

County of Maui Water  
Supply

**BOARD OF WATER SUPPLY**  
**COUNTY OF MAUI**  
**REGULAR BOARD MEETING**  
**TUESDAY, DECEMBER 23, 2003**

Held at the Kahului Shopping Center Conference Room, 65 West  
Kaahumanu Avenue, Unit 29, Kahului, Maui, Hawaii, commencing  
at 9:05 a.m. on December 23, 2003.

REPORTED BY: Rachelle Primeaux CSR No. 370

A P P E A R A N C E S

CHAIR:

KENT HIRANAGA

MEMBERS:

STACY HELM CRIVELLO

CLARK S. HASHIMOTO

SALLY RAISBECK

KENNETH M. OKAMURA

MICHAEL NOBRIGA

STAFF :

GEORGE TENGAN, DIRECTOR

JEFFREY T. PEARSON, DEPUTY DIRECTOR

CATHY HOWARD, SECRETARY

ED KUSHI, CORP COUNSEL

HERB CHANG, ENGINEERING

HOLLY PERDIDO

ALVA NAKAMURA

DEPARTMENT OF WATER SUPPLY

TRANSCRIPT OF PROCEEDINGS

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CHAIR HIRANAGA: I would like to call the Board of

Water Supply meeting to order. In attendance, Mike Nobriga,

Kenneth Okamura, Clark Hashimoto, Sally Raisbeck and myself.

Are there any announcements? Okay. I would just like to recognize that I understand that Herb Kogasaka is retiring at the end of the year, and I want to congratulate him on his years of service. Any comments or corrections regarding the approval of minutes for October 23rd, 2003?

Seeing none, is there anyone here that wishes to provide public testimony regarding the agenda items? Do you have --

MR. ROTHMAN: I don't know the procedure.

CHAIR HIRANAGA: You can testify during the agenda

item, or you can provide testimony now. It's your  
preference.

MR. ROTHMAN: Whatever is normal. I haven't done  
this before.

CHAIR HIRANAGA: It's your preference. Sometimes  
people want to provide testimony now because they have to  
leave.

MR. ROTHMAN: No, we're fine.

MS. RAISBECK: Mr. Chairman, could we vote on  
approval of the minutes?

CHAIR HIRANAGA: Sure, sorry. Can I have a motion  
to approve the minutes from October 23?

MS. RAISBECK: So move.

MR. HASHIMOTO: Second.

CHAIR HIRANAGA: Sally moved to approve. Seconded  
by Clark. All in favor, say aye.

(A chorus of ayes.)

CHAIR HIRANAGA: Minutes are approved. Moving on  
to communications. The letter from Kenneth Rothman. Ken  
Rothman, would you like to come forward and provide your  
testimony.

MR. ROTHMAN: Good morning. Ken Rothman. I

haven't done this before, so I'm not sure what I'm supposed to talk about. Hopefully you've had a chance to review what we're trying to do. My partner Mark Peterson is here. Also Mark Peterson's -- my partner is here this morning as well, Mark Peterson. We're trying to do a very small subdivision. We've got 18 acres, a very pretty area of the island up in Kula where there's a lot of water that's I guess substandard as far as the water lines. We -- we're trying to find a way to complete the subdivision. We want to do our part. We're not trying to get off for free, but if you look at Exhibit F

on your, I'm not sure, maybe it's about 15, 20 pages in, it shows what we're being asked to do. And I know it's all very code and it's all very logical what we're being asked to do. But for a little three-lot subdivision trying to get our two more water meters in there, you know, it's just a lot of money. And it's also -- I've tried to contact the people above us who are also up for a subdivision, but they're number 680-something, and they're, you know, it's hard to get someone else to do -- to supply land and build on their land, build a water tank.



Mr. Chang was very helpful when I went to him and explained, you sure you want to put your money up? You know, this is not going to be easy, but it's just too hard to pass up on the opportunity to do the subdivision, so it's always been my feeling that if we're willing to do our part and our part is hundreds of thousands of dollars, somehow we can find a way to work with the Water Department.

A couple of months ago, Mr. Pearson and my engineer and I had a meeting and sort of came up with the idea if we could not build above a certain level of a certain elevation, put it on the deed of the subdivision, at

least they could get us through the first part. We would still be constructing well over 2,000 feet of water line for the County. It would benefit a lot of homes. Right now there's at least a dozen homes between where the water tanks are at the corner of Middle and Polipoli and our property that don't have fire protection.

In case you missed the article on Page 3 on the 15th, there was a home that burnt down on Middle Road, so, you know, there's not a fire hydrant near there. I certainly realize that there's, you know, there's probably a way that we can help the community along with us getting

this -- you know, it's just there's a lot of Middle Road that can now have fire protection.

And, you know, there was also a letter to the editor not too long ago, about six weeks ago there was a family up in the area that their number came up and they had to pass on it because they were too far -- it was going to cost too much. They couldn't afford to do it. Somehow I think that the Board or the Water Department should be able to help us to help you -- there's one area that we can fix right now. We're not going to fix all of the, you know, shortages or whatever, but we're willing to do our part. It

seems that even helping us to work together with the other owners -- there's other people on the list that are much further down that I believe would participate if they knew what we were trying to do, so a little bit of a unified effort and I know the Water Department is just, you know, you guys are swamped. There's so much to do.

But I don't know if someone can give us an idea.

What we are -- what our first proposal is from what I understand from my engineer, it is providing a solution for our subdivision all up to code. All of the areas that we

will be able to build on within our land will have I guess it's the 40 pounds of water pressure. When other people can kick in on Polipoli Road, we'll be able to kick in there and help them. But for now, what we would like to do is put in 2,000 or almost 3,000 feet of six-inch water line. I mean we're willing to do that, so anyway, anybody have any questions? I'm not sure how the procedure goes.

CHAIR HIRANAGA: Actually, Mr. Rothman, we sort of started this off sort of backwards. Typically what happens is the Department will give their staff report. Then you provide your presentation and the Board will then ask either

party questions. So at this point, what I'll do is I will have the Department provide their staff report and I'll give you an opportunity after the staff report to comment again and then we can pose questions to you. Okay, thank you.

MR. CHANG: I'll try to go over the points of the staff report. The request by Mr. Rothman is essentially based on the Department's requirements to provide fire protection at and domestic irrigation service at a subdivision. If you look on Exhibit Exhibit F, it shows the water system improvements that's required to provide for this adequacy for fire protection and domestic irrigation

service. The proposal by the subdivider is just to do the lower portion, which is the lower half of the page where you see the dotted lines. That will provide service to the lower I guess two-thirds of the property. So it's the proposal of the subdividers to do just enough to provide service for the lower two-thirds, but the Department's rules and regs requires that the entire subdivision be provided entire adequate fire protection and domestic irrigation service, which requires the upper portion of the improvements shown on this Exhibit F to be also installed.

And the Department's -- engineering's and the Department's

recommendation is that we have these rules and regs that needs to be complied with; therefore, we would recommend denial or we recommend that the Board recommend to the Department to deny the request. Basically that's it. If you have anymore specific questions.

CHAIR HIRANAGA: Yes, Mike.

MR. NOBRIGA: Reviewing the data submitted, the applicant was on our waiting list for meters?

MR. CHANG: Yes.

MR. NOBRIGA: And so he was on the first ones to



get his certified letter?

MR. CHANG: Yes, I'm not sure the first ones, but he was within the range of projects that were offered meters and he did accept and reserve two meters, put down the money for two meters.

MR. NOBRIGA: What were the circumstances that existed at the time that he was denied service to be placed on the list?

MR. CHANG: It goes back to the subdivision application that was made in 1994 by the prior owners. Based on that application, the project was put on the

priority list, the 1994 date.

MR. NOBRIGA: Has the project changed from 1994 to current?

MR. CHANG: I don't believe so. I believe it's still three lots. Originally, it was requested three lots. And the current owners, I think option one with three lots; option two, two lots, so they're not asking for more meters than the original request.

MR. NOBRIGA: Has the Department's requirements changed?

MR. CHANG: I don't believe so. 1994 the

requirements were -- the same rules and regs were in effect in 1994 as they are today.

MR. NOBRIGA: May I proceed, Mr. Chair?

CHAIR HIRANAGA: Yes.

MR. NOBRIGA: What compelled the Department to request a \$30,000 storage tank on somebody else's property?

MR. CHANG: That is required because the design standards of the Department requires that storage for fire protection, domestic irrigation is all designed by gravity flow and not by on demand pumps, so the purpose of the tank is just to comply with those gravity type of systems.

