

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
REGULAR BOARD MEETING
WEDNESDAY, OCTOBER 27, 2004

Held at the Kahului Shopping Center Conference Room,
65 West Kaahumanu Avenue, Kahului, Maui, Hawaii, commencing
at 9:00 a.m. on October 27, 2004.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354

A P P E A R A N C E S

CHAIRPERSON: MICHAEL VICTORINO

VICE CHAIR: KENNETH OKAMURA

BOARD MEMBERS: GINNY PARSONS

RALPH JOHANSEN

KENT M. HIRANAGA

MICHELE McLEAN

SALLY RAISBECK

CORP COUNSEL: EDWARD KUSHI, JR.

DIRECTOR: GEORGE TENGAN

BOARD SECRETARY: CATHY HOWARD

CHAIRMAN VICTORINO: I would like to call this Board of Water Supply meeting to order, our regular meeting for October 27, 2004. Present are members Michelle, Kent, Ken, Ralph, and Sally, and myself, Chair Mike. I don't usually use the last names because everybody knows their last names.

If it's okay with the board, I would like to make a motion that we allow R.W. Beck, Ann, who's here today, to give us an update on the Stakeholders

Committee progress in the water rate area. So if

this is okay --

BOARD MEMBER RAISBECK: So moved.

BOARD MEMBER McLEAN: Second.

CHAIRMAN VICTORINO: All those in favor, say

aye.

[Chorus of ayes.]

CHAIRMAN VICTORINO: We have unanimous six

votes. At this time I would like to call Ann. Ann,

would you please? And use that mike right there,

please. And welcome, Ann, thank you very much.

ANN HAJNOSZ: I believe in your packet of materials, there is some information that was passed out at the Stakeholder Committee meeting yesterday.

Okay. And this -- I just wanted to at least give you guys a chance to see what we've been doing.

This is actually a good moment to kind of give you an update because a very critical decision was made at the Stakeholder Committee meeting yesterday.

Maybe I can direct you to the Water Rates Study Schedule is probably the best one to look at so we can kind of get an overview of where we are. It

looks like this. And it's referred to as Attachment A in the packet. I believe it's the second page, right after the agenda for the Stakeholder Committee meeting.

So we're all on the same page. Okay. What this basically does is it lays out the remaining schedule for the rate study from basically now on through implementation on July 1. We're on -- we're working on finalizing the revenue requirement task, task 1, which essentially is going to determine how much of a rate increase we're going to be requesting. That percentage has been sort of moving

around as we finalize the revenue requirements.

Right now it's standing at about 11.6 percent for rate increase. I know that number is going to change.

We're working with the department. As soon as they finalize their fiscal year '06 budget, kind of crank in all the most current assumptions with regard to capital financing, as soon as they do that, we will finalize our analysis. I suspect it's going to come down, that's my gut right now, but we won't know for sure for like another month or so.

We'll also be finalizing our cost of service which really is an analysis that says when we look at all the different billing classes -- general service, ag, nonpotable -- how do their revenues relate to what their true cost of service is. And we've got information in this packet that basically shows some preliminary results for that.

The thing that we worked on the most yesterday was rate design. We looked at various rate options. And the Stakeholder Committee -- along with a lot of discussion between everyone and with my

recommendation -- decided to forego making a significant change to the rate structure and just recommend the rate increase and to use the next year to look at collecting data for customer class base rates.

Right now your rate structure is general service, ag, nonpotable. What they would like to see is more stratification within the general service rates. And so, for example, you could have a single-family rate, a multifamily rate, a commercial rate, you know, or you can have just a

single-family, multifamily, nonresidential rate.

You know, there are various options that we're going to take a look at should this recommendation be approved by the board as well as the council and the mayor.

So that is the critical thing that came out of the Stakeholders Committee meeting yesterday, that we're going to focus on the rate increase, getting that part passed. We're not going to make a change to the rate structure. And then they are going to ask for data collection to see if we can move to customer class base rates for the next fiscal year,

that would be fiscal year '07. Okay.

And the primary reasons for I think them going that direction were, number one, a large part of our efforts over the last two months have been on CIP, on, you know, what should the CIP address, what level of CIP should be completed on an annual basis, and we've spent a lot of time with the department trying to understand the process of how they choose their projects, how they implement their projects, and what should be the appropriate level of CIP.

Now, as you can imagine, determining that level

has a very significant impact on what the rate increase is going to be. And so that's why we spent quite a bit of time, you know, talking about that very issue. So the stakeholders, they focused the majority of their efforts on how we're going to get more CIP done, how we're going to get more projects out the door so we can make sure we're replacing the aging infrastructure as well as accommodating growth as necessary. That was a really big drive with the Stakeholders Committee.

So CIP was a big driver. The other thing was

-- there were three rate policy type issues that we talked about. One was we wanted to see more conservation-oriented rate structure. Right now you've got an inverted block rate structure which essentially means the more you use, the higher the rates. That's for everybody except ag. For ag it goes the first two blocks are the same as everyone else and then the third block drops significantly.

So while that is a very conservation-oriented rate structure, it all depends on where you place those rate block usage limits. And right now you

have a very low third block usage limit. And so what was suggested was maybe change those blocks or we look at some different rate structures like going to customer class rates. And in the end, that's where the majority felt let's just go to -- let's take the time get the data and instead of making sort of a minor adjustment to the rate blocks this time, let's just go for the full on customer class rates in a year, year and a half from now.

Conservation was huge. They also reaffirmed, I guess, the ongoing policy of supporting ag. So we will continue to see an ag rate that is well below

cost of service, well below, you know, what the general service is, at least on the third block.

They also reaffirmed their support for keeping in mind the low-income seniors to make sure that those lower users aren't significantly impacted by the rate increase. So we're going to try and run a few different scenarios under the current rate structure to see, you know, as much as possible we would like to protect those folks.

As you can imagine, it's not -- a lot of these policies conflict with each other, you know. If you

support ag, that means everybody else is going to pay more, you know. And so what -- to what degree do you, you know, give ag that support and yet have to ask people on fixed incomes or people who really aren't making it right now have to pay more. So we're going to be looking at those issues even within the context of maintaining the current rate structure.

Again, the focus is really on getting support for the CIP. And that's -- the way we do that is the department has put together a CIP implementation

plan that the mayor is currently reviewing. As part of the Stakeholder Committee recommendation for the rate proposal, there will be a lot of linkage to that CIP implementation plan. Because essentially what the stakeholders are saying is look, we are going to support a rate increase -- it's a significant rate increase. You know, I think the last rate increase was fiscal year '02, it was about a 3 percent, 3 or 4 percent rate increase. This time we're going to be asking for -- my guess, it's going to be at least double that, you know, so we've

got to put a lot of energy, a lot of focus on
justifying the need for that rate increase.

We know there is concern from the County
Council about the level of CIP expenditures, it's
been budgeted about the \$20 million level, we
haven't spent that much. So when we go up for a
rate increase, you know, request, they are going to
say how do you justify this, you haven't spent your
CIP. That's why we are -- we've asked the
department for a CIP implementation plan, we're
going to link those two packages together, and that
we think will increase our chances of success.

And hopefully, you know, the board will agree with that, too. That gets me back to the schedule because what we are shooting for is to come up with a rate recommendation to the board sometime in December. And after this schedule was printed, I found out that your board meeting in December is the 16th, which is about the same time the Stakeholder Committee was going to be meeting and was going to finalize that letter. So I thought I'd try to figure out how we're going to do this because ideally what we would have wanted to do was to

finalize that letter or at least at the December meeting have the stakeholders give final comments and then we would present that to you at your board meeting. But I'm not sure now that the timing is going to work. So we'll have to kind of think about how we do that.

But we definitely want -- we plan on giving this letter to you, having you review it, you know, get back to us with comments, and by the end of January it needs to go up to the mayor. That's my understanding.

Referring back to the schedule here on item 8,

what we are also planning on doing is once this

proposal goes through you and then up to the mayor,

we would like to hold some informal meetings with

various community organizations to basically roll

out the CIP and roll out the rate increase idea,

basically start getting some community feedback in

the January/early February time period. That will

give us enough time, if we need to, to submit a

budget amendment by at the end of February and then

it goes up, item 10, up to the County Council in

March.

So it's a very tight timeline. However, we think it's doable. As long as everybody knows what the requirements are and knows what's kind of coming, I think we can do this.

And then the rest of the items are pretty much the standard County Council budget review process.

We expect formal meetings, you know, later in May and their approval in June and rates go into effect July 1. So that is essentially where we are.

I'm not going to go through any of the other ones unless there are questions just because it took

us two hours to go through this yesterday. All
right?

CHAIRMAN VICTORINO: I do have one question for
you real quickly.

ANN HAJNOSZ: Sure.

CHAIRMAN VICTORINO: On the implementation
plan.

ANN HAJNOSZ: Yes.

CHAIRMAN VICTORINO: How -- I guess the
question I have is how certain is the board to make
this a reality because -- I mean the department.

Because I think that's where the big question comes up is every year we put -- and even this board has for years put money in CIP, and always the results have not correlated with the dollars put in.

And the council will not accept this implementation unless they have some assurances that it's going to be completed or at least attempted to be completed. I know there is no guarantee in anything in life, but I think that's one of the stumbling blocks I see. Putting money there, getting the job done is most paramount in this area.

How sure are we on that?

ANN HAJNOSZ: Well, it's hard to give you a percentage or probability, but I think what the department has done is gone through and looked at their CIP implementation process to a greater level of detail than they probably have in the past. And I think what's going to be important, what's going to come out of the CIP implementation plan is, number one, sort of an education for all of us as to why it takes so long to do CIP. What are sort of the key issues or roadblocks. And I think nothing

-- it's not going to be new to anyone. Staffing is the key roadblock. We can't get enough engineers in the door to help with the CIP.

So having said that, knowing that that's pretty much beyond our control, you know, we've got to look at new ways to get the CIP done. And so that's what the department has done in its CIP implementation plan to draw up some new ideas of how we can possibly engage the services of maybe contract engineers, maybe other government agencies, some real out-of-the-box type of ideas -- which may or may not work. You know, we're not -- I don't think

the department is at the point where they can say they have investigated each one of these ideas thoroughly so they can say that it will work.

There are many challenges. I mean, including can we even do this from a legal standpoint, right, corporation counsel has to weigh in on this. There may be some personnel type things, you know, liability, all kinds of issues associated with each one of these ideas. But I'm encouraged that at least we're looking at CIP implementation in a more focused way rather than just say we want a budget

for \$20 million and we only do \$5 million, nobody says anything, we ask for it again and the same thing happens. This time we're really saying we actually want \$25 million a year, we're actually asking for \$25 million this year, and we recognize that there are problems and these are some ideas of how we're going to address them. And that's really at this point the most that we can do.

But we know, Mike, we've heard from many of the council members and their staff, you guys really better have a bulletproof argument here. That's

really what we're striving to do. There is no question we're going to have to rely on their sort of -- again, sort of their faith in the department, you know, to actual do this.

So we're hoping that we're going to get your support as well because above all, what struck me with the Stakeholder Committee is their determination to support the department, help them get the CIP done. They're willing to stand up there and say we'll support a big rate increase because we realize that there are a number of capital issues

that need to be addressed. Water resources and source of supply, huge issue. Water quality, huge issue. Renewal and replacement, big issue for every utility in the country. Those three issues alone, you know, really are just driving the need for more capital. And they're willing to stand up and say we'll support a pretty significant rate increase. Even in light your past performance on CIP, we still want to give you the opportunity to demonstrate you can do more.

CHAIRMAN VICTORINO: I think you hit the nail

right on the head because the public is calling for

that. They will pay if they see quality improved,
resource availability, et cetera. If it's not
there, then they are going to balk at any rate
increase no matter what plan you put in front of
them.

So I think in this case we really have got to
stand together with the department or more
importantly the department, when we get this plan
together, has got to make sure it works, somehow
some way, the department has got to ensure this
works. Because if not, the next time we walk in for

a rate increase, not only the council but the

general public will shoot it down. I don't care

who's up there saying we need it.

I'll open the floor for questions. And I

apologize -- let me say one more thing. And thank

you very much, you've done a great job and the

stakeholders have been doing a fabulous job. I

follow up with the meetings and all that so I see

these guys work very, very hard and they bring a lot

to the table. I appreciate that. I think the whole

board does.

Anyhow, questions, ladies and gentlemen? Okay,

Ken, you get first. And may I make one suggestion?

Can we kind of stay on the subject matter? Because

I don't want to get too far into other things

because again, the report hasn't been finalized, so

try and keep it within the subject matter.

BOARD MEMBER OKAMURA: Thank you very much for

coming. Good to have you here and bring us up to

speed, seeing as how we're going to have to sort of

approve some kind of document.

When you spoke about three blocks, can you

briefly explain -- I think I know that, but --

ANN HAJNOSZ: Sure. There is a page in here --

BOARD MEMBER OKAMURA: I didn't get to see the
review.

ANN HAJNOSZ: I think what I can do is point
you to -- it's Attachment C, page 6. It looks like
this. Is everybody on that page? If you look at
the first sort of -- the first part of the page,
you'll see that you've got your first block, second
block, third block, and that's what I am referring
to.

BOARD MEMBER OKAMURA: How do you justify the

first block to the second block? What are the changes?

ANN HAJNOSZ: Typically what we like to do is look at the first block and kind of see that as sort of a life line block, okay. And if you look below, the blocks at the top are the current Maui blocks. The blocks below are the Kauai blocks. So you can see there is a pretty significant difference. But typically we like to look at the first block as sort of a life line block or an average use block, okay, it can vary, depending on what the utility wants to

do.

Second block could be either average or maybe slightly above average, okay, in terms of usage.

Third block is typically reserved for high, high users, okay, and that's the block where we like to see people really paying attention to what they're

using with regard to water. You know, there is

typically what we're seeing on Maui is average use

for a 5/8" meter about 33,000 gallons for bi-monthly

period. That's almost 50 percent higher than any

other county in the state for a 5/8" meter. So it's

very high usage here on Maui.

You couple that with a third block of only
25,000 gallons, you know, for bi-monthly period and
all -- you know, a lot of high users are over that
third block.

