

MR. HIRANAGA: May I finish what I'm saying? Thank you. So I think something like this might want to be deferred to the Planning Department first to make sure the three dwellings are, in fact, legal before we even have to review a request like this.

CHAIR NOBRIGA: Okay, Mr. Hiranaga. Any other questions? Okay. The matter is deferred to the next meeting

for our staff report.

MR. MASTERS: Okay. Could we -- there will be a recommendation issued at that point because we're coming up against a time line where they're going to start using the other system, and we're really up against the wall at this point. We've had to rent the other two houses out to pay the huge mortgage we have now. And to have to spend an extra \$10,000 is really going to affect us seriously.

CHAIR NOBRIGA: Ms. Raisbeck.

MS. RAISBECK: Does the Director have a recommendation on this request?

MR. MASTERS: Yes, ma'am. He denied it.

MS. RAISBECK: He denied it?

MR. MASTERS: Yes.

MS. RAISBECK: So you're essentially asking us?

MR. MASTERS: Yes, ma'am, we're at the -- like I

say, we're up against the wall. The next step would be to go

to federal court and ask for an injunction to keep them from

putting that water line into use. It's federal money.

MS. RAISBECK: Well, perhaps next time the Director

will tell us more about why he feels this should be denied.

CHAIR NOBRIGA: Thank you. Moving on to

Communication 3-11 -- thank you, Mr. Masters.

MR. MASTERS: Thank you.

CHAIR NOBRIGA: A letter from Mark S. and Denyse

Collins requesting an advisory decision from the Board in the

matter of their unanswered request to the Director to place

their reserved water meter at a point of adequacy on Olinda

Road where it is reasonably feasible.

MR. COLLINS: Thank you, Mr. Chair, and Board

Members. Yes, in fact, my wife and I were here about a year

and a half ago, and we were in a two-step request. One was to

-- with the concept of reliance that we would be issued water

to our property and that then we would be able to place our meter on Olinda Road. Well, the first part has occurred in that we have been able to secure a water meter during that time period. Jacky was explaining it to some people, through reliance, we're allowed to reserve a meter.

So the next step for us to be able to utilize water is to determine where we can place the meter. And keeping the concept of reliance that these older properties -- this subdivision dates back to 1915, that the owners of these properties would be able to have water meters. I want to show

you what our situation is. Our property is the yellow

property, and then the properties in red are the ones that are

adjacent to us and they -- they have water meters and their

water meters are placed on Olinda Road. That's the nearest

main, and our request that just like our neighbors have done in

the past through this same concept of reliance, that we be

allowed to put our water meter on Olinda Road using the same

easement and we anticipate that will not be difficult to get

the easement.

Our property has a electrical service that runs to

the -- to that property that we would be asking for the

easement, so I see this as a pretty simple request. It's not too complicated. It is a remote meter, but it should not be confusing to those who read the meters because there's already three meters there, and they have been doing this over the years without problems. We currently reside on the property.

We have a home that we built there, and we utilize water catchment. We have a 35,000-gallon cistern. One thing that we offer to our community right now is that whenever, if should there ever be a fire, our cistern is available. If we have a water meter, we can assure that in the most difficult fire season times, we can have that cistern near full capacity to

assist our neighbors.

CHAIR NOBRIGA: Thank you, Mark. Members, any questions of the testifier? Mr. Hiranaga.

MR. HIRANAGA: Again, Mr. Chair, there seems to be an absence of a staff report, because I think there's history and precedence. It would be useful to the new members in assisting them in making a decision. I'm just wondering why the past two matters on the agenda there has been no staff report offered by the Department?

CHAIR NOBRIGA: I told the Board secretary to put the items on the agenda knowing that there wouldn't be time for

the staff to prepare a report, so this is for our review and
for our determination to ask the Department to prepare a staff
report. Ms. Raisbeck.

MS. RAISBECK: Has the Director made a
recommendation on this?

MR. TENGAN: No, I haven't.

MS. RAISBECK: Well, I think it should be deferred
so we can see a staff report and hear the Director's
recommendation.

CHAIR NOBRIGA: Mr. Okamura.

MR. OKAMURA: Why didn't you go to the Department

first?

MR. COLLINS: I have. There's a letter of November

25 of 2002 written to Director Craddick, and we didn't receive

a response. It's very -- I think you have a copy of that.