MR. NOBRIGA: And would the location being shown in the Department's proposal be the optimum placement of a storage tank to feed the rest of the community within this area?

MR. CHANG: No, that is just a conceptual map. There was no -- it's not something set in stone. It's just a concept.

MR. NOBRIGA: I find this an unusual request because the property borders two roadways, Polipoli and Middle Road. I'm semi-familiar with the area in question.

Is the lot on Polipoli Road accessible, in other words, there's a cliff where dakine, or is it like you can access from both sides?

MR. CHANG: I'm not sure. I haven't -- I've gone through that road to the next property over. I don't have a specific recollection of what it is for this particular property.

MR. NOBRIGA: Thank you. Thank you, Mr. Chair.

CHAIR HIRANAGA: Okay. Other questions?

MR. OKAMURA: Question.

CHAIR HIRANAGA: Okay. So according to the

document you prepared, you originally asked for a subdivision in 1994, and am I correct, but their request expired after two years in 1996? Yeah, can you explain that part to me what you wrote in your report.

MR. CHANG: The original owners when they applied for the subdivision in 1994 with the Land Use and Codes, now it's called the Development Service Administration, that was part of the Public Works Department, one of the requirements for any subdivision application is that they need to keep the application alive by extending I think every six months or every year, and I think the previous owner decided not to

extend the application after 1996, so they just let it die  
or lapse.

MR. OKAMURA: So right now they're asking for a  
new subdivision making a new subdivision request; is that  
correct?

MR. CHANG: That's correct.

MR. OKAMURA: And in order to get that to meet the  
Water Department's needs, they're asking for some more  
meters and more pipelines; is that correct?

MR. CHANG: That's correct, the subdivision  
requires, depending on what they want to do, the three or

two lots, one or two meters, and the requirements for pipelines -- I don't think we ever got as far as requiring anything specific for pipeline improvements, tank improvements for the original application. We never got that far with the original application.

MR. OKAMURA: So they're asking for more meters, more than the two that they were allowed? This past July, their name came up and they were allowed -- they were allotted two meters, five-eighths inch meters, but I guess that's inadequate for their subdivision, so now they're



asking for more meters and some more lines?

MR. CHANG: That's not quite correct. The original application required two new meters, and so they were denied based on the fact that the Department didn't have two meters to offer. And when they're -- this project came up as far as availability of meters on the priority list, they were still asking for the same amount of meters or maybe possibly one less depending on how many subdivision lots they're doing. The original application was for three lots, so they're not asking for any more than the original application.

MR. OKAMURA: But right now, they don't have any standing as far as the list, the priority list for water?

MR. CHANG: Standing?

MR. OKAMURA: Yeah, so they already had the two meters?

MR. CHANG: Yes, they were offered two meters and they accepted and reserved and they put the money down and paid, so they have two years under the reservation process to do whatever they need as far as the Water Department requires for water system improvements. And if they don't finish it within the two years -- plus they have two

six-month extensions, to two years or three years -- if they don't finish what they need to do with the Water Department as far as water system improvements, they're going to lose their money.

MR. OKAMURA: So right now, what are they asking for exactly?

MR. CHANG: They're asking that they be allowed to construct a portion, the lower portion of improvements that is required by the Department, the one that's shown on Exhibit F. And for their own reasons, they don't feel the upper portion is -- I don't know what to use -- required or

necessary?

MR. ROTHMAN: I'm sorry, he was asking me something. What was the question?

MR. CHANG: I'm just trying to paraphrase your reason for not wanting to do the upper portion.

MR. ROTHMAN: Well, I guess because it's going to cost about \$600,000, and we've got to get someone else to dedicate land to do something. And what I remember hearing a little while ago is it's not even the optimum place to put a tank. It should probably go on the property above them,

so that when their subdivision -- because they're number 680-something -- when the subdivision on the property above us comes in, it won't be adequate for them, but they'll have a tank on their property. So a long range solution may be better, but we're -- I mean it's just we're being asked to improve so much for a small subdivision. It's not a feasible solution.

CHAIR HIRANAGA: Let me stop you. We're not in a discussion mode here. Let's just focus your questions to Herb.

MR. OKAMURA: So what you're asking for is just to

be waived the -- they don't want to build the other portion of the pipeline, so they're asking that it be, you know, they don't be required to do that, is that what they're asking?

MR. CHANG: Yes.

MR. OKAMURA: Thanks.

CHAIR HIRANAGA: Sally.

MS. RAISBECK: So as I understand it, they have one water meter. They've already paid and been on the list for the next two water meters, and that's all they need is the three water meters; is that correct?

MR. CHANG: Yes.

MS. RAISBECK: And what the problem is that the Department is requiring them to put in lines both along Polipoli and along Middle Road and a storage tank on somebody else's property, which they don't have any easements for. But now their first proposal, I would like to ask you the details on their first proposal, which is on Page 4, so that in this one, they would put in the six-inch water line on Middle Road and put in two standpipes, one on Middle Road and the other at a location in our subdivision necessary to provide fire protection to our mauka lots. And

we will complete all standard subdivision requirements on  
Middle Road.

Does this proposal include the deed restriction on  
developing the upper part of the lot, of the subdivision?

Was that part of that first proposal that you would put in a  
deed restriction that would say you would not develop the  
upper place where the pressure might not be sufficient for  
fire protection for the upper part of the lot; is that  
correct?

MR. ROTHMAN: Yes, yes.



MS. RAISBECK: Does the Department have a problem with that proposal?

MR. CHANG: I'm going to have to pass it over to the Director.

MS. RAISBECK: I'm sorry?

MR. CHANG: I need to pass this question over to the Director.

MR. TENGAN: What was the question?

MS. RAISBECK: Is their first proposal, which is on Page 4, where they would put in a six-inch water line along Middle Road and connect up to the Kula pipeline on the

property and install two standpipes, one on Middle Road and the other somewhere within the subdivision, and there would be I guess that one also, although it's not stated on Page 4, it includes a deed restriction that they would not try to develop the upper elevations -- they would not develop those where fire protection would be inadequate, does the Department have problems with that solution?

MR. TENGAN: Well, I haven't taken a look at it in that light, but I am aware that we have had some elevation agreements in the past. I'm not ready to state my position on that with regard to this particular application, but I am

aware that the Department has entered into elevation agreements in the past whereby the subdivider or the developer has agreed or even the property owner has agreed that because of the elevation that the property is located in, there may be portions of the property that may not be protected by or may not have adequate fire protection or even adequate water pressure. But I would have to look into it if that's being proposed, but I'm not ready to take a position on that.

CHAIR HIRANAGA: Yes, Ken.

MR. OKAMURA: So the way it stands now is that if

they build it as they proposed it, inadequate water pressure, inadequate water, there's insufficient water, and that's the main objection to their proposal?

MR. CHANG: Yes, insufficient for fire protection and domestic irrigation services.

CHAIR HIRANAGA: Correction, not lack of water. It's lack of water pressure.

MR. CHANG: Kind of both because the tank that serves this property might not even get water to the top of the property at certain times because this property

elevation relative to the feeding tank, existing tank are relatively slow, so you may have inadequate pressure and no water at times.

CHAIR HIRANAGA: At that particular time, the pipeline might not be full.

MR. CHANG: Something like that. High demand, you may experience low pressure, no water.

CHAIR HIRANAGA: Just a comment. I'm not sure -- my packet ends on Page 10, the Director's staff report. It seems like it's not complete. All right. Sorry, I stand corrected.

Yes, Clark.

MR. HASHIMOTO: Herb, is that an eight-inch water line running right through the subdivision, or what is it?

MR. CHANG: That's the upper Kula transmission line.

MR. HASHIMOTO: You wouldn't be able to tap into that?

MR. CHANG: The reason why we require improvements along the streets is the rules and regs requires fire protection be provided along public roads, which would be Polipoli Road and Middle Road, so the requirements were

based on that requirement that fire protection meaning  
standpipes be installed along the public road, so some kind  
of pipeline needs to be on that road.

And if you're asking why not cut the pipelines  
direct instead of along Polipoli and Middle Road, it's the  
Department's implementation of the rules and regs that the  
pipelines not be allowed in somebody's back yard, just put  
along the streets.

MR. HASHIMOTO: Can they run the line from that  
eight-inch line up and down from that eight-inch line  
instead of -- and go to the road instead of going around?