BOARD MEMBER OKAMURA: That brings us to the
next question which was customer class. The main
reason you didn't get into trying to develop
customer classes is you figured there was not enough
time to do it.

ANN HAJNOSZ: There was not enough data. We do

not have data to even figure out who should be single-family, who should be multifamily, who should be commercial. It really became apparent that we do not have that kind of data. It's not collected, it's not necessary. Your billing classes are not like that right now. So we had have some very -- you know, the quality of the data was pretty poor, but it was good enough for estimating maybe where we would be. But we just don't want to go -- we can't move there that fast.

BOARD MEMBER OKAMURA: Okay. Thanks. The last

question was regarding this 5/8" meter usage, you

said 33,000 gallons was the average for Maui. What do you suppose would be the reason for that?

ANN HAJNOSZ: What I've been hearing is we've got some pretty high users on a 5/8" meter on big parcels of land.

If you look at Kauai and Honolulu, for example, for obvious reasons Honolulu is very dense, you're not going to have a lot of usage, irrigation-type usage in Honolulu just because of the relative density. Kauai, you're not going to have as many large parcel, large residential parcels. It's a

smaller community, half the -- you've got half the number of customers on Kauai that you have here.

Big Island, you've got sort of the Hilo side where

it's very wet so you're not going to have high usage

even though there may be big property, coupled with

the Kona side which is pretty dry with big

properties. But on average, the Big Island is

looking very much like Kauai and Honolulu. And then

there is Maui, which basically what I'm hearing has

a large number of residential properties with big

lawns and they like to keep them green and that's

really been driving up the usage on Maui.

BOARD MEMBER OKAMURA: So you see a problem

here or that something needs to be done about that?

ANN HAJNOSZ: It's not so much a problem as it

is I think we need to recognize that's what our

usage pattern is on Maui. And then if conservation

is a big issue, which I'm hearing it is, you know,

you want to say how can we curb usage at that higher

level. Well, you basically put in a very

conservation oriented rate structure to do that.

That goes hand in hand with the CIP issue,

especially on the water resources side because to the degree you cut backwater usage, that's like new source of supply, right? It's a fairly inexpensive way to get new source by just asking the high users to, for example, can we not plant just all grass and maybe we can plant some other landscaping that doesn't require as much water, you know, simple as that.

BOARD MEMBER OKAMURA: Anyway, thank you very much for this information. But I also feel that getting to customer classes is very important.

ANN HAJNOSZ: Honolulu has customer classes.

They're the only other county that has customer
classes.

CHAIRMAN VICTORINO: Okay. Kent, you had a
question? Okay, go ahead, Sally.

BOARD MEMBER RAISBECK: Thank you. Hi. Very
good to see you here, Ann, and thank you. My
question -- I had a question which is I, like Ken,
am disappointed that you weren't able to get to
customer class, there wasn't time, there wasn't
data.

First of all, about the data, was any

discussion done about the possibility of using the
tax information? Because every property is
classified for the tax information.

ANN HAJNOSZ: We looked at that, actually. The
department has a consultant that has been helping
them with sort of more like specific data issues,
looking at tax map key data. Is that what you're
referring to?

BOARD MEMBER RAISBECK: Yeah, I mean, each
property has --

ANN HAJNOSZ: In discussions with him, his

feeling was that data was not sufficient, it was not

-- the quality of the data really wasn't complete or

there were some issues with not having good data to

be able to move to customer classes right away. And

this -- this is Haiku Design Analysis, he's done

quite a bit of research in working with the

department on various aspects of collecting data for

their whole customer base. So he's pretty

knowledgeable. So we've been talking to him about,

you know, we talked to him at the outset because we

knew that there was some interest from the

stakeholders to move to customer class rates. So

what we did was we talked to Honolulu Board of Water

Supply, got some information from them to use sort

of as a surrogate for the Maui customer data.

Because, you know, your data is all by general

service, ag, nonpotable. We needed to kind of

stratify that to single-family, multifamily,

nonresidential. And we used Honolulu data plus the

data from Haiku to help us do that. But the

confidence level with that data is not very high.

What we really need to do is essentially get

information from every single customer to be able to

correctly assign them to the right customer class.

BOARD MEMBER RAISBECK: Okay. Now, you say

that over the coming year it would be possible to do

-- to get more data and to present a bit of proposal

for customer class. Do you have a contract to do

that yet or would that be part --

ANN HAJNOSZ: Oh, no. I think, you know, I was

thinking about this this morning, we need to --

we're going to be talking about it, there is no

question about it, in the next weeks and months,

about how we would do that. But I think until the

County Council approves this, you know, and I still have to talk to George to really confirm all this, but I'm not sure at what point we move forward with something like that.

But, you know, we've got a pretty good contracting place right now to assist the department to look at varied aspects. And that could include looking at what kind of data on a preliminary basis what is needed. So I don't think we need to talk about a contract yet. I feel pretty comfortable, we've got enough right now that we can do some

preliminary discussions. And then, you know, I'm not quite sure, what happens if the County Council you know rejects the whole package, you know, where do we go then. I haven't thought it out that far.

BOARD MEMBER RAISBECK: Okay. So the answer really would be that a full on customer class study would probably require a contract extension, but that would be something the council would have to do and that would only happen if they were satisfied with this recommendation.

ANN HAJNOSZ: Well, I'm not exactly sure. But

those are some of the things that I've been thinking about. Really, how is this all going to work. It might not necessarily be Beck that does this part of it. I don't know.

BOARD MEMBER RAISBECK: Seems like it would be reinventing the wheel.

ANN HAJNOSZ: Sally, I just don't know. We haven't got that far.

BOARD MEMBER RAISBECK: Are you recommending that the rates rise initially and then stay the same, or will there be a rise every year?

ANN HAJNOSZ: We would like to prepare a

five-year rate schedule, knowing that, you know, the County Council only approves one year, right, they're not going to approve five years worth of rates. That's what we've been hearing, even though in the past I know that's how it's been. We're going to put together a five-year rate schedule, but what we've been told is chances are they're only go to approve one year. Which is fine, I mean, because if fiscal year '07 we go to customer class rates, that may look different. I'm sure that will look different.

BOARD MEMBER RAISBECK: One other -- this is more to the board than to you -- is that I think it would be very important for the board to be able to improve or discuss their proposal the minute it comes -- I mean, very soon after it comes to us and December is a bad month, we were talking about that earlier. But I would certainly love to see us get at it quickly in December if that's when they present it to us. Thank you, Mr. Chair.

CHAIRMAN VICTORINO: Any other questions? If not -- oh, go ahead, I'm sorry. Kent?

BOARD MEMBER HIRANAGA: Hi. I guess one

comment, I believe I agree with Ann that using the
real property tax designation would be inappropriate
because, for instance, if people are in ag
classified land, they would qualify for ag rates
even though they're not involved in ag use. They
could be an ag subdivision, they have a swimming
pool, have no agricultural activity, and be
qualified for a discounted rate. So I think there
would be problems using the real property tax
designations.

My other question was is there a precedence for this low income seniors classification? Is that being used elsewhere?

ANN HAJNOSZ: We're not suggesting that there be a customer class for low income or seniors. What we're suggesting is basically can we take a look and pay attention to what the rate -- the new rate structure or the rate increases might do to people of lower means or seniors that typically are going to use smaller amounts of water. So that basically means we're going to take a look at the life line rate, so sort of making sure that that first block,

you know, supports that policy.

So we're not necessarily going to have a senior rate or a senior discount or a low income rate or low income discount, at least that's not what's on the table right now. It's really just a policy to keep that group of customers, you know, in our mind as we're going through and evaluating things. So for example, we're not going not only going to make sure that ag gets the discount, but let's balance that with hey, maybe ag won't get as big of a discount any more because we want to make sure that

people on the low usage side also don't get hit with an above average rate increase. So it's really more of a balancing act.

MR. HIRANAGA: I guess my concern was I don't -- the generalization that seniors use less water may not be accurate because I think there are seniors that use a lot of water. For instance, my parents, since they retired, they wanted to make their yard really nice, they probably use a lot more water now than they did when they were working.

ANN HAJNOSZ: I hear you, believe me. I think

there is some concern about seniors being almost penalized -- this I'm sure maybe it's really a small part of the senior population, for example, high bathing needs, they're sick or ill or something and the concern was let's not penalize those people because they have high water usage because they're ill, you know. But of course you could stratify to every single customer, you know, and where do you draw the line?

We have somebody else on the committee that represents the senior and the low means people and

it's a valid concern, I think the Stakeholder Committee is very open to keeping that in the forefront. And so it really came down to CIP, conservation, ag, and low income seniors, those are the four keys that we're focusing on. And of course, those are going to get various degrees of attention, but we just want to make sure we keep those in the forefront.

CHAIRMAN VICTORINO: Thank you, Ann. In closing I'll say that, again, thank you very much for this update, we really appreciate that.

Also, Sally, I will do the best to put on

whatever agenda we can in the upcoming future as soon as I can get from them to us, we will put it on the agenda. The real challenge is the timing and I think that's going to be the real challenge.

Secondly, I agree with everyone in this room that water resources and the plan we put and implement now, whether it's -- not only the rate but the class structures and all that, it's going to be pivotal for our future. For the longest time Maui has just trotted along being Maui. And we've got to think out of the box and we've got to look at where

we need to go and -- where we're heading, first of all, and where we need to go. And I think this is a great opportunity for this board, the stakeholders, and the public to get a better understanding what's really happening out there. And I think the department will only benefit from this, all of you, because now your needs will be publicized, whether you're talking engineers, you're talking technicians, you're talking people in the chemistry lab, I don't care what you're referring to. If there is a critical shortage which is holding up the

things needed done for CIP and other areas, I think
now we can let the public know and maybe in the
outcry we'll get some results because you guys have
been hampered by legalities and contractual
agreements, et cetera. So hopefully this will all
put it together. Thank you again, Ann, and thank
you all.

BOARD MEMBER RAISBECK: One more question. I
was present at the meeting when the Stakeholders
Committee voted to have -- to set the CIP annual
expenditure at \$25 million even though the

department really wanted less than that. Are they
still recommending the \$25 million?

ANN HAJNOSZ: Yes.

BOARD MEMBER RAISBECK: There has been no
change?

ANN HAJNOSZ: Yes. And they are tying that to
the CIP implementation plan.

BOARD MEMBER RAISBECK: Thank you.

MEMBER HIRANAGA: Chair, may I say something?
Just to add to your comment, I think the greatest
challenge for the department and for this rate
increase is the ability to spend the money. And

that relates to staffing and which relates to the wages that they're paid. And I think that's the biggest challenge for the chairman, the director, and the mayor is somehow to change this situation which has gone on forever, that you cannot -- even if you increase the number of heads, if you don't increase the wages, you're not going to fill the vacancies that you have. That power has been removed from the Board of Water Supply because of the charter change and so now the responsibility falls on the different entities within our

government. But until you address that issue, I
can't see it changing with the amount of
expenditures actually being applied.

CHAIRMAN VICTORINO: And you're absolutely
right, Ken. I think also Ann mentioned that looking
outside of the box and contractually hiring
engineers -- and there are other possibilities. But
I won't go into that because those will need
attorneys and corp counsel and all these people to
sit in on all these things. But I agree with you
and I think the council chair and the water resource

chairman have been more than willing to sit down
with the mayor and whoever else because we've been
talking about this over the last few months that the
critical shortage cannot be addressed unless we do
something immediately or else we're going to keep
falling behind further and further.

Anyhow, not to keep the discussion rolling, but
thank you, Ann, and thank you all, board members,
for your comments.

Before I go back to the agenda, I just want to
make one more quick comment. Those of us who

attended the conference in Makena at the Maui Prince
last week I think picked up a lot of valuable
information. Almost everybody in this room attended
one day or two -- like myself, I was there all three
days. And I really was able to grasp and understand
a lot of things that are occurring around us. The
biggest thing was the Water Usage Plan that Maui
County has not truly adopted and we'll be talking
about that a little bit later.

But if we want control and we want the ability
to take care of our water resources, we have to
start acting very quickly and that was very apparent

at the conference, along with a lot of other areas.

You know, the watershed presentation was very

excellent. He has called me and I will put him on

the agenda in the very near future because he wants

to give a presentation to all the board members

because it is so critical, our watershed issues.

I want to also congratulate Jeff Pearson and

his committee and the entire staff and management

because every one of them worked so hard. The

dinner was fabulous. Those that didn't come, you

missed out on a great luau because that luau was

prepared by the department people. It wasn't something we catered. They went out and did it. They cooked everything. And it was a fabulous dinner. I think Kent, you were there, right, I think you were there, you and I were the only ones there. But you missed out on great entertainment and great food. Sorry, Sally, I'm not picking on you.

But no, I want to congratulate Jeff, George, and the entire staff and management of the department of the Maui department because they did a

fabulous job.

Kent, go ahead.

BOARD MEMBER HIRANAGA: I just wanted to add that this is my fourth HWWA conference that I attended and it was by far the best that I've attended. It was really good and I really enjoyed it, it was a great job. Too bad we have to wait another four years for it to come back to Maui.

CHAIRMAN VICTORINO: But George don't mind waiting four more years, right, George? A lot of work. And Jeff did a fabulous job. So again, if

you see any of the staff and all of the staff back

there, they did a great job. Also moderating, thank

you guys very much for moderating the conference.

One more thing and this is just -- and we'll

get into the next agenda. All of you have received

the HWEA and the HAWWA and the HSCE joint water --

2004 Water Reuse Conference, okay, please get that

in as soon as possible. This will also later on in

the concerns and agenda, we're going to have to look

at changing our board meeting for November because

this comes smack into what we had originally planned

on. We'll discuss that further.

Let me get back on track and get back to the agenda itself. I will call for the approval of minutes.

BOARD MEMBER OKAMURA: So moved.

CHAIRMAN VICTORINO: It's been moved. Got a second?

BOARD MEMBER JOHANSEN: Second.

CHAIRMAN VICTORINO: It's been moved and seconded. Any questions, additions, deletions?

Yes, Michele.