MS. PYLE: Uh-huh.

MR. COLLINS: So what I was hoping for today to

accomplish is that you would give a advisory decision that if

this seems reasonable to you, then that would carry weight with

the Director. And that's what I was hoping to accomplish, but

if you have concerns about whether this seems like there's some

unanswered questions, I can deal with that now. I see it as pretty -- pretty simple because the fact that there's three meters already. My neighbors enjoy the use of those meters, and we wouldn't really be rocking the boat here.

CHAIR NOBRIGA: Mr. Hashimoto.

MR. HASHIMOTO: I think with the Director's report and the Director's recommendation, we will see or we are able to see the history of what went on previously and why the decision was made, so I think for the benefit of the new members and for us, you know, I think we need the Director's report before we can really make a recommendation.

CHAIR NOBRIGA: If there's no objection, we're going to defer this for a staff report and place this on the next agenda.

MR. COLLINS: Thank you.

MR. TENGAN: Mr. Chair.

CHAIR NOBRIGA: Yes.

MR. TENGAN: For the Board's information, Department stopped issuing remote meters back in about the year 2000. I believe that that was done at the insistence of the Board instructing the Department to apply the rules strictly. And so at that point, the Director instructed the Department not to

issue anymore remote meters. However, in the -- recently, I've taken a change of heart and I'm willing to look at the situation again and make a recommendation to the Board for their concurrence to issue remote meters.

However, I would like to establish or have established certain criteria upon which we would allow the remote meters. That process is in motion today, so maybe by the next meeting, we would have the criteria all set up and recommend to the Board.

CHAIR NOBRIGA: Thank you, Mr. Tengan.

MS. PYLE: Mr. Chair.

CHAIR NOBRIGA: Ms. Pyle.

MS. PYLE: I just wanted to comment to you because some of us are really new on this board, and I do think that the Board of Water Supply has been operational for a very long time and it has created a number of rules and policies that we're fairly ignorant about. And while Mr. Tengan can tell us that the Board requested in 2000 that they stop issuing remote meters, that's fine. I have no idea why they decided that.

And I think that the information that will be forthcoming hopefully from the Department will clarify for us

the circumstances why these should or should not be issued and whether your personal or your own individual circumstances fall within those things, so we can't really make very much of a decision without understanding a lot more of the background. And I hope you do understand that.

MR. COLLINS: I do. Thank you.

CHAIR NOBRIGA: Moving on to the staff reports, division reports. Mr. Tengan.

MR. TENGAN: Mr. Chair, we do have included in the agenda packet reports on the various divisions. If there's any questions regarding these reports, the Board Members can

contact me directly, and I'll try to seek an answer for them.

CHAIR NOBRIGA: Thank you, Mr. Tengan. Any

questions, Members? Ms. Raisbeck.

MS. RAISBECK: This might be an appropriate time

to -- well, first of all, I thank the Director for including a year history along with the pumpage reports, but it sort of brings to mind the fact that we're very focused on water shortage Upcountry, which is, of course, long-lasting, but there also is an impending water shortage or possibly even existing water shortage in the central district in Kihei and perhaps we could at some time have a briefing about what the

situation is in conjunction with the Planning Department as to water demand and water availability in the central district, too. I would request a workshop at some point on that.

CHAIR NOBRIGA: Thank you. We will schedule that as soon as possible. That's going to be really informative.

MS. PYLE: I actually think that that particular subject would for us anyway and the new folks be best handled perhaps as a workshop originally initially before there is any kind of public discussion and input as to what kind of advice we should be giving to the Director.

CHAIR NOBRIGA: Thank you. Seeing nothing else --

MR. HIRANAGA: Mr. Chair.

CHAIR NOBRIGA: Yes, Mr. Hiranaga.

MR. HIRANAGA: Are we going to have an election in
the near future for the new Chairman and Vice-Chair for this?

CHAIR NOBRIGA: We'll have a nomination committee
appointed next month.

MR. HIRANAGA: So you're calendaring the election
when?

CHAIR NOBRIGA: July.

MR. HIRANAGA: Thank you.

CHAIR NOBRIGA: You're welcome. There being no

further business, the meeting stands adjourned.

(The meeting concluded at 10:37 a.m.)

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