MR. CHANG: It's the same about not allowing pipelines in back yards. It needs to be -- I guess the policy needs to be revisited if we allow that.

CHAIR HIRANAGA: Yes, Mike.

MR. NOBRIGA: I would like to ask, Herb, what is the elevation of the Middle Road tank?

MR. CHANG: Middle Road tank, that's a tank from -- there's the Waiohuli tank and Middle Road tank.

MR. NOBRIGA: 47,000 gallon corrugated steel tank.

MR. CHANG: I think that's below the elevation of



the property if you're looking at Exhibit F on the right side.

MR. NOBRIGA: Yeah, Exhibit F. Because I get the Waiohuli 500,000 gallon stainless steel tank, bottom elevation 3,574 feet; is that correct?

MR. CHANG: Correct.

MR. NOBRIGA: So the elevation of the Middle Road tank is below?

MR. CHANG: Yeah, it's below that tank.

MR. NOBRIGA: What is the elevation on the left side of Exhibit F versus the elevation on the right side of

Exhibit F?

MR. CHANG: It kind of goes from --

MR. NOBRIGA: Which side is higher, right or left?

MR. CHANG: The left side is higher. It flows  
left to right.

MR. NOBRIGA: Because the high side is on the top,  
and the low side is on the bottom, right?

MR. CHANG: Correct.

MR. NOBRIGA: Okay, thanks. I'm ready with a  
recommendation, Mr. Chair.

CHAIR HIRANAGA: I would like to let the applicant

speaking.

MR. NOBRIGA: Just letting you know.

CHAIR HIRANAGA: George, is it correct that you said you allowed elevation agreements in the past?

MR. TENGAN: I haven't personally allowed any, but I believe there are some. Is that right, Herb?

MR. CHANG: I've had very few elevation agreements for subdivisions. I'm not quite positive, but I believe the fire protection was usually okay in the 20,000 gallon pressure, but there was a domestic site that was kind of an area that the Department couldn't grant service. I'm not

sure though. I thought it was just strictly for domestic water, not fire protection, that the elevations were given.

CHAIR HIRANAGA: Any other further questions from the staff? If not, I'll allow to applicant to come forward again to provide additional comments. Mr. Rothman and Mr. Peterson, both of you are applicants, so you both can actually come forward together if you wish.

MR. PETERSON: Hi, Mark Peterson. I've owned the property since 1989, so we've been trying to get it subdivided since that time. And the two other water meters

were my two other partners, which after 20 years, they could not stay on the property. And I've known Ken since 1977, and he's been instrumental in a lot of the stuff in the property and he loved the property so much that he has joined in as my partner. And we just -- I can't afford 600, \$800,000 to do all this stuff.

And all your questions, I kind of wanted to jump up to the mic because I've been here that long. I didn't just get the property. We did have an engineer in '94 do all the work and all this other stuff. We couldn't get any water meters, and it's always been my dream to be on that

property. And it's just it's been like one thing after another, you know, cost-wise.

And when you mentioned, well, just tap right into the water line. You know, we would love to do that, and we would love to put fire protection down. I mean we'll, you know, I've got a little money left. I don't have a lot of money left, but we've got some where we're willing to do our share. We will put in a fire, you know, hydrant, and we'll do what we can do on that. But, you know, I hope you kind of take our -- what we have here. And we're not, you know, it's not a 100-lot subdivision where we're making a lot of

money or anything like that. We would just like to have the property.

And Ken knows more about it than I do, but I have been on the property since '89 and have tried to figure out every way possible to get the two water meters. And we've been here, you know, from the beginning. So if we can do something, you know, that's what we want to do. That's about all I can say.

CHAIR HIRANAGA: Do you have any additional comments, Mr. Rothman?

MR. ROTHMAN: Well, just a few. I'm not an

engineer, and I'm learning a lot about what we can do. Any way we can work with the Water Department to find a solution, we're willing to do. I questioned whether we could tap into the -- into Kula pipeline, put a water pump and build a tank at the top of our property. We go up, there's one little sliver of land that would be great right underneath or right where the upper right fire hydrant is our highest elevation at 3,610. If there was a way that we could just run the pipeline up through the property up and down and do the improvements on Polipoli and on Middle and



have a tank that will supply enough pressure for the upper area, although we couldn't build at the upper area, and then we could put the money in that direction.

I figured the best for the community and for us would be to have the I guess it's called elevation agreement. I guess there has been some. No one is quite sure. It's a logical solution. It makes sense, and there's going to be about a dozen homes that can get fire protection and better water pressure than they get now. If you look at the F, you can see that a lot of the water lines don't exist on this map because they're substandard. They're probably,

I don't know, one-inch lines or something. We don't need to use the very top of the property. We came up with that number and the line I drew through on the two maps that I did, which are Exhibits B and C, that's 100 feet below that water tank, and there's sufficient water pressure there. We've got plenty of land in the bottom two-thirds of the property to be able to build there. So I mean we can grow some trees up there at the top or just leave it natural.

At some point, we're willing to kick in when other people can help us with Polipoli Road, so I'm probably being redundant now, so if you have any questions for me.

CHAIR HIRANAGA: Any further questions for

Mr. Rothman and Mr. Peterson?

MS. RAISBECK: Yeah, I have a question. Exhibit B in our packet has two pages to it, Pages 16 and 17. And I'm not quite -- oh, and so your first proposal, that's the one that's preferable to you; is that correct?

MR. ROTHMAN: Yes.

MS. RAISBECK: That's the first page labeled Exhibit B on Page 16 and that would have the water line along Middle Road and going up through your property. And what is the dash line again, that's the line --

MR. ROTHMAN: That's 3,470 feet above sea level.

The water tank in the corner of Polipoli and Middle Road is at 3,574. What I understand is if you're 100 feet below that water tank, you have sufficient fire protection because you've got 40 pounds per square inch, if I got that, yeah, and so I drew that line to show where that elevation is.

I've got the topographic map, and obviously everything has to go back to the surveyor and the engineer. I'm trying not to bother everybody to go back and forth. Anyway, I think I've answered your question.

And, B, we're okay with Page 17. We're okay to split the property in half. We wouldn't want to put the whole water line in on Middle Road. We're trying to find within the proposal, the second proposal, as I called it, that would be sufficient to put a fire hydrant in, and seven homes would have fire protection that don't now. So that was a more simple -- and we'll pass on one water meter, and that's what proposal two is.

CHAIR HIRANAGA: Anymore questions for the applicants? Personally unfortunately, I don't believe financial hardship is a justification for a request to waive

requirements of the Department because there are numerous property owners in the area that also would probably want to subdivide their property if they were able to get waivers from the requirements, and there's a lot of people waiting for other people to put in infrastructure so that they could piggyback on.

My suggestion would be that you meet with the Department and see if there is precedence regarding an elevation agreement. I personally don't want or I don't personally -- I'm not in favor of setting new precedence by waiving Department requirements based on financial hardship,

so that's just my personal comment. Are we ready to entertain a motion?

MS. RAISBECK: Yes, I will make a motion that we approve waiving the regulations in order to accommodate proposal one, which would include 2,800 linear feet of six-inch water line along Middle Road and a deed restriction eliminating the upper part of the property from development, any part of the property above 3,474 feet from development.

CHAIR HIRANAGA: Your motion would also include the construction of a water line over private property?

MS. RAISBECK: Yes.

CHAIR HIRANAGA: Is there a second?

Hearing none, the motion fails.

MR. NOBRIGA: Mr. Chairman, I don't have a motion to put to the table. My thoughts were, because I'm not an engineer, I cannot confirm, but I see a third proposal in the discussion that we had today. I do know that water does flow downhill, so the best place to put the water line would be someplace that's going to flow downhill. And that to me would be making improvements on Polipoli Road. Perhaps the Department would like to look at having a tank placed on the



property dedicated to fire flow as well as having the

applicants pay in a portion to set the improvements to

Middle Road once that project is forthcoming. I would tend

to side with the Chair in this case.

CHAIR HIRANAGA: The question for the Department,

so the requirement for improvements on both Polipoli Road

and Middle Road is based on the fact that the property

fronts both properties?

MR. CHANG: There's public streets on both sides,

therefore improvements need to be made on the public roads,

which is the top and bottom of the subdivision.

CHAIR HIRANAGA: So if the portion, the bottom portion of the subject property did not front a public road, then your requirements would probably be only for Polipoli Road; is that correct?

MR. CHANG: Correct, with improvements, yeah, pipeline plus tank and plus the pumps.