BOARD MEMBER McLEAN: Thank you, Mr. Chair. On

the September 21st meeting, I just had one correction. On page 70, line 18, of the September 21st meeting, it says a draft referral and it should be direct referral, not draft.

CHAIRMAN VICTORINO: Okay. Anything else?

Seeing none, all those in favor of approving the minutes as submitted with the corrections, say aye.

[Chorus of ayes.]

CHAIRMAN VICTORINO: Opposed?

[None.]

CHAIRMAN VICTORINO: Okay. We're going to

publish testimony. Is there any public testimony today? Written testimony. Has everybody had an opportunity to review the written testimony? Why don't we take a five-minute break and give you an opportunity to rest.

(Brief recess.)

CHAIRMAN VICTORINO: Call this meeting back to order, please. Okay. We're now on agenda item -- we're on public testimony. We have had a transmittal from Council Chair Dain Kane. Any comments on that transmittal? Sally?

BOARD MEMBER RAISBECK: I guess I didn't read it carefully. I thought it was from Dain Kane and it says on the agenda that it's from Wayne Nishiki.

CHAIRMAN VICTORINO: No, no, the testimony came from Dain, that e-mail came from Dain.

BOARD MEMBER RAISBECK: And we have something from Wayne Nishiki?

CHAIRMAN VICTORINO: That's correct, but that will be on the agenda item. If not, we'll just go on.

BOARD MEMBER RAISBECK: I read it and I wondered if Mr. Kushi would comment about his first

question, whether that 1990 -- he seems to think that the 1990 Water Use and Development Plan is not in effect. And I wondered where that came from because we were always told that the 1990 plan was in effect, but the draft from 1992 was not. So I wondered, you know, why it says it appears unclear. But he says the state rejected the 1990 one. So I didn't know if that's true.

MR. KUSHI: I'll defer to Ellen.

MS. KRAFTSOW: The 1990 plan went through the full approval process, through the board, council,

and state. The 1992 plan did not go through the full process. And in 1992 when the State Water Commission reviewed all of the County's 1992 plans, it determined that it needed to issue guidelines, a framework for updating the Hawaii water plan.

However, I would like to say that the 1990 and the 1992 plans were done on the 1990 community plan update which was finished actually at the very late '80s. And that since that time, the community plan update -- the current community plan update was not completed until 2002, and the general plan has still

not been updated.

And so actually, part of one of the triggers of updating the Water Use and Development Plan is an update of the general and community plan. So we've done two full rounds, 1990 and 1992, on the old community plans. And the new community plans having just been finished, we did issue a contract.

Now, in terms of where we are with that contract, we have a consultant that has populated a demand model. He has done demand forecast for every district, several sources. He has been looking at

existing system status and certain aspects of
financial and operational costs --

BOARD MEMBER RAISBECK: Can I interrupt for
just a minute? The question I really was asking was
slightly different here. The question I was asking
was is Dain correct that the 1990 plan was rejected
by the state?

MS. KRAFTSOW: No. The 1992 plans were
rejected by the state. I don't know what -- I don't
see here in his letter, but the 1990 plan was fully
accepted. The 1992 plans were rejected.

BOARD MEMBER RAISBECK: He says the WUDP was

originally adopted in 1990. However, the state rejected this WUDP. So we ought to send him a letter if that's not true. If it's not true that they rejected the 1990 one, we ought to let him know.

MS. KRAFTSOW: The 1992 was rejected by all counties.

CHAIRMAN VICTORINO: So just to get the clarification on this communication. The 1990 water use plan was accepted by all entities.

MS. KRAFTSOW: Yes.

CHAIRMAN VICTORINO: In 1992, the update was sent out, the state subsequently rejected that and also issued guidelines shortly thereafter -- no, when was the guidelines asked for?

MS. KRAFTSOW: 2000.

CHAIRMAN VICTORINO: 2000. Okay. I guess the communication would be, first, 1990 is and was accepted. And so my question then is is the 1990 Maui County Water Use and Development Plan still in effect?

MS. KRAFTSOW: That would be a modified yes.

That plan was fully approved and accepted.

Obviously it's somewhat outdated. The commission would be aware of this. There have been other efforts, including a 1992 plan which the state would still pay attention to even though it's rejected. They wouldn't use it formally in the way that they would use the 1990 plan.

Then in addition to that, there have been two working group efforts. The final report of the Molokai Water Group was in 1995. And the final report of the Lanai water working group was in 1997.

And those working group reports for Molokai and Lanai serve as the Interim Water Use and Development Plan.

In addition, there is a Draft Water Use and Development Plan for the [inaudible] which we're making changes to before we make it public.

CHAIRMAN VICTORINO: Okay. So I guess the answer to the question is 1990 Maui County Water Use and Development Plan is in effect, was accepted, and is a valid plan at this time. I mean, whether it's updated or not, that's not my question. Is it a valid --

MS. KRAFTSOW: It was a valid --

CHAIRMAN VICTORINO: Okay. So then we can

correct Dain on that one. We'll get into further

discussions in our communication from Wayne Nishiki.

That's why I didn't you to go on that one. Why

don't you just sit there because we're going to get

there next.

Are you satisfied with that answer, Sally?

BOARD MEMBER RAISBECK: Yes.

CHAIRMAN VICTORINO: And I will make sure a

communication goes to Dain in regards to that

correction.

MS. KRAFTSOW: Can I add one more thing? When I have asked the commission what they would consider, they said that they would consider all of the plans at this point.

CHAIRMAN VICTORINO: Okay. Well, let's get into discussion when we go into the agenda item, yeah? Okay.

No other further public testimony. We're just staying on public testimony. I don't want to -- and then we'll go into this whole issue after this,

okay?

If not, we'll move on to agenda item. We move on to Communication 04-12, letter from Wayne Nishiki, Chair, Planning and Land Use Committee, requesting the board to advise the committee on the policy implications of the proposal to incorporate the Water Use Development Plan into the General Plan. You all have that on pages 3 and 4?

I open the floor for discussion. I think at this time, Ellen, would you kindly -- this is where I think we can use to help you, Ken. Would you

kindly give us an update what has been occurring

since 1990, '92, what has transpired -- I think this

is the appropriate place to put it now.

MS. KRAFTSOW: In 1995, the final report of the
Molokai working group. In 1996, a big long capital
plan --

BOARD MEMBER OKAMURA: Mr. Chair, point of
order, I cannot hear what she said.

CHAIRMAN VICTORINO: Can you start from the
beginning?

MS. KRAFTSOW: Okay. In 1992, the state
determined that it was not going to accept any of

the county water use and development plans and
instead it would issue a framework for updating the
Hawaii Water Plan.

In 1995, the state and county worked with a
working group in Molokai and the final report of the
Molokai water working group from 1995 is the interim
water use and development plan for Molokai.

And in 1997, a similar working group report for
Lanai was written which is also the interim water
use and development plan for Lanai.

In the year 2000, the framework for updating

the Hawaii water plan was passed. And in the year
2002, the community plan update was completed.

However, the general plan update has still not
occurred.

We did issue contracts in 2001 and 2002 to
update the Water Use and Development Plan for Maui
County. At this point all the work that has been
going on has been background research. One very
large issue has been dealing with our billing,
customer class district, and just consumption data
from Honolulu and getting it into a format where it

can be used for planning. Another has been an intensive review of our production records. Based on the approved data the demand forecasts have been run for all districts. Some effort has been made to establish costs of operating different kinds of sources and different systems. All of this has been by way of preparation for the public process.

Public process we had hoped to have started already by now. Our facilitator, who we had hired a very excellent facilitator named Peter Adler who unfortunately moved to the Mainland and when we

contacted him to fulfill his contract, wanted us to pay Mainland travel expenses. And the contract did say that we would cover expenses, but that was written assuming he was living in Hawaii. And so right now we have sent a corporation counsel a request to see if we can just reassign the contract to another party that's located in Hawaii or we will have to subcontract. Otherwise, we lose all the funds that were encumbered.

So the public process we're prepared for and we would like to be starting as soon as possible. So I don't think that, you know, when the statement that

the Water Use and Development Plan hasn't been updated in 15 years, that's true and not true. And also, one has to consider the status of the community plans and general plans themselves when making a statement like that. It seems to me to be a little bit of an extreme thing to say without context.

Still, coordination between the Water Use and Development Plan and the general plan is important. My personal feeling, I don't know what exactly what format he's talking about having this coordination

take. I think that the Water Use and Development Plan has enough important issues and there were enough inconsistencies between the community plans that were just passed. For instance, South Maui plan says we need to grow and the rate of growth and the amount of lands that were designated for growth would demand that we get water either from surface water sources or from East Maui or more likely both. And the plan said we should take the water from East Maui, and yet the plans on East Maui for both Upcountry and Paia/Haiku say the water should not be

taken out of the region. These plans are

inconsistent and yet they were both passed.

We're required to comply with these plans.

Those issues have to be asked during the update

process. There are other issues that are policy

issues, things like at what point is water actually

committed to a project. Obviously we make no

commitment until a meter is issued. That also be

could changed, but there are implications and there

would be costs to changing such a policy. Fire

protection, reliability, there are many, many policy

issues that water has so that it really -- and the state defines it as a full general planning IRP process for water plan.

So I think it should be coordinated. We've spoken with long-range planning over in the planning department and we would like to attend all of their general planning meetings and they would like to attend all of our Water Use and Development Plan meetings. I think coordination is important. But specifically what define coordination he's recommending, I don't know.

As far as the items, some of the things he's

legislating on are in the code anyway. And it looks like he might be just trying to bring the code -- the county code consistent with the state water code because the state water code is much more specific about the water use and development plans than the county code.

Also, the updated Hawaii framework for updating the Hawaii water use and development plan of 2000 requires a much more intensive public process than what county code currently stipulates.

So it looks like one of the issues is just to

bring the county code into focus and into consistency with these other guidelines. I don't know what else is intended beyond that. I think that these are all important issues and there are actually even more issues that we're required to cover. But what -- you know, what format it takes -- what I would personally like to do in the best of all possible worlds is proceed with we have a really good contract design and proceed with the update and learn from -- I'm sure we're going to make mistakes along the way and then we could really fine tune the

county code appropriately.

But I think that all the things he's listing as being included seem pretty reasonable and in fact maybe some more things. That list is on page two of this e-mail, I guess, which is part of your discussion. Those items, you know, the first three are straight out of the state water code and we are required to use multiple forecasts. We are required to look at customer classes and districts. We are required --

BOARD MEMBER RAISBECK: Could you go a little

slower?

MS. KRAFTSOW: We are required to use multiple forecasts. We are required to look at, to the extent possible, customer classes and districts and alternate sources of water, conservation and supply side management and demand side management issues.

So there is nothing here that I find untoward.

Allocation to land use is one of the key components that the water use and development plan is required to meet and that is in fact why it goes through Council.

So there is nothing in what he wants to include

that I find objectionable. I can't help but react a little to the statements about how we're so far behind when I feel that in the scheme of things we're not. I mean, in the context of when these plans were updated and their inconsistencies and all that. But that of course is natural staff reaction there.

Coordination is a good idea. Again, it depends what form that takes. I should note also that our process was approved in February by the state water commission with a lot of positive comment. And our

process was also approved by the County Council some months back. And we had submitted a letter to County Council requesting to approve our process back in Dave Craddick's time and we're only just able to present it I think in April of this year. So maybe a year before Dave left. So that I won't blame any delays on that, but we've been working in good faith.

CHAIRMAN VICTORINO: Can I say those of us who were at the meeting Friday when the deputy director for Land and Natural Resources was referring to this

county water usage and development plans for all the counties, one interesting fact was brought up -- and Mr. Kushi, you were there. I think the point that hit me really hard was the fact that we, without a valid county water use and development plan, are sometime at the mercy of people wanting to use allocations of water. Because if we have a valid plan, according to [inaudible] the case up in Waihee, that the plan is something we can model with and use as a legal justification for denial or acceptance if it follows the usage for which that

designated plan was originally set up for. Without it, we're kind of at the mercy of that person with their rights to withdraw water from the aquifer.

And if I'm paraphrasing this incorrectly, Mr. Kushi, please correct me. But I think it became very apparent without a valid county water use and development plan, the County of Maui is really at the mercy of whomever wants to get water from wherever within a valid point. Now, am I correct in my assessment of that? And then I'll quote this also. If it's not a designated area, okay. If it has been designated by the state committee, water

use commission, then it's a different scenario. But these are areas that are nondesignated.

Now, if I've done it incorrectly, Mr. Kushi, I apologize, but am I paraphrasing it more or less in the right frame of text?

MR. KUSHI: Mr. Chair and Ellen, chime in if you think I'm -- what I thought was said is wrong.

I was there when Yvonne Izu, who was the deputy director for the state water commission, did her spiel. And what I got under it, she placed the emphasis on each of the counties' water use and

development plan. So in the context of a designated area, once an area aquifer is designated, then through the permit process the commission will look not only to its statutory priority list, et cetera, that prioritization pursuant to statute, but also to the county's plan.

She brought up what I think you're talking about is somebody who had applied for a well permit in the Waihee aquifer. And I believe she didn't reference the county's water use and development plan per se, but she referred to the common right of

this doctrine called coral tech rights, which is a common law doctrine. Once an area is designated pursuant to statute, common law leaves the room. Then you go into these various prioritizations.

But since the Waihee aquifer is not yet designated, I believe the commission felt, or the staff did, that they had no choice but to allow that permit.

CHAIRMAN VICTORINO: Okay. And I'm going to agree with you up to that point, but I thought I took the point where if we had a Maui County Water

Use and Development Plan in place, accepted, that
that also gave us the rights beyond this common law
and what you're referring to, that we have a plan
and if it doesn't fit within that plan, denial could
be made.

MR. KUSHI: I didn't think she was referencing
the status of a plan in nondesignated areas.

CHAIRMAN VICTORINO: That's what I took and --

MR. KUSHI: Ellen, I may be wrong.

MS. KRAFTSOW: Actually, you know, it's a
disagreement that I have with the commission staff
and I'm not a lawyer, but I'm always thinking I need

to read the code again because when I read the code,

I read it that they have not broad discretion, but

discretion when an aquifer seems to be approaching a

problem, to do whatever means are necessary to

protect that aquifer.

