

County of Maui Water
Supply

BOARD OF WATER SUPPLY
COUNTY OF MAUI
REGULAR BOARD MEETING
TUESDAY, DECEMBER 21, 2004

Held at the Kahului Shopping Center, 65 West Kaahumanu Ave.,
Unit 29, Kahului, Maui, Hawaii, commencing at 9:00 a.m. on
December 21, 2004.

REPORTED BY: GLORIA T. BEDIAMOL, CSR/RMR #262

A P P E A R A N C E S

CHAIRPERSON: MICHAEL VICTORINO

VICE CHAIRPERSON: KENNETH OKAMURA

MEMBERS: MICHELLE MC LEAN

STACY HELM CRIVELLO

GINNY PARSONS

DOROTHY PYLE

RALPH JOHANSEN

KENT HIRANAGA

STAFF: ED KUSHI, CORPORATION COUNSEL
GEORGE TENGAN, DIRECTOR
CATHY HOWARD, SECRETARY
HOLLY PERDIDO, FISCAL OFFICER
HERB CHANG, ENGINEERING

* * *

CHAIRMAN VICTORINO: I would call to order this
December 21, 2004 Board of Water Supply meeting, our regular
board meeting. This is the last meeting for the 2004 year,
so I would like to recognize all in the audience and wish
everyone a happy holiday season. Hopefully the new year is
a prosperous one and the season is a safe one.

The board members that are present, Michelle, Ken, Kent, Ralph, Dorothy, and myself, Mike, are present.

Announcements? Do we have any announcements? I will announce that Mr. Kushi will be a few minutes late and Ginny will be a few minutes late. But beyond that, having none, I'll move to approval of the minutes from the November 17, 2004 regular minutes as provided. Did everyone have a chance to review it?

MS. MC LEAN: So moved.

MR. OKAMURA: Second.

CHAIRMAN VICTORINO: It's been moved and seconded.

Additions, corrections, deletions to the minutes? Sensing

none, all those in favor say "aye."

(A chorus of ayes.)

Opposed?

(No response.)

Okay, the minutes have been approved.

Now we're going into public testimony. Today we

have one. I don't know of any others at this point, but I

have one wanting to give oral testimony. His name is Alex

Michailidis. He is the director for the East Maui Watershed

Partnership.

I was very fortunate, and I think some of us were there when he gave his presentation at the HWWA meeting at the Maui Prince. And I asked Alex to come by and give us the presentation, and also to, hopefully, get some kind of process in place that in the near future monies can be allocated at a specific level for the watershed protection program.

Most of us who understand our water situation realizes that the watershed is crucial for Maui to continue to not only develop and grow, but to sustain itself. And

without our protection of the watershed, areas here on the island of Maui or throughout the state will be in big trouble in a very short time.

Alex Michailidis, would you like to come up and give your presentation, please?

MR. MICHAILIDIS: Stand where or --

CHAIRMAN VICTORINO: Here, Alex, please, if you don't mind, and if you can speak right into the microphone.

MR. MICHAILIDIS: Good morning, everyone. Thank you. Aloha Board of Water Supply and members of the community. My name is Alex Michailidis, and I'm the

watershed coordinator for the East Maui Watershed

Partnership.

It's a natural resource project on the windward side of Haleakala, protecting the native forest from feral animals and invasive weeds. We rely on our native forest for our water supply. And a couple of months ago, as Mike had mentioned, I had given a presentation on watershed and source protection. And after, Michael came up and approached me and said, "Alex, please come talk to us."

So, really, today, I'm really here to provide just

testimony on a couple of different things. But I would be more than happy to come and speak before you again and give you a nice power-point presentation with all the bells and whistles and pictures of really what the forest looks like and how difficult this work is out in the native forest.

We're up at about a 3,000, 4,000 feet elevation, we're building fences and removing threads above the fence lines. Staff work three to four days during the week out in the field, camping in wet, rugged, cold conditions. If you've been sitting in an office -- it's tough, try doing that in the middle of nowhere, having to live with -- it's

tough working, and I'm really, really proud of the staff that we have.

The partnership has been around since 1991; but up until 2002, the partner agency, the national park, the Nature Conservancy and the state were doing work for the benefit of the watershed. And in 2002, the partners decided that they would need to hire staff that were dedicated to do this type of work. And I was the first person hired, and now there's eight of us.

In addition to working out in the remote forest, an important part of our program, really an extremely

important part of our program is educating students, our island youth and members of the community. And we launched a public education program; we've provided outreach to at least a thousand students in the past year and a half, and visiting the schools, giving them presentations on the importance of our watershed and how they can protect it.

Our watersheds provide us goods and services in the billions of dollars. I have given Michael a copy of a publication, the last one that the Nature Conservancy put out. It's talking about the value of our watershed. If you look at water supply and resource, the resources that are

there, that's timber, aesthetic beauty, biodiversity, we're talking billions and billions of dollars.

And if you multiply the resources of the watershed areas throughout the state, we're talking hundreds of billions of dollars. And if we lose this, our native forest, we're not going to have these resources, and our quality of life on the islands will be forever changed, and it would be an insurmountable task to generate the funds to try to replace any of the species that we lost, or really find the new source of water for our islands.

I'm not going to say that, you know, the windward side of Haleakala will eventually resemble the south coast of -- the Kaupo area. But that area used to be forest; it's no longer forest. If we were to lose our forest on East Maui, we would lose our water supply, and then we would have, you know, desalinization plants and treatment systems to treat either reclaimed water or seawater for our water.

We're really blessed to be out here to have this forest that really generates a lot of the rainfall and our fresh water.

Couple of things, the Department of Water Supply

has put into their budget -- for the year of 2006, the amount of a hundred thousand dollars for our watershed protection program, and I would hope that you all approve of that allocation by the department, and hopefully that will continue for the years to come.

Our operating budget is about a half a million dollars a year, and trying to piecemeal that on 20,000, 30-, \$50,000 grants gets to be a daunting task. We need dedicated funding for our projects. And I'm trying to generate the funds; but again, trying to, you know, accumulate enough money to keep eight of us employed at

about a half a million dollars a year, it's proving to be quite difficult, and we need dedicated funding to our program. The state ponies up and gives us, you know, about a third of our funding, we rely on the federal agencies, the U.S. Fish and Wildlife Service for our funding also.

And at last, I would just like to approach the subject of water rates. I know -- I guess rates are being discussed, and I would hope that the people that are considering these rates are keeping in the back of their mind what these rates will pay for, and hopefully some of this rate increase would go towards the fund that all of the

conservation entities on Maui could tap into to support their resource protection programs.

I'm not a proponent of making it more expensive to live out here, but I think there are ways that we can be smart about how we would propose rate increases or even working with, you know, other associations, other entities on the island.

Back in March, I approached the budget finance county council members and pretty much said, 50 cents extra for a hotel room would generate \$2-1/2 million; so if

you're, you know, staying at the Maui Prince at 400 bucks a night, what's \$400.50 a night in the eyes of a tourist. And if they give that extra 50 cents or extra dollar or extra \$5 and that would go towards protecting our island's resources, I think they would be more than happy to pay that money. If you look at occupancy rates and 50 cents, \$2-1/2 million.

I'm not saying it all goes to East Maui, I'd love for that to happen, but, you know, resource protection, invasive species programs, stopping the threats before they come on island, that's the type of stuff that we need to do and that's the kind of money that we need to have.

Thank you so much for your time, and I look forward to seeing you all again.

CHAIRMAN VICTORINO: Before I open the floor for questions, I'd like to say I appreciate your enthusiasm and dedication; it's people like you that keeps us aware of what's going on and the importance of the watershed protection program that has for the longest time been put on the back burner.

And I think you're right, you need to put it up in the front, you need funding and dedicated funding, and not have you guys scrambling from month to month, year to year

looking for this grant and that grant just to survive.

I hope from our side and through the department and through the council, we can find some mechanism of putting in -- whether it's a hotel room tax, or whether it's a user tax or whatever, a fee, whatever you want to call it, so we can dedicate money to the watershed program, especially here on Maui. I think that's key. I mean, protecting all the watersheds throughout the state, but protecting Maui is our focus, really, right now, and I think we need to.

But I thank you, Alex, for your dedication.

MR. MICHAILIDIS: Thank you very much.

CHAIRMAN VICTORINO: I open the floor for questions. I just wanted to make that one comment.

MR. OKAMURA: Thank you for your presentation.

You know the axis deer problem, I know it was in the papers a couple of years ago as far as the watershed. How is the situation now?

MR. MICHAILIDIS: East Maui is not too involved with the axis deer program because we really hadn't seen them out in the heart of the watershed. You go up Piiholo

Road, there's axis deer there, and you go Makena, Wailea, there's axis deer. You know, the resource managers in the field, they have yet to see deer in the heart of the watershed; so I can't really talk too much about, you know, control programs or what's going on.

I know the state had some money to hire a coordinator, a project coordinator to work with -- the big issue with axis deer is, you know, where the deer are. And the hunters can't get to the deer due to private landowner liability concerns.

You know, I think sole private landowners are more

receptive to island people to come on their land and not face the litigation that could happen if somebody tripped and fell on their land. And you know how society is, it's so litigious. You know, you can put up no trespassing signs, yet if you -- if something happens to you while you're trespassing, you could take them to court, you may not win, but it's that nature now of the situation.

I know the Nature Conservancy on Haleakala Ranch has built an 8-foot fence at the far western border of East Maui, kind of where Waikamoe reserve starts and ranch lands start, to keep deer that are slowly making their way over

there. Again, the state does have some money, they're looking to hire some kind of a project coordinator to spearhead this, you know, direct removal campaign.

CHAIRMAN VICTORINO: Any other questions?

Alex, thank you again for your -- we will -- maybe early part of next year I'll schedule a meeting where you can give us the full power-point. I think there you will see the impact. I mean, right now you have given us an overview; but the impact of the power-point I think is something that for those who see it, like I did, really get taken by it. So we'll schedule something and I'll get back

to you on that.

MR. MICHAILIDIS: Right. I'd like to make a comment, it's tough to talk three minutes about watershed protection.

CHAIRMAN VICTORINO: Thank you, Alex.

MR. MICHAILIDIS: Thank you so much.

CHAIRMAN VICTORINO: I appreciate it.

I don't see any other public testimony at this time. Do you have anything else?

MS. HOWARD: I didn't make anyone sign up who is

on the agenda.

CHAIRMAN VICTORINO: Okay. If anyone else on the agenda that wants to give testimony or would rather wait until their item came up on the agenda, I'll leave it up to them at this point. If you rather speak now on your item or wait until your item comes up on the agenda, then we'll allow you to speak at that time. Okay, I guess we'll wait until your item comes up on the agenda, then we'll ask you to speak.

Okay, moving right along on the Communications,

we'll start with Communication 04-10. Is William in the

audience? Would you like to come up and give your

presentation, please? The communications will be between

pages 4 and 13 of your packet.

MR. BLIETZ: You want me to sit down?

CHAIRMAN VICTORINO: Yes, you can sit down. Speak

into the mic because we do record all this, sir.

MR. BLIETZ: Thank you.

CHAIRMAN VICTORINO: Start by stating your name

and the purpose.

MR. BLIETZ: Thank you. My name is William

Blietz. And aloha to everyone. And I have some babies here

I want to show you.

I'm not a newcomer to Maui, I came in the '70s and started an orchid nursery in Maui Meadows, and it got too small, and through the years I was able to expand and I have now a 26-acre farm with my youngest son. It's on West Kuiaha Highway and Hana Highway. It's the old agri-tech (phonetic) farm. We obtained it seven years ago and we tried to turn it into an orchid lab and now a farm. And we supply local folks.

And for the first time that I know of, four containers went to Kona, of palms, I don't think anyone has

ever done that. We employ approximately six people; we're trying to expand. In our expansion program -- I want to thank you folks, and I want to thank the water department for supplying us the water at the rates they do and the help that Mr. Abe and Mr. Chang have given me down at the department. I want to say they do a wonderful job.

The facts in this case are undisputed. What I did in order to expand, I have two residences and I have an orchid lab attached to one and I have a palm lab attached to the other. And I asked for a greenhouse. When I went to

the planning folks, they said you have to go through the subdivision requirement because it's a fourth dwelling on an ag lot, not that I'm trying to subdivide, but they require that I do that.

I took the plans to -- and that required the fire department and other, you know, what you go through with subdivisions, and a parts contribution and all that, which I did. All right, when I got to the fire department, they said that your fire supply is inadequate; so they said if you put a 30,000 gallon tank within a hundred feet of the structure, that will qualify you for the fire protection

that you need.

Well, okay, so they did -- if you see in the packet there, you'll see the letter from Lieutenant English indicating that he approved the subdivision, which included the wood structures that I told you about, and a greenhouse.

Now, this greenhouse is an all-metal greenhouse with nonferrous type shade cloth on it. And you'll see there that it's -- that the facts are undisputed by the water, they checked it out and they know that.

So they have told me that I still don't qualify because of water -- a fire flow requirement for the

greenhouse. Well, the fire department has okayed the project in my subdivision requirement, and they have -- the wood structures for the house has been taken care of with the tank that I put out there. I have revised the location of the greenhouse to be within a hundred feet, which is the requirement for the fire department, a hundred feet from the tank.

The tank is in, and I got the permit, it was inspected, and the fire department came out and they okayed it. So they okayed all my permits up to now. So I'm simply requesting that you folks recommend that I be allowed to

have my greenhouse put in. And this is -- in order to get bigger and bigger and have more folks, and we do employ local people. We have GET tax. We're not -- you know, we have workman's comp, we're a legitimate business and have been so for a long time.

But in order for us to take our orchid lab and palm lab and expand our product, we have to have a greenhouse to put them in. True, we do have a greenhouse out there now, but we have, like, three acres with field planted materials, trees, mainly palm trees; we have another

three acres in containers; and then we have a three-acre greenhouse that consists of the smaller plants and the orchids. Some of the orchids have to be under cover.

By the way, we've been involved for 20 years with the Maui Orchid Society. We're not Johnny come lately, my family, my sons -- my two sons, myself, and my daughter-in-law in the last 20 years have probably been the president of the Maui Orchid Society. We've got orchid land, and the chairman there is familiar with the fair; we put our displays in and we had four lovely displays this year and we won a lot of awards.

Mr. Fukumura was my guru, and I literally went all over the world with him. So all I'm trying to do is just get permission to build this all-metal greenhouse. My two neighbors had put similar greenhouses in and weren't required to do any additional -- those two neighbors are my oldest son and my step grandson. They put the same identical greenhouse on their property.

I think I have complied with the fire requirements as the fire department said for my greenhouse, and I have to have it in my business to expand. If there are any questions --

CHAIRMAN VICTORINO: I'll open the floor up to questions; however, before I do that, I would like to get the department's -- you know, I went through this, but I would like to get the department's rationale for denying this. So George or whoever would like to give the department's -- showing the two sides, so everybody hears --

MR. TENGAN: We have staff here to discuss our staff report.

CHAIRMAN VICTORINO: Okay, please, whoever you would like to assign.

MR. CHANG: There is a couple of things that the

staff had based their report on which was the reason why the permit was denied. One of the factors is the department's rules and regs requires that fire protection be provided in accordance to the, I guess, the ISO, which is the Insurance Service Office. They have a method for determining -- for particular buildings, we submit specific applications.

And this particular structure is a greenhouse.

The applicant's architects submitted fire code -- which showed, according to his calculations, roughly 1200 gallons per minute for fire flow required to put out -- in the event

a fire occurred, that's how much water is needed.

So, unfortunately, the water system in the area is currently only a 6-inch pipe, which can provide roughly 900 gallons per minute versus the 1200 that's needed. So that was one of the factors that the department had to face as far as permitting the permit.

As far as the 30,000 gallon tank, under the department's rules and regs, we don't allow private systems to be approved under the rules and regs -- if there's water service to a property from the public system. In this case, there's a water meter serving the property. Compliance with

the rules and regs of the department is necessary. And we don't have -- the department doesn't have -- the staff doesn't have the authority to approve nonpublic fire protection systems. This is a private system that's proposed.

So those are the two essential problems or factors the staff had to review and make -- based its decision on.

CHAIRMAN VICTORINO: Okay. I guess -- and I'll open questions up, but I have one question for you. If Scott English from the fire department is basically saying it's okay, and again, I guess rules are rules, I'm not

trying to go against the rules. But if the fire department says okay, then my question is, is our rules beyond the fire department rules or are we not meeting somewhere?