MR. NOBRIGA: Excuse me, Mr. Chair, because my reasoning is that Middle Road is below Polipoli Road, so the proposal to extend development on Middle Road would do no good for anybody because it's below the property.

CHAIR HIRANAGA: Yeah, I understand the

applicant's predicament based on the fact that the property does front both roads, and that's why the Department is requiring improvements on both roads. From a functional operational standpoint, if improvements were limited to Polipoli Road, the three lots would still be probably adequate service. You would still need to get the water tank. Maybe you might have your engineers work with the Department to see if you can provide adequate fire protection along Polipoli Road to service the proposed three-lot subdivision. I don't know if the Department gets

involved in condemnation processes if the lot owners are  
unable to obtain a tank site.

Have you made offers to land owners where the  
proposed tank site might be located?

MR. ROTHMAN: I sent a letter to the property  
owners above us that are up from our subdivision, and it  
came back. The tax records and the TMK and Maui County have  
the wrong address. Either somebody passed away and --  
there's about a dozen family members that are on that  
property now. They've deeded it down. I've tried to get a  
hold of them. I would think that what they would say is you

can run a line through our property to the property above,  
so when their subdivision comes through, they'll have  
adequate as opposed to having a tank and not having adequate  
pressure running it through.

I guess part of this what they've talked about is  
if the existing water meter and house that's on Middle Road,  
if we left that alone, we didn't improve Middle Road, but we  
found a way to provide the fire protection water line on  
Polipoli, we would be very open to that. We have a place to  
put the tank that's -- that would be 35 feet higher than the  
existing tank on the 500,000 tank. We can deed some of our

land. That's our highest point, and maybe we can provide on Polipoli Road. It wouldn't help very many homes. It would help us, but it wouldn't help the other homes. But we're very open to doing that.

We're trying to do our share. We want to -- you know, we're not trying to get off without spending money. I don't think that that does as much for the community as the Middle Road improvements would do.

MR. OKAMURA: I have a last question.

CHAIR HIRANAGA: Yes, Ken.

MR. OKAMURA: I had a question regarding the rules. What would be the rationale for requiring the lines be on both main roads adjacent to the property? What would be some of the reasoning for this kind of thing? Not that I'm trying to apply it to this case, just for my understanding.

MR. TENGAN: Well, I think -- I would think that one of the main reasons is that to have the pipeline in the public road right-of-way to service the property, and the rule also makes reference to that the water line has to front the property I believe.

MR. OKAMURA: So the way the rules are written

now, you have to have the water line both in Polipoli Road  
and Middle Road?

MR. TENGAN: Yes.

MR. OKAMURA: But that's the rule?

CHAIR HIRANAGA: Yes.

MR. PETERSON: I'm just curious, if we just give  
one of the water meters back and we did the line down and  
now you're going to have a fire hydrant where you're going  
to be able to have nine homes in the area use that fire  
hydrant, what's wrong with that proposal?



CHAIR HIRANAGA: What road would the fire hydrant  
be on?

MR. PETERSON: It would be on Middle Road. That  
was our second proposal.

CHAIR HIRANAGA: You're saying delete the  
improvements on Polipoli?

MR. PETERSON: Yeah, and just give back one of the  
meters and divide it into two pieces?

CHAIR HIRANAGA: Would both lots front Middle  
Road?

MR. PETERSON: Would they both front Middle Road?

He knows more about that.

MR. ROTHMAN: It can be done any way that works.

At this point, what I understand is the way it's supposed to be is, yes, they would both access Middle Road. Then we've got fire protection, and we bring the water line up. I mean the approximately 650 feet of bringing the water line up through our property was supposed to be a benefit because it wouldn't be a dead end to the water line that requires flushing. That was the whole reason for it. We're not trying to get it on our land. I mean there's a nice gulch

along the right side of the property, so there's plenty of room of land that we can't use anyway. We're willing to do it.

But, yes, in answer to your question, if it's best, we will both front Middle Road. If it's not best, in order -- one of the earlier questions, part of Polipoli Road is gulch and not accessible but we can enter through -- we can enter the property through Polipoli Road. I know that was an earlier question, so, yes, we can enter through there, but we don't have to. Any way that we can subdivide two lots, three lots, we're all yours.

CHAIR HIRANAGA: Yes.

MR. NOBRIGA: Mr. Chairman, I would like to move to defer this item, the request back to the Department and the applicant to see if they can come up with a solution.

CHAIR HIRANAGA: Motion to defer. Is there a second?

MR. HASHIMOTO: Second.

CHAIR HIRANAGA: Motion to defer by Mike Nobriga. Second by Clark Hashimoto. Is there any discussion?

If your preferred route is to provide infrastructure improvements along Middle Road and you will

redesign the subdivision so that both lots front Middle Road  
and you put an access deed restriction on Polipoli Road,  
which means you cannot have access off Polipoli Road, then I  
would suggest you propose that to the Department working  
with your engineers to see if there is adequate pressure and  
fire protection to see if that's acceptable to the  
Department. I'm not qualified to require this to the  
Department, but I think it provides an avenue of discussion.

MS. RAISBECK: Question.

CHAIR HIRANAGA: Sally.

MS. RAISBECK: Why would you include no access

from Polipoli Road; even if there's no development in terms of building houses above a certain elevation, why should you include no access from Polipoli Road?

CHAIR HIRANAGA: Well, my feeling is because the rules of the Board of Water Supply require that if a property fronts a public road that the improvements be provided along the public roads, and that's why the Department is requiring improvements along Polipoli Road and Middle Road, so this would possibly be more acceptable to the Department if they were able to accept the fact that no

access would be provided off of Polipoli Road. I'm just fishing.

MS. RAISBECK: It seems irrelevant to me.

CHAIR HIRANAGA: It's just a comment. It doesn't mean the Department is going to accept that. I'm fishing for a way to help these people, because I'm not in favor of waiving rules based on financial hardship. Any further discussion on the motion to defer? Seeing none, I call for the vote. All in favor of deferring this application, please so indicate by saying aye.

(A chorus of ayes.)

CHAIR HIRANAGA: Opposed?

(None.)

CHAIR HIRANAGA: The motion to defer is carried.

Next agenda item is Mark and Denyse Collins. Does the

Department have additional comments regarding this

communication?

MR. TENGAN: Mr. Chair, at the last meeting, the

Board requested additional information regarding

Mr. Collins' request for approval of the remote meter. I

guess we have estimated that the Department in the past has

denied approximately 100 requests for remote meters in the



Upcountry area. And we have attached minutes on this topic concerning James Judge TMK 2-3-3 Parcel 88 and Nick Wagner TMK 2-7-12 Parcel 115. Previously the Board had approved these two requests for remote meters, and we have also attached a staff report dated October 14, 2003, with regards to this request.

CHAIR HIRANAGA: I'm sorry, there's someone here who wishes to provide testimony. Theresa Shurilla?

MS. SHURILLA: Shurilla, yes, that's me.

CHAIR HIRANAGA: Please come forward.

MS. SHURILLA: Actually, my husband was supposed

to be here today, so he wrote it out for me. He has to work, and I apologize if I'm a little unclear on it. We just bought the property from Denyse and Mark Collins and we were able to get all the information and we've done our reading, so hopefully I'm able to represent this correctly. So should I just go ahead and read the information?

CHAIR HIRANAGA: Uh-huh.

MS. SHURILLA: After reviewing all the documentation provided, we find that the request to put a remote meter where there are already three existing would be

reasonably feasible as per Section 3-5(g). What we find unreasonable is the request to have us, husband and wife, absorb the total cost of improving the 800 foot of substandard two-inch PVC line that would benefit the whole neighborhood. I -- my husband has spoken to several neighbors who say that the existing line already lacks in providing proper pressure at times.

I believe that we were expected as home owners to absorb the \$50,000 in upgrading the infrastructure that should be improved in the upcoming years by the County and is very cost prohibitive to us. What we would like to take

advantage of is the water meters -- the water meter that is already reserved for our property paid by the Collins, \$6,030, in compliance with the October 4, 2002, water meter issuance rule for Upcountry water systems.

If you would add up what it would cost to hook up a five-eighths water meter close to \$60,000, we are sure that you can sympathize with the fact that it's just not feasible. We are not contractors or developing a subdivision. We are just property owners. As an option, we would like you to consider allowing the water meter to be installed remotely temporarily until the infrastructure on

Alaluana Road is improved at which time we would take full responsibility of moving the water meter so that it would be adjacent to the front of our property. While in the interim, we would be willing to install a fire standpipe to the Department's specs in our existing cistern to the benefit of our neighbors in case of fire.