We did object to -- since the November 2002

designation hearings when they did [inaudible] for

us, at the same time since then they approved four

additional aquifers in the region -- five -- I'm

sorry, not aquifers, wells, five additional wells in

the area. And we wrote -- we had written objecting

to the approval of these wells. And their response was we can't because it's not designated. Which I don't agree, I think that the code gives them the authority when there is a potential problem even in nondesignated areas. But I have to go over that with Ed and explain why I think that and find out if I'm right or wrong with a real lawyer.

However, the code also stipulates that there be a water use and development plan. It's not clear to me why she's saying that they would, if we had one, use it. The 1990 plan did talk about developing

water in Haiku. It did. And it was a passed plan.

And it doesn't seem to ever come up as waived in any

of their decision making in that way.

So it's a good point, it is a point that Yvonne is making again and again I think in part because the only counties that have embarked on the water use and development planning process are ourselves and Honolulu. We were actually the first to present our proposed process and Honolulu came shortly thereafter. But Honolulu is further along in the public process. They have already been going out.

So we're kind of neck and neck with them. But the other two counties haven't even started. And I think we're going to just keep hearing that message until all four counties have water use and development plans.

CHAIRMAN VICTORINO: I guess the point I'm trying to make -- and I wish the board members were there when she presented this -- is the fact that she's saying if we have a valid water use and development plan on line, I mean a valid plan updated, following their guidelines, and pretty much that's what she said, that when we go to them and

say hey, we have these reasons why we won't allow these wells, if that plan is not being followed through, then they would deny the well. Basically that's my understanding. And Ellen, if I am wrong, but that's what I heard her saying.

MS. KRAFTSOW: I do think that's what she's saying and I think if the time comes, we should definitely remind her of that.

But meanwhile I think there are other ways. One of the issues that I would like to and plan to discuss with the water use advisory committee --

with the water advisory committee in the water use and development plan process is whether the county needs or should have its own approval process for source development. Because the county charter assigns protection of water resources of the county to the water department. Water resources of the county -- I've talked to several lawyers about this, I've heard them say yes, that's everything in the county, and then I've heard them say no, that's only things that are owned by the county. So the charter itself is unclear.

Then if the charter is to be interpreted that we have to protect water resources for the county, how can we do that when we don't get data reporting. I mean, it's virtually -- the last update that we have, I can't even -- for Lahaina for groundwater, let alone for surface water. It's maddening. And that's because they're under staffed. And if we had a county approval process, we would be possibly getting the data and having a little bit more say. So there are many ways to skin that cat, although that's a horrible expression.

CHAIRMAN VICTORINO: I guess what I'm trying to emphasize to the board members -- and again I reiterate I wish you were there to hear her speak -- is the fact that there is a lot of importance of getting this Maui County Water Use and Development Plan developed, on line, and as a true plan, accepted by not only the county but by the state, because they will use it to our advantage when necessary. Without it, she's saying that [inaudible] can come, like in those five wells, when you come back and there is no compelling evidence, they will approve it.

MS. KRAFTSOW: I hope they really do that.

CHAIRMAN VICTORINO: But I mean that's what she said that day. And I just wanted to make sure -- I wish all of you were there to hear what I heard.

Because it became like, wow, this is a real urgent situation, amongst all the other urgencies we have, this water use and development plan is a big factor in where this county will go in the future. Okay.

I'm sorry, go ahead, Sally.

BOARD MEMBER RAISBECK: I apologize for not being at those meetings but I was in Honolulu when

my sister was having an operation.

I have been under the impression for a long time that, as Ellen says, the state commission probably has powers in nondesignated areas that they choose not to use. I mean, they choose to interpret the code as saying their authority exists in a different way in designated areas and they really don't want to assert any authority in nondesignated areas. But to me that's their interpretation of the code and maybe not the right interpretation.

Anyway, obviously it's one thing that could

take care of the situation in Waihee is if they were to designate Waihee, then they would have the power to control private wells in Waihee. And if we think that's a good idea, I think we should work a little harder at convincing the state commission to designate Waihee because when it originally came up, the department was opposed to it. And we may have changed our minds, but I don't know how strongly we have made that argument to them.

The board could send a letter to the state water commission, urging them to designate Waihee

for exactly the reasons you were talking about. And

I would -- if the rest of the board felt that way, I

think that would be a good way to go.

CHAIRMAN VICTORINO: Any other comments? Ken?

BOARD MEMBER OKAMURA: Thank you. I was

concerned regarding Wayne Nishiki's request from us.

And because this issue of the general plan was

brought -- sent to Wayne Nishiki's committee from

Dain Kane. I guess generally they're trying to

improve the planning process, the general plan

process. And I think one main ingredient which the

board found or discovered last week is that it's

very important if you're trying to coordinate the water with the planning process because like the planning commission members said last week or the other week that they don't have any idea what the water requirements would be or the limits are and so they're approving these requests for approval that come before them. And so water right now it seems is not part of the planning process or whatever. And I think that is a concern of Dain Kane when he asked the land use committee to address the three issues.

And Ellen, I wanted your maybe feedback on these three issues. One is the role of the Department of Water Supply in the general plan updating process. And the other two are written. So if you could answer, give us some of your insight into these matters.

MS. KRAFTSOW: Sure. I think that the role of the Department of Water Supply, I think in the community plan updates we were invited to specific meetings and when other meetings were held we were not always invited or we would call or we didn't

know. So maybe we could have been a little bit more
avid at attending all meetings. At that time,
though, there were -- some of the times only one
staff and sometimes two, so it was kind of hard to
be at every meeting. But I think that with the
general plan it's important enough that we should be
attending every meeting and working very closely
with long-range -- with county planning department
staff.

And I think similarly, we should request that
planning have both long-range and current planning

staff at all water use and development meetings so that we can both play a more active role in each other's updates.

But I think that we are one of many concerns that the general plan has to consider. Water is a huge issue. But it's only one huge issue versus quality of life and the economy and other, you know, air quality, infrastructure, housing, transportation, all of that has to go into the general plan. So I think that we should play a role by being present and letting them know what the water implications of their decisions are and how

that would affect our plan.

We have said at meetings of the planning commission that right now the pace at which approvals are being made, it is difficult for us with our current financial structure to keep up. So either our financial structure has to change or development has to slow down. We can't keep up at the current pace with our current staffing.

So I think that those kinds of statements can be made clearly in the planning process and explained why. I don't know what else I can say

about that. I think we should be involved with them.

In terms of incorporating the water use and development plan into the general plan, I could see -- I think that the water use and development plan process should not wait for this. I think it should proceed. It was approved by the state and by the Council already and it's a good process and it involves a lot of very -- there are a lot of very deep questions just on water alone and I think we would best deal with those through the IRP like

process that's been designed and then having had
planning department involvement and review and
sending it to Council, I think that once it's
approved it could be incorporated as an appendix to
the general plan in addition to hopefully helping to
resolve some of the community plan discrepancies.

In terms of improving process for updating and
revising the water use and development plan, there
is a County Code 2.8A and 2.9, actually -- I think
there is something also in 2.9, I don't remember.
But anyway, those are out of date and I think that

in terms of that process, he's talking about

updating.

In terms of our proposed process -- I don't

know that actually seen it in action and I think

that, you know, some of it will be difficult, for

instance, with upcountry and central Maui's

committees being combined, we've had well over 80

respondents who have expressed interest in

participating in that committee, that would be

entirely unwieldy. And how we are going to balance

that is something we'll have to work out with the

facilitator. But we left it open on purpose so that

we could get maximum public participation. I think it will be rocky, but I think by the end we'll know what works and what doesn't work and that would be a good time to update the code.

BOARD MEMBER OKAMURA: But also -- but that would be also a good time to have an idea like what the general plan requirements would be so you could also get that type of information instead of just working on the water code requirements.

MS. KRAFTSOW: Yeah, I mean, normally, like I said, the water use and development plan is updated

when the community plan and general plan are updated. But the last general plan update is from the late 1980s, early 1990, or something, I forget exactly the last date on the book. But basically the work was done in the late 1980s. And we catch again and again, and it's very frustrated as staff, we catch flak for not having updated the water use and development plan although on the last community plan and general plan update, we did two full water use and development plan and capital plan update, and now we're embarking on our water use and

development plan update again even though we don't
have a general plan.

So I think yes, it would be really good and I
think that if we do them in concert and we stay in
communication, I mean certainly the planners do talk
to each other and many of us are in agreement about
what needs to happen and what changes need to occur,
whether or not the public process supports those.

I mean, the other thing about a water use and
development plan is it's not a water use and
development plan by definition unless it's gone

through a very extensive public process by the new guidelines. And so some of these decisions cannot be made by staff absent that public process. So we all have thoughts about it, but we would have to go through. And I think that with their participation and our participation, maybe we can draft something that's more in harmony if we work together.

BOARD MEMBER OKAMURA: But there is things like the limits of availability of water that's cut and dried with the technical data they do have that could be important to incorporate into the general plan, you know, the limits of the general plan would

be set based on water, whatever the restrictions or
the shortcomings are of the infrastructure.

MS. KRAFTSOW: Actually, in about 1994 or 1995
when the first Iao designation issue came up, we
started putting in our letters to the planning
commission that we recommend denial. And we were
scolded that we're not land use planners and
therefore we backed off and instead of doing that,
we with every letter since 1995 said this is how
much water this project will use and this is how
much water is being used now from this system. So I

think we can make that more clear. I understand from our last meeting that it's still doesn't get through to them that this is what's available and this is what's left.

I think the other problem is that when we were doing that with just recent amount of water that we said okay, we're going to give out this much more and then we're going to stop giving out meters, we are required as a situation changes to continually update our availability. And it doesn't -- it's not like, you know, we'd almost have to say every

quarter, this is our quarterly update. We can't just do it with every letter. And sometimes by the time they're reviewing these letters, it's several months later and the situation may have changed.

BOARD MEMBER OKAMURA: I think maybe we should look forward -- we can look forward, things that happened in the past, maybe things have changed, I think, because like there was a bill passed in the Council to try to improve the general planning process a couple years ago, last year, Bill 84. And I think they see and many people see and that's why

probably many people voted for the charter change
where the board became part of administration was
that there was a lack of coordination between water
and planning, water and planning and county land use
planning or development planning and stuff like
that.

So I think many people, and that's why we see
this issue coming before us, is interested in trying
to get that coordinated. We met with the planning
commission to try and get this thing addressed also.
So maybe the water department should play a more
active role in trying to get involved in the process

instead of just sitting back and waiting for people
to ask. Anyway, that's a suggestion.

MS. KRAFTSOW: I think you're right and we
should try to do that.

CHAIRMAN VICTORINO: Any other questions?
Michele.

BOARD MEMBER McLEAN: Thank you, Mr. Chair, and
thank you, Ellen. It seems that the question that
is before us is that Wayne Nishiki asked us to
respond to his letter and to Dain Kane's attachment
[inaudible] e-mail we got together gives a lot more

background to that. But just before we go on any further, what is our feeling on coming up with a response to his request? Are we prepared to do that today?

My general feeling is that our response should more or less reflect some of the things that Ellen said responding to the three questions in the county's letter.

THE REPORTER: What?

CHAIRMAN VICTORINO: Speak up.

BOARD MEMBER McLEAN: Sorry. That our response

should more or less reflect Ellen's answers to the three questions that Ken just read.

Are we ready to put together a response today?

He asked for a response by November 15th. We could discuss it again at the next meeting, it would be a few days late. Or are we not going to respond?

CHAIRMAN VICTORINO: Sally?

BOARD MEMBER RAISBECK: Thank you, Michele, for mentioning that we were asked for a result by November 15th, which means we really do have to do it today unless we plan an extra meeting. So I

would be in favor of the board doing as Michele suggested, framing an answer more or less to the three questions, the role of the Department of Water Supply. And I'm not sure I heard anything very specific there except that because the -- in the general plan update process, it requires close coordination between the department of water and the department of planning. And how to specify that, I'm not quite sure.

As for incorporating the water use and development plan into the general plan, probably it's a good idea to make it an appendix, as Ellen

suggested. It's going to -- it's going to probably
be done later than the general plan, I would think.
And improving the process -- some of the policy
applications which are asked for in I guess it's
Wayne's letter asks for policy implications. I
think it might be helpful to the Council to mention
some of the ones that have been mentioned here such
as the limits -- what are the limits of development
based on infrastructure, do they want to set limits,
do they want to provide sufficient money to create
infrastructure that will meet all the development

requests? Do they want to do that? That's a policy implication. Another one is resolving the inconsistencies between different community plans.

At what point is water committed for a project?

Does that need to be changed so that water stays committed for say a limited time after approval within the commitment lapses. These are policy implications.

And one I've always wanted more discussion on is who pays for expansion. And is -- because it was stated at that planning commission meeting by Ellen

that the current water source development fee or
water development fee for covering source
transmission and storage is really way too low for
what it actually costs. And I am still annoyed by
the -- when Brown & Caldwell did the study of our
replacement value of current infrastructure several
years ago. Replacement value was \$750 million. And
if you take 30,000 accounts, that's as if each water
account is -- has an investment of \$25,000 in our
water system. And when we treat it as a privately
financed or financed by users -- not by county taxes

but by users and we treat it that way, that is what
an argument could be made for is that is the true
cost of expanding the system is \$25,000 per
expansion unit. And so they -- the council is going
to have to answer the question do we need higher
meter fees, do we need something as a meter fee that
represents the true cost of expanding the system.

So I would like to see a letter -- I agree it's
hard to do it in the remaining hour that we have
here, it's hard to write a letter, but I would like
to see the letter back to the Council reflect some
of those policy decisions that only they can make.

MS. KRAFTSOW: Actually, may I respond?

Actually, some of those policy decisions I raised are issues that I feel should be discussed in the water use and development planning process. I think that the water use and development plan is more than just a functional capital plan. It's actually required by code and by the statewide framework to be a full general IRP plan. So I think those need to be discussed in the water use and development planning process and I think with planning staff present. And then I think those conclusions or

those directions need also to be discussed in the general planning process but there can be some kind of a formalized facilitative discussion on some of those matters.