I think I'm confused and I apologize for being confused, but I don't understand why the fire department is saying it's okay, and then you come back and say it's not. And I understand what you said, but they're saying it's okay. Can you explain that, Herb, please?

MR. CHANG: The fire department -- I'm not sure what standards of fire protection they use. But like the letter said, they found it okay, whatever they were planning

to do.

Unfortunately, you know, the water department's rules and regs is what the staff implements, so there's no measuring of the two, fire department and water department. There's nothing in the rules that says the fire department approves the service as far as the fire department has to go along with it, there's nothing that allows us to take that into consideration.

CHAIRMAN VICTORINO: Mr. Chang, I understand, it's just that it's very confusing. The authority that I would

look at as the fire protection would be the fire department saying okay. No offense to your rules or ISO rules or anything, but I would assume that that would be good enough. Let me now open it up to the floor.

Dorothy, and then Ginny. Okay, go ahead.

MS. PYLE: You probably have similar questions.

It seems like for the past at least year we have had numerous people come forward with questions about private fire protection. This is not a new issue, believe me. And it does seem to me that this was something that we asked -- as a board, want to discuss with the fire department.

I don't think this is a problem that's going to go away; it's only going to become more intense. There are many private fire protection systems on this island. We actually discussed several of them at our meetings. I'm confused, still, as to why there has not been some kind of a negotiation between, perhaps, the water department and the fire department to settle this particular issue.

There are -- the fire department does have very high standards and they require you to put in a 30,000 gallon tank which would run 1200 gallons for almost a half an hour. And they probably, no doubt, met their national

standards for fire protection.

What can we do as a board to require that this be resolved on a county-wide basis, not an individual basis as it seems to be becoming now? I know you have rules and regulations, but these rules and regulations need to be discussed and they need to be looked at in connection with the fire department.

CHAIRMAN VICTORINO: I think you bring up a very valid point. I think it's time that we, as the department, and the fire department -- the water and fire department to come together and come to a consensus.

MS. PYLE: It has got to get solved.

CHAIRMAN VICTORINO: Yeah, really, because it constantly comes back to this issue of fire flow. And I want the standards to be high and safe, but also I want it to be consistent, because this makes it very difficult for everybody, especially our business people, anybody trying to build any kind of structure. Mr. Blietz?

MR. BLIETZ: Yes, sir. It was suggested to me by somebody in the water department that I contact Councilman Mattos regarding this, which I did, because he was the

gentleman that was in charge of that and go forward with it.

I said, Well, I would be happy to do that. And I still

would be happy to go forward and try to lay some groundwork

that would resolve the conflict between the two.

CHAIRMAN VICTORINO: I think that's a good point,

and maybe that's where we need to start. Maybe I should get

a letter off to Councilman Mattos to get that ball rolling

and see if we can get some resolution on this in the very

near future. Go ahead, Ginny.

MS. PARSONS: I believe the meeting we had with

the planning commission and the fire department, which was a

couple of months ago, that we discussed this, and the fire department is willing to take this on. And I would like to see us -- maybe we can discuss this after we work on William's situation.

But maybe we make a motion to remove fire flow or review of the fire flow and the third structure rule to be removed to the fire department and let them handle it. I think we have too much work now anyway. The guys are inundated.

CHAIRMAN VICTORINO: Okay. Ralph?

MR. JOHANSEN: Yes. John, doesn't the fire

department -- this question is addressed to Mr. Chang.

Doesn't the fire department also go by ISO requirements or

ISO guidelines? Or are you not aware of what the practice

is?

CHAIRMAN VICTORINO: Mr. Chang?

MR. CHANG: I'm not aware of the practice.

MR. JOHANSEN: My second question is one that only

a newcomer would ask. But does it make any difference if

you have a sprinkler system?

MR. CHANG: It does matter. The sprinklers

dramatically reduces the amount of fire flow demand.

CHAIRMAN VICTORINO: Thank you.

MR. JOHANSEN: Thank you.

CHAIRMAN VICTORINO: Any other questions? Ken?

MR. OKAMURA: What is the size of the greenhouse?

MR. BLIETZ: 9200 square feet.

MR. OKAMURA: What dimensions would that be?

MR. BLIETZ: 96-by-96.

MR. OKAMURA: Feet?

MR. BLIETZ: Yes.

MR. OKAMURA: The other question I have is, ISO's

requirement of 1200 gallons per minute, is that particularly for the greenhouse or is that for that size of structure?

CHAIRMAN VICTORINO: Mr. Chang?

MR. CHANG: ISO was, I think, designed or created for mostly commercial buildings and residential homes. Greenhouses, I don't think it was part of the overall concept when they did this method. And looking at the calculations a bit, I think based on the square foot area of roughly 9,000, the architect, when he did the calculations, went as lean as he could. Meaning he did the best he could do, given the size of the square foot of the structure.

MR. OKAMURA: Just to be safe, he had to go by some figure which is given by the ISO, no matter what that figure is and what it applies to, actually?

MR. CHANG: To be more specific, the ISO method has factors for building materials, what's inside the building, they have all these factors. And the architect used the one that would result with the lesser fire flow. But a good point Ralph made was sprinklers.

MR. OKAMURA: 1200 gallons seems like a lot of water to me, and even 800 gallons is a lot of water. I can't see a 96-by-96 greenhouse having a fire, especially

with fire retardant material being used, that would require
800 gallons of water per minute.

CHAIRMAN VICTORINO: Good point. Dorothy?

MS. PYLE: Actually, for -- sustained for how
long? You know, it doesn't say. 1200 gallons per minute
for how long?

MR. CHANG: The department requires a two-hour
duration.

MS. PYLE: Two-hour duration. Okay.

MS. PARSONS: That's a lot of water.

CHAIRMAN VICTORINO: Mr. Tengan? Director Tengan?

MR. TENGAN: I would make a comment that although the greenhouse structure might be considered nonflammable, the department or the board, the county has -- I don't believe the county has any jurisdiction as to how the structure is used and what is stored in it. So, you know, the structure could contain flammable material. That's a consideration that should be taken into account.

CHAIRMAN VICTORINO: Thank you, Director Tengan.

Any other questions? Kent?

MR. HIRANAGA: Clarification. Are there one, two,

or three dwellings on the property at this time? And how many square feet does each dwelling -- how large are they?

MR. BLIETZ: There are three dwellings on the property now. And as a matter of fact, two years ago I supplied a 550 foot, 6-inch waterline at my expense of \$45,000 and a fire hydrant down the road to cover those houses.

MR. HIRANAGA: How large are the dwellings?

MR. BLIETZ: The dwellings are approximately 3,000 square feet, two of them. And then the new one is 4,000, but half of it is a dwelling and half of it is an orchid lab

on one side, and then the other side, half of it is a dwelling and half of it is a palm lab.

MR. HIRANAGA: All these dwellings are used to house employees actively involved in the ag activity?

MR. BLIETZ: Yes, my son and then the employees, yes. And as a matter of fact, that's one of the wonderful things that we can do is to try to attract some good, long-term employees with the two new dwellings that we're putting in, because we'll be able to get -- you know, it's nice to be able to offer somebody a residence, especially a new one.

CHAIRMAN VICTORINO: Right.

MR. HIRANAGA: I believe we came across a situation like this in the past, where it is an accessory building versus a dwelling. But you're saying the rules do not make a distinction between dwellings and buildings?

CHAIRMAN VICTORINO: Mr. Chang?

MR. CHANG: Are we talking about --

MR. HIRANAGA: The greenhouse.

MR. CHANG: The only -- if we're talking about exemptions for fire protection or are we --

MR. HIRANAGA: Is there -- as far as the

department is concerned, a dwelling and a building are one of the same?

MR. CHANG: The rules and regs -- or the department's implementation of the rules, buildings, we look at residential structures, it's classified as a residential or nonresident. If it's nonresidential, we consider it as a commercial classification.

So the greenhouse, being it's nonresidential, would fall into commercial. That's why we have the ISO requirements for -- versus residential, which would fall

under the subdivision category for fire flow requirements,
which is a flat -- in this case, ag zone, 250 gallons, no
matter how many homes.

MR. HIRANAGA: If someone was raising horses and
they put up a weather shelter, would the weather shelter be
considered a building, and you can only put up three weather
shelters?

MR. CHANG: That's correct.

MR. HIRANAGA: Thank you.

CHAIRMAN VICTORINO: Dorothy? No. Ken?

MR. OKAMURA: I think the previous question makes

an important point in that there's not enough flexibility in terms of agricultural structures and even -- it's just like one size fits all. It's really going to hurt or prevent people from expanding their business on the farm. Not only for farming -- it's not only -- it's also value added and doing things like that which you need buildings. And labor is another problem.

I don't know how we can pursue it, but I would like to see the rules become a little bit more flexible in terms of trying to encourage farming. But at least not to put roadblocks out, and to be fair and look at the situation

as it is. I don't know how we can do it, but I think maybe we should do that. Thank you.

CHAIRMAN VICTORINO: Kent?

MR. HIRANAGA: The question regarding private fire protection systems, there's no avenue that we can explore about a self-contained fire protection system for the greenhouse?

CHAIRMAN VICTORINO: Mr. Chang?

MR. CHANG: The current rules are set up where fire protection to be -- to satisfy the department's requirement has to be following the department's standards,

that's the way the rules and regs are set up.

MR. HIRANAGA: But that's for fire flow or water
flow?

MR. CHANG: Both. Whatever the project needs. If
the system -- if the water system can't handle it, then, you
know, the applicant has to improve the system to provide the
water demand and the improvements according to the rules,
you have to follow the department's standards for the
structure and design.

MR. HIRANAGA: How about chemical based fire

protection system self-contained for the --

MR. CHANG: The department's rules, it's not in the standards.

MR. HIRANAGA: Is that something you might consider, though, if it's feasible?

MR. CHANG: I think if we can work with the fire department, we can maybe make new standards, or -- I don't know if you -- I don't know if it'll go as far as rules and regs changes to incorporate this type of fire protection system.

MR. HIRANAGA: Has the applicant explored

self-contained fire protection? Have you looked at that?

CHAIRMAN VICTORINO: Mr. Blietz?

MR. BLIETZ: It's kind of difficult to do that with plants growing in the greenhouse, to have some kind of a chemical fire protection because it's not good for the plants. The ones that are in the bottles are okay. The flask. But the ones that are out in pots, that would be virtually impossible to protect them from chemical damage.

MR. HIRANAGA: I guess the reasoning is, first of all, what are the odds of having a fire in a greenhouse. If there is a fire, will your plants survive the fire anyway;

so in order to obtain your permit for the greenhouse, you need something that will satisfy the department's requirements and not necessarily ever be used.

MR. BLIETZ: Well, you know, I asked Ricky Fernandez, the fire chief that retired, if he ever heard of a fire in a metal greenhouse with fire protective shade cloth on, and he said never. So I wonder if it's -- that doesn't say it can't happen, but you can see what we have to burn are these types of things right here.

Then we -- not only that, but we have the sprinkler system in the greenhouse that would protect it,

you know, if something happened. Frankly, we have fire extinguishers that we put in the greenhouse. But I'm just not familiar with any chemical protections.

CHAIRMAN VICTORINO: Ralph, may I let Mr. Tengan go first?

MR. TENGAN: Mr. Chair, if I recall what Kent mentioned, there was another situation that he remembers, as I recall, we did deal with another similar situation, but I forget what the outcome was.

Anyway, I recall that we were concerned about, as

I mentioned earlier, what was stored in the building. But we were also worried or concerned about controlling fires outside of the building and maybe that's why a fire -- a sprinkler system is not sufficient, depending on the surrounding area there.

But I do recall looking at the material that the applicant was proposing to use to cover his greenhouse, and we even put matches to it to see if it was not flammable, it would just melt away.

So what I would suggest is for the board to defer this item. We go back and research the particular instance

and see what the outcome was and report back to the board.

I believe -- does Harold's Nursery seem familiar to you in Haiku someplace?

CHAIRMAN VICTORINO: Okay, I'll bring that up in a moment, but I'll let Ralph ask his question, please.

MR. JOHANSEN: First of all, responding to what Mr. Tengan just said, it seems to me that since sprinklers are in a lot of commercial buildings, generally, as well as dwellings, there shouldn't be an exception here. There's no reason why flammable material wouldn't accumulate out of a greenhouse and -- structure.

And the second thing is, apparently, the rule about four buildings on one property requiring a further review is a rule of the planning department; am I correct? That's how it got referred for further review by the water department?

CHAIRMAN VICTORINO: Right.

MR. JOHANSEN: The fourth structure rule was one under the planning department; right?

CHAIRMAN VICTORINO: Mr. Chang?

MR. CHANG: I don't know.

CHAIRMAN VICTORINO: Okay. We don't have an

answer to that at this point.

MR. BLIETZ: I know that to be true, because that's the reason why they required me to go through the subdivision department at the planning department, not because I was trying to subdivide the land, but because it was the fourth dwelling.

And they showed me -- I mean, I would like to see it in writing, and they showed it to me where this says when there's a fourth dwelling put on an agricultural land, it has to go through subdivision requirements.

CHAIRMAN VICTORINO: So that's what's causing it to be put in a subdivision classification?

MR. BLIETZ: Yes. That's how I got involved with the fire department, then that's how they came forward and said that we'll require you to put the 30,000 gallon tank there for the protection of the wood structures.

MR. JOHANSEN: I raise it because we're talking about flexibility and that is under the purview of the planning department, not this department.

The third thing I wanted to raise was still floating around my head, I can't think of it, but it had to

do with flexibility. If the department is restrained by the guidelines of the ISO, there must be some good reason having to do with liability in this. So if there's no flexibility there, my question is, what resources can you or anybody else -- to make a difference there?

And the other thing is that the water resource can't resolve this if that's initially referred at the instance of the planning department. So it sounds as if it's something for the county council. I think that we ought to make our recommendations based on what we've been discussing here.

CHAIRMAN VICTORINO: Thank you, Ralph. Okay, I

don't sense any more discussion. Would anyone like to make

a motion whichever way, whatever you would like to do,

approve? Defer? I will open the floor to a motion.

Michelle?

MS. MC LEAN: I actually do have one question for

the applicant. The director suggested to defer this item so

they can look back into a similar situation and get back to

us. You submitted your building permit more than a year

ago; you made the request in August to come before the board

and that was several months ago. Would waiting another

month be okay with you or is -- or you had enough already and want us to go forward?

MR. BLIETZ: The only thing I would say in rebuttal to wanting to put it off is the fact that it's a fire retardant material that's on the greenhouse and it's already been approved. The fire department submitted it to their own people and verified the fact that it's fire resistant or fire retardant, or I don't know what word you use, and so I don't see how that would change anything anyway.

I mean, we've tried to do the best we could do. A metal structure instead of wood structure and fire retardant material, and I don't see how we could be any more fail-safe than that.

CHAIRMAN VICTORINO: Okay. Would someone like to make a motion? Dorothy?

MS. PYLE: I would like to move that the board recommend to the department to grant Mr. Blietz his request at this point, given the circumstances of confusion between the water department and the fire department and that this be used as an example of the absolute necessity of clearing

up this situation sooner rather than later.

MS. PARSONS: Second.

CHAIRMAN VICTORINO: It's been moved and seconded.

Any further discussion? Kent?

MR. HIRANAGA: I would be voting against this motion because I believe it would be prudent to defer the matter as requested by the director so he can possibly find some reason to grant his request; but to just say this is a confusing matter, we're going to grant it to him anyway, I don't think it's a strong enough argument for me to vote for this motion.

CHAIRMAN VICTORINO: So noted. Ginny?

MS. PARSONS: On that same subject, I don't think that we're taking away the ability for the director to research that, as well as recommending at this point that if they can find a way that we feel it should be accepted and approved.

CHAIRMAN VICTORINO: Any other discussion?

Sensing none, all those in favor of approving the motion signify by raising your right hand.

1, 2, 3, 4.

Those opposed?

1, 2. And I guess, Ralph, you and I just --

MR. JOHANSEN: I guess if you don't vote in the affirmative -- you don't vote in the negative.

CHAIRMAN VICTORINO: You go to the positive; right? Okay, so, with that two opposed and 1, 2, 3, 4, 5 positive. So the motion to recommend this to the director moves forward.