CHAIR HIRANAGA: Questions for Ms. Shurilla? Yes,

Ken.

MR. OKAMURA: Just one question to the Department, please. They want to tap into the six-inch line, the remote meter. At the location at which they want, is there

adequate pressure and water volume at the location that they want to tap, put their meter at the remote location where they want to put their meter?

MR. TENGAN: Probably not.

CHAIR HIRANAGA: Yes, Clark.

MR. HASHIMOTO: I see there's three lots on this current line that they want to hook up to. What about the other lots that are 24, 23, 22, 21, do they have water meters and where are they located on Page 37? There's an existing water line easement for lots 26, 37 and 45 in which

I guess that's the same line they want to tap into. Where are the other lots getting their water meters from, or do they have water meters?

MR. TENGAN: We would have to go and confirm that, but I would suspect that they're being serviced with remote meters. That's been allowed in the past.

MR. HASHIMOTO: I'm just wondering if the other lots don't have meters, they're all going to come in and request to have remote water meters. So I mean if lots 24, 23, 22, 21, 46, you don't know if they have water meters other than the three lots, 26, 27 and 45?

MR. TENGAN: Like I said earlier, we probably, we would need to research that to give you a definite answer. I don't want to guess on it.

CHAIR HIRANAGA: Any other questions?

MS. RAISBECK: So this -- yes. The sole issue here is whether they'll be allowed to place a meter remotely instead of on the property?

CHAIR HIRANAGA: Point of adequacy.

MS. RAISBECK: Yeah, at the point of adequacy.

And I noticed in the notes provided to us by the Director, the minutes from October 8th, 2002, I believe the Board



voted to allow a remote meter to be placed for Mr. Wagner.

I believe several of you were on the board at that point,

correct?

CHAIR HIRANAGA: Yes.

MS. RAISBECK: And the decision was made to allow the remote meter. So would there be any reasons why we would not allow the remote meter at this time?

MR. NOBRIGA: May I, Mr. Chairman?

CHAIR HIRANAGA: Yes.

MR. NOBRIGA: The request for that specific requester, the decision was based on a 1961 proof of

reliance and liability by the applicant for the remote meter to be granted. It was historical background to that specific case if I remember, and that's why we granted that specific request.

MR. KUSHI: That's the Jim Judge case.

MR. NOBRIGA: Yeah.

MS. RAISBECK: Well, I think this one was for a

Mr. Wagner.

CHAIR HIRANAGA: That was a private road issue.

MR. OKAMURA: Mr. Chair.

CHAIR HIRANAGA: Yes, Ken.

MR. OKAMURA: My question would be like wouldn't it be overriding, like where there's adequate water and they want to tap into the meter, at least the Department says there's a lot of people that want meters, but there's not enough water in the lines that they want to tap into.

MS. RAISBECK: Is that what they said?

CHAIR HIRANAGA: Are you asking a question or making a statement?

MR. OKAMURA: I'm just asking the question to the Board.

CHAIR HIRANAGA: To the Director?

MR. OKAMURA: Yes.

CHAIR HIRANAGA: To the Director, he's asking you  
a question.

MR. OKAMURA: I was just asking a general question  
not directed to anyone in particular as whether the issue  
would be the adequacy, and that's what they said the  
Department states in the report.

MS. RAISBECK: Well, can we ask the Director then  
is the point on, which road is it, Olinda Road, where the  
other three remote meters are located, is service adequate

at that point for those three meters, and if another meter is added, will service be adequate?

MR. TENGAN: I would assume that, you know, that that's the point of adequacy for those three remote meters. I can only guess whether there would be adequacy at that point for another meter. I would suspect yes, however, our rules do say that the meter should be fronting the property also.

MS. RAISBECK: Or where feasible.

MR. TENGAN: Yes, where reasonably feasible.

MS. RAISBECK: Where reasonably feasible. So I

believe what I heard to answer Mr. Okamura's question, I believe there is adequacy at the point where they wish to install the remote meter.

MR. OKAMURA: Yeah, I thought I asked the question earlier to the Director. You know, and he said that there was inadequate water there at the point. Can anybody answer that question?

MR. CHANG: The water system is inadequate. It's fed by an inch-and-a-half -- two-and-a-half-inch PVC, which is inadequate in the sense of the water service request

needs to be -- the system needs to be adequate also for fire protection, so based on the fire protection aspect, it wouldn't be adequate. As far as domestic adequacy, it's very marginal for four meters if assuming there's only three meters on that line now. There's probably more than three.

MS. RAISBECK: So you're saying it's not adequate,

Mr. Chang?

MR. CHANG: Excuse me?

MS. RAISBECK: Are you saying that at the point on Olinda Road where the other three remote meters are located, that is not a point of adequacy?

MR. CHANG: In terms of fire protection, it is not a point of adequacy.

CHAIR HIRANAGA: Yes, Junior.

MR. KUSHI: I think I need to clarify what we're talking about here is a meter location and a meter request. This is not a subdivision. And if I remember correctly, this property was one of the 60-day rule properties. It was already an existing lot. They just didn't have a meter. So her predecessor came in and applied for a meter, so you're dealing only with the meter issuance. Because it's not a subdivision, fire protection doesn't come in, although it's



understood.

CHAIR HIRANAGA: Yeah, that was what I was trying to comprehend. Why would there be a fire protection requirement for a preexisting lot? Herb, you want to come up and use the mic?

MR. CHANG: The Department I believe around 1999-2000, decided to have a stricter interpretation of the rules and regs whereby previously requests for water service to an existing lot which did not have a meter before, we would just, the Department would just check for adequacy of domestic service. We would not look at the fire protection

aspect.

But since 1999, roughly 2000, the Department switched gears and looked at the fire protection requirements to approve any water service requests. So that's what's going on right now, continuing. So there is a fire protection aspect that needs to be complied with.

CHAIR HIRANAGA: That's contrary to what corporation counsel just said. I'm going to call for a short recess. Let's reconvene in about ten minutes.

(Recess taken.)

CHAIR HIRANAGA: I'll call the meeting back to order. So we were having this discussion regarding the requirement for fire protection existing, so the Department still maintains that position?

MR. TENGAN: We would still be holding to that position where fire protection would be necessary.

CHAIR HIRANAGA: Thank you. Anymore questions from the Board? Yes, Mike.

MR. NOBRIGA: In the Department's summation, Item 5, the reservation was approved during initial 60-day period of the Water Meter Issuance Rule for the Upcountry water

system. The 60-day period allowed water service to be approved for properties which were not on the priority list and had expended funds in reliance upon official assurances dated before November 2nd, 1994, or have any preexisting rights associated with the property entitling the property to water service. Which of the two things did this property fall in?

MR. TENGAN: It would be having any preexisting rights associated with the property entitling the property to water service.

MR. NOBRIGA: But if the property had preexisting

rights, the water system we have in the area is substandard, always has been substandard, how could the property have had the preexisting rights?

MR. TENGAN: I guess the property was created -- I guess that would be the rights that were associated with the property when it became, you know, a separate parcel upon subdivision whenever that occurred.

MR. NOBRIGA: Also, further in the report, if the property does exist under private water system under water catchment, is that still in effect?

MS. SHURILLA: Uh-huh.

MR. NOBRIGA: Is the water catchment system  
sufficient to deliver fire protection?

MS. SHURILLA: I can't tell you exactly how many  
gallons, to be honest. My husband would be able to tell you  
that.

MR. NOBRIGA: May I ask another question,  
Mr. Chairman?

CHAIR HIRANAGA: Please continue.

MR. NOBRIGA: What detriment would it be to  
customers' service on the same line on Alaluana Road should

the meter be installed on the applicant's property?

MR. TENGAN: As was stated by Mr. Chang earlier that that line is already inadequate.

MR. NOBRIGA: Mr. Chang had stated it was inadequate for prior protection, domestic and irrigation services. Since the applicant has already satisfied fire protection and irrigation, if there is no detriment to other domestic service on the line, my recommendation would be for the Department to supply the meter because of the preexisting rights associated with the property.

CHAIR HIRANAGA: I would like to comment on

Mr. Nobriga's comments. I believe the preexisting rights relates to a subdivided lot existing before a certain date, which would entitle them to a water meter subject to the distribution line or transmission lines being adequate fronting the property. If this property has adequate fire protection and that is the primary reason for the denial of the request for a meter on the existing line fronting the property, I believe in the past, the Board has approved the waiver of fire protection if the property has a private fire protection system and it has been approved by the Department of Fire.