I think in terms of availability, we did, as you're aware, come out with an availability -- proposed availability rule in 1995 which was passed. And that did stipulate that we would, every quarter, update the availability on each system and there were formulas by which we could do it and they weren't even the most sophisticated formulas, but

they will do for a while.

But I think there are also some broader policy questions about resources generally, not just water, that need to be addressed in both the water and general plan, in the water plan specifically as it pertains to water and in the general plan as it pertains to all kinds of resources.

BOARD MEMBER RAISBECK: Can I respond,

Mr. Chair?

CHAIRMAN VICTORINO: All right.

BOARD MEMBER RAISBECK: I think that it would

be counterproductive to wait until the entire water use and development plan process has been followed.

I think it would be foolish to wait to inform the Council about what we see presently as pressing policy issues. I think it needs -- they have much more experience with water and all county issues than the 80 people who are going to be on this joint upcountry central discussion group.

They have staff, they have very excellent staff, and they are used to getting a lot of staff support to help them consider issues. And I think our identifying what we see as issues right now at

this time when we're asked specifically to come back with an answer by November 15th, I don't think it's an answer to say at the end of the water use and development plan process we will have discussed these things. I think we need to tell him now these are questions we would like to see talked about.

MS. KRAFTSOW: I think you're right in terms of mentioning the policy issues. But as I said, it won't be a water use and development plan decided by Council. It has to be decided with public process. And what I would say to the Council is if they want

to set an allocation policy, whatever they want to set, please make it an interim policy pending public process because public process really needs to occur. It's not that they are more or less experienced and it's not that there is only 80 people. There is 80 people in Central Maui and Upcountry alone that have asked to be on the agenda and what level of participation they actually provide remains to be seen. There is issues of balancing the community interests and all that.

But I wouldn't just say those are the answers,

amen. And I'm not going to wait, I'm not planning
to wait on the water use and development plan
process until the general plan is done, either.

We're going to start asking those questions as soon
as we have the facilitation contract resolved.

CHAIRMAN VICTORINO: Ms. Parsons?

BOARD MEMBER PARSONS: I just think that the
Council's public process goes a lot faster than ours
does. And I think that maybe if it's put back into
their hands to help get this developed, they can
make it move a lot quicker than we can. I think the

4-year process that was stated at the planning meeting is ludicrous. I think we need to get this done as soon as possible, we need to answer these questions, and we need to get them started on it.

I put it back in their hands. If they want to move forward with this and Chair Kane feels that they can put it through committee, we should go immediately.

MS. KRAFTSOW: If they can put what through committee?

BOARD MEMBER PARSONS: Put this WUP through, if they can put together a good enough plan to get it

and present it to the public as they are going along, if they think they can do this, I think they should.

MS. KRAFTSOW: I don't think that the Council or the planning department or anybody who was envisioning having the council [inaudible] -- you're talking about the water use and development plan or are you talking about the process.

BOARD MEMBER PARSONS: Both.

CHAIRMAN VICTORINO: Okay. I guess my question is what does the board feel would be a justifiable

response, I guess, is what we're looking for, right,
a letter, and what would the letter contain. I
guess that's what I'm hearing from Michele and from
Sally and even Ginny. So give me some guidelines
and we'll go get it done.

BOARD MEMBER McLEAN: If I could make a
suggestion. Again, his letter asks for a response
by November 15th. It looks like our next board
meeting is going to be the 17th?

CHAIRMAN VICTORINO: Yeah, I'm not going to
delay it any further. I will respond by the 15th.

Because you know what, we're going into a lot of other things, so if you guys want us to do something, let's do it now.

I agree with Ginny that the process takes too long and then we're going to wait until next meeting. We got other things that are going to come up on our next meeting that will be very important. So I would like to get -- and we're only responding and we're only advising, that's all we're doing right now. We're not making any policies. But here are advising, and here's a chance for us to advise.

So what would you guys feel would be prominent information or response to this letter, this request?

BOARD MEMBER McLEAN: I would be comfortable leaving it to the Chair to take what he's heard and you consolidate the main policy issues that you heard. And I would be behind your preparing a response and going ahead and sending it on our behalf if you want to get it done today. To me that's the most expedient way to do it.

CHAIRMAN VICTORINO: Does the rest of the board feel comfortable with that? Because I mean this is

our decision, it's not my decision. Ken.

BOARD MEMBER OKAMURA: I think that would be good. I just wanted to maybe see if we could emphasize with Chairman Kane that maybe the planning process is try to more actively involved the water department in formulating the general plan and in getting the planning department more involved in trying to formulate the water use and development plan. You know. You said more coordination and stuff like that. But more active -- the Council make an effort to get the water department more

involved in the general planning process, whatever,
and vice versa with the planning department and the
water use and development plan. It's a thought.

MS. KRAFTSOW: One of the reasons that it is a
4-year process is because of the public process and
the level of public meetings that's required in the
IRP. It was designed to be a long process,
specifically to meet and document those
requirements.

CHAIRMAN VICTORINO: Ginny?

BOARD MEMBER PARSONS: I still think that they

can handle it better at the Council level than we necessarily do moving it around from point to point.

One of the things they brought up -- there were three items that they brought up at this planning meeting and one of them was the ability for the planning department to assess fees not only in wastewater but also in water and to get source participation. And in number four it says what are some of the current needs and concerns of the county and whether they should be included in the county water use and development plan. Some of those

points maybe that we talked about be put into that
and maybe we can all e-mail to Mike the points that
we think are important to be incorporated into this
and let him pick the ones that he feels are the most
important.

CHAIRMAN VICTORINO: Any other discussion?

Sally?

BOARD MEMBER RAISBECK: Yeah, I would be happy
to leave it to the Chair and if we can send in
separate suggestions by e-mail, would that --

CHAIRMAN VICTORINO: That would be fine with
me. Is that all right with everybody? Okay.

BOARD MEMBER RAISBECK: And get it out so they
get it before November 15th.

CHAIRMAN VICTORINO: That would be fine with
me.

MR. KUSHI: Mr. Chair. Just one-way e-mail.

CHAIRMAN VICTORINO: To me only. I cannot
respond.

MR. KUSHI: No, you can response. But if Sally
e-mails to you, that e-mail cannot go to everyone
else.

CHAIRMAN VICTORINO: So you're e-mailing me and

I respond to you and I cannot be sharing -- okay,
that will be fine. Ellen?

MS. KRAFTSOW: I should probably diplomatically
not say this, but I have to point out that it took
Council eight years just to review one of these
plans, let alone [inaudible]. I just have to say
that. In terms of expediency and speed relative to
the staffing, I don't approve of that comment you
made.

CHAIRMAN VICTORINO: Okay. Moving right along,
then I will do that. Please, if we can, get the

e-mails to me by no later than let's say a week from today because I would like to incorporate and get it out as soon as possible. Ralph, that goes for you too, now.

Okay. Moving right along, next agenda item --

I'm sorry, George, I apologize.

DIRECTOR TENGAN: May I ask that the next item

be deferred until --

THE REPORTER: Can't hear.

DIRECTOR TENGAN: May I ask that the next item

be deferred until -- item number 3, Ellen's presence

is going to be required to discuss item 3 regarding the Iao well applications and Ellen has work to prepare for tomorrow's meeting with the state water commission. So if we can get this item out of the way, then Ellen can return to work.

CHAIRMAN VICTORINO: Are you referring to item VIII A, page 13, is that the reference, the discussion on water use permit applications for -- okay. So you would like that moved up.

DIRECTOR TENGAN: Yes, please.

CHAIRMAN VICTORINO: Is that okay with the rest of the board? No objections? Okay. Go ahead,

Ellen, we'll move that up to the next agenda item.

MS. KRAFTSOW: I'm not sure exactly what kind of update you wanted. The water commission will be having a hearing tomorrow. They will not be making any decisions, I've been informed. They expect to continue the hearing. They will be listening to testimony.

We had all of our applications submitted on time, one of which, Wailuku Shaft 33, was not signed by the owner. So eventually after waiting for several months for that signature, we just sent it

in anyway to get it in on time. And subsequently we did receive a signature which we sent to the commission. That's why you'll find Wailuku Shaft, they submitted their own application but then subsequently they signed ours. So that one is in a sort of gray area whether it's going to be considered an existing use or not.

That's really all I have, unless there are questions.

CHAIRMAN VICTORINO: I open the floor to questions.

BOARD MEMBER RAISBECK: Could you briefly let us know what the parties that are objecting to our water use application, what the grounds for their objection are?

MS. KRAFTSOW: Hawaiian Homes -- I'm sorry, not Hawaiian Homes, OHA and Earth Justice objected because they felt that there needed to be an inventory of traditional and customary Hawaiian rights, more discussion on the impacts to streams and [inaudible], and the third one is escaping me but I have it sitting right back there. Yeah,

native Hawaiian rights, [inaudible] cultivation and its impact on surface flows, so I guess I took the three points and made them into two. It's the same things.

BOARD MEMBER RAISBECK: Is it true that the total applications total more than the sustainable yield, more than 20 mgd?

MS. KRAFTSOW: Well, yes and no. The Wailuku Shaft has been applied for twice. And although the notice makes a point to say not to double count it, if you add up the second column, they did -- it is in both totals. So --

BOARD MEMBER RAISBECK: They're trying to get awarded that water instead of the department?

MS. KRAFTSOW: I don't know what they are going to actually try to do when it comes right down to it. We'll find out tomorrow.

BOARD MEMBER RAISBECK: That's a biggie. The Wailuku Shaft is not owned by the department, it's owned by Stanford Carr. And he evidently put in a water use application counter to what the department's application for use of water from the Wailuku Shaft. And that's -- how many mgd is that?

MS. KRAFTSOW: At the time we were estimating about 5.7. Actually, he did subsequently sign our application. So --

BOARD MEMBER RAISBECK: So you hope he's going to withdraw his application tomorrow?

MS. KRAFTSOW: I think that there is some kind of negotiations for the site ongoing. We'll see. And the other wells that we put the total over 20 are wells that are actually not located -- they're located in cap rock and they're not counted against the sustainable yield.

So I don't think that the total of wells -- if you don't count them twice, that are applied for within the aquifer groundwater sustainable yield that they're counting, base yield, I don't think I exceeds 20, no. But if you count Wailuku Shaft twice and add in all the cap rock, that did exceed.

CHAIRMAN VICTORINO: Okay. Real quick, and I ought to make a point of order, Board Member Parsons is now present and I did not make that earlier, so I apologize for that. Go ahead, your question.

BOARD MEMBER PARSONS: Maybe Sally knows the

answer. Why does Stanford Carr own the shaft?

MS. KRAFTSOW: He signed as the authorized representative for -- the name is escaping me.

DIRECTOR TENGAN: The owner of the property is Hawaiian Land & Pine. Stanford Carr is an officer.

BOARD MEMBER PARSONS: Of Maui Land & Pine?

DIRECTOR TENGAN: No, Hawaiian Land & Pine

BOARD MEMBER PARSONS: Hawaiian Land & Pine.

And they own the property.

DIRECTOR TENGAN: Sally's statement that Stanford Carr owns the property is just in reference to Stanford's role within the organization.

BOARD MEMBER PARSONS: I thought that that
company was defunct.

DIRECTOR TENGAN: Actually, their application
was put under the name of Kehalani.

BOARD MEMBER PARSONS: Kehalani Association?

DIRECTOR TENGAN: Kehalani Mauka LLC.

BOARD MEMBER PARSONS: Yeah, because Hawaiian
Farms has been defunct for a while, if I recall
correctly. But in any event, the watershed wouldn't
necessarily be under Stanford Carr, is it?

CHAIRMAN VICTORINO: Shaft.

BOARD MEMBER PARSONS: Shaft?

BOARD MEMBER RAISBECK: I don't know the details. I just know it shocked me enormously when I found out the department did not own the Wailuku Shaft because they had to get his signature on their water use permit applications. And I only found that out a few months ago. So.

BOARD MEMBER PARSONS: By law, Mr. Kushi, nobody can sell the water, is that correct? It just goes along with the land, but it still belongs to the public?

MR. KUSHI: Mr. Chair, per recent declarations of the Supreme Court, the water is part of the aquifer and since it's been designated it's under the public trust. Stanford Carr, Hawaiian Land & Farming or Kehalani Mauka or whoever owns the fee simple trust -- fee simple title over which the well -- in this case the shaft is located.

We had filed our own permit. We are the user of record. Kehalani Mauka -- the landowner has never been a user per se; they always have been the owner. The department for many years had a

basically handshake and subsequently a written permission by the landowner, previously Seaboard or Mr. Chumley's office, to just use the shaft, no charge, with the understanding that something will be worked out. To date it's never been worked out. But we have been using that water for the last 13 years.

We filed our own application. We had requested the landowner to sign it. It never did sign it. We filed our own. He filed his own. Subsequently after we filed our petition -- our permit application, he did sign our application. The

commission is in a quandary as to what application
to consider.

We have filed a petition for declaratory order
with the commission, hopefully today or yesterday,
to -- in essence the county is saying that, you
know, they should only consider our application
since we are the user, notwithstanding that the
landowner is the landowner, and our petition should
be the only one to be considered. And that's where
it stands.

CHAIRMAN VICTORINO: Go ahead.

BOARD MEMBER PARSONS: Mr. Kushi, is this something we should consider eminent domain or condemnation action?

MR. KUSHI: As a last resort. We have considered that.

CHAIRMAN VICTORINO: Ralph?

BOARD MEMBER JOHANSEN: What kind of administrative remedies do you have to go through -- what kind of administrative remedies do they have to go through and what kinds of time limits can be placed on making decisions? You're talking about

really exhaustion of remedies before you take it
elsewhere.

MR. KUSHI: If I understand the question,
administrative remedies from the state commission?

BOARD MEMBER JOHANSEN: Where I get to is at
some point you're going to be in court and in order
to get to the courts, you have to exhaust your
administrative remedy. And you're asking for
decisions on up the line. And I just want to know
how you would describe that process so that we're a
little clearer about what has to take place before

you get there.

MR. KUSHI: Okay. Member Ralph, I'll try to answer if I understand your question. The administrative remedy theory is that if an applicant is being denied, then you go through the various administrative agencies before you go to court.