But I would say one more thing about, Mr. Tengan, if you can in your research, and I know you will, find anything that is, you know, negative or something that

should come back to us for further discussion at the next meeting, please bring it to us. But if not, we find it's a positive or that the other situation was approved, then I say, you know, then we move it -- it's just a recommendation anyhow. Okay?

MR. KUSHI: Mr. Chair, what is the count?

CHAIRMAN VICTORINO: 5 to 2 -- 6 to 2. Excuse me, 6 to 2. Sorry, I got my math wrong. Yes, Ginny?

MS. PARSONS: On the same subject, I would like to make a motion to ask for review of the fire flow and third structure rule by council and the mayor, and possibly get it

out from under the department's purview since we're inundated with a lot of projects, and put it under the fire department and let them handle all the fire flow and third structure rules.

MR. OKAMURA: This matter is not on the agenda.

MS. PARSONS: This goes along with this.

CHAIRMAN VICTORINO: Why don't we look at -- under

New Business and discuss --

MR. OKAMURA: I think discussion would be good.

CHAIRMAN VICTORINO: We'll put it under New

Business.

Thank you, Mr. Blietz, and hopefully this will
resolve your matter in the near future.

MR. BLIETZ: Thank you. Happy holidays to all of
you.

CHAIRMAN VICTORINO: I would like to call a
ten-minute recess, please.

(A recess was taken.)

CHAIRMAN VICTORINO: I'll reconvene the meeting.
Next communication would be Communication 04-11. A letter
from Marilyn Hillman requesting we grant an additional water
meter. Items would be between pages 14 and 52. Is anyone

here to give testimony in regards to Ms. Hillman? Yes?

MS. HILLMAN: I'm Marilyn.

CHAIRMAN VICTORINO: Oh, sorry. I'm so sorry. Go

ahead, have a seat.

MS. HILLMAN: Thank you.

CHAIRMAN VICTORINO: If you would introduce

yourself, please.

MS. HILLMAN: Yes. Mr. Chairman, ladies and

gentlemen of the board, thank you for hearing my request

this morning. My name is Marilyn Hillman. I'm a resident

of Upcountry, Keokea, Maui, and I'm here this morning to request that the board recommend that I be issued an additional water meter so that I may complete my ohana subdivision and relieve a difficult financial hardship situation.

And I believe in my request letter, that you have a lot of background information about the description of my situation, so I don't want to go over the long story. But the short story is that I am requesting a waiver of the water issuance rule in my situation and we can -- I can take questions about that situation in detail. But I would like

to request a waiver based on Title 16, Chapter 106,
paragraph 8 of the water issuance rules which allows a
waiver in cases of a hardship situation.

I don't think I mentioned in my request letter or
the attachments, but one of the reasons that I feel pressed
to make this request is a few months ago I did receive a
letter from one of my cotenants threatening to partition the
property and force the sale.

The issuance of a water meter would relieve this
situation where I may be in jeopardy of losing my home,
because we would be able to subdivide the property and

therefore divide the cotenants' interest, so we would be separate from each other and not entangled financially and legally and otherwise.

As you probably understand in a situation such as this, there are four cotenants; it's sort of an adversarial situation at this point, with not much cooperation. And therefore, it's impossible to take advantage of leveraging equity in the property for any one of our interests, to refinance, to borrow money for college or otherwise, because we're entangled legally.

All of us are liable on the property, so we're

stuck. We can't do anything. And the situation has become increasingly difficult over the years. Without going into details, you have the background information and I'm happy to take questions.

CHAIRMAN VICTORINO: Okay. I'll open the floor up to questions to Ms. Hillman. Okay, Ken?

MR. OKAMURA: I have a question about the partition. You mentioned something about partition. Can you explain what that is and how -- is this the major reason you're coming before us, is this thing about partition?

What is partition, and could you explain that?

CHAIRMAN VICTORINO: Ms. Hillman?

MS. HILLMAN: Well, my understanding is that partition is a legal suit brought before the courts to force the sale of the whole property so that one of the owners, in this case, one of the cotenants, can gain their financial interest.

You see, it's difficult, if not impossible, to sell an undivided interest on open market of one of the cotenant's shares; so if they want to gain their financial equity, it's possible. And there was a letter from one of

the cotenants threatening to do this, bring before the court a lawsuit to force the sale of the whole property by partition. That would mean that the rest of the other three people would lose their homes.

CHAIRMAN VICTORINO: Dorothy?

MS. PYLE: Maybe -- I'm not sure I can clarify it very much, but the property they have is undivided interest, and there are four people that have an undivided interest; so one of them cannot sell their interest without the rest of them selling, so they can force that.

It would require that the entire property be sold,

and then the income or the revenue from selling the property divided among them, whatever their interest is, I know there are four interests or whatever -- and so in the process, then, if somebody from San Francisco bought the property, all the people who currently live there would then be evicted or they have sold their houses and they would have to find other places to live.

What I think Marilyn is saying is that one-quarter of the value of that land would probably not allow her to buy another house to live in on Maui, given the current circumstances of how expensive everything is. So if the

partition suit is brought forward, she will be evicted from her property and whoever is living in the other houses will also be evicted when the property is sold. That's where the problem is.

MS. HILLMAN: Yes. Thank you.

CHAIRMAN VICTORINO: I think the additional problem is Ms. Hillman cannot buy out the other person's interest no matter what.

MS. PYLE: Three other interests.

CHAIRMAN VICTORINO: Yeah, well, three. You

cannot buy anybody else's interest no matter what because
it's undivided. And even if you did, they -- you got to
sell the whole thing, it cannot be piecemeal; is that
correct?

MS. PYLE: I think you have to buy them all out.

CHAIRMAN VICTORINO: Do you have to buy all four
out -- I mean, all three out?

MS. HILLMAN: This is the interesting question,
thinking about the one cotenant that's threatening the suit,
I couldn't borrow money to buy out that one because the
other two would have to cooperate with me and sign papers

making them co-borrowers and therefore liable. And this is not possible. This level of cooperation is not present. And it would be an undivided interest, so the bank wouldn't be interested in that.

MR. HIRANAGA: Question. The applicant of the property is tenants in common or joint tenancy?

MS. HILLMAN: Tenants in common.

MR. HIRANAGA: So one party, they could sell their 25 percent interest without the consent of the other three parties, is that correct, Corp Counsel, a tenants in common situation?

MR. KUSHI: Technically, you're correct. It's an undivided interest. But the question is, who would buy it -- who would buy into it?

MR. HIRANAGA: Well, at the right price --

MS. HILLMAN: Well, one of the reasons that it wouldn't be of interest to a buyer is because then they buy into the other three cotenants' liabilities. In other words, we're all responsible for each other's financial liability on the property.

For instance, there's a mortgage, there's two mortgages, the property is a collateral. If something

should happen to the one -- or ones who are responsible for paying the debt, I don't know, you know, sickness, illness or death, then the others are legally liable for the financial responsibility.

In other words, it would be, I think, a real problem for an outside person to be interested enough to buy an undivided interest that was entangled with encumbrances and liabilities and not free and clear.

CHAIRMAN VICTORINO: Dorothy?

MS. PYLE: The other question that I have is why

adding one water meter essentially allows it to be subdivided into two parcels.

MS. HILLMAN: Yes.

MS. PYLE: How is that going to solve the four owners? You're still going to have four -- it's going to be two and two, who's going to decide who is --

MS. HILLMAN: Okay, there are two houses on the property. It was formally two families: two brothers, the wives, the children. And both families are now separated by divorce, both of the men have left and remarried. The people that are left are the two women and children. We

have proceeded along the subdivision process to the point where we have preliminary approval and all that's left that is necessary to complete the subdivision ohana division is an additional meter. One meter, one lot.

MS. PYLE: I'm still confused about how four cotenants, or whatever the term is for them, how subdividing it is going to solve the problem of the four people.

MS. HILLMAN: Okay. When it's divided into two lots, one home on each lot, I'm in one, the other former wife is in the other. And she's still -- well, how do I say it. It will be her former husband and her that own one lot,

and myself and my former husband on the other lot. They'll be separate and free to sell or refinance, for instance, if they need to do that to send their children to college, or whatever. It's up to them what they do when they are separate from me.

Now, when I'm separate and I still own in common with my former husband, now I'm in a position to refinance and buy him out because I'll have no other cotenants that have to cosign my loan. And a bank would be more interested in loaning me this buyout money because now I would acquire the whole property.

MS. PYLE: I understand that there's some legal things about it that I don't understand, that's just me. Some people may understand it better than I do.

MS. HILLMAN: Right. Did that help?

MS. PYLE: Well, it does. I can see that you would do it that way, but -- never mind.

MS. HILLMAN: Yeah, it just gives us more options.

MS. PYLE: It's confusing.

MS. HILLMAN: We're totally entangled as it is right now. I would like to say something on my behalf about

the water situation, and that is that we have been two homes on one meter for 15 years. And to give another additional water meter to satisfy the subdivision requirements, we would not be using any more water.

In fact, there are less residents on the property now than before. So we're using about 50 percent less water than we ever have in the past. We don't need a new source to, you know, fulfill the water needs. An additional meter wouldn't mean additional usage. It's just to relieve us so that we can divide and also to leave the property, you know, free and clear for our children, if that is our wishes,

which is definitely my wish.

CHAIRMAN VICTORINO: Kent?

MR. HIRANAGA: If you were granted the second meter, you would be agreeable to constructing the waterline improvements requested by the department, fire hydrant, sewer laterals?

MS. HILLMAN: Yes, I completed those improvements.

MR. HIRANAGA: You installed the sewer line?

MS. HILLMAN: Yes. And the department has signed off on these construction improvements that were finished this month.

MR. HIRANAGA: You realize that if the lot is subdivided and -- it would allow additional dwellings on the property?

MS. HILLMAN: I'm aware of that provision.

MR. HIRANAGA: So that it may increase the usage if the -- if there were growing on the two new lots?

MS. HILLMAN: Yes, that's possible, but that's not in the future plans.

MR. HIRANAGA: You're 300-something on the priority list right now?

MS. HILLMAN: Yes.

MR. HIRANAGA: So, by the county granting you a water meter, that would take a water meter away from someone potentially in front of you on the list, so it becomes a difficult situation as far as the department trying to determine whose personal hardships are more important. How can they equate that, that your hardship is more than the 300 people in front of you?

MS. HILLMAN: I don't know about the 300 people in front of me, and if they have hardship situations or not. And as far as my number on the list, I believe that I have

moved up maybe a couple of hundred spaces already; but we don't know since the list hasn't been revised since, I believe, December '02. And since then, at least a hundred or 200 meters have been issued. So I'm not sure exactly where I stand now.

MR. HIRANAGA: Does the director have an idea of where approximately she is on the waiting list?

CHAIRMAN VICTORINO: Director Tengan or Mr. Chang, would you be able to respond?

MR. CHANG: This particular subdivision is number 333 on the list. And the department has offered about 180

projects so far on the list of water meters. So roughly --

CHAIRMAN VICTORINO: 153 difference?

MR. CHANG: Roughly. We're issuing meters. But
roughly 150.

CHAIRMAN VICTORINO: So she would move up
approximately, if we said yes, 150 spots over those who are
waiting right now?

MR. CHANG: If we were to delete all the ones that
were offered meters, her property would be 150, roughly, on
the list.

CHAIRMAN VICTORINO: Somebody else --

MR. OKAMURA: Do we have the department's presentation or is that not necessary?

CHAIRMAN VICTORINO: Herb, is there -- our member is asking if you could give the board's perspective -- I mean, the department's perspective on this whole issue.

MR. CHANG: Okay.

CHAIRMAN VICTORINO: After that, Ms. Parsons.

MR. CHANG: Well, the department's reason for not approving the meter was pretty much what we discussed. Under the subdivision rules and regs, the department can recommend final approval only if a meter is available. So

being that there's a priority list and the water meter rule suggests you wait your turn to be offered a meter; so, technically, there's no meter available right now, so the department cannot recommend final approval.

CHAIRMAN VICTORINO: Ms. Parsons?

MS. PARSONS: If she had a private well system, then it would be a nonissue?

MR. CHANG: The department has started, I guess, to be more specific -- earlier this year, we have allowed subdivisions that need new water meters, but they are

willing to do a private system to provide -- we have had these applicants enter into an agreement with the department saying that there can't be sharing of the water meters.

If her number does come up on the list, then you have to do whatever improvements for the water system -- the public system to get water meters. So to answer your question, yes, they can go private.

MS. PARSONS: That's an option. And the other thing -- I was hoping Jeff would be here, because I -- I know with all the problems that we're having with Upcountry right now, we're still doing our boil study and -- it will

take a couple of years, but we might be in a position --

use of Pookela well on line, from what I understand, we may

be able to substitute some of that surface water for some of

the groundwater in order to keep the led from leeching, so

we won't have as much surplus. Is that still something

we're still looking into?

CHAIRMAN VICTORINO: Mr. Director?

MR. TENGAN: I haven't had any discussions on

that --

MS. PARSONS: Jeff -- Jeff is back. Jeff, I would

ask you, do you know what the Pookela well issue is we got

going now, we're doing the boil study, and I know we had talked at one point about, in order to keep the led from leeching, possibly putting in more groundwater, ground and surface water might be a way to go to keep it from leeching --

We were talking about the fact that we might not have as much surplus on Pookela as we once thought. If we have to, let's say, hypothetical, if we had to go 50/50, ground and surface water, in order to help with our problems Upcountry, is that still something we're in --

MR. PEARSON: It wouldn't need to be directed to

me, because George is more aware of the policy more than I am. But I know that our general policy for Pookela well is not to -- a hundred percent of the time, to not use it to offset surface water for the led issue. So I don't think Pookela well is -- the purpose is to provide greater mixing of the water Upcountry, the purpose is to provide more reliability in times of drought.

MS. PARSONS: What happens if we do get into a situation when -- let's say we're in the boil study, we get into a situation where we need to have the water more

mineralized in order to keep the lead from leeching, we don't have any -- do we have any other fallback?

MR. PEARSON: It's hard to guess what the boil study will come up with and then guess how we're going to resolve it. So I'm not going to make two guesses. I think we should wait for the boil study to get further along, after they analyze the system and the water quality and the whole system Upcountry before we go further.

CHAIRMAN VICTORINO: Thank you. Ralph?

MR. JOHANSEN: First of all, sticking with one -- the applicant is primarily relying on here the issue of

hardship. First of all, whose hardship would it actually be since -- in order to settle a portion, an undivided interest in this tenants in common, somebody will have to take a beating. It's primarily the person who wants to sell who has a hardship, as I see it. That's my first question.

Then the second thing is, is this a unique or exceptional circumstance? I know where the -- I think an awful lot of people do a detriment to other people on the list, the applicants for the meter. And my question there is, if it could be that an encumbrance was placed on the deed -- I don't know the answer to this, I'm not a real

estate lawyer.

But if an encumbrance was placed on the deed to restrict this building on the partitioned property until such time as a meter was available, would that solve the problem in allowing the partition of the property in a divided interest? We have to get a response. Thank you.

CHAIRMAN VICTORINO: I think Corp Counsel would be the best equipped to respond to those questions. Mr. Kushi?

MR. KUSHI: Mr. Chair, if I understand your question, we're looking at 16-106-08, waiver of modification, this is found under your Upcountry rule. In

essence, it says that the board may in this case recommend waiver of these requirements when not contrary to public health, safety, and welfare and when the board finds three factors.

One is that strict application would cause unreasonably harsh result; second, the board finds that the conditions are unique or an exception, and the board will grant the same request if made by every similar situated applicant; and thirdly, that the action of the board will be without detriment to existing uses, not those of the prior

existing -- so that being the case, is this within your jurisdiction to review this request?

I might add that the board has in previous circumstances granted subdivision -- or recommended subdivision approval without granting the second meter. If the board recalls William Crockett's application. And in that case, the parties, his clients went through a court order partition. But in any court order partition, it's still subject to the county rules and regs. In this case, our rules and regs.

The board in that case approved the modification

agreement which, in essence, says that -- will allow the subdivision to go through -- create two separate lots with one meter serving both lots. Each lot has a residence on the dwelling. But the board also said the agreement provided that until they get their separate meter, to comply with all the rules and regulations, none of these -- both tenants could not apply for any building permits, they would not improve anything on the existing property.

I believe in that case, that one meter that served both dwellings, the department checked it out, and in terms of fixture count, that one meter was enough. I don't know

this situation.

CHAIRMAN VICTORINO: That should help. Ralph?

MR. JOHANSEN: Just to complete the thought, it means that there's no additional usage. And then the question is, is that same -- granting this meter has a detriment to other applicants?