So you may want to further investigate that, a meeting with the Department of Fire, to see if your fire protection meets their requirements. And at that point, the Department may consider waiving the fire protection requirement. And if the existing line fronting the subject property is adequate for domestic purposes, you may be entitled to a water meter on the property. It's something to look into. Any further questions or comments?

MS. RAISBECK: I'm confused because I thought the issue was not should they get a water meter, but may they place it remotely.

CHAIR HIRANAGA: Well, they may not need to place it remotely if they have adequate fire protection on site, and that is the reason the Department is not granting them a meter fronting the property. If the existing line has sufficient capacity to provide domestic service to their house or their property, they have the private fire protection system in place by the Department of Fire, they may be able to get the meter on site versus off site.

MR. NOBRIGA: Mr. Chair.

MR. TENGAN: We would refer to Page 33, second

paragraph, under Item 4. The report states that in this case, the Department's existing water system in the area is inadequate. The existing two-inch line is inadequate for fire protection, domestic and irrigation water service and must be improved to provide adequacy by the applicants.

CHAIR HIRANAGA: Yeah, but if she's not going to put a burden on fire protection, the existing line may be adequate for domestic services.

MR. TENGAN: The report does state the existing two-inch line is inadequate for fire protection, domestic and irrigation. It doesn't say "or".

CHAIR HIRANAGA: Right, so if you eliminate fire protection, maybe.

MR. NOBRIGA: And irrigation.

MR. TENGAN: If the Board wants to go ahead with the motion, I won't object to it provided that we can make the determination as far as the adequacy only for domestic purposes.

CHAIR HIRANAGA: I would think the motion would be to defer to allow the applicant to meet with the Department.

MR. TENGAN: That wasn't the motion.

CHAIR HIRANAGA: Sorry.

MR. TENGAN: I don't believe that was the motion.

I believe the motion was stated to approve or recommend approval.

CHAIR HIRANAGA: I don't think that was the motion. That wasn't the motion. That was a personal statement.

MR. NOBRIGA: No motion was made.

CHAIR HIRANAGA: There's no motion on the table.

MR. TENGAN: That's what I heard.

CHAIR HIRANAGA: Is there any other further questions?

MS. RAISBECK: Yes, I'm still not clear I'm afraid. The Department wants them to put in 800 feet of six-inch water line and one standpipe in order to place the meter on the property. And I -- as I understood it, one reason for asking for the remote placement was to avoid that requirement. So if you're saying it may be placed on the property, you're including the assumption they will provide 800 feet of six-inch water line, no?

CHAIR HIRANAGA: I'm not sure, but the reason why the line may be inadequate is because of the fire protection

requirement because of fire flow, so if they have a private fire protection system so they're not going to place an additional burden on this system for fire flow, the line may be adequate for domestic purposes only; thereby, eliminating the need for improvements and thereby allowing them to place the meter on the property.

MS. RAISBECK: I see, okay.

CHAIR HIRANAGA: I mean it's just a question.

It's something that the applicant may want to pursue with the Department. Because of what corporation counsel's statement is saying, preexisting lots are not required to

provide fire protection. So we're kind of splitting hairs here.

Any other questions or comments for the Department or the applicant? If not, I'll entertain a motion.

MR. NOBRIGA: So move to defer.

CHAIR HIRANAGA: Is there a second?

MR. HASHIMOTO: Second.

CHAIR HIRANAGA: Motion to defer by Mike.

Seconded by Clark. Any discussion? No discussion. Call for the vote. All in favor for the motion to defer, so indicate by saying aye.



(A chorus of ayes.)

CHAIR HIRANAGA: Two ayes.

MS. RAISBECK: Aye.

CHAIR HIRANAGA: Three ayes. Four votes to defer.

Those against?

MR. OKAMURA: You need four votes?

CHAIR HIRANAGA: No, we need five votes.

MR. OKAMURA: Five votes?

CHAIR HIRANAGA: You can vote deny if you want to.

MR. OKAMURA: No, I'll vote for the deferral.

CHAIR HIRANAGA: So we have five ayes, and the

motion carries. Thank you.

MR. TENGAN: So the Board will be looking for the Department to make a determination as to whether the line, the two-inch line is adequate only for domestic purposes?

CHAIR HIRANAGA: No, you do what you need to do with the applicant. I'm not telling you what to do.

MR. TENGAN: That's all you're deferring?

CHAIR HIRANAGA: She can make an argument to you. If you're not going to agree with the argument, you're going to just stand in the current position. We're giving you an

opportunity to meet with her providing argument, because there seems to be some cloud between what corporation counsel's interpretation of the requirements are and the Department's interpretations.

MR. TENGAN: By deferring this item, it infers to me this item should come back to the Board. So if it's to come back to the Board, what kind of information is the Board looking for from the Department?

CHAIR HIRANAGA: Well, I think it's up to the applicant if she wants the matter to come back to the Board after she's met with you.

MR. TENGAN: Okay.

MR. HASHIMOTO: Didn't we want to see if there's adequate fire protection from your water catchment, from the Fire Department?

CHAIR HIRANAGA: She needs to meet with them.

We're not telling them what to do. Yes.

MR. KUSHI: Mr. Chair, to help the Department and help my office, if the applicant could I guess a request on the applicant to -- if you go back to the Department, first of all, is your statement saying that you just bought the property from Mr. Collins?

MS. SHURILLA: Yes, we did.

MR. KUSHI: Did you know about this issue before  
you bought it?

MS. SHURILLA: Yes, not as involved though, yes.

CHAIR HIRANAGA: Could you please use the mic?

MS. SHURILLA: Oh, sorry.

MR. KUSHI: That's one. Secondly, if you have any  
documents, previous documents or Mr. Collins had documents  
of any type of fire protection agreements on this property,  
would you provide that to the Department?

MS. SHURILLA: Sure, not a problem.

MR. KUSHI: And the other one is you mentioned a  
catchment system.

MS. SHURILLA: Yes.

MR. KUSHI: So I'm assuming you have a structure  
on there?

MS. SHURILLA: Yes.

MR. KUSHI: So can you provide any kind of  
documentation that the Department, either the Water  
Department or Public Works, granted your building permit  
based on the catchment system?

MS. SHURILLA: Sure.

CHAIR HIRANAGA: Thank you. Next agenda item is the update on water increase review and Elliot Krash wishes to provide testimony.

MS. KRASH: Good morning, Chair Hiranaga and members, my name is Elliot Krash and I'm speaking this morning for the Kula Community Association. When I noticed that this item was on the agenda last month, I was pleased because I think we're in the six years of our last five-year rate increase, and so we're overdue for a study of rate increase. And we're overdue in terms of the needs of the

system and increases.

I also wanted to point out that in the past, that Kula Community Association has supported rate increases with an if. The if, if their specific needs are met. And I don't want to address those today. Those will emerge from the citizens Upcountry as the study proceeds. But I did want to take this opportunity to point out some of the long-term continuing priorities Upcountry that I hope will be addressed as we go through this process of studying what the rates need to be. And you have from me the -- my



talking points, my notes that were prepared for the last meeting. Those three priorities Upcountry, agriculture and open space, conservation and incentives for conservation and the importance of public participation, public hearings, those items are -- are reflected in the Upcountry plan. And they're also reflected in our Kula Community Association position statements on water, which I attached to my notes.

Now, when I first prepared these notes, I had just glanced at the consultant's outlines for their study, and I've had a few minutes to look through it since then, so what I would like to do is just look at the last three

bullets on the paper that I've given you, my talking points, on whether the rate study is going to incorporate these priorities, it's going to look at these issues; for example, on the -- the policy issues of our community's commitment to agriculture, not only our community, actually the State and County commitment to open space and agriculture. And some of the questions that we need to look at as we go through the rate analysis study; for example, the incentives for agriculture, the differentiated rate study, differentiated rate structure.

And in looking through the consultant's proposal,

I see that -- I think that's addressed on Page 76, well, it's, I think you -- it's in your agenda packet Page 76 and they talk about addressing policy issues that are important to the County and the citizens. And they also talk about various customer classes and nonpotable water on Page 77, so it looks as though those items will be addressed.