In this case, it's a permit process. We are an applicant. We are asking the state agency for a permit. I don't see any administrative remedies aside from applying for a permit. And any decision the state commission issues or renders -- let's say they don't allow our -- deny our application or deny

our permit. The statute says you appeal that directly to the Supreme Court by statute.

As you know, the Waiahole trilogy of cases in terms of time, it took three years and it's still going on. So if we go to court and we're not satisfied, we are hoping that the status quo remains until decision is made, status quo being we're the user.

I hate to say anything more because this may amount to litigation and it's certainly going in that direction. We tried to talk to the landowner.

It's not that we just forgot about it. We've been for the last year approaching this landowner to, you know, be a joint petitioner with us. They have referenced a source agreement, we will let you use formally the land but you give us source allocation. That doesn't fly. They have referenced the Central Maui Joint Venture ghost. We don't want to hear that. So this is where we stand.

CHAIRMAN VICTORINO: Thank you, Mr. Kushi. I think, you know, from what I'm hearing right now, this may end up in the legal system as far as a

court case, but I hope not. I hope we can find some resolution without going that far. But you have a better feel than we do.

MR. KUSHI: If I may mention, and George can clarify this, it has been the department's plan all along that we discontinue and shut off and just close the shaft for various reasons, safety reasons, maintenance, and it's easier to manage just our straight well. But it is in the department's plans to close that shaft and establish new wells in the same vicinity.

DIRECTOR TENGAN: Yeah, at one time the previous director was talking about drilling a hole directly above the existing well so that a new well could be situated above ground directly in line with the existing wells and penetrate those wells and, you know, make use of those wells. But it was never intended that the department take over the shaft because of OSHA requirements and the condition of the shaft.

CHAIRMAN VICTORINO: So wouldn't it be prudent if we could -- and just what you said, drill new wells and just, you know, not even go through this

whole process of litigation. I mean, I understand tomorrow you're going to meet with the state water commission, but that's another issue. But wouldn't it be more prudent to do that at this point or at least get that plan in action so that we don't have to go through any court case?

DIRECTOR TENGAN: Well, as you know, it takes time to develop new sources. We do have a hole in Waikapu. However, because of the land issues over there, we've had to put that project on hold. We do have another well we're going to be doing the

preliminary hole sometime shortly, it should be going now shortly at the Iao tank site. And there is a couple other wells that we may have to do in order to replace what we've been taking out of the shaft.

CHAIRMAN VICTORINO: So your best case scenario, and I guess just like Ken always asks what's your best case scenario, how long, if we were to start right now, how long down the road, everything goes optimum, I know that's not a promise, I not going to burn your feet to the fire

if you're wrong, but what is the most optimum time
line to get this corrected?

DIRECTOR TENGAN: The abandoned shaft?

CHAIRMAN VICTORINO: Yeah.

DIRECTOR TENGAN: Well, you have to understand
that most of the land where we would want to drill
wells are under the control of the Kehalani Mauka.
So, you know, it may end up where we would have to
go through the condemnation procedures to acquire
land. Then there would be getting power lines to
the new wells. I would say anywhere from five to

10 years.

But in the meantime, we are working with A&B and Maui Lani to get additional source on line so that essentially -- and in case of Maui Lani, what they're proposing is to develop more capacity than what we need now because they haven't developed that plan over a number of years, so in essence we could borrow time by using their wells. And they proposed that to us. We're negotiating an agreement with Maui Lani.

CHAIRMAN VICTORINO: Sally?

BOARD MEMBER RAISBECK: Mr. Chair, I'm no

lawyer, but I once was told by somebody that
condemnation is a very quick process except there
can be a very lengthy argument over the money, you
know. You have to -- the judge is going to decide
on the money. That can be very lengthy. But
condemnation can be very quick, I was told. So that
if you don't have to factor in the cost of a long --
the time cost of a long court case if you decide to
condemn land, and since a third of our water from
the Iao aquifer is coming from a well we don't own,
that might be an option that would work out well for

us at some point. Thank you.

CHAIRMAN VICTORINO: Okay. Any other discussion? Hearing none, I'll move on. Thank you, Ellen, and thank you for the update.

We'll go back to our agenda order, number VII, Unfinished Business, discussion and possible recommendations by the Rules Committee on Draft No. 2 of Recommended Changes to the Title MC-16, Chapter 106, "Water Meter Issuance Rule For the Upcountry Water System." Sally?

BOARD MEMBER RAISBECK: Thank you, Mr. Chair.

I want to thank Ken Okamura and Ralph Johansen for their very hard work on this. And I want to thank Michele for putting it in such a legible form and writing up the little sheet that gives you the reasons we were suggesting changes.

I think it's worth saying again that these are recommendations to the mayor and the council, that we would like to see them be recommendations to the mayor and the council for suggested changes to this water meter issuance rule.

When we first started, we thought our only task

would be to locate the references to the board and
come to some conclusions about what we thought would
be good changes to make it in accordance with the
charter. What we found as we looked at the rule
carefully was there were confusing items, there were
outdated items, and we felt we needed to understand
also how the rule was used within the department,
which turned out to have some surprises for us. In
particular, I had been misinterpreting the numbers
-- people's position on the list as a number, I had
been misinterpreting.

So we think that we aren't concerned as a

committee -- we're not concerned with what the process will be by which rules can be changed or amended or established. We're not concerned with that at all. We figured the Council has a special counsel working on that and in cooperation with our corporation counsel, that will at some point be solved. We just wanted to make some suggestions for what might be improvements to the rule. And if -- since -- let's see.

Now, the copy that was just passed out doesn't have the little table that gives meanings or that

gives reasons. Does the one with the agenda have that? Let me see. Yeah, at the back -- after -- in the packet of board materials that was sent out by mail, it does have a table saying Amendments to Chapter 106. It's page 12 on the packet, the board packet. And the one that was passed out today has the changes in color, which makes them much, much easier to see.

CHAIRMAN VICTORINO: What page would that be?

BOARD MEMBER RAISBECK: Page 12 of the board packet has the sort of justification table that

Michele made up for us.

So I don't know how the board would like to go over these, if you've had a chance to read them.

There is, let's see, five of us here. I guess that

it's only Kent and Ginny that haven't had a chance

to go over this in committee. What would you

propose, Mr. Chairman, should I go over each of the

changes or should I simply ask for questions?

CHAIRMAN VICTORINO: I think asking for

questions would probably be more -- would be

sufficient because many of us have been a part of

this from the beginning and members like Parsons --

if Ms. Parsons has any questions, now is the time

ask them.

BOARD MEMBER RAISBECK: So I'll be happy or any

member of the committee will be happy to answer

questions.

BOARD MEMBER HIRANAGA: Mr. Chair, I was

involved in the writing of this -- the previous

version of this rule. And upon review of the

changes, I don't have any questions or comments. I

guess the one question I do have is if -- what is

the Council doing regarding the sunset issue? The

law sunsets on January 1st, 2005.

CHAIRMAN VICTORINO: As far as I've been told, they have extended it, there is no sun -- there is not going to set in January of 2005. They have extended the --

BOARD MEMBER RAISBECK: At the last Council meeting, they did first reading on a small thing that just says this rule will continue in force. Despite the sunset provision, it will continue in force. They didn't put in a new sunset date, they just said it continues in force as-is. So the old

one will continue past that sunset date.

BOARD MEMBER HIRANAGA: Question to corp
counsel. Does the Council have the power to do
that?

MR. KUSHI: Well, I signed off on that thing,
so apparently they do. It was explained to us, our
office, that we had some concerns about existing
rules and then they pass an ordinance and, you know,
and it was explained to us that it was merely an
interim temporary situation and they're waiting for
apparently something like this. First they need to

establish [inaudible], which they're working on. So

they passed it.

CHAIRMAN VICTORINO: Okay.

MR. KUSHI: And also, I believe the department has concurred and they're still operating under the rule.

CHAIRMAN VICTORINO: So I think that alleviates the question about the sunshine falling in January 2005, that this will be continuous. Now, what we're trying to do is propose changes to it, but go ahead.

BOARD MEMBER HIRANAGA: But that's subject to

challenge, I guess, because there are people who will benefit by the fact that this rule sunsets. So there may be challenges to that action by the Council.

CHAIRMAN VICTORINO: You may, but at this point until it happens I guess I'm not going to get overly concerned about it.

BOARD MEMBER HIRANAGA: Beyond that, I don't have any comments.

CHAIRMAN VICTORINO: Okay. All right. Ralph?

BOARD MEMBER JOHANSEN: My question on that --

I'm new to this whole process, I'm new to the county

process, but I would just like to know. It was my understanding that a sunset provision had to be made, that if you bump up against an existing sunset provision, you have to put another one in place for good reasons. You have to have a period of review, you have to have something sufficient and definite and certain so that those affected by it can rely on it.

What is there in the statutes that speaks to the need for a sunset provision?

CHAIRMAN VICTORINO: I guess you're asking that

of corp counsel, right?

MR. KUSHI: I can answer that question.

Mr. Chair, in essence the Council intent of that ordinance was to extend the rule.

CHAIRMAN VICTORINO: And did not fix any date for --

MR. KUSHI: No.

CHAIRMAN VICTORINO: So it's open ended at this juncture, which Ralph is asking is there any ordinance or any county policy in that respect that you know of.

MR. KUSHI: No, there is no county policy.

Maybe what Board Member Johansen is talking about is statutory obstruction and I haven't looked at that.

Mr. Chair, I do believe that, you know, Member Hiranaga may be right. If somebody who, you know, would be in an advantage position without this rule may, you know, challenge it.

CHAIRMAN VICTORINO: I guess we'll have to wait and see what happens. I don't profess to be an attorney and I'm not going to start getting ahead of myself. But at least the Council made a positive

move by extending the sunshine. Too bad it didn't
put another date and I think that may have
alleviated some of what your concerns and maybe
Mr. Hiranaga's concerns are. But that's their
decision.

MR. KUSHI: Last thing on this. We had
previously advised them to go the nine yards of
codifying this rule in an ordinance, putting it in
the Maui County Code, and then revise it. They took
the shortcut.

CHAIRMAN VICTORINO: Okay. Let's not get
really into that. Go ahead, Member Raisbeck, Sally.

BOARD MEMBER RAISBECK: George had some comments and because I've been gone, I wasn't able to get back to him about them, but I would like to -- I would like to either have him bring them up or I'll bring them up, George, the notes that you wrote when we had our meeting.

DIRECTOR TENGAN: I really forget what my comments were already. So you might -- it wasn't intended to be discussed by the whole board. It was intended just for the committee to look at those comments.

BOARD MEMBER RAISBECK: We haven't had the chance. But if I may, then I would -- he pointed out a typo where we left out "if an application" --

CHAIRMAN VICTORINO: What page, Sally?

BOARD MEMBER RAISBECK: I'm sorry.

CHAIRMAN VICTORINO: Do you have a specific section?

BOARD MEMBER RAISBECK: On page 106-3 where it says "premises" which is about the third definition down where it says "premises."

CHAIRMAN VICTORINO: That's correct.

BOARD MEMBER RAISBECK: There was a typo that I would like changed. It says if -- George pointed out it should say if an application for water service is made for premises and so on. So with the approval of the full board, I will make that change.

CHAIRMAN VICTORINO: Again, Sally, where?

BOARD MEMBER RAISBECK: Premises means land for which water service is requested. Then there is a blacked out or cancelled rest of the sentence. Then it says, "If an application for water service is made for premises, and if the ownership of the

premises changes, the new owner of the premises is considered to be the applicant."

CHAIRMAN VICTORINO: Okay.

BOARD MEMBER RAISBECK: If that's okay? No objection?

Now, on page 106-5, George suggested the addition of the -- at the very top sentence, the rule would now read, "The applicant for water service shall be notified that a meter is available. Notification shall be in writing by certified mail, return receipt requested to the current owner," and George suggested adding there "as reflected in the

county's real property records, the current owner of the premises on the priority list." I would like to make that change if nobody has an objection. No objection.

Okay. Under B, the next paragraph, would be the same as it is listed there, subsection 16-108-09B of these rules accompanied with the applicable water system development fee. And if it's agreeable --

CHAIRMAN VICTORINO: After that --

BOARD MEMBER RAISBECK: Right after "of these

rules" it would say "accompanied with the applicable water system development fee." If that's agreeable to people. That was suggested by George.

Then in D, "premises on the priority list whose owner is unable" -- George suggests we make it "whose current owner is unable." Is that okay with everybody? Okay.

And the board might want to validate Section B, which is a new section, and it says, "All meters reserved and all meters issued pursuant to this rule, including the meters reserved or issued for

premises on the priority list or under an exception or waiver, shall be reported to the board at the next board meeting following the meter's reservation or issuance. The report shall include the amount of water required for the service." This would mean that every meter issued Upcountry will be reported to the board at its next board meeting.

CHAIRMAN VICTORINO: Ms. Parsons?

BOARD MEMBER PARSONS: With the addition of that paragraph, I would like to have a definition for reservation.

BOARD MEMBER RAISBECK: I believe meter

reservation is defined in Chapter 108.

BOARD MEMBER PARSONS: But I think again so it
is applicable specifically to the general provisions
in this Subchapter 1, I think we need to repeat it.

BOARD MEMBER RAISBECK: If the rest of the
board like to see "reservation" or "water meter
reservation" added possibly referring to the
definition in Chapter 108.

BOARD MEMBER PARSONS: What is the definition
in 108? Is it as paid?

BOARD MEMBER RAISBECK: Hold on a minute.

Yeah, they do pay. They pay. Hold on.

BOARD MEMBER PARSONS: I know there has been in the past confusion as to what a reserved meter or a reservation --

BOARD MEMBER RAISBECK: If anybody has their rules here, it's Rules For Water System Development Fees, Chapter 108, it's on page 87 of the rules.

Okay. Chapter 108, Rules For Water System

Development Fees. Okay. That would be under

16-108-09B, "Applicant not ready for water service.