CHAIRMAN VICTORINO: Corp Counsel Kushi?

MR. KUSHI: Well, the waiver section that we're under here, it's not a detriment to any other applicants; it's to the people on the system already. So it's the people on the system already; it's not to any people before

her on the priority list.

CHAIRMAN VICTORINO: Yes?

MR. JOHANSEN: If there's no increased usage, I don't see the detriment. As long as there is a restriction that would say, which forbids additional dwellings or an application for additional building permits.

MR. KUSHI: Mr. Chair, I don't know if it increases -- or if that one meter, the existing five-eighth inch meter is adequate to serve the fixtures in both existing dwellings.

CHAIRMAN VICTORINO: As noted, we'll keep that in mind. But as you can see, I guess precedent has been set in the past without an additional meter being issued, so that the subdivisions -- or the properties could be subdivided. So there are methods, Michelle, that it could be done without an additional meter. And we have had precedence in that. We have done that before.

MS. HILLMAN: This is very interesting, and that kind of a situation could be agreeable. My goal is to separate the interest of the cotenants and the two separate parcels. And I've been following the needs that I

understood which is the traditional ohana subdivision. And, of course, I have complied with all the water system improvements in anticipation of some day receiving a meter.

As I said, having just completed infrastructure improvements, including a fire hydrant. This has all been at my effort and my cost. My cotenants have not been involved.

Mr. Kushi, about this precedent you speak of with William Crockett, I was wondering if you might have available the name of that case, indeed. It's very interesting to me because this offers a new possibility of

relief, and I would be most interested in something like this because we're not anticipating any additional water usage, and the one meter has served the two homes for these past 15 years.

CHAIRMAN VICTORINO: Mr. Kushi?

MR. KUSHI: I don't recall the specific civil case number, but the agreement and the matter before the department, the department would have the files.

CHAIRMAN VICTORINO: Okay.

MR. KUSHI: I believe the agreement was recorded again somewhere.

CHAIRMAN VICTORINO: Would it be possible that Ms. Hillman get with you or get that necessary information, because it seems like this could be the answer to the question that you've been running around trying to solve, and you don't have to go through another long, lengthy waiting period. I mean, if this can be done, then by all means, that takes you right where you want to go.

MS. HILLMAN: Oh, yeah, that would be wonderful. I'm not certain myself how to proceed. You suggest I get together with Mr. Kushi, but I don't know what the technical

procedure would be to follow that route.

CHAIRMAN VICTORINO: Ken has a question. Go ahead. Then after that, Ralph.

MR. OKAMURA: I was just wondering how the department feels about that situation where if she -- I guess, ultimately, the board would have to recommend that this -- that similar steps be taken with this particular case. Any feedback from the department? The staff?

CHAIRMAN VICTORINO: Mr. Kushi or Mr. Tengan?

MR. KUSHI: I'll defer to the department, I'll defer from my standpoint, because I draft out these -- the

rules about this agreement is found in your rules about modification of subdivision requirements. Before the charter change, the board approved these things.

Now the department -- because of your status as -- however, in this case, and in all cases, I believe -- Upcountry system, I would advise the board -- the department to come to the board and look at a draft of these agreements. Because she's not the only one.

CHAIRMAN VICTORINO: That's correct.

MR. KUSHI: There are a lot of people stuck in the same situation.

CHAIRMAN VICTORINO: Okay. Mr. Tengan?

MR. TENGAN: I guess from the department's point of view, if the circumstances are similar, then we would grant the request.

CHAIRMAN VICTORINO: Would it be prudent to ask Ms. Hillman to get together with you or Herb or whomever and sit down and work out an agreement, and maybe at our next meeting, if that's possible or as soon as possible, maybe an agreement that it's -- been drafted by both parties that are agreeable come back to us and we can say yea or nay. Would that --

MR. TENGAN: As with the earlier situation, we can have research done as to the particular case that Mr. Kushi has referred to and pull out the agreement and work from that.

CHAIRMAN VICTORINO: Would that be okay with the board, instead of continuing the discussion? Ralph?

MR. JOHANSEN: Well, I just want to say, Ed Kushi said there's one similarly situated. I think this is a case of -- we're in that situation. We're joint tenancy and we're seeking to divide. We don't have another meter.

Nobody knows about this part. And it seems to me if you're going to accommodate one, you ought to accommodate all of them. It would relieve a lot of pressure in the Upcountry situation.

But I think it should be publicized that if this is going to be the practice of the department, that people know about this and get in line. Because I think for a great many people that is an inhibiting problem in Upcountry.

CHAIRMAN VICTORINO: Thank you, Ralph.

MR. TENGAN: If I may comment. That's why on this

16-106-08, waiver of modification, under item 2 it reads,

The board finds the circumstance or conditions unique or exceptional. And once the procedure has been set, then the department has no alternative but to follow the guidelines and issue our meters under similar circumstances.

And that's why at the last meeting, I had requested that the board find something unique in the Thompson case, so that anybody coming to the department or the board under similar circumstances would be granted a meter. Otherwise, we would be -- if there was no uniqueness or exceptional stated, then the department would have no

defense in denying meters.

CHAIRMAN VICTORINO: But I think in this situation, if I'm correct, what Mr. Kushi has brought up with the Crockett case is the fact that we're not, and correct me if I'm wrong, going to issue a new meter as much as using the preexisting meter and subdividing the property into two lots.

Now, I think that may be a little different now than wanting to issue new meters and everybody lining up. There's a difference in this whole equation. And if I'm not correct, Mr. Kushi, correct me if I'm wrong.

MR. KUSHI: Let me try to set out the procedures.

You have a rule in the Upcountry rules saying that meters are subject to the shortage situation, the priorities, etc.

You have a water system development fee rule saying that for each subdivided lot you have to have a water meter. So that's her situation.

You also have the family subdivision which says you can defer requirements, with no improvements, no meters, solely to transfer title to family members. This is not the case in this one. It was many years ago.

But what I'm looking at is following the subdivision rules of Section 2-12 which is modification of requirements. And this is on the subdivision rules saying that the board has the authority to modify any subdivision requirements based on certain things.

CHAIRMAN VICTORINO: Okay. Ken?

MR. OKAMURA: I think the director's position about the uniqueness is important. In this case, maybe there is a situation that the living situation and the partition threat for -- the financial difficulties, it might impose on the -- maybe we should continue to pursue this

angle.

CHAIRMAN VICTORINO: Kent?

MR. HIRANAGA: Mr. Chair, I believe this appeal

that was granted -- William Crockett represented the

applicant -- was heard before the board after the -- it was

a recommendation to the director, but the director had the

ultimate right to make the decision. I believe the

agreement stated that no -- absolutely no future building

permits would be issued to either of the structures, be it

electrical, plumbing. If one structure is destroyed by

fire, it will not be able to rebuild.

And so this applicant must understand that basically that house would be allowed to exist and deteriorate with no improvements, that's the agreement that was granted to this other party.

MR. KUSHI: Until they get the second meter.

CHAIRMAN VICTORINO: Until you get the second meter.

MR. HIRANAGA: Absolutely no building permits would be granted. So if your roof blows off, you can't put your roof back up.

CHAIRMAN VICTORINO: Okay. Ms. Hillman, are you

clear?

MS. HILLMAN: Are you explaining that this is the situation in the case Mr. Kushi was describing?

MR. HIRANAGA: Yes. That was one of the conditions to allow the subdivision.

MS. HILLMAN: To allow the subdivision --

MR. HIRANAGA: Until the second meter is obtained, absolutely no building permits.

MS. HILLMAN: Right. So you're just letting me know that that also includes in case of hurricane you can't

rebuild.

MR. HIRANAGA: Fire, flood. Because we have these agreements recorded in deeds, then property is transferred to another party and they are saying, Well, I can't live with this, I want to come in and get a waiver from the recorded condition. That's the Pandora's box that you open when you start creating these exceptions. Even though it's recorded on title, there's going to be -- the new owners are going to challenge this.

MS. HILLMAN: I understand. I almost would be willing to take that risk of natural disaster, because I

cannot, you know, agree not to request any improvements until an additional meter is given. I just really need to subdivide our interest to be free of the situation.

CHAIRMAN VICTORINO: You must make all parties understand that that would be the way it would come down. All parties. Because it's still -- and it's brought to my attention that it's still a family matter, because even though you are divorced, the deed does read their names and they are still part of this. Even though we like to say they are totally separate, it's a family matter at this point.

MS. HILLMAN: Right. You're saying that's one way to approach the problem, and another way is the original reason that I came here today, was to try and get the second water meter based on the waiver rule.

CHAIRMAN VICTORINO: Right. Ralph?

MR. JOHANSEN: Well, first of all, the reason for restricting meters was to prevent additional water use. And then there's the other reason, a situation where there isn't enough -- the purpose of the water meter is to apportion expenses in order for the parties to share the water outlet.

Since it doesn't increase usage and since the

purpose of the meter is to measure the amount that each individual on the property uses, I don't see why it would be fair to grant a meter in that case. It doesn't -- it's not detrimental to the property; it's not to the detriment to anyone else, any other applicant. So I think that precedent could be expanded without all these unfair results. Thank you.

CHAIRMAN VICTORINO: Thank you, Ralph. And the only comment I have, and I don't usually comment on my member's comments, but there's no guarantee by issuing the

second meter that there would not be additional water use, because then expansion could occur. And that's the problem, that we don't want to set that precedent. That's what we're trying to avoid in every sense of the matter.

MR. JOHANSEN: May I respond?

CHAIRMAN VICTORINO: Go ahead.

MR. JOHANSEN: As long as the restrictions that Kent is referring to encumber the sale of the property, I don't see where that's not only not a likelihood, it's not a reasonable expectation.

CHAIRMAN VICTORINO: Okay. Anyhow, I won't

belabor the point. At this point, I would like to know if we would like to make some kind of recommendation to the director and what way the board would like to proceed on this matter. Would we have a motion, and so we have some direction in this, please?

MR. OKAMURA: I would like to move that the person requesting the meter sit down with the director, or the director to write up a proposed agreement similar to the case, the uniqueness, and bring it back before the board.

CHAIRMAN VICTORINO: Any second on that motion?

MS. PYLE: Second.

CHAIRMAN VICTORINO: I heard a second. Any

discussion? I mean, we've been --

MR. HIRANAGA: That's a motion to defer?

MR. OKAMURA: Yes.

CHAIRMAN VICTORINO: Basically the motion is to defer this matter and give the applicant and the department some time to look into the method of resolving this without adding an additional water meter. I think that's what we're requesting at this point.

Would that be fair and would that be good for you,

Ms. Hillman, if we did something like that?

MS. HILLMAN: Certainly if the outcome was to get final subdivision approval, that would work. And I would have some reasonable expectation that some time in the future an additional water meter would be granted when the source was available.

CHAIRMAN VICTORINO: Which, right now, it looks very probable and in the near future. And "near future," it may be a year or two, three.

MS. HILLMAN: Because the future keeps receding, but some day --

CHAIRMAN VICTORINO: Yeah, you're absolutely

correct. But some day, hopefully.

Mr. Tengan, would that be viable for you?

MR. TENGAN: It's not my decision to make, but if

the board recommends it.

CHAIRMAN VICTORINO: Okay. It's brought to my

attention that we need some issue so that we can make this

work. The motion to defer is on the table. Sensing no

other discussion, all those in favor of deferring this

matter signify by saying "aye" -- well, raise your hands so

I could make sure.

All those in favor raise your right hand.

1, 2, 3, 4, 5, 6.

All those opposed?

1, 2.

Okay, 6 to 2 in favor of deferring.

MR. KUSHI: Can you say, With no more letters to

the Maui News? Strike that. Strike that.

CHAIRMAN VICTORINO: He didn't say that.

MS. HILLMAN: Thank you.

CHAIRMAN VICTORINO: Moving right along. Thank

you, Ms. Hillman.

We move on to Communication 04-13. Will some representative be here for that one? Are you here for -- okay. And those would be found on pages 53 through 69.

MR. CONSELICE: Good morning, board, I'm Erman Conselice. I'm just basically trying to put up a water tank so that I can have -- supply my own water without asking for any water meters from the county or anything like that. That's kind of basically it.

CHAIRMAN VICTORINO: That's pretty clear-cut.

Questions? Dorothy?

MS. PYLE: I don't think it's quite that simple.

You want to put up a water tank so that you can get a building permit?

MR. CONSELICE: Yes.

MS. PYLE: When in actuality it appears -- or you can fill me in on this more, but when you purchased the property, it clearly stated that you would not get a building permit until there was a water meter?

MR. CONSELICE: Right. Now, if you look in there, it says by the subdivider --

CHAIRMAN VICTORINO: Talk into the mic.

MR. CONSELICE: When you look at the paper, it says in there -- by the subdivider. I'm not a subdivider. And not that I'm blaming anyone, but --

MS. PYLE: You bought the property.

MR. CONSELICE: Yes, ma'am, I know that. But that's what I'm trying to explain to you. Right now the problem I have is, my Realtor said that doesn't apply to you. And, you know, what do I know. They know the laws; they know all these little stipulations. And she is the one that directly said, you know, Well, you're not a subdivider, that doesn't apply to you. You should, you know, be able to

do that.

And then, you know, obviously, when I went for my permits, this had come up. So right now, if I did know that, and she didn't tell me that, I might have been able to work out something with the bank that they can have waited the year or whatever, because I'm on -- I'm 200 on the meter list.

So now I'm in a bad spot because I'm paying on everything, which I have nothing, and I'm going to deplete my money just waiting for a water meter, and I'll lose everything. I won't have the land; I won't have a house for

my family. I'm, you know, I'm just in a bad spot. And I'm looking for some mercy somewhere, and this is the only place I can get it because this is -- the only thing is the water issue.

Which if I had my own tank, you know, I'm not even bothering anybody, I'm not bumping anybody off any water meter list or really asking for anything outrageous. And the water meter -- I mean, the water tanks are legal and everyone Upcountry has them. I really, you know, am just asking for some help here and, you know, I'm at your mercy. That's all I can say.

CHAIRMAN VICTORINO: Ginny?

MS. PARSONS: Have you discussed this with our

legal counsel --

MR. CONSELICE: Well, I have talked to her and --

you know, I can say, you know, she said she doesn't care if

I put my own tank up, and said I had to come before you guys

and --

MS. PARSONS: I have to agree with her. I mean,

this is a private water system; we have no purview over

private systems --

MR. CONSELICE: Yes.

MS. PARSONS: Right? And the restrictions in the deed, from what I recall, are in there to protect our water system; but if the applicant wants to put up his own tank, and I caution you that if you are going to put up your own tank, you have a lot of liability, you need to look into it. You need to keep it really clean; you have to do your water checks constantly.

MR. CONSELICE: Yeah, I've already lived off a water system tank. That's why I know what to do and how to take care of it.

MS. PARSONS: That's major.

MR. CONSELICE: Yes, ma'am.

MS. PARSONS: And I think we need to ask

Mr. Kushi, when we get to that point, for his advice. It looks to me that this -- the agreement that he signed was basically to protect our system, but not against private water.

MS. PYLE: He can get a building permit.

MS. PARSONS: As long as we say it's okay, he can get his building permit.

CHAIRMAN VICTORINO: More discussion? Questions

for the applicant? Kent?

MR. HIRANAGA: So you did review or read this recorded agreement prior to purchase of the property?

MR. CONSELICE: Like I explained, that was said that that doesn't apply to me.

MR. HIRANAGA: No. Did you read it?

MR. CONSELICE: That it said you can't apply --

MR. HIRANAGA: Did you read this agreement? That is the question. This recorded agreement, did you read it prior to the purchase?

MR. CONSELICE: No.

MR. HIRANAGA: You did not read it?

MR. CONSELICE: No, I didn't.

MR. HIRANAGA: Because Section 9 of 10 says it does pass on to all owners. The person who said it applied only to the subdivider is incorrect. The agreement runs with the land and all future owners.

MR. CONSELICE: Yeah, I didn't see that. I don't know if she did either. That's -- what I'm saying is, I was told by someone in authority, which she had no authority, obviously, to do that to me. Like I said, I'm in a bad

spot. I don't know what else to do. I'm going to lose everything if I don't get some, you know, ruling from you guys one way or the other. I'm just -- I'm in a bad spot and I put myself there.

I'm not looking for anything more than what I can do, which is just go about putting in a water system on, staying off your water meter and keeping everything in order as far as I can do as a person.