The second bullet of the three important things, water conservation incentives. One that pops up in my mind is a seasonal rate. During periods of heavy use when it's drier, do we have different rates so that people will be more careful about conserving in seasonal times? And I

think that those are addressed by the consultant on Page 77, maybe not in the detail that I have in my notes here, but I believe that's something they intend to do.

And then the last point that you probably have heard repeatedly from the Upcountry citizens on all kinds of issues, not just water, but others, and that is the public's involvement, having public hearings at times and places where the citizens can attend. And also what I think is maybe lacking here is are they going to hold these hearings, meetings, workshops, discussions early enough in the process

so that we can hear from the folks out there what's important, what do we need to do. If you're going to increase my rates, then what's the payoff for me? What do we need to do and when do we need to do it?

The consultants do mention meetings, a series I think of nine of them on Page 79 and hearings Page 80. And they do mention they will be at various phases of the study. It's not clear to me in what way the public will be involved. I have understood that there may be a citizen's committee to work on this throughout the process, and that would be helpful if we had some sort of a task force that's

working parallel to this rate study.

So those were the three things that I wanted to mention to you that I know that our association and Upcountry citizens hope will be improved.

CHAIR HIRANAGA: Questions for Ms. Krash? Thank you.

George, you have the floor.

MR. TENGAN: Mr. Chair, as you can see by the consultant's proposal, we don't have enough money budgeted for the entire study. I believe the study is going to cost in the area of just the base study would cost about

\$165,000. We have included in the budget \$60,000, and so what we intend to do, and I already talked to a couple of Council Members about going back to the Council to do a budget amendment for about \$110,000 for possibly to fund the entire project.

We have talked to the consultants, and we feel that the \$60,000 will fund the earlier phases of the study and provide us time to go to the Council for the budget amendment. With regard to Elliot's comment about the task force, we do intend to establish one. Back six years ago,

we did the latest one. We had a committee of about I would say about 15 people from the public sitting in on the meeting to help establish the rate adjustments, and we intend to do the same thing with this rate study.

CHAIR HIRANAGA: Questions for the Director? Yes, Kenneth.

MR. OKAMURA: George, more or less if you look at it, what kind of timetable are we looking at, and when would this start and how long would it take?

MR. TENGAN: Page 83 is the rough timetable the consultants have come up with. And sometime next month, you



know, we intend on having the initial meeting with the Board, and hopefully we would have an orientation with the Council also and as to the committee being established by then, and I expect it to be established with the committee members also.

CHAIR HIRANAGA: Any other questions for the Director?

MS. RAISBECK: Yeah. The page -- our Page 76, which is Page 2 of the draft memo, says revenues under existing rate schedules based on the projected number of customers, meter sizes and water use for each customer

class. The -- I know the different areas of the County have different costs, even like within the same customer class it might be one cost in one area and a different cost in another area. Will those area distinctions be made when they do a cost of service analysis?

MR. TENGAN: I don't think we can do, you know, a good analysis by district. Our County is not set up to make the separation, but if that's the direction that the committee wants to take and the Board wants to take, then we can do some estimation of the costs involved. But it won't

be as accurate as keeping separate accounting records by district.

MS. RAISBECK: Yeah, Mr. Chairman, my thought is that as these project for five years, if there's an increase of a certain number of customers in Area A, the cost will be more than if it happened in Area B. So that unless you differentiate about the cost of service for different areas, I don't think you'll come up with adequate projections.

CHAIR HIRANAGA: I know that the costs to deliver water in different areas of Maui are different.

MS. RAISBECK: Is what?

CHAIR HIRANAGA: Different. I know it can become a very emotional and political issue when you start trying to identify costs by region. And probably we'll have a lot of protests from the people who feel they're paying more than they should. But the Director wants to maybe provide some type of an overview of other municipalities that have attempted to identify cost by district and what they encountered, or the consultant could.

MR. TENGAN: That's an option that the consultant could address provided that that's the direction that the Board and the committee wants to take to look at that, but

like I said earlier, information won't be as accurate as if we had separate accounting records for the different districts. As far as my experience with rates by districts, I joined the Water Department back on the Big Island in 1976. And at that time, we had three different rate structures based upon cost of service by districts.

And the Water Commission, in the following rate study that was done, decided that there should be a single item rate. And that's the direction that they took, and they've been on that every since I believe. This was back in the late '70s or the early '80s that it occurred. And as

you mentioned, it could be a very emotional or political item should we try to establish different rates for the different districts.

Because some districts just won't be able to afford what it costs to service them. As an example, Honokahau Valley, we have about 15 services. It may be a little over 25 people being served on the system. We spend approximately \$20,000 a month just to deliver water there. If we were to split that cost among the service holders in Honokahau Valley, they would be paying six to \$700 per meter

for water service.

MS. RAISBECK: Mr. Chair.

CHAIR HIRANAGA: Yes, Sally.

MS. RAISBECK: Yeah, my comment would be that

there is a different cost of service; for example, probably

the highest cost of service is the Honokahau Valley. That

is real data that exists. It's a policy decision how you

distribute the costs county-wide, and the policy has been

and quite possibly will continue to be that you charge

uniform rates county-wide. But that has -- that has nothing

to do with the fact that there actually is a different cost

of service depending on many things.

And to make intelligent assumptions about future total costs, you have to know where growth is going to occur, whether it's in a low cost area or a high cost area, so I feel that the data should be presented about cost of service for different areas. And then it's a policy decision which probably will remain that all areas bear equally -- equal rates. The rate structure is independent of what the actual cost of service is.

MR. TENGAN: If I may respond, Mr. Chair. When you're looking at the cost of service, you're looking at



what it costs to service a particular area or a particular class of usage. That's based on historical data. It's not a policy question. It's based upon historical data. Now, the policy question comes in whether you want to charge separate rates to the class or to the district, or do you want to have a single item, a county-wide rate, which is different from the cost of service.

MS. RAISBECK: Exactly.

CHAIR HIRANAGA: Okay. Yes, Mike.

MR. NOBRIGA: I noticed on Page 82, Draft Page 8

of 10, Optional Task 13 and Optional Task 14 seem to include

the areas Sally is referring to.

CHAIR HIRANAGA: Yeah, but that says Optional Task. I mean but I think the initial process, these types of discussions will be useful.

MR. NOBRIGA: Okay.

CHAIR HIRANAGA: Any other comments or questions regarding the update?

MR. NOBRIGA: Looks good.

CHAIR HIRANAGA: Thank you. Moving on to the next agenda item.

MR. NOBRIGA: Thanks, Holly.

CHAIR HIRANAGA: I'm sorry, did anyone else wish to provide public testimony regarding water rate increases?

Thank you. The next agenda item is status report for Iao Tank Site Exploratory Well. Director.

MR. TENGAN: As the Board knows, we're using the Wailuku Shaft that isn't the property of the Department or of the County. Wailuku Shaft is presently owned by Hawai'i Land and Farm Company, and we're using the well or the shaft at the good graces of the company. We need to -- we need to establish alternative sources to make up for what we're

drawing out of the tank. This Iao tank is -- this Iao tank site well will provide some of that. We've already engaged the service of Carl Takumi Engineering to do the engineering for this project. We hope to advertise for construction in early 2004 with completion in 2006.

CHAIR HIRANAGA: Questions? Seeing none, moving on to capital improvement projects progress report.

MR. MISKAE: Mr. Chairman.

CHAIR HIRANAGA: Yes.

MR. MISKAE: Could I ask a quick question on that.

What would happen to Shaft 33 if we stopped using it?

CHAIR HIRANAGA: You're talking about the Iao tank  
site?

MR. MISKAE: Yes.

CHAIR HIRANAGA: Identify yourself.

MR. MISKAE: Thank you, Mr. Chairman. Brian  
Miskae, Department of Planning. Maybe I missed the point  
here. It says Shaft 33 is being used as a temporary water  
source and we want to put in another well. What happens to  
Shaft 33 if we stop using it?

MR. TENGAN: We wouldn't have any say on what

happens to it. We're not the owners of the shaft and the property it exists on. That would be the decision of the land owner or the property owner.

CHAIR HIRANAGA: So he's currently selling water to the County?

MR. TENGAN: No, he's letting us use the shaft free of charge.

CHAIR HIRANAGA: It's a privately owned watershed.

MR. MISKAE: So the owner of Shaft 33 then would be required to apply to the Water Commission then because this area is designated, it would be one of those

applications I presume?

MR. TENGAN: We will be filing a joint application. We will sign off as the user and Hawai`i Land and Farming will sign off as the owner of the property. Because the application that we would be filing would be based on existing uses and were the existing user providing water for existing uses. Hawai`i Land and Farming as of this point in time in my mind is not or does not have any existing use for that water.