The board may reserve an allocation upon payment of

a deposit equal to the fee set forth in Section 16-108-3. When an applicant who to the director's satisfaction is unable to accept water service immediately, the board may reserve an allocation of service capacity available at that time. Total payment for service will be the fee in effect at the time the meter is installed. The duration shall not exceed two years plus two six-month extensions, each for good cause shown and approved by the board if water service is available. The board and the applicant shall agree in writing on the amount of

any allocation. If within two years, et cetera, the application and the reservation shall expire and the fee paid shall be deemed a penalty and forfeited to be applied to the WSBF fund with no credit of any kind for any future application."

In the event -- so that I would -- if you want a definition of reservation, I believe we do have a reference to that already in our Chapter 106.

BOARD MEMBER McLEAN: If I could jump in, Mr. Chair. The only place where this rule allows for allocation is on that same page up above in the

first section under letter B. That's where we just
made the amendment based on the director's comment
to also include the applicable water system
development fee. And that references the subsection
Sally just read, 16-108-09B. So that's the only way
through this rule that a meter can be reserved.
Otherwise it would be issued.

So if you want to make that same reference in
that last part, just make the same -- reference that
same subsection as up above.

BOARD MEMBER RAISBECK: I'm sorry, I didn't
quite follow where you were.

CHAIRMAN VICTORINO: Go up to the top, B, section B, go down to just before the end where it says their application to reserve an allocation of water pursuant to subsection -- and there is the subsection you were just referring to, 16-108. She wants to put it down there as well, pursuant to Section 16-108.

BOARD MEMBER RAISBECK: Put it in D?

BOARD MEMBER McLEAN: B, down at the bottom.

So it would say, "All meters reserved and all meters issued pursuant to this rule and pursuant to

Subsection 16-108-09B of these rules, including
meters reserved or issued."

BOARD MEMBER RAISBECK: And pursuant to
subsection --

CHAIRMAN VICTORINO: 16-108.

BOARD MEMBER RAISBECK: Subsection 16-108-09B
of these rules. Okay. Good, thank you.

And Mr. Kushi, did you have changes you wanted
to make?

MR. KUSHI: Yeah. Mr. Chair, Board Member
Raisbeck -- by the way, I'm sure everybody

appreciates your work, I know it's tedious, but it
needs to be done.

I had some comments and mainly typographical or
grammatical suggestions. On page 9 of your handout,
page 106-5, under Section 16-106-06C, where it says
if the applicant fails to respond or if the receipt
is returned, you should add in "if the return
receipt is returned." I know it sounds silly, but
you're referencing a return receipt.

The next page, 106-6, page 7 of your handout,
Section 16-106-07B, third line down is "shall be

informed that they may advise the director." It

should be "shall be informed so that it may advise

the director."

Next section, 16-106-08, waiver modification.

It says, "The board, by two-thirds vote of its

entire voting membership, may recommend to the

director that he waive --." I would suggest using

"may recommend at this director waive or modify."

Gender correctness, I guess.

And then lastly -- and you may want to check

with staff, mainly Herb Chang, who is the one who

administered this rule. I had a concern about your

deletion of the entire Section 16-106-09 which in

essence gave a discount to those people who were

registered on the list as of October 31, '01. I

think the previous board, when they did this rule,

gave them the old rate as of April 1993, which is

three thousand some odd dollars per meter.

Subsequent to that and when this rule was enacted,

just about the same time the meter fees went up, the

rate is now \$6,000 per meter.

So if you're eliminating this, I'm not sure if

there are still people on the list who would qualify

and, I'm not sure, you may want to check with staff.

And if it's the intent of the board to cut them out

and everybody pay the fee, so be it, but --

CHAIRMAN VICTORINO: I think that was the
intent, wasn't it?

BOARD MEMBER RAISBECK: Yeah. We did discuss
this fairly extensively in the committee and we felt
that everybody -- well, that people who have been on
the list a long time, it's sad but true, they are
buying into a system that has had improvements, has
had -- been upgraded, that they -- that we need the

money and we need to charge everybody the same.

BOARD MEMBER PARSONS: I was going to say
that's questionable Upcountry right now.

BOARD MEMBER RAISBECK: On the committee we
supported deleting the discount, that everybody,
when they get their meter, they should pay the full
fee that is required now. So that -- but the board
can change that if it wants.

MR. KUSHI: It's your prerogative to do it, but
do you know how many people are affected?

CHAIRMAN VICTORINO: Herb, I think that came up

in the discussion, right? How many people -- and I know we've asked that question and I apologize, I don't remember the answer.

MR. CHANG: If this new clause were to be implemented or deleted, remember as of today we have to charge, whoever we're offering meters today, the new rate. We're approximately at number 180, plus or minus, on the priority list. And the 2002 -- December 3rd, 2002 list has 702 projects. So that's where we are. Seven hundred, roughly.

CHAIRMAN VICTORINO: Okay. So the difference between the 200 and the 700 is about 500; is that

what your answer would be?

MR. CHANG: Sorry, 500.

CHAIRMAN VICTORINO: You said 700.

MR. CHANG: Sorry. Plus the other people who
that are -- that have made requests that we haven't
put them on the list since 2002. That's another
300, 400 projects. But anyway, those guys wouldn't
have been affected anyway. Sorry, October 31, 2001
was the date that if you made a request prior to
that date, you would be able to get this discount.

So I need to make a correction, not 500, but roughly

400, maybe.

CHAIRMAN VICTORINO: Okay. So it's a substantial amount of people. But again, I think the thought behind this whole process was we are now at this point spending the money to make these improvements and, you know, sorry it took so long, but it's all part of the process.

Now, I'm not sure what legal standing we have on all this, but that was the thought of the committee is let's move ahead, let's get it done and let's be fair to everybody instead of trying to go

back and forth.

And another thing that was brought up a number of times is how many times has the property maybe changed hands but the reservation is still sitting there under the original reservation. So I'm not sure on all these things, but I think that was the plan or our thought process, right, Ms. Raisbeck?

BOARD MEMBER RAISBECK: Right. So unless -- I mean, should we have a vote on that one specifically since it's perhaps more controversial? Could I move that we go along with the deletion of Section

16-106-09?

BOARD MEMBER PARSONS: I second.

CHAIRMAN VICTORINO: Okay. I think we've
discussed the matter enough. All those in favor,
say aye.

[Chorus of ayes.]

CHAIRMAN VICTORINO: Opposed?

[None.]

CHAIRMAN VICTORINO: Okay.

BOARD MEMBER RAISBECK: The other point -- oh,
excuse me, Mr. Kushi, were you finished --

MR. KUSHI: Yes, I did.

BOARD MEMBER RAISBECK: -- with your

suggestions? The last point was we really didn't

know what to put down as a new sunset date, so we

just made it 2010. And if anybody has cogent

arguments why it should be something other than

that, you know, we can change that.

CHAIRMAN VICTORINO: I think the good thing is

we have put a specific cut-off. I think it's good.

I think it's good.

BOARD MEMBER RAISBECK: Would any of the

committee members have some final requests or

comments or anything?

BOARD MEMBER OKAMURA: I move that this board approve the changes to the rules. I would like to move that we approve these recommended changes.

BOARD MEMBER McLEAN: Second.

BOARD MEMBER RAISBECK: May I make a friendly amendment? And that they be transmitted to the mayor and the council as approved by the Board of Water Supply.

CHAIRMAN VICTORINO: I have no problem with that. Okay. We can go ahead and do that, Sally,

that's not a problem.

MR. KUSHI: Mr. Chair, technically you've
accepted the report, amended report, and now you've
approved the contents of the report and the
disposition of it. That's what you should --

CHAIRMAN VICTORINO: Repeat that. You went
fast.

MR. KUSHI: Sally's committee had submitted a
report previously.

CHAIRMAN VICTORINO: That's correct.

MR. KUSHI: And this is an amended version. So

now you're accepting the report as amended. You've had discussions about revisions, and now you're voting on the contents of that report.

CHAIRMAN VICTORINO: Of the amended report.

MR. KUSHI: That should be the clarification to the motion.

CHAIRMAN VICTORINO: Is that all right, we put that as a friendly clarification? I don't want to have to go through a whole -- thank you, Mr. Kushi. Any further discussion? I think we've discussed it. Oh, excuse me, Mr. Director.

DIRECTOR TENGAN: Mr. Chair, I think what I'll

do is I'll have staff look at the implication of taking out the original Section 16-106-09 and what the impact would be and what the repercussions could be and it may be necessary for the department to take a different position on that. Just to let you know in advance.

CHAIRMAN VICTORINO: Is that all right?

BOARD MEMBER RAISBECK: Okay. Well, would that be something, George, that we could forward this to the Council and the mayor and either at the time they consider it you bring up what you have

discovered or wish to recommend, would that be possible?

DIRECTOR TENGAN: Yes. Or the board could state in its transmittal that the department will be looking at the implications of dealing with the Section 106-09.

BOARD MEMBER RAISBECK: Okay. Did you hear what George said there?

CHAIRMAN VICTORINO: Yes.

BOARD MEMBER RAISBECK: And that would be fine, to say in the letter of transmittal that the

department is looking at whether they would like to
recommend the deletion of 1601-09.

CHAIRMAN VICTORINO: Okay. That's fine. Any
other discussion? If not, I'll call for the
question. All those in favor of accepting the
amended report by the rules committee, signify by
saying aye.

[Chorus of ayes.]

CHAIRMAN VICTORINO: Opposed?

[None.]

CHAIRMAN VICTORINO: Thank you, Sally. Great

job.

BOARD MEMBER RAISBECK: Thank everybody here
that did a wonderful job.

CHAIRMAN VICTORINO: But you were there at
every meeting. I cannot claim anything in that one.
But I thank you, every time we did together, it was
very enlightening. And I also want to thank staff
and George and Mr. Kushi for being a part of it
also. I think this is a first step in getting
something to the Council and to the mayor so that
some of these rules and policies can start moving
ahead. I think they have been looking at us to do

something, let's show them we can, and maybe they will ask us to do more.

BOARD MEMBER RAISBECK: One further point, Mr. Chair. The committee is planning to move forward with other chapters and the next ones on our agenda are Chapter 7, which is about the water rates -- not numbers, but the structure -- and Chapter 108, which is the water source development fee. So we will be moving ahead with this.

CHAIRMAN VICTORINO: Okay. Thank you very much.

MS. HOWARD: Mr. Chair, could I ask Board

Member Parsons to get with me about the dates of the
next meeting so that we can -- I mean Ms. Raisbeck.

If you could get with me about the dates so that I
can agenda those meetings.

CHAIRMAN VICTORINO: Okay. Sally, you'll take
that.

Okay. Moving right along. We've gone out of
context so many times, I'm not sure where -- okay.

I guess we're at B, receipt of board members'

requests for agenda items to be placed in the future

agenda. Okay. Ms. Parsons?

BOARD MEMBER PARSONS: I would like to do an update -- I guess I would like to have for discussion on the next board meeting the upcountry bacteria issue. And I'll give you a brief overview of what we found out this last week. Marc Edwards did send a representative back from Virginia Tech to take samples from the various homeowners and also we sent a number of filters and shower heads to him for culturing. At this time the microbacterium was still being cultured. However, last Tuesday there

was a discovery in a Pur filter -- that's P-U-R
filter -- that was on a cold water tap in one of the
homeowners who has been very, very sick with a
diagnosis of pseudomonas aeruginosa and it was in
significant numbers. Dr. Abrams feels that this may
be -- we may have a significant amount of this based
on the other tests that they did have still high
bacteria in the homeowners' homes.

The Maui Coalition For Safe Water has had a
meeting Monday which Paul Seitz attended with Steve
Duranso and they talked about what we're doing with
the Boyle study. And at that meeting there was

discussion about the rise in rashes and other symptoms, along with a new odor being smelled which was coming again where we had to put forth -- a study was done, but it's like a sulfur, rotten egg, and also an ammonia smell. And we understand from Dr. Edwards at this mixture of organic material with this pseudomonas aeruginosa will cause an ammonia smell, which we weren't aware of before. So that may be what some of those reports are.

Maui Uplands was the area where we had the pseudomonas, we found a major amount of pseudomonas,

maybe something that we ought to look into as to why. I've been on the phone with Jeff and we've been looking at some possibility of things to do in the system.

One of the things that Dr. Edwards suggested yesterday was a silver ion generator. And there is a company that's working right now with the government to deal with bacteria, they have contacted this company to deal with bacteria. Just to give you a head's up, Washington, D.C. did -- has that lead problem and they put the phosphate in the

water and they did it in a test area and as of
September, they found high bacteria counts. Luckily
they're on top of this so they're not going to get
three years of growth like we did Upcountry. But
it's now starting to pinpoint at this additive may
have caused some of the problem, we may have just
fertilized it, we may not have caused a blooming, we
may have fertilized [inaudible] system. So
hopefully by the next meeting we've have some more
significant reports of what we may be able to do for
the homeowners.

And just another FYI, we went to Senator Inouye on last Tuesday, gave him a request for a grant for \$1.25 million for microbiology study and we did a follow up with the pseudomonas to ask him to work with Dr. Edwards in Virginia to get the utilities municipalities some relief so that they can look at the homes. Because right now we have liability to go further than the meter. So hopefully he can put something together in some legislation that will allow the utilities some relief with regard to the system.

CHAIRMAN VICTORINO: Thank you, Ms. Parsons.

Any other agenda items that we would like to see put
on the next agenda? Ms. Raisbeck?

BOARD MEMBER RAISBECK: I would like to have an
update about the results of tomorrow's meeting of
the water commission.

CHAIRMAN VICTORINO: That's fine. And
hopefully some of us will be able to attend. I'm
planning to be there, I don't know if I can be there
the whole meeting, but I'm planning some time, I
want to see the process since they're coming.

Also I would like to put on the agenda and I

hope I'll have that by the next meeting, the pros and cons of designating aquifers. I did speak to -- what was her name again, Yvonne Izu, and she said she'll make me an outline showing the pros and cons so that we have a better idea on what this means to us as a county and as a state when we designate certain aquifers or certain water uses, yeah. So she has been working on that for me and hopefully we'll have that available, but I want that as an agenda item.

BOARD MEMBER RAISBECK: Mr. Chair, did we

decide when the next meeting would be?

CHAIRMAN VICTORINO: That was my next thing.