MR. HIRANAGA: The question for the department, is the fire protection adequate on this street to allow an issuance of water --

MR. CONSELICE: Well, there's already --

CHAIRMAN VICTORINO: This is to the department.

Herb?

MR. CHANG: The property was just subdivided a few years ago and they complied with the ag zoned subdivision requirements.

CHAIRMAN VICTORINO: Any other discussion?

Mr. Tengan or Mr. Kushi, could you address that concern that was brought up about the private wells and how it applies in this case?

MR. HIRANAGA: Catchment.

CHAIRMAN VICTORINO: Catchment --

MR. KUSHI: Mr. Chair, I may have to defer to the department, but I don't think this is a private water system. It's putting up the tank, but the water from the tank will come from our system, so it's not a source.

CHAIRMAN VICTORINO: It's catchment --

MS. PYLE: Rain catchment.

MR. HIRANAGA: Supplemented with --

MS. PARSONS: Be careful. We have those tandem jobs, we consider those private.

MR. HIRANAGA: The question, Mr. Chair, does the

department somehow regulate applicants for water catchment systems to determine that there's adequate rainfall in the area? Is there some type of threshold average rainfall per year?

Like if someone in Makena says they're going on rain catchment, which is unusual, versus someone who is in Haiku saying they are going to build a rain catchment, is there some type of threshold of average rainfall that must be satisfied to say you're going to apply the catchment system?

MR. CHANG: There's no standard procedure right now. Fortunately, these private systems had -- that somebody mentioned earlier, started having the subdivider enter into the agreement, because I believe most of them are out in Haiku; nothing in the Omaopio or the drier areas yet. But we have not really set any kind of rainfall requirements.

CHAIRMAN VICTORINO: Dorothy?

MS. PYLE: I know this is slightly off the subject here, but something I really would be interested in. If there are more people like you who want to put in a private

system, and what I'm saying with a "private system" is that you will have no hookups to any county system at all.

That's exactly what you're saying; right?

MR. CONSELICE: Yes.

MS. PYLE: And then when you say you're going to get your water from a trucking service -- but nonetheless, you're going to get water; but supposedly you were in Makena and you had a parcel of land like you, and you wanted a private water system where you're going to get your water from a trucking service, where is the trucking service getting the water from?

And if there are 30,000 gallons of water to be brought to this place so they can have a private fire protection system and that water is being trucked down there, where is that water coming from? So it's not like we can say that a private system has no impact on the department's water resources, because those trucks have got to fill up somewhere. And believe me, I don't think they are getting it from the rainfall.

CHAIRMAN VICTORINO: Point taken. Kent?

MR. HIRANAGA: Upon review of the request, I think if this agreement was not in place, the department would not

have an objection to his building permit request -- if it goes to the state, it would go on the private water system.

The main issue is, there are restrictions based on --

MR. CHANG: When the subdivision was applied for and approved, there was a two-lot subdivision, they were able to get two meters, so one lot was left out. If meters were limited as far as approving availability, then this would be just generic application to approve, because there is a meter to provide service to the proposed dwellings.

CHAIRMAN VICTORINO: Now you're confusing me.

MR. HIRANAGA: Oh, sorry. Two meters, three lots;

right?

CHAIRMAN VICTORINO: Correct.

MR. HIRANAGA: And one lot does not have a meter.

MR. CHANG: Correct.

MR. HIRANAGA: His lot. And if this is a

preexisting lot that did not have this agreement recorded as

part of its deed, would the department have an objection to

his building permit request if he said he was going on the

water catchment system? Because you said fire protection

was adequate.

MR. CHANG: Correct. The problem is with this existing agreement.

MR. HIRANAGA: That's the issue if the agreement is in place. If it wasn't in place, no problem?

MS. PYLE: No problem.

MR. CHANG: Yeah, right, correct. And if he wants to go on a private system, then --

CHAIRMAN VICTORINO: Corp Counsel Kushi, you have a point to make?

MR. KUSHI: Yes, Mr. Chair. The response to Member Hiranaga's statement is correct; but without that

agreement, this lot would never exist.

CHAIRMAN VICTORINO: I see.

MR. KUSHI: So you have to have this agreement, so that this lot existed.

CHAIRMAN VICTORINO: You understand that?

MR. HIRANAGA: Yes.

CHAIRMAN VICTORINO: Ken?

MR. OKAMURA: Why was the agreement created in the first place? Sorry, I'm missing the point.

MR. KUSHI: I must remember it because I signed off on it, but it escapes me. I guess it was a situation

where --

MR. CHANG: I remember it, it's pretty clear. I
can explain.

MR. KUSHI: I think this was before the Upcountry
rule; right?

MR. CHANG: I'm not sure. Yeah, I think so. It
was 2002.

CHAIRMAN VICTORINO: Peter Rice was the chair at
that time.

MR. CHANG: The specifics is they needed to get

this agreement because there wasn't any water meters available because this application was affected by the shortage.

MS. PYLE: Why did they want to subdivide --

CHAIRMAN VICTORINO: Wait, wait. Continue, please.

MR. CHANG: So the reason why they entered into the agreement was to set an agreement that the one water meter that was needed is not available and they would wait until their project came up on the priority list. Then up until then, no building permits.

Essentially, there was no meters available and they wanted final approval, so they had to get this special agreement.

CHAIRMAN VICTORINO: Dorothy?

MS. PYLE: I guess my question was, were they subdividing so they could have two meters on two of the lots because they needed family subdivisions? I guess the question was, why did they do this knowing they couldn't have a meter? What was the impetus to push them to want this subdivision to make this agreement when it doesn't seem like the property was going to have any value without a

water meter?

CHAIRMAN VICTORINO: Ginny?

MS. PARSONS: I believe the property does have a value because they put a private well system on there. So it does have a value. What we have to discuss with Mr. Kushi is, is this applicable to a catchment for private well systems? Does this document apply to that? If it doesn't, then it's not the jurisdiction we should be in.

MR. KUSHI: Mr. Chair, I can only respond what the agreement states, and if you look at the agreement on your binders, page 63, Section 6. I'll just read it, it says,

Subdividers, which includes the applicant, will not make any request for building permits for residential dwellings or structures requiring water service for one lot. It does not have a meter until the shortage is terminated and water sources are available to serve that lot.

There's nowhere in the agreement that covers private water service or catchments or anything. Maybe it wasn't thought out at that point. I'm not sure.

MS. PARSONS: That excludes --

MR. KUSHI: No. I'm saying the agreement speaks

for itself. Shall not apply for any building permit. And I believe that's the department's position.

MS. PARSONS: I have a question. Water service is a service. Now, a private well system is not a service, it's his own. I mean, I know it's apples -- you know, it's picking it apart, but it's a service. I wasn't the maker of this document; but I would think that if it was requiring a water service, they were talking about probably the county water service versus even a trucking service.

But if he wanted to do his own well, that's his own, or if he's doing catchment, that's his own. It's not a

service.

CHAIRMAN VICTORINO: Ken, you had something you wanted to add?

MR. OKAMURA: I was wondering about that thing, Shall not make any request for building permits for residential dwellings or structures requiring water service. But he's not requesting water service; he's requesting the approval of his private water system.

MR. KUSHI: He's requesting that the department sign off on his building permit. The fact that he's applying for a building permit seems to be contrary to this

agreement.

MR. OKAMURA: I see.

CHAIRMAN VICTORINO: Kent?

MR. HIRANAGA: I think Ginny pointed out an

important issue regarding this agreement is, how do you

define water service?

I think the source parallels the situation we had

with the Moretti subdivision, whereby he was going on a

private system, the department requested he bring the

project up to current standards, but he said he was not

requesting county water service. So maybe we could review

this request in line with what we agreed to do regarding the Moretti case application.

CHAIRMAN VICTORINO: And maybe I would just add one more point to this. It says -- meter until shortage is terminated and water sources are available. That's a water source. It doesn't say "service" again. Going back to that point of service. It's a water source. He's creating a water source.

Now, I may be taking it to another level; but, you know, when I read this, that's what I would base my whole

determination on is, the shortage hasn't been terminated, so we'll agree with that. But he has found a water source.

Now I've taken it to another level, Herb. I apologize, but

I opened the door for further discussion.

MR. HIRANAGA: Mr. Chair, just an additional

comment. One of the reasons I caution the board of creating

agreements for individual parties is because creating an

agreement for an individual sets a precedent, and then it

becomes challengeable in the future. So this agreement

appears to be something that was done specifically for this

applicant, and now we're running into a situation like this.

So we have an agenda item previously that we supposedly -- an agreement for that applicant which may be challenged by future owners. So whenever you start creating agreements like these, it opens the door to challenges.

CHAIRMAN VICTORINO: So noted. Thank you.

MR. HIRANAGA: Also, I mean, he could be purchasing water from a trucking company, and the owner of the trucking company could be his neighbor.

CHAIRMAN VICTORINO: That's a good point.

MS. PARSONS: If you go to paragraph 5, it talks about the water service applications. It says, When the

water service applications are submitted and acceptable to the department. So, basically, it's referring to the Department of Water Supply for water service, in my reading of this.

CHAIRMAN VICTORINO: The real fact of the matter is, you know, there's two things that bothers me in this whole thing and I'll end it, and then I'll open it for a motion.

First of all, sir, you have to read whatever you are signing. You're responsible.

MR. CONSELICE: That's my fault.

CHAIRMAN VICTORINO: And when somebody says it doesn't apply, there's an old saying where I come from, if it sounds too good to be true, it's probably not. And Hindsight is 20/20. Because I have been burned in my life just like you have. That's one of the problems, we have to read it and people don't read it and they go ahead -- because somebody says it's okay, they go ahead, then come running to us. Okay, that's number one.

Number two, more importantly, these agreements, like Member Hiranaga said, are being done, or has been done,

then it creates another problem down the road. And that's the way it seems to come down to. Then we're here to try to solve the problem that was created by another board; maybe I was part of it, I don't remember.

The challenge you made or the point we made about the water source, the only thing that, in my mind, is the saving grace because you are finding a water source. Okay, that's what I'm saying. If there was no water source, then I would say this agreement was applicable and there would be no water service from us. I said too much, I apologize.

Ralph?

MR. JOHANSEN: One question I have which is a very general question, and maybe it's long since been answered to the satisfaction of others here, but I thought that all water in this county was the property of the public, the water was in common and no one could ever get water supplies to their own use as private owners of that water. So that makes me ask about all kinds of things like catchment, like wells --

MS. PYLE: Truckers.

MR. JOHANSEN: -- surface water that flows on your land, truckers. All of this doesn't seem to be regulated,

or at least I haven't seen it. I'm curious as to the extent to which other sources of water, other than the county, are not in private ownership and has special status.

I know that industry, commercial, everyone else uses water from sources which they themselves generate. A lot of water sits under there and it's to the detriment to somebody if somebody takes it. So I'm curious about that.

CHAIRMAN VICTORINO: Okay. I would like to now put on the floor some motion so that we can move along with this matter. Ginny?

MS. PARSONS: I would like to move that we

recommend approval with a stipulation that the water will not be extracted from any of the neighbors or surrounding areas and that it would be of a known service, if that's what you're going to use, or catchment or well service, your own well water system.

CHAIRMAN VICTORINO: Is there a second to the motion? Hearing none, does someone else have a motion or some other recommendation that we can make to the department? Mr. Hiranaga?

MR. HIRANAGA: I'll make a motion. I make a

motion to approve his request. And the reason is, I have always consistently been against any type of special agreements between the department and individuals. But I think that because this agreement does not specifically state water meter versus water service, it is up to the application, he's stating that he would not be tying into the county system, that he will obtain water from a catchment system.

Whether that system is sufficient or not, who knows, or if it's going to catch enough water, or if he buys water from his neighbors, who knows; but because the

agreement is not specific, I make a motion to approve his request.

MS. PARSONS: I second it.

CHAIRMAN VICTORINO: Moved and seconded. Any other discussion? Ken?

MR. OKAMURA: I think, you know, the board entered into this agreement before. I think the board has to comply with the agreement -- the Corporation Counsel has interpreted it. To me, it has to be followed. I feel that the only other alternative is for this to rescind -- I don't know who will do that. But we have to just stick by what

the board approved, even if it's -- you know, exactly what points -- we can find flaws in it.

We're forced to legality of a document or -- I guess the intent is clear. Although, so this document is going to -- to me, this document, just because it's here, this is holding you up. I can't, you know, vote to make an exception because this is like a legal document. And although we could recommend that, I don't think it's a wise thing for us to do. Thank you.

MS. CRIVELLO: Mr. Chair?

CHAIRMAN VICTORINO: Yes, go ahead, Stacy.

MS. CRIVELLO: I would support Kent's motion on the basis that the applicant is seeking a water source that would make it available through the provisions of a private catchment, or rain catchment. So, I do not see the applicant applying for a meter or requiring water service from the county. And his application for a rain catchment is his efforts to find water sources.

CHAIRMAN VICTORINO: Okay.

MR. HIRANAGA: May I make another comment?

CHAIRMAN VICTORINO: Michelle first. Go ahead,

Michelle, you have something, and then I'll go back to --

MS. MC LEAN: Thanks. The agreement -- I'll be supporting the motion because the agreement -- I agree with what some of the members have -- their interpretation of the agreement with county water service rather than private water service. But it's curious that the property is already on the priority list.

So, to me, whether it was the former owner, but I assume it's the former owner, somebody asks for water service, which is what the agreement says the owner would not do. You can't come in for water service until source is

available, and the alternative is to find a different water source. It's not really the spirit of the agreement, but I think it's -- I should say it's not the letter of the agreement, but I feel for you. I'm trusting that you didn't understand what you were getting into when you bought the property.

To me, this agreement does apply to you, and I just hope that all prospective property owners look at the restrictions on the property very carefully. I would feel badly turning you down, but your Realtor should be told clearly about telling you that that doesn't apply to you.

That's wrong. That is absolutely wrong. And so it's -- I'm not fully comfortable with it, but I would not feel right turning it down.

CHAIRMAN VICTORINO: Member Hiranaga?

MR. HIRANAGA: I would also want to add that he's No. 222 on the list. The department is processing up to 188. It appears that in the near future he will be eligible for a water meter. And upon the department's statement that fire protection is adequate, I don't see this to be a continuing issue.

I am curious as to how this lot got to be 222 on

the list. It appears it was subdivided in 2002. But that's another matter.

CHAIRMAN VICTORINO: Any other discussion? I'll call for a vote -- I'm sorry, Corp Counsel Kushi?

MR. KUSHI: If I may discuss this, I know you're in discussion for a vote. If the motion passes, as I understand it, the agreement still stands. It's an interpretation by the board to recommend to the director.

CHAIRMAN VICTORINO: That is correct.

MR. KUSHI: Touching on Hiranaga's comment, the

project is 222 on the priority list; the department has issued up to 188. Are you saying that we should strike him from the priority list because he doesn't need a meter? His application says that he doesn't need a water meter; he's going through a private source.

CHAIRMAN VICTORINO: I don't think that was the intent of the motion. Ralph?

MR. JOHANSEN: I would just say that this doesn't mean that he doesn't need a water meter. He's paying a lot more for trucking water in. It would be to his convenience to obtain a meter.

CHAIRMAN VICTORINO: Okay.

MR. JOHANSEN: Another question I have, but I don't know quite how to phrase it. What kind of precedent does this set for developers if this is granted? Maybe somebody can go to whether it's worth it. But I'm just curious what kind of precedent --

CHAIRMAN VICTORINO: I think at this point I'm going to need that question unanswered and we can do some research on that a little bit later. I'm going to end discussion on this unless somebody has something really different to say about what they feel or suggest.

MR. OKAMURA: Not really different, but I don't see how the water department can do anything else except to follow the interpretation as interpreted by Corporation Counsel of this document, even if we recommend to support the request, but I don't see otherwise -- not otherwise, but not follow this agreement. Thank you.

CHAIRMAN VICTORINO: Mr. Kushi?

MR. KUSHI: Again, the direction is clear, you're not saying -- telling the department to strike him from the list?

CHAIRMAN VICTORINO: No.

MR. KUSHI: When his number comes, you will allow him to have a meter? Is that what the department is saying?

CHAIRMAN VICTORINO: Yes. Is that correct? I see the affirmative yes.

All right, all those in favor of Member Hiranaga's motion signify by raising your right hand in the affirmative.

1, 2, 3, 4, 5.