MR. MISKAE: I'm just concerned this may end up being problematic because if this well is one of the

problems that we have in terms of spreading pumping out,  
maybe this well has to be discontinued period in one way,  
shape or form.

MR. TENGAN: Which well are you talking about?

MR. MISKAE: Shaft 33.

MR. TENGAN: Yeah, but we wouldn't have any  
control over that. That would be under the control of the  
State Water Commission.

MR. MISKAE: Thank you, Mr. Chairman.

CHAIR HIRANAGA: Thank you. Moving on to the



capital improvement project progress report. Maybe the Director could give us a brief overview of that of what it's telling us.

MR. TENGAN: Mr. Chair, we have attached the CIP status report as requested by the Board. The first schedule you see is a schedule of what we hope to have encumbered throughout the year. And on the side of the table of data is a graph showing what we have budgeted for the year, which is \$22.25 million. And I guess at this point in time, engineering is saying that we hope to encumber by December 2004 \$18.6 million.

And on the following pages is a list of items on the CIP budget and the amount budgeted, the projected completion date, the percent completed. Assigned to are the initials of the engineers or the engineer or staff personnel that the project has assigned. The initial date I presume would be when the project is expected to start, and we also have the projected encumbrance date. And on the side, we have a space for notations such as the consultant and who would be doing the job. You'll notice there are some items that we plan to do in-house.

CHAIR HIRANAGA: Questions from the Board?

MS. RAISBECK: Yeah, I noticed when I looked at the draft that there was really almost no activity from July through December. I assume that means you encumbered about a million, whereas you had projected hopefully encumbering 7 and a half million. Is there some reason why you weren't keeping up with the intention?

MR. TENGAN: Mr. Chair, the fact that the chart seems to be showing activity beginning September 2003 is because from July through September, we've been working on getting the budgeted amounts encumbered. This doesn't mean

that we've been sitting on our tails and not doing anything.

This just represents encumbered funds which denotes that contracts have been executed.

CHAIR HIRANAGA: Any further questions? Do you plan to make this a monthly report, quarterly or --

MR. TENGAN: If the Board wants it monthly, we can do it monthly.

CHAIR HIRANAGA: Any preferences, monthly?

MS. RAISBECK: Monthly.

CHAIR HIRANAGA: We would like to make it a monthly report. Thank you.

Next agenda item, oral report from director

regarding A&B's water treatment plant project.

MR. TENGAN: We have nothing to report on this project. It's a proposal that was made by A&B to the County and to the Water Department about building a treatment plant in the Waiale reservoir area. I believe A&B has engaged the services of a consult, and they're proceeding with the project. But I don't know at what stage they are exactly. We haven't entered into any kind of detailed discussions as to what an agreement would look like, so it's in the hands of A&B right now, and we don't have anything else to report.

CHAIR HIRANAGA: Questions?

MS. RAISBECK: Yeah, what's the proposed amount for the water treatment plant, I mean the size of the gallonage?

MR. TENGAN: Well, they're proposing to build a plant that will provide 2 million gallons per day. But this doesn't mean the plant will have a capacity of 2 million gallons. Because to provide 2 million gallons on an average day basis, they may have to build a plant somewhere from 3 to 4 million gallons.

MS. RAISBECK: And will the County reimburse them

for the plant?

MR. TENGAN: Discussions on that kind of details

haven't taken place yet.

CHAIR HIRANAGA: Yes, Ken.

MR. OKAMURA: So this water treatment plant would

be for Central Maui water, right, water for Central Maui,

no?

MR. TENGAN: Yes, it's intended to supplement our

existing sources.

MR. OKAMURA: But even if this treatment plant

comes on line, it would still mean you would still not be taking any water reservations for central Maui yet. And the question would be how much source do we need so we would start to take reservations for Central Maui water?

MR. TENGAN: It would quite possibly provide sufficient capacity for the Department to accept reservations again, but I cannot give you a definite answer on that unless we know exactly that's going to be dedicated to the County or purchased by the County.

MR. OKAMURA: So this one, too, like so it would take like maybe another year before anymore source comes on



line?

MR. TENGAN: Are you talking about this particular project or other sources?

MR. OKAMURA: Both. Would this be the first source to come on line, or is there some other sources that are being developed?

MR. TENGAN: Well, we have two other projects going on right now. Which one comes in first is the horse's race. We're trying to get both the Hamakua Poko wells connected to the system. And we're also working on increasing the capacity of the Iao treatment plant.

MR. OKAMURA: Thank you.

CHAIR HIRANAGA: Any further questions? Thank you. Next agenda item is the oral report regarding acceptance of Maui Land & Pine located near Pookela Well.

MR. TENGAN: On this item here, we met with representatives from Maui Land & Pine and a consultant about two, three months ago. We just had some conceptual discussions, and other than that, I don't know what is going on with this project.

CHAIR HIRANAGA: Questions for the Director?

MS. RAISBECK: Yes. What's the proposed -- I mean  
has the well been drilled?

MR. TENGAN: No, it hasn't. Even the site hasn't  
been determined as far as I know.

MS. RAISBECK: And is there -- well, you say the  
discussions are ongoing. Is it expected that Maui Land &  
Pine will be using most of the water, some of the water for  
their own projects ahead of people on the waiting list, or  
will any excess water be available for the County to provide  
to people on the waiting list Upcountry?

MR. TENGAN: I don't know. I don't know what

they're proposing there. We just discussed preliminarily at what elevation the well should be located and what general location. Other than that, as far as the capacity of the well and all that, we have no idea what they have.

CHAIR HIRANAGA: Any further questions? Thank you. The next agenda item is the comments from the Department regarding Maui Land & Pine's petition for the reclassification of Kapalua Mauka from ag to rural.

MR. TENGAN: Mr. Chair, for the Board's information, I guess at the request of the Board, we included the response letter as part of the agenda.

CHAIR HIRANAGA: Any questions or comments

regarding the Director's letter? Seeing none, other

business. Any requests from board members regarding the

proposed agenda items?

MR. OKAMURA: One would be the Upcountry lead.

One item I think would be good to have is the update on the

Upcountry lead issue, water lead issue.

CHAIR HIRANAGA: Any other requests?

MR. OKAMURA: It doesn't really have to be a fancy

report. Just an oral report would be great, what's

happening up until that point in time like you did today

with some of these other issues, which I found to be very helpful.

CHAIR HIRANAGA: Any other requests? Next agenda

item is division reports. Any comments or questions

regarding the division reports?

MS. RAISBECK: Yeah, I note that our 12-month

average for Iao has again exceeded 18. And the four-month

average for Waihee is 4.6. So are there any -- presumably

for the winter season, we will be using less, but will the

12-month average decline from those unacceptable levels?

MR. TENGAN: Mr. Chair, Board Member Raisbeck is referring to table number 5 in the staff report. 18.03 million gallons per day is just the year-to-date monthly average. It doesn't include December or the 12-month moving average. I believe the 12-month moving average for at the end of November was something like 17.6 or 17.7 million gallons per day.

MS. RAISBECK: I'm looking at the table on page -- our number Page 5.

MR. TENGAN: That's what I'm referring to.

MS. RAISBECK: 18.03?

MR. TENGAN: Yes, that's based on 11 months and not 12 months. It's a year-to-date figure.

MS. RAISBECK: Well, where is the 12-month average figure?

MR. TENGAN: For some reason, we don't have that report in there, but I believe we sent out the report to all board members. We'll make sure that you get a copy.

MS. RAISBECK: Thank you.

CHAIR HIRANAGA: Any other questions or comments regarding division reports? If not --



MR. TENGAN: Mr. Chair, if you go to Page 22, that shows the 12-month moving average. The second to the last column has the November 30th, Iao was pumping at 18.9 million gallons per day, I mean 17.9, and Waihee was at 4.7. And I might report that for October and November, we pumped somewhat less than 4 million gallons per day at Waihee.

CHAIR HIRANAGA: I'm disappointed that Herb came late and left early because I wanted to congratulate him again. He's already looking forward to retirement.

MR. HASHIMOTO: He retired already.

CHAIR HIRANAGA: Off the record. We want to wish

everyone happy holidays, and we'll see you all next year.

Thank you. The meeting is adjourned.

(The meeting adjourned at 11:20 a.m.)

*"By Water All Things Find Life"*

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[\[Back\]](#)