But I want agenda items, then we're going to the

date. Okay. So let's go with the date -- I'm

sorry, Ralph? George, go ahead, George.

DIRECTOR TENGAN: Yes, Mr. Chair. The mayor

has asked me to refer requests to appeal the

director's decisions to the board. I guess he's had

some, you know, people going up to him requesting

that our decisions be appealed or be reversed. So

the mayor has asked me I guess to talk with you

whether the board would be willing to hear of these situations and come up with a recommendation.

CHAIRMAN VICTORINO: I would see no problem with that. We did that for the longest time. Does any member of the board have a problem with that?

Yes, Ken.

BOARD MEMBER OKAMURA: I don't have a problem with it, but sometimes if we had more staff input on the particular issue, sometimes, you know, it seems like we have the information but have a hard time to put it together. Some definite staff accommodation or -- and you've done some of it or most of it, but

sometimes it's real hard to [inaudible] to make a decision. But if there was more staff information, maybe, I'm not sure if that's the answer, or some write-up by the staff about the particular issue, it would be great. Otherwise it's hard to piece everything -- try to piece everything together in a short period of time. Thank you.

DIRECTOR TENGAN: Mr. Chair, as you probably can recall, in the past when the board had the authority to reverse the director's decisions, staff reports were I would say pretty complete. And so we

would be doing the same thing in these situations,
too. Since the organization changed, maybe some
information coming to the board has been somewhat
piecemeal and not as complete as they should be.
But with these appeals, we would be reverting back
to our former way of preparing staff reports.

CHAIRMAN VICTORINO: Okay. Yes.

BOARD MEMBER PARSONS: Are these decisions that
you've made personally or the mayor has made and
then they're coming back because they're threatening
litigation and how much liability are we picking up

by --

DIRECTOR TENGAN: No, it's not necessarily litigation. Seem to always have litigation in mind. It's just like in the past when the director could make certain discretionary decisions and based upon the rules and the water system standards, rather than having people go up to the mayor's office and try to reverse the department's or the director's decision, the mayor wants the board to take a look at these as the board has done in the past.

BOARD MEMBER PARSONS: Where would it go after

us? Does it go to the Council?

DIRECTOR TENGAN: Then the recommendation would go up to the mayor.

CHAIRMAN VICTORINO: Okay. And what I will do is, with your approval, I'll put a letter together accepting this and saying that we will then take this on, also that we will send our recommendations to him and that I would hope -- we would hope he would look favorably on our recommendations whenever they're made.

So in other words, I don't want to be just a rubber stamping things and then he just goes and

goes the opposite way. I would hope that he would take our recommendations very seriously and utilize them. Okay, Ralph, you had another agenda item?

Excuse me.

BOARD MEMBER JOHANSEN: This is with reference to the joint meeting we had with the planning commission. I request that that be put on the agenda and that we discuss the -- now that we've had the experience of one meeting, we have another meeting coming up the end of January, that we discuss what it is we've accomplished, what we seek

to accomplish, and talk more about the form, the process of that meeting. We are two different commissions and we have some problems with authority and communication that should be resolved as well as substantive issues.

CHAIRMAN VICTORINO: Okay. I think I like that idea. And I think that's something that those of us who were in attendance would like to see what was said and get a little bit more. So we'll put that on our next agenda.

Anything else? Then the million dollar

question comes up: When in November? Okay.

Originally we were planning November 18. Well, that

falls smack dab into that conference, 18 and 19, so

that eliminates that. So the next -- and following

week our regular meeting would be in Thanksgiving,

so obviously that eliminates that. So the

suggestion that some board members had prior to --

Ginny, you weren't here -- we're looking at the

17th, the day before, that Wednesday. Now, that

also puts a crimp because, if I'm not mistaken, the

stakeholders is on the 16th, the Tuesday before that

-- I mean the day before that. So that becomes real
challenging getting what we need done the way we
need to get it done because of, bam, Tuesday, bam,
it got to come to us on Wednesday.

Second Tuesday -- no, because then we would be
meeting before them. We got to meet after the
stakeholders. That's the rationale. We got to meet
after the stakeholders or else we got to wait until
December to do anything. Go ahead, ann.

ANN HAJNOSZ: Are you looking at the rate
proposal?

CHAIRMAN VICTORINO: Yes.

ANN HAJNOSZ: We're not going to have one by
November.

CHAIRMAN VICTORINO: December.

ANN HAJNOSZ: Yeah.

CHAIRMAN VICTORINO: Then December has got
another hassle. Because we're looking at December
as being another problem month as far as getting our
meeting together.

ANN HAJNOSZ: No, it's December.

CHAIRMAN VICTORINO: So I was looking at the
17th, that Wednesday, I think, the vast majority

felt Wednesday the 17th.

BOARD MEMBER OKAMURA: How about the 16th?

CHAIRMAN VICTORINO: That's the date of their stakeholders committee meeting in here. So that rules that one out.

BOARD MEMBER OKAMURA: Or the following week?

CHAIRMAN VICTORINO: No, that's Thanksgiving week.

BOARD MEMBER OKAMURA: The 23rd?

CHAIRMAN VICTORINO: The 23rd is a short week.

See, for most of us in business, that's not a good

week because it's a short week.

BOARD MEMBER OKAMURA: How about a week
earlier, like Ginny said? Second Tuesday?

CHAIRMAN VICTORINO: No, that's too quick
because now we got to have everything ready to go.
Go ahead.

BOARD MEMBER RAISBECK: How about Tuesday, the
30th? Would Tuesday the 30th --

CHAIRMAN VICTORINO: I won't be here. And
there is important enough items that -- I'll be on
the Mainland, so I won't be back until the 1st.

BOARD MEMBER OKAMURA: How about Thursday?

CHAIRMAN VICTORINO: No, then we'll have two meetings in December.

BOARD MEMBER RAISBECK: So we can have two meetings in December.

CHAIRMAN VICTORINO: December 2nd? Yes.

BOARD MEMBER PARSONS: I won't be back until the 6th of December.

CHAIRMAN VICTORINO: This is going to be --.

BOARD MEMBER PARSONS: What's wrong with the second Tuesday?

CHAIRMAN VICTORINO: I won't be here. I won't

be here. November 9th. I won't be here. So I mean

-- and I think Kent had something, so that's why the

17th seem to have been the best when most of us had

discussed it. You won't be here 17th?

BOARD MEMBER PARSONS: Doesn't matter.

CHAIRMAN VICTORINO: You won't be here on the

17th?

BOARD MEMBER OKAMURA: I won't be here.

CHAIRMAN VICTORINO: Monday the 15th?

BOARD MEMBER RAISBECK: We really need a chance

to get the stakeholders --

CHAIRMAN VICTORINO: I know. This is a real challenged month. This month and next month are two challenged months. And I don't care how we look at it. Either somebody is not going to be here or we're not going to have enough time to get the information that we so desperately need to review. Not make decisions on, but just to review.

I think the more I look at it, the more I think the 17th will be probably the most applicable date, probably the best. So let's set it for Wednesday, the 17th of November, nine o'clock again. I don't

see any reason to change the time. Okay. All
right.

Then I need to look at December and I'm putting
December on the agenda right now because December
again we fall into this same quandary. And December
is going to be very pivotal because the report from
the stakeholders will become a part of our agenda,
okay. When is your stakeholders meeting in
December, Ann?

ANN HAJNOSZ: The 14th.

CHAIRMAN VICTORINO: The 14th. That will be

Tuesday.

BOARD MEMBER OKAMURA: When is our regularly
scheduled meeting?

CHAIRMAN VICTORINO: The 23rd would be our
regular.

BOARD MEMBER OKAMURA: What's wrong with that?

MS. HOWARD: It's been moved to the 16th.

CHAIRMAN VICTORINO: The 16th, because of
Christmas. So now we're meeting two days after
them. Would that be enough time to get -- okay.
Would that be enough time for the board members to
receive the information to review it?

ANN HAJNOSZ: Can you meet on the 21st.

CHAIRMAN VICTORINO: The 21st is what?

ANN HAJNOSZ: The Tuesday after us. Because that would give us a week. Once we get our comments all together on the 14th, we could turn around and have --

CHAIRMAN VICTORINO: I'm sorry, go ahead. I'm sorry.

ANN HAJNOSZ: That will give us more time, we can get you something by that Friday, the 17th, you can at least review it over the weekend and have

your meeting on the 21st.

CHAIRMAN VICTORINO: Kathy, 21st? It's okay with you? George, for you? How about you? All right. Now, board members, is the 21st okay? One of the things I have to make sure is we have a quorum, too, I mean, that's important. All joking aside. And now we have three board members that are not here, so I'm not sure what their schedules are like. So we're going to set it for the 21st, Tuesday, okay, Ann, and hopefully we can have everybody here because that's a real important

meeting in regards for the stakeholders committee
report and review.

BOARD MEMBER OKAMURA: I think in the future we
should have other people work around our schedule,
too. Just mixing up the meeting dates, like this
meeting date was changed, the next meeting date was
changed. So what if other people want the board to
do something, change their schedule so that they can
-- instead of us moving our dates around so much.

Thank you.

CHAIRMAN VICTORINO: And I agree with you, Ken.

Unfortunately, we hit two months with the holidays really hit us hard because our regular Thursday meeting always seems to fall on that holiday like Thanksgiving, and then the following, the 23rd --

BOARD MEMBER OKAMURA: As long as it's planned ahead. You know, we set a schedule, let's stick to the schedule unless there is a fire or something.

MS. HOWARD: Those were on the schedule since January for the 16th of December and the 18th of November.

CHAIRMAN VICTORINO: And why can't -- and that's a good point. Why can't the stakeholders

move their meeting up? That's a good point. And I think that's what I would say. Why not request them to move their meeting up? Because I agree with Ken in that sense we moved it for them and now we're moving it again, but I think it's only appropriate, we had ours up before theirs. Would that be a possibility, Ann?

ANN HAJNOSZ: To move to the 7th?

CHAIRMAN VICTORINO: Yes.

ANN HAJNOSZ: So what we're coming into is a problem, we have like a month between meetings like

you do. The time between our October meeting and our November meeting is only three weeks. We have to get a lot of analysis done, we have to get the department to review the analysis and the letter, all before the November meeting, because we're already squeezed. The three-week time period doesn't allow us enough time to get all of our work done and reviewed. We need four weeks, minimum of four weeks.

Our meetings have also been set. They have been set for a while.

CHAIRMAN VICTORINO: But ours are set from

January prior to all these meetings being set. And

I agree, you know, with my board members that our

meeting was out there before these meetings were

set. So I would have thought some accommodations --

and just futuristic thought process, you know.

ANN HAJNOSZ: We're working actually on the 3rd

of January schedule, so we'll have to look at what

you guys are. Because we were actually working for

your meeting on the 23rd, which I didn't know was

moved. That's kind of what we were working under.

CHAIRMAN VICTORINO: You knew the other one had

to be moved, too, because of the fact that the

November one is on Thanksgiving. Anyhow, okay, all

right, so we'll go with that. Okay. Okay.

Anything else?

Divisional reports, please.

DIRECTOR TENGAN: Mr. Chair, rather than go

over each of the divisional reports, I would like to

just point out that -- and suggest that the board

members review the financial reports as submitted by

Holly. And you might also want to take a look at on

page 7 of the divisional reports we have a graph of

the reservoir levels at Piiholo and Kahakapao.

One of the things that we did back in September, if you refer back to the draft, you'll notice that the Kahakapao reservoir went down below 10 percent and the field crew went in to the area to install a water line from Kahakapao down to Piiholo so that we could transfer some water from Kahakapao down to Piiholo. Without that line, Piiholo would have been practically dry. We had intended to use the line for a longer period of time, but after a couple days I guess we got some rain and so the

Piiholo reservoir started building up again. But, you know, I just wanted to point out that the field crew did a fantastic job in putting in the line and basically saving us a [inaudible] for the system.

CHAIRMAN VICTORINO: Thanks a lot, you guys, and I think sometimes we fail to recognize the field people because they do a lot of things and save us a lot of money by incorporating. But then, like Bobby was telling me the other night, sometimes that does hurt, too, because there is other things that don't get done. But, again, we're all working on the same

premise that we do the best we can with what we have
to work with. But thank you, George, I appreciate
that.

Any other questions on the report? Sally.

BOARD MEMBER RAISBECK: Actually, this is not
exactly on the report. But Ralph told me the other
day that he would really love to have some kind of
tours --

CHAIRMAN VICTORINO: Yes, I'm working on that.

BOARD MEMBER RAISBECK: You are.

CHAIRMAN VICTORINO: Yes, that's been addressed

and I'm working on that. There won't be anything until January because we have so many things that has to be done.

BOARD MEMBER RAISBECK: Sure. But I never did get the central system tour that I was scheduled for and then it had to be cancelled, so I would love to be on the tours when they start doing it.

CHAIRMAN VICTORINO: We're looking at probably January or February of next year to get started again. But right now we have so many things on the plate that we want to get those things accomplished.

Yes, Michele.

BOARD MEMBER McLEAN: Thank you, Mr. Chair. I have a question -- actually, it was Kent's question, but he needed to go and he wanted me to bring it up. On page 13. This is the 130 meters in Wailuku. He was just asking why that number was so big. Was that for one particular project? That just seemed like the number just jumped out to him, he wanted me to ask about it.

CHAIRMAN VICTORINO: Are you referring, Michele, under 5/8" pipe, Wailuku, 130 regular meters brought on to service? That's what you're

asking.

BOARD MEMBER McLEAN: Yes.

DIRECTOR TENGAN: Mr. Chair, board members,

refer to page 4 of the monthly status report from

Field Operations, submitted by Robert Vida. If you

look on the first page under Completed Projects, on

the second paragraph, it says, "Central maintenance

installed 27 meters at Alii Village in Kihei and 118

5/8" meters at Maui Lani." So that's probably the

reason.

BOARD MEMBER McLEAN: Thank you.

CHAIRMAN VICTORINO: Okay. Any other questions
or comments on the reports? Okay. If I'm following
everything correctly, unless there is anything else
needs to be discussed, I'll call this meeting
adjourned.

(WHEREUPON, the meeting was concluded at 12:16

p.m.)

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