All those opposed?

1, 2, 3.

Five years, three nays. Recommendation would be forwarded to the -- let me say this, the recommendation is being forwarded; but it does not necessarily mean a guarantee that you can do what you need done. Again, it is up to the director, but we're only recommending that.

Dorothy?

MS. PYLE: In view of some of this discussion -- this is not concerning you. But in view of some of this discussion, I would like someone in the department perhaps to try to find out how many private trucking companies there are that truck water around this island to other places, and

where do they get the water from, how much do they pay for the water, and how much do they sell it for.

Because are these private trucking companies making a profit on county resources? I think it's a really interesting question, because I know -- I personally know of several fairly large houses that have been built in dry areas of this island that have, like, a hundred thousand gallons of water storage that is trucked in to a place that has no -- has one five-eighth water meter.

CHAIRMAN VICTORINO: Okay. Point well noted and we'll bring that up as an agenda item. By the way, I did

not make a note that Ms. Parsons and Ms. Crivello came in late, so it's noted they were late to the meeting. I apologize.

Moving right along, let's move to Unfinished Business. Discussion and possible action regarding approval to submit Fiscal Year 2006 Operating and CIP Budgets to the Mayor. I think you have copies of it.

MR. JOHANSEN: Since -- the next proceeding matter before this one -- I'm just wondering what the electrical problem is, maybe I should not record my abstention until I find out.

CHAIRMAN VICTORINO: So noted. And we'll look into that matter, Ralph. As far as, you know, your position and as well as whatever conflict of interest, if that's what you're referring to, Ralph.

MR. JOHANSEN: Yes.

CHAIRMAN VICTORINO: Okay, so noted. Okay, I'll open the floor to discussion as far as the 2006 CIP and fiscal operating budgets that we're going to recommend to the mayor. I would like to start. Okay, I got the high sign, let's take a break. Let's take a 15-minute break.

(A recess was taken.)

CHAIRMAN VICTORINO: Calling the meeting back to order. Discussion of the CIP and operating budget. I know that most of us have just received lots of this information, and I know Ellen and Holly have worked real hard on it, so I will call them up to go over this and we can direct specific questions to them. Ellen?

MS. KRAFTSOW: Do you want to do operating first?

CHAIRMAN VICTORINO: Pardon me? Yeah, let's do operating first, then we can do CIP afterwards.

MR. TENGAN: The committee has submitted a

recommendation to the director and it's included in the first section of the material.

CHAIRMAN VICTORINO: That's correct.

MR. TENGAN: And within this document here, at the end, before the signature page, we have the recommendation to the board.

CHAIRMAN VICTORINO: That's correct. Okay.

MR. TENGAN: So if you follow this document here, then Holly can give a presentation on these recommendations.

MR. OKAMURA: What page is that on?

MS. PERDIDO: George, that's the next item on the

update of the water rate. We're on budget.

MR. TENGAN: I'm sorry.

CHAIRMAN VICTORINO: You're confusing me.

MR. TENGAN: I relate the rates to the budget

because they are one of the same.

CHAIRMAN VICTORINO: And they pretty much follow

that trend, but it's because the way the agenda items have

been -- we'll go with that one first.

Go ahead, Holly and Ellen.

MS. PERDIDO: At the last board meeting, we went

over the -- I gave out pages 71, 72, 73, basically which is

our operating budget. We kind of went over some questions on that. On page 70, I kind of gave a proposed breakdown of what we expect to spend, you know, as a summary page and what our balance is and our revenues will be.

Our revenues are based on working with the rates study consultants. And as you can see up there, it does -- we are going to propose a rate increase, which we will go over in the next section. Expenses are pretty much going up. We do -- if you notice, there's an adjustment to ONM on the far-right column.

Basically, from what the consultants are telling me, we need to budget a certain amount of money for our operations, and if there's -- historically they have been less than what we had budgeted for, so she was suggesting let's put in this 4 million carryover balance. That's why I'm reducing our expenditures by 4 million. But basically it's like a carryover balance, because what she -- that's what we were recommended to put it as.

Therefore, we're still recommending that we will need a rate increase for operations and CIP for the next fiscal year. We will plan on transferring \$2 million over

to the CIP.

Also, on page 74, I provided what we're estimating our balances to be for the CIP with lapsing funds. This changes every day. Right now we're still waiting, trying to encumber about ten contracts before the end of next week. And if they do go, then it will be about 15 million or so that they will end up encumbering. And I will report that at the next meeting.

But there will be a lapsing of about 7 million which we'll carry forward, as you can see. Then this will go over in Ellen's reports, which I thought she did give a

copy of the projects last meeting, and also in the packets, and at the meeting. But she has done a summary now, and there's a few revisions, as well as my reports have a few revisions.

CHAIRMAN VICTORINO: Questions? Ken?

MR. OKAMURA: On the CIP budget on page 74, could you go over the -- you see the top heading says replacement, the WSDF is the water service development fee, that's where the 10 million is coming from? Source and storage -- and developer is what? What is that, payments from -- that's income from -- from the developer?

MS. PERDIDO: Okay. Let me kind of explain each of the funds. The replacement fund is our CIP fund; the monies from that fund are transferred usually from our revenue fund. There is some reimbursement that came in there when we did the safe drinking water loan fund for Kamole. That went back into this fund.

But the majority of the money that goes into this fund comes from our revenue fund from the water rates. The water system development fee is what we receive when new meters are installed. And we anticipate about -- we

anticipated about 5 million in the last couple years, and that's what we anticipate for next year also.

We do pay a portion of our debt service from this fund, which goes back in a lot of history. I don't know if I need to get into it. But we do pay a portion of that over to the general fund, our revenue fund to pay for debt service. Source and storage are basically -- there is no -- it's obsolete, there's no revenues that go on there, we just need to expend them. The water system development fund replaced these two funds, so whatever is left in there we're just trying to expend that.

The bond fund has been encumbered. It hasn't been spent all the way, but pretty much is going to be gone very soon. You know, everything has been spent. The developer fund is a fund that is -- from many years ago, this was a balance that was paid in by developers, I guess. I'm still trying to figure out with engineering what these funds can be used for.

Most likely, they will be transferred over to these projects that have been done. But these are from many years ago, 20-something years, so I'm trying to get rid of them. Get rid of them, basically. In the next couple of

years, hopefully we'll just have the two funds. We have our general fund, our revenue fund, and then the two for CIP.

CHAIRMAN VICTORINO: Is that clear? Any other questions? Go ahead.

MR. OKAMURA: So are we supposed to ask questions about both the CIP and the budget?

CHAIRMAN VICTORINO: No.

MS. KRAFTSOW: Before you ask any questions, I'd like to present something about the CIP. So just operating for now.

CHAIRMAN VICTORINO: Yeah, let's stay with

operating, so we don't get the two crossed up. Go ahead.

MR. OKAMURA: I was wondering, is there anything you wrote down with an explanation for the increases from the historical to the proposed budget, like, say, for example, planning? Is there any way I can look at it to say we spent 780,000 in 2004 or budgeted or whatever? And the proposed budget is, like, 1.9 million or so?

MS. PERDIDO: I didn't prepare anything. I could prepare something for you for the next meeting.

MR. OKAMURA: I don't want to take a lot of your

time. I'm just wondering, is it for raises or something, stuff like that? If you're expanding, what the expansion program would be.

MS. PERDIDO: Part of the increase on this, and Ellen can expand on this, I know one was for professional services, and basically to do some conservation programs.

MS. KRAFTSOW: Conservation and also a hundred thousand dollars that we weren't spending before for the East Maui watershed. The partnership. And more staff salary. But I will --

MR. OKAMURA: When you present it to the council,

you have to explain what these increases are for.

MS. KRAFTSOW: We do a justification form for each
increase --

MR. OKAMURA: We just need a short thing to -- oh,
cannot be a short thing.

MS. KRAFTSOW: I have a table that has a column
where you just -- a sentence kind of thing. But that's not
what the county uses. But internally we do stuff like that.

MR. OKAMURA: Thank you.

CHAIRMAN VICTORINO: Other questions?

MR. OKAMURA: What is the time table, like today

you're presenting -- you gave us information the last meeting, then you presented this today, and what is the timetable?

MS. PERDIDO: We gave you something last meeting.

We had to meet with the budget director last week, I think, and presented -- gave him basically what we gave to you guys. He looked at it, cut a few things, which I haven't even changed in here because we had to get it out to you. I think there was one minor cut.

And then I think the mayor will be looking over it

next month, and I think their deadline is to get it up to

the council by March 15th. So we basically have given them a rough draft and we will be working with them. I'm still getting them revenue projections, our rates and fees, I have all those still to give to them also.

But with every increase, we do have a justification sheet. I have that whole thick thing. That's how much paperwork we do have to give to them too, and we do go over every increase. It was few major increases, and I could let you know. I know one which is in the water treatment plan for purchasing of water for the Iao ditch.

You know, our water use from Iao ditch is horrendous. We had to increase that a half a million. So that's one of the major ones, as well as electricity.

Salaries is another one. There was five expansion positions requested this year also. But everything we do we have to have the justifications. And my apologies, I should have done some type of summary to you all so --

MR. OKAMURA: I don't want to create extra work for you, just something we understand what the increases are for. Especially, let's say, for example, conservation, I'm sure you have increases in areas of conservation. And I'm

not -- but I was interested in that. Also other areas.

MS. PERDIDO: If you also look at last time, I gave a breakdown. I think it's 911,000 for professional services for Ellen's division, and that does give you a breakdown for each different area, how much she's anticipated in spending.

MR. OKAMURA: Which was that, the last one?

MS. PERDIDO: At the last board meeting, I gave a packet to you.

MR. OKAMURA: This one?

MS. PERDIDO: No. It was with the packet. Did

you bring your packet?

MR. OKAMURA: This one?

MS. PERDIDO: No.

CHAIRMAN VICTORINO: The last board meeting.

MR. OKAMURA: I thought these were it, so I brought them with me today.

MS. PERDIDO: I did mention it in there, but --

MS. KRAFTSOW: About conservation, though, I can answer about conservation. In the professional services budget, there's 50,000 for the Maui Nui (phonetic) -- and the garden -- and aside from that, in the conservation

budget, there's about 30,000 towards the possibility of starting the toilet retrofit rebate in conjunction with public works or something.

There's another -- I think it's about 150,000 for a leak detection program. So that would involve either hiring a consultant or getting staff to go out with equipment to do a systematic system -- of some high risk areas. There is the usual 80,000 or so, you know, that we have for -- I think it's about 260,000 in -- and total professional services is 911,000. The biggest difference

from what we already had is the hundred thousand for the East Maui watershed and 50,000 for Maui Nui this year.

MR. OKAMURA: Do you have a conservation person on staff?

MS. KRAFTSOW: I have a position description upstairs in personnel, it's been a long time up there; but she did come down yesterday to discuss the function by function with me, so she is working on it.

MR. OKAMURA: Thank you.

CHAIRMAN VICTORINO: Anybody else have any questions? I know this is overwhelming, and by sitting here

and reading all of this, I was -- but again, because of the urgency and the time tables that we have to deal with, it makes it virtually impossible to go line item by line item. I do apologize for that, but they will try their best to answer any questions that you have.

Mr. Hiranaga?

MR. HIRANAGA: Do we have capital improvements here?

CHAIRMAN VICTORINO: No. We're still in operating. Any other questions on operating before I move on? Okay, we'll move on to capital improvements.

MS. KRAFTSOW: Basically, last month I gave you a package that had maps and had project by project -- this packet that I'm giving you, we had some recommendations from the stakeholders committee to be a \$25 million a year budget.

But also from the consultants, subsequently you had the recommendation -- well, we knew that we couldn't fund the 25 million. What she said was to take what you can from the capital -- reserve and your remaining in source and storage, put the rest in a bond which we would float right away.

We actually would borrow the money from the county, and then for whatever we actually were expending we would fill the bond to pay it back, to avoid having high bond charges. So that's -- we'll borrow from the county and then refund it.

And so what you got here, these are all the same projects that you already have maps for. They haven't changed, but what has changed for some of them are the way that they are funded. And maybe a few minor descriptions or whatever, but nothing major. The only major changes is how

the funds were assigned.

And this is the county -- that they do. It doesn't have maps. It's 97 pages long, but really we cut it from 82 down to 49 projects. And the reason that you're getting -- what I did was give you a cover sheet showing how I combined the projects, so there's one sheet that just said Iao source projects, and then subsequently there are several projects that start Iao source development.

There's one sheet that says Wailuku waterline equipment, and subsequently there's several waterline equipment located in Wailuku. So you can see how the

projects were combined. That's the only information. And then these charts break it down for you by program, like you are used to, as well as the community planning fund. How the money is being spent.

I don't know if we actually handed this out, but the county wanted us to do a 1 to 100 priority list -- or whatever -- 49 -- so it's basically all the same information you had the last month. It's broken out by a different format and the funding. The funding source change to meet those recommendations.

CHAIRMAN VICTORINO: Any questions? Member

Hiranaga?

MR. HIRANAGA: Ellen, last meeting I requested that you provide us this agreement relating to the Makena road waterline replacement, were you able to obtain a copy of that agreement?

MS. KRAFTSOW: What I understood was that you wanted to verify whether or not a subdivider had made the improvement and whether or not the baseyard felt that the improvements -- that the line that was still breaking and that they still needed it.

I called the baseyard to verify that they still

felt the -- they said the subdivider did a big portion of the line, but the line has -- the part that's been giving them trouble is further down. So if there's an agreement, I misunderstood you.

MR. HIRANAGA: I realize the problem is with the line further down. I believe there's an underlying agreement between the county and these lot owners regarding that line.

MS. KRAFTSOW: Do you know which --

MR. HIRANAGA: This request was brought up several

years ago to the board and it was denied because of that agreement, because it's resurfacing, I wanted to refresh my memory regarding that. I know there's a lot of breaks and there's a lot of time spent by the department, but I believe the responsibility of the integrity of the line lies with those lots that are being serviced by this line.

MS. KRAFTSOW: Engineering might have more information on this than I do. But I know in the past few years there was a subdivision that did a major improvement, but they said it -- they did what they were required to do.

MR. HIRANAGA: They were on the northern end of

the line, not the southern end.

MS. KRAFTSOW: Probably.

MR. HIRANAGA: Closer to Wailea.

MS. KRAFTSOW: So you're saying in addition to

that, there's another --

MR. HIRANAGA: There's an agreement that allows

this 2-inch line to exist.

MS. KRAFTSOW: Yeah, I'm sorry, I didn't find that

out.

MR. HIRANAGA: Because that was the reason the

request was denied several years ago. I'm curious what it's

resurfacing.

MS. KRAFTSOW: Why has baseyard been asking for it every year --

MR. HIRANAGA: My concern is, it may not be the council's responsibility to maintain this line; that we may be spending council's funds for something they're not responsible for. That's my concern.

MS. KRAFTSOW: Understood.

CHAIRMAN VICTORINO: More questions? Go ahead.

MR. OKAMURA: On the last page, second to the last page, for example, source. You have other source -- CIP

projects already going, right, in Upcountry area? Are there any other source development plans?

MS. KRAFTSOW: Um-hm, yeah.

MR. OKAMURA: That's why we don't see them here because they are from CIP approvals in the past?

MS. KRAFTSOW: What you have and in this list is what was funded in --

MR. OKAMURA: Okay, what's --

MS. KRAFTSOW: Yeah, what you have here is -- in the summary pages is just for FY '06.

MR. OKAMURA: So there's some source development going on in the Upcountry area right now?

MS. KRAFTSOW: Yeah. And actually, even here, you have -- it's called -- liability -- the Olinda treatment plant is another filter and there's -- there are a few source projects. They may not be under -- listed under source. Iao source development projects, Waihe'e source development projects, Central Maui -- storage projects. Lahaina -- there was something. Lahaina, there is a -- FY '05 there's something budgeted.

So I'm not sure -- Upcountry has the filter plan

expansion, plus the wells that are ongoing, but one that's ongoing -- we're not actually building that, we're just reimbursing the developer for that.

MR. OKAMURA: Beg your pardon?

MS. KRAFTSOW: The Piiholo reservoir well.

There's a well also --

CHAIRMAN VICTORINO: I'm trying to clarify what you're saying.

MS. KRAFTSOW: I have a source schedule, as you know, there's a particular area if you want the source schedule.

MR. OKAMURA: We should be concerned about Upcountry and Central Maui sources. You know, those are the areas that pop up in the community as being concerned about.

MS. KRAFTSOW: Well, you want me to answer that or just show it to you later?

MR. OKAMURA: Are you going to answer it now or show some kind of paper?

MS. KRAFTSOW: Well, as of this CIP, Hamakuapoko well is on line in 2005; Kupaa well on line 2007; Iao treatment plant, four filters on line in 2007; Iao tank well, 2007; Waikapu well is 2007; Waialae treatment plant,

that's roughly 2008; Malukia (phonetic) well is 2008; and

Waialae well is 2011.

MR. OKAMURA: That's your summary there?

MS. KRAFTSOW: Yeah, but these are still a little

bit -- I'm hesitant to give them out. Then the Waihe'e

plant is possibly 2012. All those -- and usually these

tables end up getting shoved back, but that's what the plan

is --

MR. OKAMURA: "Shoved back" means what?

MS. KRAFTSOW: Meaning we have more projects --

then Upcountry has Pookela well in 2005; Olinda treatment plant filters is 2007, maybe sooner; Kaupakalua well is 2008, which isn't a source itself, but -- the Piiholo well which is being done by a developer, the estimate is 2008; Lower Kula reservoir, which is not really a source in itself, but -- 2011.

MR. OKAMURA: What was this?

MS. KRAFTSOW: The large water reservoir. That one -- during the water use and development plan process -- a benefit analysis will be done -- because it's an extremely expensive project, whether or not there are more cost

beneficial ways to do it. But it seems like for ag, that would be an important project, but we need outside funding.

MR. OKAMURA: What's the estimated cost on that?

MS. KRAFTSOW: 55 million. And then West Maui, I have Lahaina source and site -- study that was supposed to be issued this year, so probably it'll be ongoing during '06. Then Honokahau A well, GAC plan is 2009, that's an existing well that's not in use now because it doesn't have treatment.

Honokahau source replacement is 2010; West Maui

source development, that's for a well, a nonsited well with

the siting study -- 2012; Mahinahina treatment plant enlargement, that's actually 2013 on this schedule, but I think that's outdated. I think I switched those so the treatment plant comes sooner. And some unscheduled projects which I -- they're not decided. And then for --

CHAIRMAN VICTORINO: Ellen, I think we got the picture. No offense, Ellen, I could see everybody losing it at that point.

Anyway, do we have any further questions on the CIP? Sensing none, do you want to go ahead and recommend as best we see and know these two and -- to the mayor's office?

Do you want to make a recommendation, Mr. Hiranaga?

MR. HIRANAGA: I still am interested to see this agreement if it does exist.

MS. KRAFTSOW: I'll try. Can you give me any kind of hints of times, who -- what the issue was? Anything?

MR. HIRANAGA: It's a recorded document. County of Maui --

CHAIRMAN VICTORINO: I guess, maybe, Member Hiranaga, if you could get together with Ellen to get that, she needs help and you kind of have an idea, but --

MR. HIRANAGA: The county doesn't know what

recorded documents they --

MS. KRAFTSOW: Well, by TMK, or which party or by

which -- it has to be about something to find it. Okay,

I'll try.

CHAIRMAN VICTORINO: Mr. Okamura?

MR. OKAMURA: I think it's hard to make any kind

of recommendation today. I know, maybe, a little bit more,

but I don't know how the rest of the board members feel.

CHAIRMAN VICTORINO: Well, you can, and if you

don't, it doesn't make a big difference. And it's going to

go up to the mayor next month anyhow. And that's basically what it's coming down to. The time tables are against us, you know, and so --

MS. PYLE: Maybe we'll have to go up with nothing from the board.

CHAIRMAN VICTORINO: That's fine with me. I'll put a letter together saying we're not taking a position.

Mr. Hiranaga?

MR. HIRANAGA: I think the board members have specific questions or concerns regarding the budgets and they should meet individually with Holly or Ellen to get

clarification so they're ready to make a decision. Meeting once a month will not get it done.

CHAIRMAN VICTORINO: Yes, exactly. In fact, in the past, we have had a special meeting for our budget and fiscal plan, and that's something that we're unable to do. But I would like to propose for next year that that be scheduled in front of a fiscal meeting, that we go over all these things for just -- that's it, that's the only subject matter, nothing else on the agenda for that day. A budget workshop. Mr. Tengan?

MR. TENGAN: I think the board still has the

opportunity to provide input as to what goes up to the mayor. As I understand, the mayor will be submitting his budget to the county council mid-March. So -- and the budget director will be meeting at least two weeks to straighten out the budget that goes up to the county.

CHAIRMAN VICTORINO: That's correct.

MR. TENGAN: And that takes us to the end of February.

CHAIRMAN VICTORINO: Right.

MR. TENGAN: So we still have -- we should give

the budget director at least two weeks to work any amendments to the budget. So that would take us back to mid-February. And then --

CHAIRMAN VICTORINO: I would like to propose -- if I can add something -- I'm sorry, go ahead.

MR. TENGAN: I'm suggesting that, you know, the board members review the budget documents that have been distributed to them, and if they see anything that they would like to have discussed or -- especially in the area of CIP where their priority should change, you know, some discussion can be held within the board to move around --

this year of the CIP. So at least the board will have a January meeting to provide -- before it goes up to the mayor's office.

CHAIRMAN VICTORINO: What I was going to suggest is, could we next month in January have, and this is up to you folks, a budget workshop just to discuss budget matters? That's it. It would not be a part of our regular meeting; it would be a separate meeting. And I know all of you have busy schedules; but to be perfectly honest, to really do a good job, we need the time to sit there, you have to do your homework, but when you come in, we can all get these

questions answered at a budget workshop, just a total
separate budget workshop.

Would you folks be in favor of something of that
nature? I see some yeses, some noes. Okay, then I'll make
a motion that we schedule a budget workshop.

Dorothy, can you look at January to see what we
have on January? I don't have my -- January 27th is our
meeting. So this can be held before then, any time before
then.

MS. HOWARD: There's a question.

MR. PEARSON: No offense to the chair. Can the

chair make a motion?

MS. PYLE: He's making a suggestion.

MR. PEARSON: No offense intended.

CHAIRMAN VICTORINO: I'm making a suggestion;

somebody can make the motion. But what I'm saying now, are

we in favor of that? And we need a specific date so we can

set it up, Mr. Pearson.

MS. KRAFTSOW: Ralph moved. He so moved.

CHAIRMAN VICTORINO: Okay, Ralph. Do we have a

date? Let's get a date together.

MS. PYLE: Moved and seconded.

CHAIRMAN VICTORINO: Okay, moved and seconded.

Now a date. Okay, before we put the date, all those in favor say "aye."

(A chorus of ayes.)

All those opposed?

(One opposed.)

And you're in favor. Okay, 6 to 1. Okay, so it's been moved and approved. Now we have to find a date.

Dorothy, you got the calendar in front of you. Suggestions?

MS. PYLE: 27th is the --

CHAIRMAN VICTORINO: -- next regular board

meeting. We have to do it before that.

MR. OKAMURA: How about the 12th?

CHAIRMAN VICTORINO: The 12th of January?

MS. PYLE: A Wednesday?

CHAIRMAN VICTORINO: I don't care what date.

MS. PYLE: I'm just saying --

CHAIRMAN VICTORINO: You don't want Wednesday?

You can't make Wednesday?

MS. PYLE: I probably can, but normally not. But

that's okay, you guys do whatever.

MR. HIRANAGA: Wednesday is not good.

CHAIRMAN VICTORINO: Okay. Well then, let's go

Thursday. I don't think this would have any --

MS. HOWARD: She asked me a specific date.

MS. MC LEAN: I didn't know if we had scheduled a workshop with the planning commission.

CHAIRMAN VICTORINO: That hasn't been set up yet.

MS. HOWARD: There's a possible -- they asked me to reserve the stakeholders for the 25th.

CHAIRMAN VICTORINO: That's fine.

MS. HOWARD: They may or may not meet, depending

on what --

CHAIRMAN VICTORINO: Okay, well, I really don't think this has any relevance.

MS. HOWARD: The room won't be available.

MR. OKAMURA: How about the 20th?

CHAIRMAN VICTORINO: How does the 20th look for everybody?

MS. CRIVELLO: No.

MR. HIRANAGA: Mr. Chair, I suggest you make the meeting as soon as possible, because if they're going to

make changes to the budget, they need time to adjust the budget based upon the recommendation.

MS. PYLE: How about the 13th?

MR. JOHANSEN: The 6th.

MS. CRIVELLO: No, the 13th.

CHAIRMAN VICTORINO: Well, the 13th I won't be here, so that eliminates that one. Next? I don't care what date you pick, I think somebody will be there. So we have to come up with something.

MR. OKAMURA: Can we get some other information before the meeting?

CHAIRMAN VICTORINO: Oh, yeah, I'm asking everyone

before that meeting to get your questions in line. If you want, call Holly or Ellen to get specific answers so that when you come in you are prepared and we can move on. Yes, Holly?

MS. PERDIDO: I need to know how much detail you want. I can give -- you know, because it's -- I have a whole thing of details --

CHAIRMAN VICTORINO: Right.

MS. PERDIDO: -- but if you want -- you know, that's why I thought, like, in the past we gave summaries,

and then I could give a list of changes, or I could have the details for each division. I need to know what you actually want.

MR. OKAMURA: Where the extra money is going to, let's say, salaries, half a million, or this program, this increase, this is a new program, this increase. Just the name of the program and where those increases are going.

MS. PERDIDO: A summary?

MR. OKAMURA: It's like a summary.

MS. PERDIDO: You want a summary on all the increases on the operating over the prior budget or the

prior expenditures, or the prior fiscal years?

MR. OKAMURA: Yeah, prior budget or -- is that a lot of work, or you'd rather do --

MS. PERDIDO: I have the information, it's just a matter of compiling it into a specific report that you need. So -- I mean, it'll take me a little while.

MR. HIRANAGA: Mr. Chair, I guess for myself, I -- my interest is staffing. So I would like to see information regarding head count, proposed positions, when you propose to fill them, how successful you have been in the past to

fill these positions. Because if you keep saying, well, we're going to have four people, but you -- but I've heard that for four years.

Unless we have staff, we can't use the money.

That's been the recurring problem, lack of staff. But that's what I'm interested in.

CHAIRMAN VICTORINO: Okay. And this is where I would ask all of you to either let me or Mr. Tengan know what you specifically -- or even directly to Holly and Ellen, what you specifically would like to know, and that way we won't procrastinate the meeting. We're looking

specifically what you're looking for, or what you're looking for, or any of you, what you're looking for.

But I would like that done before the end of the month so they have time to work on it. So you must get that to them before December 31st to give them some time.

Now, the 12th is out; the 13th is out.

MS. CRIVELLO: What about the 19th?

CHAIRMAN VICTORINO: The 19th is out.

MS. KRAFTSOW: I can be here, I just --

CHAIRMAN VICTORINO: How about Wednesday, the 12th? I think that seems to come out -- let's go Wednesday

the 12th. I guess we're just going to have to get a date and then go from there. And hopefully everybody can be here.

I'm requesting again, please, if possible, get your request in to Ellen and Holly before the end of the month so they can get specifically the information you're requesting; okay?

And if there's a problem, Holly or Ellen, you let me know, okay, please?

Okay, moving right along. Update of Water Rates Study. And I know Ms. Krash is here. Would you like to say

anything to us?

MS. KRASH: I think Holly has a report on that.

CHAIRMAN VICTORINO: Okay, all right. Holly, go

ahead.

MS. PERDIDO: Everyone should have a copy of what

the community letter submitted. What I'll do is kind of

summarize what the committee has done. They came up with a

letter to George with a general recommendation from the

committee. And on page 3 of the first letter, it gives

seven recommendations. And those are the major points.

Recommendation 1, the CIP implementation plan, that was presented by the director; recommendation No. 2, the progress reports for the CIP implementation plan; No. 3, the management audit; No. 4, the proposed rate adjustments, which they're recommending a system rate increase of 12 percent. And they did take into effect agriculture, senior citizens, many different factors when they did come up with the rate increase.

Of the 12 percent, approximately 7 percent is operating, 5 percent would be for CIP. Number 5 is a need for -- we'll go more into it when I continue through the

report. Number 5, the need for future rate increases; No. 6, plan to move to a customer class based rate structure, which would actually change our structure from how it is now; and the last, No. 7 is issues -- any issues that, you know, they want to consider further.

Basically, attachment 5, page 8, that kind of gives the recommended rate schedule. What the increases will be. They will be increasing the service charge, and also the general rates. And this packet has many items in here, as you can see, that has a bunch of attachments; they tried to include everything they could.

If you want to see -- basically, attachment 7 kind of gives the comparison of what the new bills would look like. Attachment 7, page 1 of 2, and 2 of 2. And that would kind of give you the rates, for instance, a five-eighth inch meter, using 15,000 gallons a day, the bill currently is about 34.95, and it will increase up to about \$38.

MS. PYLE: I'm kind of lost.

MR. OKAMURA: What page are you on, Holly?

MS. PYLE: A lot of these pages are not paged.

MS. PERDIDO: Go to the attachment on the bottom.

Go to the very bottom. From the back -- attachment 7. I'm just kind of summarizing what the -- page 1 of 2. Are you on No. 1? This tells you how much the rate increases will come out to.

MS. CRIVELLO: That's where we're at, Ralph.

CHAIRMAN VICTORINO: Go from the back, Ralph.

That's the easiest way to tell you. And the third page in.

You see on the top of the page, Ralph?

MR. JOHANSEN: Okay.

CHAIRMAN VICTORINO: There you go.

MS. PERDIDO: This schedule tells you -- I'm just trying to point out some of the -- I mean, I know -- I don't know when you guys received this. If you just received it today, you have not had time to read it. And basically I was just pointing out how much the rate increase kind of -- what it will boil down to.

Currently, like, for a five-eighth inch meter, 50,000 gallons, you pay about 34.95; with the rate increase, it'll be about \$38. And this kind of compares the whole -- you know, how much. If you look at the first block, it basically has not increased. And we're trying to look out

for the senior citizens, the low income people on that. The second block did increase, as well as the service charges did increase. And they did try to keep ag rates low also.

They do plan on going out for public informational meetings in January and February. And this will also go up to the mayor, as well as, hopefully, the mayor will recommend it to the council.

CHAIRMAN VICTORINO: Member Hiranaga?

MR. HIRANAGA: The proposed rate increase of 12 percent, is that for one year or is that for --

MS. PYLE: I think the first year.

MR. HIRANAGA: That's for the first year?

MS. PERDIDO: That's for the first year.

MR. HIRANAGA: Then it goes two and a half, three
and a half, and --

MS. PERDIDO: Yeah, if you look at attachment 5,
page 3, I note it's marked --

MS. CRIVELLO: That's on the bottom.

MS. PERDIDO: Yes. But you're correct, Kent, the
first year is 12 percent. Actually, we checked with
Corporation Counsel, and the council can only approve a
one-year rate increase. They would approve -- and we are --

the board is -- not the board -- the stakeholders are considering future rate increases, and that's what the other four years are looking at. But they are looking at changing the structure of our -- the charges for the water on a customer based structure.

MR. HIRANAGA: So would the stakeholders have to meet again next year for the recommendation for 2007?

MS. PERDIDO: That's what they are anticipating on doing, yes. I think once the structure gets set up, then after that hopefully -- once the structure for the rate --

the new rate base gets set up, after that it probably --

they wouldn't be meeting very much after that. I don't know

if George or Jeff can comment on that.

MS. KRASH: Holly, I would like to comment on

that. One section in the report I would like to call your

attention to is the last page of the stakeholders letter.

And it discusses the issues for further consideration. This

was a very hardworking group. We got into a number of

different issues that they felt need to be addressed with

respect to rates.

So these are some of the other issues they wanted

to look at as they looked at other structures for rates.

Structures that would encourage conservation more;

structures that would allocate rates more fairly. Different

rate structures.

You know, I do not have the document that you all have in front of you; I haven't received it yet. And I have not been at the last two meetings for personal reasons, so that's why I'm not joining Holly in reporting. But I just want to comment on the other issues there, because I know there's some issues that have come up in board meetings and in council meetings, too, and these are issues that came up

in our rate discussions.

CHAIRMAN VICTORINO: Ralph, you have a question?

MR. JOHANSEN: One thing I want to do is the definition of capital, in the legislation CIP, I assume that only applies to fixed capital and not variable capital, not salary positions and that sort of thing.

I notice that one of the limiting factors in being able to expend the allotted amount for CIP is staff shortage. I'm just wondering if it's built into CIP funding or -- shouldn't it be very specifically the amount of staff time; therefore, the amount of staff necessary to implement

this to reconsider such an important matter, they should
have higher priorities?

Maybe Mr. Kushi can give us the definition of
capital here.

CHAIRMAN VICTORINO: Thank you, Ralph. Member
Hiranaga?

MR. HIRANAGA: Recommendation No. 6, plan to move
to customer based rates. Has there been other communities
that have implemented such a pricing structure or rate
structure? What was the basis for this recommendation?

MS. PERDIDO: George, do you want to comment on

that one? I know Anne brought up that Oahu does have

somewhat of customer class based rates more than we do.

They have more structure.

And I think if, Elliot, you want to jump in any

time also.

There was a lot of discussion and they decided, I

think, to have more of a breakdown instead of how we have

general. And more of a breakdown between -- I'm not sure

even yet, you know, what rates they are going to -- our

customer classes they will go by. We were talking about

that at a meeting to try to decide if it's single family, multifamily, commercial. You know, they were looking at different ways on how we can gather the information for that also, because we don't have all that information yet.

So this is some we're still looking at, to try to come up with certain areas.

MR. TENGAN: There was discussions they had, and I read, I think they looked at the demographics of Maui changing so rapidly, especially what we considered single-family dwellings turning into multifamily dwellings, not being classified as industrial and as commercial

breakdown between retail and industrial and hotels.

You know, I think they are moving towards that direction to get more definitive rate users. I think that was the whole -- that's what they have been looking at.

MR. HIRANAGA: I was concerned with the verbiage "plan to move customer class based rates" versus "review the feasibility or posture of" -- the decision has already been made to move to a customer class based rate. Which is a concern that they should attest -- justification for the fairness of moving the customer class based versus -- it seems to imply they're saying let's move to it. They made a

decision that's beneficial. I don't know.

MS. PERDIDO: I know they went through a -- when they did the selection of it, a whole process on the different type of rates. Correct, Elliot?

MS. KRASH: I don't remember a decision on that. I would have had the same question Mr. Hiranaga had.

MS. PERDIDO: George, I don't know if you can help on this one.

MS. KRASH: Do you remember the ultimate decision on that, George?

MR. TENGAN: I don't think they made a definitive decision on it; but I remember there was a lengthy discussion on looking at establishing customer class based rates to address some fairness issues as far as meeting the demands of the various classes. So I don't know that it's a decision that's been made.

However, the committee did feel that they wanted to look into it. Obviously, it's going to involve a lot of staff time on our part to break out all of the data related to these various classes. So it's something that we're working on internally to prepare ourselves to develop the

data in case the committee wants to pursue this avenue.

CHAIRMAN VICTORINO: Thank you, George.

You know, Michelle just left, Dorothy has to leave, and I'm going to leave at one, and you know what, we're not going to have a quorum. So at this point, Dorothy wants to say something, and I would say just keep it brief.

MS. PYLE: It will be brief. My suggestion is that since we seem to be having difficulty getting through our agendas, that since we have a lot of issues that are ongoing on that, could we possibly put the Communications at the bottom of the agenda and the Old Business at the top of

the agenda so we can finally finish the Old Business?

And if people come for the Communications, they can testify, but we are not going to discuss their issue until we finish some of our Old Business. I think that it's really necessary, we're never going to get the opportunity to discuss some of these things that are really, really important. There's a whole stack of stuff down there that we haven't even talked about. Can we put it at the top instead of the bottom? Thank you.

CHAIRMAN VICTORINO: And happy holidays, Dorothy.

Thank you.

MS. PYLE: Merry Christmas.

CHAIRMAN VICTORINO: Thank you. Any further discussion on the rates -- the stakeholders water rate committee report and recommendations?

MR. OKAMURA: I have a question.

CHAIRMAN VICTORINO: Make it quick, then. Now I'm at the point where I have to ask you to make it quick.

MR. OKAMURA: Did you do projections on -- you know, like, you guys getting more things to do in the department, are you guys making projections on staffing

requirements in the future, and how, you know, how many more people you guys are going to need? In the stakeholders committee meeting or -- your discussions are based on the CIP or --

MS. PERDIDO: I don't think the stakeholders committee look into the staffing situation at all. That wasn't part of what they were --

MS. KRASH: Staffing with respect to how it affected getting the CIP accomplished.

MS. PERDIDO: Well, that they did.

MS. KRASH: Concerns that the staff had reflected

about the difficulty of getting adequate staffing levels.

MR. OKAMURA: Looks like the department is growing and not enough people to do the work, not only engineering, but almost the whole department. You guys are doing all the work.

MS. KRAFTSOW: Actually, the committee didn't discuss that because we didn't want to get into too much micromanagement. But the consultant at that particular time did call the division heads and said, What do you see happening in the next three, five planning years.

And also about the decision to move towards a

customer class, my recollection, not perfect, but my
recollection of it was that Anne gave a presentation of
several different potential types of rates that the
committee could go for and how each of those would, in fact,
affect -- bills, how each of those would affect different
kinds of -- like supporting ag and different things.

And it was based on this long discussion --
presentation that she did that the committee kind of moved
towards. But we don't have the data to go to customer
class, but we would like to go in that direction.

CHAIRMAN VICTORINO: Okay. At this point, again,

I hate doing this, but we're really down in time. So can we defer this matter to our next meeting for further review and questions? Grant you, I know this is going out to the mayor and, you know, time frames are against us, but I thank the stakeholders because they have done a great job; they worked many, many hours getting this together, and I like the overall concept. Mr. Tengan?

MR. TENGAN: Yes, Mr. Chair, this rate that's being developed is going to be an important part of our budget so, you know, we would like to see a recommendation

from the board, going to the mayor and to the county council with regard to the -- you know, as to how the board feels about the recommendations here. Because the new rates will be part of the budget --

CHAIRMAN VICTORINO: You want to make a motion?

MR. HIRANAGA: I have a question. The proposed rate increase of 12 percent, does the council have the power to say, well, 12 is too high, let's go to 8, or is it yes or no?

CHAIRMAN VICTORINO: I guess you should go back to

Corp Counsel Kushi.

MR. KUSHI: Council has the final authority.

MR. HIRANAGA: It's a yea or nay, or let's go to 8 percent instead of 12?

MR. KUSHI: They can dicker around or whatever they want.

MR. HIRANAGA: They can change it?

MR. KUSHI: Right. It's part of the budget process. And by charter they have the final say.

CHAIRMAN VICTORINO: So what we're going to do is recommend -- what the stakeholders recommend, and we recommend to the mayor and council and they go from there

too.

MR. KUSHI: I think the establishment of a stakeholders committee was to --

CHAIRMAN VICTORINO: Have a separate entity to recommend --

MR. KUSHI: To come up with some figures for the department, the board, and the council.

CHAIRMAN VICTORINO: Ralph?

MR. JOHANSEN: Two things. One, I'll ask my question again, what about the staff? The funding in the CIP budget, the staff that's necessary in order to implement

the CIP budget. That's the first thing. Second thing, I looked at the proposed budget increases, the rate increase, they amount to 31 percent over the period of -- what is it? How long?

CHAIRMAN VICTORINO: Five years.

MR. JOHANSEN: Yeah. And that is compounded, it amounts to -- I haven't done the math, but it's close to 40 percent. That's a heck of a lot of an increase for the people to pay. I think that ought to be considered as well.

CHAIRMAN VICTORINO: Okay.

MR. OKAMURA: Maybe in light of what Ralph says, you know, I don't think it's prudent for us to make a recommendation today. I don't know the whole process that we need to go through, but I would have been interested to hear what the response of the public was. Sort of -- behind in the time table.

I don't know. We really haven't looked over this and for me to say we recommend this to the mayor, I don't think I can vote on something like that.

CHAIRMAN VICTORINO: Deputy Pearson?

MR. PEARSON: Mr. Chair, there's a schedule that's

yet to be finalized for public meetings to discuss these issues with the public and to inform them of the rate increase.

Just a couple other clarifications, the 12 percent increase, more than half of that is for operation maintenance. I think the last numbers were 12 percent -- 7 percent was -- 5 percent is CIP. Just to give you a background. As far as the size of the rate increases, I don't have it written down, but I know that on Kauai the result was two different rate increases I think around 35 percent. I know -- I think they implemented one of those.

I don't know if the Big Island is that great. But

I know that the work -- the rate increases for Kauai, on the

Big Island, even though they seem substantial, if you look

at the -- Holly pointed it out, if you look at the change of

rates and even at a 12 percent increase, it's like three

bucks. So the 12 percent is a high number, but the actual

dollar figure is not that great.

CHAIRMAN VICTORINO: What we have to face is the

fact that we all know rate increases are inevitable. I

mean, everything is going up: cost of labor, cost of

utilities, cost of doing business, cost of everything, and

materials, and we can go on and on.

And we can put our heads in the sand and say no, we don't want to do anything because we don't have enough information, or take the realistic approach that we're going to have to raise it whether it's 12 percent -- we don't have the final say, all we're doing is recommending it, by the way. The final say is up to the council and mayor. They are the political entity that makes those final decisions.

But I'm in the firm belief that watching the people work for the last year or so, and I get the -- when

they ask questions, I get minutes, I follow what they do, and I talk to different entities that have been a part of that stakeholders. I come to the realization that, yeah, this has been well thought out, well planned, it's got to be done.

Whether we recommend it or not, I'll tell you a rate increase is coming. More or less, I'm not sure, 12 percent, 8 percent, I'm not sure what's going to come. Maybe 16 percent.

But we're going to have to face the facts that Maui has grown, and we have to pay more for water because

there are more people and we need to keep our water system in good place and in good repair and up to good quality water to be drinkable for our people, and it costs money, ladies and gentlemen. So, up to you folks, you guys make a call.

MR. OKAMURA: I'm not speaking for or against this particular proposal. It might be a good proposal. How can I say it's a good proposal and we recommend it when I haven't really read it. I don't know want to say that. I mean, in knowing that we want to be a responsible body, you know, and I'm sure the committee worked hard -- but give us

some respect, at least, I think. Thank you.

CHAIRMAN VICTORINO: It's not a -- Member Okamura, it's not a matter of respect or anything. When I say what I say, it's a fact that we have gotten to this point, if we defer it, then it puts these guys in another light.

Doesn't it have to go to the mayor next month?

Mr. Tengan? Whether we recommend it, doesn't this have to go to the mayor next month?

MR. TENGAN: To explain what the board does, a recommendation will be going to the mayor; but the general strategy when we start off is to create this stakeholders

committee that represented, you know, as much of the community as possible. And that body goes through the details of coming up with the -- of any proposed rate increase with the board sitting on the side and kind of observing what's going on with regard to what the stakeholders committee is doing.

And at the end when the stakeholders committee is going to make these recommendations, the board will review the recommendations and together in a unified position go to the mayor and go to the council, you know, in a unified

position for a rate increase.

CHAIRMAN VICTORINO: Thank you, George. Any other questions? If not, do I hear a deferral, or some kind of action, ladies and gentlemen?

MS. CRIVELLO: Mr. Chair?

CHAIRMAN VICTORINO: Yes, Stacy.

MS. CRIVELLO: On the basis that the stakeholders committee is essentially off from the board, I would like to put into motion that we accept the recommendation from the stakeholders committee. So do we have a quorum to vote?

CHAIRMAN VICTORINO: Yes, we have five. Right now

we have five. After this we won't have a quorum. Is there a second?

MR. HIRANAGA: Second it for discussion purposes.

CHAIRMAN VICTORINO: Okay, moved and seconded.

MS. CRIVELLO: I have a question for Mr. Kushi.

What role does the board have when it comes to the water rates according to -- isn't that one rule that we still hold?

MR. KUSHI: Mr. Chair, under the charter, Section 8-11.4, powers, duties, functions of the board, one is review and submit to the mayor the department's request for

annual corporations; two is, recommend the establishment and adjustment of rates and charges for furnishing water, such rates and charges shall be submitted to the mayor for review and approval. The mayor -- if approved by the mayor, proposed rates and charges shall be submitted to the council.

So there's a scheme set up here. I would think that if you follow the scheme, it would have to go to the board and then to the mayor and then to the council. The stakeholders committee is part of -- I think it was established to help the board make up its mind.

However, being the whole -- this is part of the whole budgetary scheme of the county, let's say you didn't follow this procedure, I don't see -- I don't see how it would prevent -- or I don't think it would prevent the council from acting on its own in terms of establishing its budgetary revenues and charges. But I think the scheme is there.

CHAIRMAN VICTORINO: Thank you for the clarification. Go ahead, Mr. Okamura.

MR. OKAMURA: With all due respect to the

stakeholders committee, I know some of the board members sat on that committee. I'm not saying that I don't agree with the increase or we don't need an increase or the increase is bad or I'm not in favor of it, I'm just saying that how can I vote if I have not read the proposal?

It looks all right to me; but I cannot vote just because I read four pages of it, especially on something as important as a water rate increase. I think if we overlook something and we pass it, it won't reflect well on the board.

CHAIRMAN VICTORINO: Mr. Hiranaga?

MR. HIRANAGA: I guess I would be voting in favor of the motion just based on the fact that this stakeholders committee did spend a lot of time coming up with this recommendation with the help of the consultant that was retained by the department.

There will be opportunity in the future for public comment during the scheduled public meetings that the department will be holding as well as the budgetary process at the council level. So I think if there are specific concerns that board members may have regarding the recommendation, they have that opportunity to appear at

those meetings to voice their concerns or at the council to
voice their concerns.

But I think at this point, it's -- I guess a
process needs to move forward; I have confidence that these
people have put their best effort forward, and at this time
I have no basis to question their recommendations.

CHAIRMAN VICTORINO: Any other discussion? If
not, I'm going to call for the question.

MS. CRIVELLO: So moved.

CHAIRMAN VICTORINO: Thank you. All those in
favor raise your right hand.

(Hands raised.)

All those opposed?

(Hands raised.)

Okay, it doesn't pass. Okay, we cannot make any recommendation because we have to have all five say yes.

And at this point, I will have to adjourn the meeting

because if I leave, we don't have a quorum. And I do

apologize. This is one of those situations that,

unforeseen, that everybody would leave early today.

Mr. Hiranaga?

MR. HIRANAGA: This matter, now that there hasn't

been a motion to defer --

CHAIRMAN VICTORINO: There was no motion to defer.

It was --

MR. HIRANAGA: You can open it.

CHAIRMAN VICTORINO: Okay.

MS. CRIVELLO: We do not accept your adjournment.

CHAIRMAN VICTORINO: If I walk out, you got

nothing you can do. Either you do it now, or we have to --

I have to close the meeting.

MR. JOHANSEN: Mr. Chair, I move that we defer it

to a specific date as near --

MS. CRIVELLO: For further discussion?

MR. JOHANSEN: -- as to this date.

MR. OKAMURA: Second.

CHAIRMAN VICTORINO: Okay. All those in favor say

"aye."

(A chorus of ayes.)

Opposed?

(No response.)

Okay, it's been deferred.

MR. TENGAN: Mr. Chair, we'll try to schedule to

have the consultant come over either for the budget workshop
or for the next --

CHAIRMAN VICTORINO: Okay. Can we have the budget
workshop?

MR. TENGAN: We'll try.

CHAIRMAN VICTORINO: Okay.

MR. TENGAN: Or at the next board meeting, so that
she can give a more detailed presentation, and the board can
have a more in-depth discussion on the proposal.

CHAIRMAN VICTORINO: Okay. And the other items on
the agenda we will defer to our next meeting, the remaining

items on the agenda.

MR. OKAMURA: One last item. The point Ginny brought up about talking about the fire flow thing. The fire flow, trying to coordinate the effort between the fire department and the Board of Water Supply, the Department of Water Supply, the standards --

CHAIRMAN VICTORINO: Uh-huh.

MR. OKAMURA: That's my only request.

CHAIRMAN VICTORINO: You can put it as a future agenda item.

MR. OKAMURA: Yes.

CHAIRMAN VICTORINO: Okay, that shall be done.

Meeting adjourned.

(The deposition concluded at 12:55 p.m.)

"By Water All Things Find Life"

Department of Water Supply
County of Maui
200 South High Street
Wailuku, HI 96793-2155
Telephone (808) 270-7816
Fax (808) 270-7951

[\[Back\]](#)